IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

CUMBERLAND TRUST AND INVESTMENT COMPANY, as next friend and trustee of THE GILBERTO KELLY LOPEZ IRREVOCABLE TRUST,	)	NO. 3:07-CV-799
Plaintiff,	)	JURY DEMAND
UNITED STATES OF AMERICA,	)	Judge Echols
Intervening Plaintiff,	)	Magistrate Judge Griffin
v.	)	
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY,	)	
and	)	
GENESIS LEARNING CENTERS,	)	
Defendants.	)	

ORDER

This cause came on to be heard on Monday, February 1, 2010 upon petition by Cumberland Trust and Investment Company on behalf of Gilberto Lopez to approve a proposed settlement between the Metropolitan Government and Plaintiff. Upon a review of the petition, statement of counsel, testimony of Mr. John Barringer of Cumberland Trust Investment Company, and the entire record in this cause, the Court finds as follows:

1. The Court finds that a settlement of this case by a payment by and on behalf of the Metropolitan Government in the amount of $1,475,000.00 is manifestly in the best interest of the child. The Court further finds, and agrees with the mother of the child, Mrs. Kimberly Lopez, that it is the best interest of Gilberto as authorized by T.C.A. § 34-1-121 and

42 U.S.C. § 1396 (p)(d)4(a)4 that the net funds provided to Gilbert be paid into and governed by the terms of the Special Needs Trust which is attached hereto as Exhibit 1. At the Court's request Cumberland Trust has furnished its fee schedule for the fiduciary and administrative services to be performed in this case, which is attached hereto as Exhibit 2, and shall also be attached as Exhibit 1 to the Special Needs Trust document.

2. The Court further finds that the firm of Blackburn and McCune, PLLC has rendered substantial and valuable assistance to the minor and that the agreed upon fee of one-third of the amount recovered is fair, reasonable, and likewise in the best interest of the child.

3. The Court further finds that the expenses submitted by Plaintiff's counsel in the amount of $85,618.13 are reasonable and were advanced by the law firm in furtherance of the prosecution of this case and in the best interest of the child and should therefore be approved.

4. The Court further finds that the subrogation claim settlement with Blue Cross/Blue Shield in the amount of $2,825.18 and with Magellan Health Services in an amount not greater than $136,714 is reasonable and should be paid from the proceeds of settlement. Plaintiff's counsel shall hold said amount in trust and disburse the amount finally agreed to by Magellan and pay the balance, if any to Consolidated Trust.

5. Finally, the Court finds that as a consequence of the effort, the time spent away from work, the burden of travel and care for the minor child, allocation of $25,000.00 of the settlement shall appropriately be paid to the mother, Mrs. Kimberly Lopez.

IT IS THEREFORE ORDERED that the proposed settlement is approved by the Court as in the best interest of the minor and that the funds should be disbursed from the trust account of Blackburn and McCune, PLLC, as follows:

To Cumberland Trust:	$ 733,175.40 Together with any savings by negotiation with Megallan
To Blackburn & McCune, PLLC: Attorneys fees: Advanced Expenses:	 $491,666.67 $ 85,618.13
To Blue Cross/Blue Shield of Tennessee	$2,825.80
To Magellan Health Services	$136,714.00 Minus any further compromise if such claim.
To Mrs. Kimberly Lopez	$25,000.00

This matter having been approved by the Court, this case is dismissed with prejudice as between Cumberland Trust and Investment Company as next friend and Trustee of Gilberto Kelley Lopez as against the Metropolitan Government of Nashville and Davidson County, Tennessee.

This 9th day of February, 2010.

THE HONORABLE ROBERT L. ECHOLS
United States District Judge

Respectfully submitted,

BLACKBURN & McCUNE, PLLC

s/ W. Gary Blackburn

W. Gary Blackburn (#3484)
John Ray Clemmons (#25907)
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Nashville, Tennessee 37210
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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing "Proposed Order"" has been served electronically via the Court's online filing system and via U.S. Mail, first-class postage prepaid, to the following:

Jonathan Fischbach
Luke A. McLaurin
U.S. Department of Justice
950 Pennsylvania Ave, NW
Patrick Henry Building, Suite 4300
Washington, D.C. 20530

Benjamin M. Rose, Esq.
James K. Simms , IV, Esq.
Cornelius & Collins, LLP
511 Union Street
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R. Dale Bay
Jason Bergeron
Lewis, King, Krieg & Waldrop, P.C.
201 Fourth Avenue North, Suite 1500
Nashville, TN 37219

Thomas F. Mink, II
Keith W. Blair
Taylor, Pigue, Marchetti & Mink, PLLC
2908 Poston Avenue
Nashville, TN 37203-1312

on this the 8th day of February, 2010.

s/ W. Gary Blackburn
W. Gary Blackburn

THE GILBERTO KELLY LOPEZ
IRREVOCABLE TRUST

LARRY R. BRAY

WISEMAN BRAY PLLC

1665 BONNIE LANE
SUITE 106
MEMPHIS, TENNESSEE 38016

EXHIBIT 1

The Gilberto Kelly Lopez Irrevocable Trust
Table of Contents

The Gilberto Kelly Lopez Irrevocable Trust

Article One
Establishing the Gilberto Kelly Lopez Irrevocable Trust

This irrevocable trust is made, executed and delivered in the County of Davidson, State of Tennessee, on the 12th day of June, 2009, by and between KIMBERLY DENISE LOPEZ, natural mother and legal guardian of GILBERTO KELLY LOPEZ, the Settlor, and CUMBERLAND TRUST & INVESTMENT COMPANY, the Trustee, as confirmed and approved by the United States District Court for the Middle District of Tennessee, by and through the HONORABLE JUDGE ROBERT L. ECHOLS for a proceeding in the United States District Court for the Middle District of Tennessee, Docket Number 3:07-cv-799.

The establishment of this trust is authorized by 42 U.S.C. §1396p(d)(4)(A) and Tennessee Code Annotated §34-1-121 in order to preserve GILBERTO KELLY LOPEZ's eligibility for assistance under state plans.

This irrevocable trust is also established pursuant to the Tennessee Investment Services Act of 2007, of Public Chapter No. 144, House Bill No. 1351 of the Tennessee General Assembly as codified in Tennessee Code Annotated §35-16-101 through §35-16-112, as amended.

All references to "the Trust" or "Trust" in this document, unless otherwise stated, shall refer to this irrevocable Trust and the trusts created in it. All references to "Trustee" shall refer to the initial Trustee or its successor or successors in trust.

Section 1.01 Identifying the Trust

The irrevocable Trust shall be known as the:

GILBERTO KELLY LOPEZ IRREVOCABLE TRUST, dated June 12, 2009, CUMBERLAND TRUST & INVESTMENT COMPANY, Trustee.

Section 1.02 Reliance by Third Parties on Affidavit or Certification of Trust

From time to time, documentation will be required by third parties to verify the existence of this agreement, or particular provisions of it, such as the name or names of the Trustee then serving, or the powers held by the Trustee. To protect the confidentiality of this agreement yet provide the required verification, the Trustee may use an Affidavit or Certification of Trust that (1) identifies the Trust and the current Trustee(s); (2) sets forth the powers and authority of the Trustee to transact business on behalf of the Trust; and (3) may include pertinent pages from the Trust, such as title or signature pages.

All third parties may rely upon the Affidavit or Certification of Trust signed by the Trustee regarding the representations contained in the Affidavit or Certification of Trust. All third parties relying upon the Trustee's Affidavit shall be exonerated from any liability for so relying.

A written statement of any initial Trustee or successor Trustee at any time as to any matters relating to the Trust, including the authority of the Trustee, shall always be conclusive evidence of the matters contained in the written statement and may always be relied upon by any party dealing in good faith with the Trustee in reliance on the information contained in the Affidavit.

Section 1.03 Statement of Intent

This Trust is being created as a means by which trust assets may be held for the benefit of GILBERTO KELLY LOPEZ on the terms and conditions set forth in this instrument. The principal purpose and intent of all parties of this Trust agreement is to provide a system for fiscal management, administration and disbursement, advocacy, care and emotional guidance for GILBERTO KELLY LOPEZ. All provisions of this Trust shall be construed in such a manner as best to effect these intents.

The beneficiary of this Trust is GILBERTO KELLY LOPEZ, born on October 20, 1997. The social security number of GILBERTO KELLY LOPEZ is [redacted] GILBERTO KELLY LOPEZ is now and will continue to be for the foreseeable future a "disabled" individual, as defined in Title XVI of the Social Security Act, 42 U.S.C. § 1382c, and 20 C.F.R. § 416.901 et seq. As a result of the nature and degree of his disability, GILBERTO KELLY LOPEZ is not and may not in the foreseeable future be capable of managing the funds as provided in the settlement agreement referred to in this Article.

The severity of GILBERTO KELLY LOPEZ's disability will cause him to require continuing support, assistance and supervision for the rest of his life. The funds provided by this settlement may be inadequate to provide for all such care and support.

The trust is created pursuant to the Tennessee Investment Services Act of 2009 (the Act) with the intent that assets transferred to the trust be held for the benefit of GILBERTO KELLY LOPEZ on the terms and conditions set forth in this agreement. All provisions of this agreement shall be construed so as to comply with the Act, and the provisions of the Act shall control if those provisions conflict with the provisions of this agreement.

GILBERTO KELLY LOPEZ will be the sole beneficiary of this Trust during his lifetime.

Section 1.04 Eligibility of Benefits

This Trust Agreement shall be construed so as to maintain the eligibility of GILBERTO KELLY LOPEZ to receive benefits under state and federal assistance programs as permitted under 42 U.S.C. §1396p(d)(4)(A) and other similar programs or laws. Interpretation of this Trust Agreement shall be in accordance with 42 U.S.C. §1396p(d)(4) as regards to the beneficiary's eligibility for asset sensitive local, state and federal benefits and programs. Inconsistent local and state laws and regulations are pre-empted by the federal statute. The funds from the settlement referred to in this Article are placed in this Trust subject to its terms and conditions. The funds shall not be deemed available to GILBERTO KELLY LOPEZ except as provided herein. The assets held in this Trust should have no impact on the beneficiary's eligibility for asset sensitive government benefits, specifically including but not limited to, Supplemental Security Income (SSI) and Medicaid under the Social Security Act.

The Trust beneficiary meets the disability criteria established for eligibility for SSI benefits. The Court has found that the beneficiary is likely to have special needs that will not be met without the Trust. The amounts going to fund the Trust are reasonably necessary to meet the special needs of the beneficiary.

Section 1.05 An Irrevocable Trust

This Trust is irrevocable, and no person shall have the power to alter, amend, revoke, or terminate this Trust, either in whole or in part; provided however, that the Trustee, as appropriate, shall have the authority to amend the terms as provided below. However, the Trustee is authorized to modify or amend the provisions of this agreement to ensure that this agreement conforms to the Act. The Trustee may rely upon the advice of counsel in taking any action pursuant to the authority given to the Trustee. The Trustee shall be without liability for acting pursuant to this Section.

Section 1.06 Reformation or Amendment to Comply with Federal or State Benefit Laws

The Trustee shall have the power and duty, in its sole and absolute discretion, to amend or reform this agreement in any manner that is required for the sole purpose of ensuring that it qualifies and conforms to applicable law that governs exclusion of resources for Federal or State (including any subdivision thereof) benefits.

Under no circumstances shall GILBERTO KELLY LOPEZ be able to amend, modify or revoke this Trust through court order, even if allowed to do so under state law, if the result is that he gains direct access to the trust principal or income. The primary beneficiary does not have the power to assign, encumber, direct, distribute or authorize distributions from this Trust.

The Trustee shall confer with legal counsel and obtain a legal opinion to the effect it is necessary to amend or reform this Trust in order to ensure that the exercise of the power granted in this section does in fact conform to applicable law that governs exclusion of resources for Federal or State (including any subdivision thereof) benefits programs. If the Trustee reforms or amends this Trust under this section without conferring with legal counsel and obtaining a legal opinion, the Trustee is acting with gross negligence.

Section 1.07 Initial Funding and Funding of Settlement Proceeds

The Trust will be initially funded with $1 and such other property as shall be listed on Schedule A. Schedule A shall be made a part of and shall be incorporated by reference in this agreement.

The Trust will be funded with future additional funds to be made payable to the Trustee for the sole benefit of GILBERTO KELLY LOPEZ. The Court has ordered that funds be paid into the Trust without the appointment of a guardian or conservator, or the transfer of ownership of the funds to GILBERTO KELLY LOPEZ. The Court acts pursuant to its authority as provided by federal law at 42 U.S.C. § 1396 p(d)(4), the laws of the state of Tennessee in Section 34-1-121 of Tennessee Code Annotated and under the inherent powers of the Court as a Court of general jurisdiction. The funds at no time shall be available to GILBERTO KELLY LOPEZ or be placed in his possession, except as otherwise provided in this agreement. This Trust is established at the specific direction of the Court as is further authorized by 20 C.F.R. § 416.1246(e) and the Social Security Programs Operations Manual System (POMS) Paragraph SI 01120.200. The assets directed to this Trust by the Court shall not be deemed to have been or be available to the beneficiary.

Section 1.08 Grantor Trust

While GILBERTO KELLY LOPEZ is alive, the Trust is a Grantor Trust as that term is defined under the Internal Revenue Code. As provided in Revenue Ruling 83-25, 1983-1 CB 116, GILBERTO KELLY LOPEZ will be treated as owner of the Trust for income tax purposes only.

During the lifetime of GILBERTO KELLY LOPEZ, the Trustee may pay the relevant taxing authority, if possible, or reimburse GILBERTO KELLY LOPEZ, his personal representative or any other person for the payment of any income taxes imposed upon GILBERTO KELLY LOPEZ with respect to income or gains of the Trust.

Article Two
Trust Purpose

Section 2.01 Primary Intent

This Special Needs Trust contains instructions for providing for the supplemental special needs of GILBERTO KELLY LOPEZ. While all actions of the Trustee shall be in its sole and absolute discretion, all parties to this Trust agreement should be mindful that it is desirable that GILBERTO KELLY LOPEZ live as independently, productively, and as happily as possible, consistent with reasonable protection of his health and welfare.

Section 2.02 Purpose of the Trust

The express purpose of this Trust is to provide for GILBERTO KELLY LOPEZ extra and supplemental care, maintenance, support and education in addition to and over and above the benefits GILBERTO KELLY LOPEZ otherwise receives as a result of his handicap or disability from any local, state or federal government, or from any other private agencies, any of which provide services or benefits to handicapped persons. It is the express purpose of this Trust to use the trust estate only to supplement other benefits received by GILBERTO KELLY LOPEZ. The Trustee may provide such resources and experiences as will contribute to and make GILBERTO KELLY LOPEZ's life as pleasant, comfortable and happy as feasible. Nothing herein shall preclude the Trustee from purchasing those services and items which promote his happiness, welfare and development, including, but not limited to, vacation and recreation trips away from places of residence, expenses for traveling companions if requested or necessary, entertainment expenses, supplemental medical and dental expenses, social services expenses, and transportation costs. The Trust is to be considered as a discretionary, and not a basic support, trust. The trust estate shall not be used to provide basic food, clothing and shelter nor be available to GILBERTO KELLY LOPEZ for conversion for such items, unless all local, state and federal benefits to which he is entitled as a result of disability have first been applied for those purposes.

The intent of this Trust is to supplement any benefits received (or for which the beneficiary may be eligible) through or from various governmental assistance programs and not to supplant any such benefits, unless the Trustee, in its sole and absolute discretion, determines that the government assistance is inadequate. All actions of the Trustee shall be directed toward carrying out this intent and the discretion granted the Trustee under this agreement to carry out this intent is absolute. Under no circumstances shall GILBERTO KELLY LOPEZ be considered to have access to principal or income of the Trust.

Section 2.03 Residential

The primary objective of this Trust is that GILBERTO KELLY LOPEZ lives as independently as possible in a safe environment. It is desirable that GILBERTO KELLY LOPEZ live in a private residence with personal, professional and financial assistance as needed.

The Trust may support GILBERTO KELLY LOPEZ's living situation to the maximum extent possible without supplanting public benefits. It is preferable that GILBERTO KELLY LOPEZ receives support as necessary to avoid residing in an institutional setting.

Article Three
Trustee Succession and Trust Protector Provisions

Section 3.01 Resignation of a Trustee

Any Trustee may resign by giving thirty days' written notice to the legal representative of the primary beneficiary. If the primary beneficiary is not living, the notice shall be delivered to the Trustees, if any, and to all of the beneficiaries then eligible to receive mandatory or discretionary distributions of net income from any trust created under this agreement.

If a beneficiary is a minor or is legally incapacitated, the notice shall be delivered to that beneficiary's guardian or other legal representative.

Section 3.02 Removal of Trustees

Any Trustee may be removed by a court of competent jurisdiction for any reason. Notice of removal shall be in writing and delivered to the Trustee being removed and to any other Trustee then serving. This shall not limit the authority of a Trust Protector to remove a Trustee under the provisions of Section 3.08(f).

Section 3.03 Replacement of Trustees

If the office of Trustee of a trust created under this agreement is vacant and no designated Trustee is able and willing to act, the Trust Protector shall appoint a corporate fiduciary that is a Qualified Trustee and that is not related or subordinate to GILBERTO KELLY LOPEZ within the meaning of Section 672(c) of the Internal Revenue Code to serve as successor Trustee. If the Trust Protector is unable or unwilling to act, a court of competent jurisdiction, ex parte, shall designate a corporate fiduciary as a Trustee.

The court that designates the successor Trustee shall not acquire any jurisdiction over any trust created under this agreement, except to the extent necessary to name a corporate fiduciary as a successor Trustee.

Section 3.04 Corporate Fiduciaries

Any corporate fiduciary serving under this agreement as a Trustee must be a bank, trust company, or public charity that is qualified to act as a fiduciary under applicable federal or state law and must not be related or subordinate to any beneficiary within the meaning of Section 672(c) of the Internal Revenue Code.

Section 3.05 Incapacity of a Trustee

If any individual Trustee shall become incapacitated, it shall not be necessary for such Trustee to resign as Trustee. The written declaration of such incapacity by the Cotrustee, if any, or, if none, by the party designated to succeed such incapacitated Trustee, if made in good faith and if supported by a certificate of such incapacity by a physician who has examined the incapacitated Trustee, shall terminate such trusteeship.

Section 3.06 Appointment of Special Trustee

If for any reason the Trustee is unwilling or unable to act as to any trust property of the Trust, or with respect to any provisions of this Agreement, the Trustee shall appoint, in writing, a corporate fiduciary or an individual who is not related or subordinate within the meaning of Section 672(c) of the Internal Revenue Code to act as a Special Trustee as to such property or with respect to such provisions, and may revoke any such appointment at will.

Each Special Trustee so acting shall exercise all fiduciary powers granted by this Agreement unless expressly limited by the delegating Trustee in the instrument appointing such Special Trustee. Any Special Trustee may resign at any time by delivering written notice to the Trustee to that effect.

Section 3.07 Provisions Regarding Successor Trustees

A successor Trustee may accept the account of its predecessor Trustee as a full and complete discharge of the predecessor Trustee.

No successor Trustee shall be personally liable for, or responsible for, any act or failure to act of any predecessor Trustee. No successor Trustee shall have any duty to review the records or acts of any predecessor Trustee.

Every successor Trustee shall have all of the rights and powers and be subject to all of the duties and restrictions given to the initial Trustee under this agreement.

Section 3.08 Provisions for Trust Protector

The function of the Trust Protector is to assist, if needed, in protecting the interests of the beneficiaries and in achieving the objectives as manifested by the other provisions of this agreement.

Any successor Trust Protector named or appointed under this Section shall be a corporate fiduciary or an individual who is not related or subordinate to any beneficiary within the meaning of Section 672(c) of the Internal Revenue Code.

(a) Designation of Trust Protector

ALBERT M. ALEXANDER, JR. is appointed to serve as Trust Protector of each trust created under this agreement.

(b) Resignation of Trust Protector

A Trust Protector may resign by giving notice to the income beneficiaries of the trust and to the Trustee then serving.

Resignation shall take effect on the date set forth in the notice, which date shall not be earlier than thirty (30) days after the date of delivery of the notice of resignation, unless an earlier effective date shall be agreed to by a majority of the income beneficiaries of the trust. A resigning Trust Protector shall not be liable or responsible for the act of any successor Trust Protector.

(c) Authority of Trust Protector to Appoint a Successor Trust Protector

Any Trust Protector (including successors) shall have the right to appoint a successor Trust Protector in writing, such appointment to take effect upon the death, resignation or incapacity of the appointing Trust Protector. If a successor Trust Protector has been named, the appointment of a successor Trust Protector under this subsection shall take effect only if and when all Trust Protectors that are named fail to qualify or cease to act.

(d) Default of a Designated Trust Protector

If the office of Trust Protector for a trust is vacant and there is no effectively named successor Trust Protector, a majority of the income beneficiaries of the trust may appoint a successor Trust Protector for the trust.

(e) Rights of Successor Trust Protectors

Any successor Trust Protector shall have all of the authority of the Trust Protector by original appointment, but will not be responsible for the acts or omissions to act of its predecessor.

(f) Power to Remove and Appoint Trustees

The Trust Protector shall have the authority to remove any Trustee of a trust created under this agreement.

Whenever the office of Trustee of a trust is vacant and no successor Trustee is effectively named, the Trust Protector shall appoint a corporate fiduciary to serve as Trustee.

A Trust Protector may not appoint itself as a Trustee and a Trust Protector may not simultaneously serve as both Trust Protector and Trustee.

(g) Good Faith Standard Imposed

The Trust Protector shall not be liable for any action taken in good faith. The Trust Protector shall not be liable for any act or omission to act and shall be reimbursed promptly for any costs incurred in defending or settling any claim brought against it in its capacity as Trust Protector unless it is conclusively established that the act or omission to act was motivated by an actual intent to harm the beneficiaries of the trust or was an act of self-dealing for personal pecuniary benefit.

(h) Power to Amend or Modify the Trust Agreement

The Trust Protector may amend or modify this agreement as it applies to any trust to which the Trust Protector is serving as Trust Protector to:

> Alter the administrative and investment powers of the Trustee;
>
> Reflect tax or other legal changes that affect trust administration;
>
> Correct ambiguities, including scrivener errors, that might otherwise require court construction or reformation;
>
> Grant a beneficiary of any trust created under this agreement the unlimited and unrestricted testamentary general power to appoint to the creditors of the beneficiary's estate, or otherwise, any property remaining in trust with an inclusion ratio greater than zero, which in the absence of the exercise of a power of appointment would pass to a skip person for generation skipping transfer tax purposes.

An amendment made by the Trust Protector in good faith shall be conclusive on all persons interested in the trust and the Trust Protector shall not be liable for the consequences of any amendment or for not having amended the trust. An amendment to this agreement shall be made in a written instrument signed by the Trust Protector. The Trust Protector shall deliver a copy of the amendment to the income beneficiaries and the Trustee.

(i) Not a General Power of Appointment

Notwithstanding any other provision in this agreement to the contrary, the Trust Protector shall not participate in the exercise of a power or a discretion conferred under this agreement that would cause the Trust Protector to possess a general power of appointment within the meaning of Sections 2041 and 2514 of the Internal Revenue Code. Specifically, the Trust Protector may not use such powers for his or her personal benefit, or for the discharge of his or her financial obligations.

(j) Release of Powers

The Trust Protector, acting on its own behalf and on behalf of all successor Trust Protectors, may at any time, by a written instrument delivered to the Trustee, irrevocably release, renounce, suspend or reduce any or all powers and discretions conferred on the Trust Protector by this agreement.

(k) No Duty to Monitor

The Trust Protector shall have no duty to monitor any trust created under this agreement in order to determine whether any of the powers and discretions conferred by this agreement on the Trust Protector should be exercised. Further, the Trust Protector shall have no duty to keep informed as to the acts or omissions of others or to take any action to prevent or minimize loss. Any exercise or non-exercise of the powers and discretions granted to the Trust Protector shall be in the sole and absolute discretion of the Trust Protector, and shall be binding and conclusive on all persons. The Trust Protector is not required to exercise any power or discretion granted under this agreement.

(l) Compensation

Any Trust Protector serving hereunder shall be entitled to receive (but not required to accept) reasonable compensation for services as determined by the Trustee. The Trust Protector shall be entitled to reimbursement for all expenses incurred in the performance of its duties as Trust Protector, including travel expenses.

Serving in the capacity of Trust Protector shall not prevent the Trust Protector from also providing legal, investment or accounting services on behalf of the trust or the trust beneficiaries. If the Trust Protector is providing legal services, the Trust Protector is entitled to charge its normal and customary fees for services rendered or to be rendered and in addition is entitled to be compensated for its services as Trust Protector.

(m) Right to Examine

The books and records of each trust created under this agreement, including all documentation, inventories and accountings, shall be open and available for inspection by the Trust Protector at all reasonable times.

Article Four
Definition of Gilberto Kelly Lopez's Special Needs

Section 4.01 Special Needs the Trustee Shall Consider

As used in this document, "special needs" refers to the requisites for maintaining GILBERTO KELLY LOPEZ's comfort, and happiness when, in the discretion of the Trustee, such requisites are not being provided by any public agency, office or department of the State of Tennessee, or of any other state, or of the United States or by any private agency. GILBERTO KELLY LOPEZ may have basic needs such as medical and dental care, attendant care support services, supplemental health care and related therapeutic care for which governmental assistance programs may not otherwise provide.

The intent of this Trust is to create a supplemental and emergency fund for GILBERTO KELLY LOPEZ's benefit and not to displace assistance that may otherwise be available to him through or from various governmental assistance programs. The Trustee is directed to consider these basic living needs when making distributions.

Section 4.02 Examples of Medical Needs

GILBERTO KELLY LOPEZ may have basic needs such as medical and dental care, psychological and psychiatric support services, including psychotherapy, attendant support services, supplemental health care, plastic surgery, and other care for which public benefit assistance programs may not provide. "Special needs" shall include, but not be limited to, occupational therapy, physical therapy and speech therapy not covered by public benefits, medical and dental expenses, annual independent checkups, equipment, programs of training, education, treatment and rehabilitation, eye glasses, and essential supplementary dietary needs, when appropriate.

Regular medical checkups and general preventive healthcare including annual vision and semi-annual dental checks should be encouraged and provided as part of his "special needs." GILBERTO KELLY LOPEZ should be periodically evaluated by medical professionals to ensure that GILBERTO KELLY LOPEZ maintains the best possible health and well-being. This should include annual behavioral evaluations, as appropriate, as well as annual exams by his primary care physician. The Trustee may authorize expenditures not covered by public benefits, related to identifying, diagnosing and treating any condition GILBERTO KELLY LOPEZ may develop, so that he can maintain optimal overall functioning and minimize the need for hospitalization whenever possible.

Section 4.03 Examples of Residential Needs

The Trustee should consider distributions for such things as residential expenses beyond basic rent costs, including furnishings, utilities (other than gas, electricity, garbage collection and water), telephone, Internet and television service.

Section 4.04 Examples of Social Needs

"Special needs" may include specialized classes, camping trips, vacations, athletic contests and events, movies, cultural events, payments for a companion or attendant, and other items to enhance GILBERTO KELLY LOPEZ's self-esteem or situation. "Special needs" may also include equipment to enhance GILBERTO KELLY LOPEZ's participation in such activities, for example, electronic equipment, such as radios, television sets, compact discs and computer equipment; camping equipment, books, video and audio tapes and athletic equipment.

In addition, the Trustee should consider distributions for such things as transportation (including vehicle purchase and maintenance); companions for travel and other expenses related to leisure, recreation, and cultural enrichment; personal care, exercise classes or equipment, and membership fees for clubs and associations.

Section 4.05 Examples of Education and Vocational Training Needs

"Special needs" may also include, but not be limited to vocational and educational training or services not provided by any public benefits or local, state, or federal governmental agencies.

Article Five
Distributions

Section 5.01 Distributions of Income and Principal

The Trustee shall be responsible for determining what discretionary distributions shall be made from this Trust. The Trustee may distribute discretionary amounts of net income and principal to or for the benefit of GILBERTO KELLY LOPEZ for those special needs not otherwise provided by governmental financial assistance and benefits, or by the providers of services, in amounts which will not cause GILBERTO KELLY LOPEZ to be ineligible for governmental financial assistance benefits, in the event GILBERTO KELLY LOPEZ is receiving such benefits. Any undistributed income shall be added to principal.

Section 5.02 Purpose to Supplement Public Benefits

The intent of this Trust is to supplement any benefits received (or for which the beneficiary may be eligible) through or from various governmental assistance programs and not to supplant any such benefits. All actions of the Trustee shall be directed toward carrying out this intent and the discretion granted the Trustee under this agreement to carry out this intent is absolute. GILBERTO KELLY LOPEZ shall not be considered to have access to principal or income of the Trust. The Trustee shall hold, administer, and distribute all property allocated to the Trust for the exclusive benefit of GILBERTO KELLY LOPEZ during his lifetime, unless this Trust is earlier terminated.

For purposes of determining GILBERTO KELLY LOPEZ's eligibility for any such benefits, no part of the principal or undistributed income of the trust estate shall be considered available to him. In the event the Trustee is requested to release principal or income of the Trust to or on behalf of GILBERTO KELLY LOPEZ to pay for equipment, medication, or services which any government agency is authorized to provide, or in the event the Trustee is requested to petition the court or any other administrative agency for the release of trust principal or income for this purpose, the Trustee is, in its sole and absolute discretion, authorized to deny such request and authorized to take whatever administrative or judicial steps may be necessary to continue GILBERTO KELLY LOPEZ's eligibility for benefits, including obtaining legal advice about GILBERTO KELLY LOPEZ specific entitlement to public benefits and obtaining instructions from a court of competent jurisdiction ruling that the trust corpus is not available to GILBERTO KELLY LOPEZ for eligibility purposes. Any expenses of the Trustee in this regard, including reasonable attorney fees, shall be a proper charge to the trust estate.

Section 5.03 No Seeking of Order to Distribute

For purposes of determining GILBERTO KELLY LOPEZ's Medicaid eligibility, no part of the principal or undistributed income of the trust estate shall be considered available to him.

The Trustee shall deny any request by GILBERTO KELLY LOPEZ for the Trustee to (1) release principal or income of the Trust to or on behalf of GILBERTO KELLY LOPEZ to pay for equipment, medication, or services that Medicaid could provide if the Trust did not exist; or (2) petition the court or any other administrative agency for the release of trust principal or income for this purpose. The Trustee may, in the Trustee's discretion, take necessary administrative or legal steps to protect GILBERTO KELLY LOPEZ's Medicaid eligibility, including obtaining a ruling from a court of competent jurisdiction that the trust principal is not available to the beneficiary for purposes of determining Medicaid eligibility. Expenses for this purpose, including reasonable attorney fees, will be a proper charge to the trust estate.

Where the Trustee has denied a request pursuant to the preceding paragraph, the Trustee may lend funds to GILBERTO KELLY LOPEZ in order to pay for the equipment, medication, or services that the Trustee believes that Medicaid could provide if the Trust did not exist, and may take an assignment of GILBERTO KELLY LOPEZ's claim against Medicaid as partial security for such loan.

Section 5.04 Commingling of Property Prohibited

GILBERTO KELLY LOPEZ shall have no ownership interest whatsoever in the assets of this Trust. Therefore, the Trustee shall not permit GILBERTO KELLY LOPEZ to commingle his funds not belonging to the Trust with trust property. Specifically, the Trustee shall not accept or commingle any earnings or public benefits payable to GILBERTO KELLY LOPEZ. Under no circumstances may a representative payee for GILBERTO KELLY LOPEZ's Supplemental Security Income, or other benefits administered by the Social Security Administration, cause those funds to be commingled with this Trust agreement.

No property interests assigned, conveyed, or delivered to the Trustee that GILBERTO KELLY LOPEZ has any vested ownership interest in shall be acceptable to the Trustee. This shall include, but not be limited to, any social security benefits of GILBERTO KELLY LOPEZ, inheritances where GILBERTO KELLY LOPEZ has gained an ownership interest, property directed to this Trust instrument by means of a disclaimer exercised by the beneficiary, proceeds from a blocked account for the benefit of GILBERTO KELLY LOPEZ, or assets from a conservatorship account of GILBERTO KELLY LOPEZ.

In the event that a Trustee is also serving in any other fiduciary capacity on behalf of GILBERTO KELLY LOPEZ, those activities shall be independent from any actions taken with regard to this Trust agreement.

Section 5.05 Trust Distributions

The Trustee shall administer the GILBERTO KELLY LOPEZ IRREVOCABLE TRUST and distribute its net income and principal as provided in this Section.

The following provisions are only meant as guidance, and the Trustee shall seek the advisement of an attorney or advisor experienced in making distributions for persons with disabilities similar to GILBERTO KELLY LOPEZ. The Trustee may make distributions for the benefit of GILBERTO KELLY LOPEZ in any one or more of the following ways if he is receiving Supplemental Security Income, Medicaid benefits, or benefits through another similar program that has income and/or resource limitations.

> The Trustee shall not distribute cash directly to GILBERTO KELLY LOPEZ.
>
> The Trustee shall not reimburse GILBERTO KELLY LOPEZ directly for purchases he makes.
>
> The Trustee may pay directly for services, provided GILBERTO KELLY LOPEZ does not receive any assets as a result of such expenditure that can be converted to cash.
>
> The Trustee may distribute a gift certificate directly to GILBERTO KELLY LOPEZ if the certificate is nontransferable and nonrefundable and cannot be converted to cash.

Section 5.06 Residential Needs

The Trustee may acquire, including but not limited to the purchase of an existing residence or the purchase of real property and construction of a new residence, and maintain a residence for the residential needs of GILBERTO KELLY LOPEZ, as an expense of the Trust, and may pay all charges on any such residence, including but not limited to, construction costs, taxes, assessments, utility charges, insurance premiums, interest and amortization payments, repairs and other expenses and charges for the upkeep and maintenance of any such residence. If the Trustee is maintaining a residence for GILBERTO KELLY LOPEZ, any obligation imposed by regulatory authorities to inspect and appraise such real estate is waived.

The Trustee, in its sole and absolute discretion may charge GILBERTO KELLY LOPEZ rent or allow GILBERTO KELLY LOPEZ to live free of rent. Under no circumstances shall GILBERTO KELLY LOPEZ gain a fee interest in the property.

Section 5.07 Compensation for Attendant Care Services

The Trustee may hire care services capable of providing attendant care to GILBERTO KELLY LOPEZ.

Section 5.08 Employment and Compensation of Others

The Trustee is authorized to disburse Trust funds to employ persons including, but not limited to, attorneys, auditors, certified public accountants, outside money managers, or agents, to advise or assist the Trustee in the performance of its duties.

Section 5.09 Purchases of Personal Property

At the discretion of the Trustee, major items of personal property purchased for the beneficiary such as a vehicle, appliances, household goods or educational or medical equipment may be held in the name of the Trust or may be held in the name of another person other than the Trustee for the benefit of GILBERTO KELLY LOPEZ and will not be considered an investment by the Trustee. While the Trustee shall at all times hold all right, title and interest in and to such personal property, the Trustee may in its discretion allow the beneficiary to possess and/or use such items of personal property.

With prior notice, the Trustee may elect to designate any person as the Trustee's nominee for purposes of holding, insuring and otherwise safekeeping any and all such items of personal property. Upon the designation of a person as the Trustee's nominee for such purposes, the Trustee shall have no further obligation or responsibility for any and all such items of personal property; provided however, that the Trustee shall keep all purchase and ownership records delivered to the Trustee by the nominee with respect to such items of the personal property. Any nominee is directed to cause adequate insurance to be maintained on any such property (and the Trustee is authorized, but not required, to cause adequate insurance to be maintained on any such property should the nominee fail to do so). Neither the nominee nor the Trustee shall have any liability for any loss or damage to any such property. Any and all expenses incurred in connection with the ownership or operation of such items of personal property shall be paid by the Trust.

Article Six
Provisions in the Event of Changed Circumstances

Section 6.01 Discretionary Distributions if Existence of Trust Renders Gilberto Kelly Lopez Ineligible for Benefits

Notwithstanding anything to the contrary contained in the other provisions of this Trust, in the event the existence of this Trust has the effect of rendering GILBERTO KELLY LOPEZ ineligible for Regional Center services, Supplemental Security Income (SSI), Medicaid, or any other program of public benefits, the Trustee is authorized, in its sole and absolute discretion to purchase assets or services which are considered "exempt assets" for purposes of determining eligibility for those benefits and distribute those assets to GILBERTO KELLY LOPEZ.

Trustee shall be mindful that a primary purpose of this trust agreement is management of assets for GILBERTO KELLY LOPEZ's benefit, and ineligibility for public benefits alone should not cause the Trust to be terminated.

Section 6.02 Early Termination Based on Cost

If the Trustee shall determine, in its sole and absolute discretion, that any trust created under this agreement has become uneconomical to administer due to the high cost of administration relative to the value of the trust property, the Trustee may terminate such trust or trusts and distribute the trust property, including any accrued but undistributed net income, in the following order:

Purchase of an asset or service exempt from essential public benefits for the benefit of the primary beneficiary of this Trust.

To GILBERTO KELLY LOPEZ outright.

Article Seven
Administration of the Trust upon the Death of Gilberto Kelly Lopez

Upon the death of GILBERTO KELLY LOPEZ, all of the property of the GILBERTO KELLY LOPEZ IRREVOCABLE TRUST not previously distributed pursuant to prior Articles of this agreement shall be administered as provided in this Article.

Section 7.01 State Action to Recover Benefits

The Trustee shall distribute to the appropriate state agency all amounts remaining in the Trust at the time of GILBERTO KELLY LOPEZ's death (after payment of the amounts set forth in Section 7.01 above) up to an amount equal to the total medical assistance paid on GILBERTO KELLY LOPEZ's behalf under a state plan pursuant to Title 42 of the United States Code. The Trustee shall require written verification of the amount of benefits previously paid on GILBERTO KELLY LOPEZ's behalf, and shall determine the amount, if any, of the Trust assets recoverable by the state. If the remaining Trust assets are insufficient to fully satisfy the claims made by more than one government agency, then such claims shall be reimbursed on a pro-rata basis.

Section 7.02 Payment of Expenses and Taxes

In addition, the Trustee is authorized but not directed to pay any expenses of GILBERTO KELLY LOPEZ's last illness, funeral and burial or cremation, including memorials and memorial services.

The payments authorized under this Section are discretionary, and no claims or right to payment by third parties may be enforced against the GILBERTO KELLY LOPEZ IRREVOCABLE TRUST by virtue of such discretionary authority. Decisions on such expenses may be made by the Trustee without regard to any limitation on such expenses imposed by statute or rule of court and may be made without obtaining the approval of any court having jurisdiction over the administration of GILBERTO KELLY LOPEZ's estate.

Section 7.03 Distribution of Remaining Trust Property

At the death of GILBERTO KELLY LOPEZ, he shall have the testamentary limited power to appoint all or any portion of the principal and undistributed income remaining in the trust among any person or entity.

GILBERTO KELLY LOPEZ may not exercise this testamentary limited power of appointment to appoint to himself, his estate, his creditors or the creditors of his estate. GILBERTO KELLY LOPEZ may not exercise this testamentary limited power of appointment to create another power of appointment that, under the applicable local law, can be validly exercised so as to postpone the vesting of any estate or interest in such property for a period ascertainable without regard to the date of the creation of the first power; furthermore, GILBERTO KELLY LOPEZ is prohibited from exercising the power to suspend the absolute ownership or power of alienation of the property for a period ascertainable without regard to the date of the creation of the first power.

It is intended that this testamentary power of appointment be a limited power of appointment and not a general power of appointment as defined in Section 2041 of the Internal Revenue Code.

If GILBERTO KELLY LOPEZ should die before the complete distribution of his trust without exercising the foregoing limited power of appointment, the Trustee shall distribute the balance of the trust property to the GILBERTO KELLY LOPEZ FAMILY TRUST to be administered as provided in Section 7.04 below.

Section 7.04 Distribution of the Gilberto Kelly Lopez Family Trust

The GILBERTO KELLY LOPEZ FAMILY TRUST shall be held in trust and administered as provided in this Section.

Notwithstanding anything to the contrary contained in the other provisions of the trust, in the event the existence of the GILBERTO KELLY LOPEZ FAMILY TRUST has the effect of (1) making this Trust ineffective under the Tennessee Investment Services Act of 2009, or (2) rendering GILBERTO KELLY LOPEZ ineligible for Regional Center services, Supplemental Security Income (SSI), Medicaid, or any other program of public benefits, the Trustee shall distribute the balance of the trust property pursuant to Article Eight of this Agreement.

(a) Distribution of Income and Principal

The Trustee may pay to or apply for the benefit of the descendants of GILBERTO KELLY LOPEZ, KIMBERLY DENISE LOPEZ, and the descendants of KIMBERLY DENISE LOPEZ, as much of the net income and principal of the trust property as the Trustee, in its sole and absolute discretion, determines to be necessary or advisable for their education, health, maintenance, and support. Any undistributed income shall be added to principal.

(b) Other Available Resources

In making distributions pursuant to this Section, the Trustee shall take into consideration, to the extent that the Trustee deems advisable in its sole and absolute discretion, any income or other resources available to the beneficiaries which are outside of the trust and are known to the Trustee.

(c) Distributions According to Needs

The Trustee may make distributions to or for the benefit of one or more of the beneficiaries to the complete exclusion of the other beneficiaries. These distributions may be made to the beneficiaries in equal or unequal amounts according to their respective needs.

Notwithstanding the above, in making distributions, the Trustee shall give priority in the following order:

1. To the descendants GILBERTO KELLY LOPEZ;
2. To KIMBERLY DENISE LOPEZ; and then
3. To descendants of KIMBERLY DENISE LOPEZ.

(d) Termination of the Trust

Upon the death of the last to die of the children of GILBERTO KELLY LOPEZ, KIMBERLY DENISE LOPEZ and the children of KIMBERLY DENISE LOPEZ, the GILBERTO KELLY LOPEZ FAMILY TRUST shall terminate and the Trustee shall distribute the remaining trust property to the then living descendants of GILBERTO KELLY LOPEZ, per stirpes.

If GILBERTO KELLY LOPEZ has no then living descendants, the Trustee shall distribute the remaining trust property to the then living descendants of KIMBERLY DENISE LOPEZ, per stirpes.

If KIMBERLY DENISE LOPEZ has no then living descendants, the Trustee shall distribute the trust property pursuant to Article Eight of this Agreement.

Article Eight
Remote Contingent Beneficiaries

If, at any time, there is no person or entity qualified to receive final distribution of the trust estate or any part of it, then any such portion of the trust estate with respect to which such failure of qualified recipients has occurred shall be distributed to those persons who would inherit it had GILBERTO KELLY LOPEZ died intestate owning such property, as determined and in the proportions provided by the laws of Tennessee then in effect.

Notwithstanding anything to the contrary contained in the other provisions of the Trust, in the event the existence of the above provision has the effect of rendering GILBERTO KELLY LOPEZ ineligible for Regional Center services, Supplemental Security Income (SSI), Medicaid, or any other program of public benefits, the Trustee shall distribute the trust property to the estate of GILBERTO KELLY LOPEZ.

Article Nine
Administration of Trusts for Underage and Incapacitated Beneficiaries

Section 9.01 Distributions for Minor and Incapacitated Beneficiaries

Whenever any beneficiary shall be under 25 years of age, or is incapacitated (as defined in Section 12.05(f)), or by reason of illness, injury or advanced age, is, in the opinion of the Trustee, unable to administer any payment or distribution properly, except as to a beneficiary's right to withdraw a contribution pursuant to the terms of this agreement, the Trustee may make the distribution to such beneficiary or retain the amount to be distributed in any manner the Trustee, in its sole and absolute discretion, deems advisable, including without limitation, by the methods authorized in this Article.

Before making any distributions to the beneficiaries under this Article, the Trustee shall, to the extent that it is both reasonable and possible, consider the behavior of the beneficiaries with regard to their disposition of prior distributions of trust property, but the Trustee shall have no responsibility to inquire into the ultimate disposition of the distributed property.

Section 9.02 Distribution Methods

The Trustee may distribute or retain trust property for such beneficiaries in any one or more of the following methods:

(a) Distribution to Beneficiary

The Trustee may distribute such trust property directly to the beneficiary.

(b) Distribution to Guardian or Conservator or Family Member

The Trustee may distribute such trust property to the beneficiary's guardian or conservator or to the beneficiary's parent or other family member or other person who has assumed the responsibility of caring for the beneficiary.

(c) Distribution to Custodian

The Trustee may distribute such trust property to any person, including the Trustee, as custodian under the applicable state's version of the Uniform Transfers to Minors Act.

(d) Distribution to Other Persons or Entities

The Trustee may distribute such trust property to persons and entities for the use and benefit of the beneficiary.

(e) Retention in Trust

The Trustee may retain such trust property in a separate trust for the benefit of such beneficiary until the beneficiary attains 25 years of age or, in the opinion of the Trustee, is no longer incapacitated.

Until the termination of such trust, the Trustee, in it sole and absolute discretion, shall distribute as much of the net income and principal of the trust as the Trustee deems necessary or advisable for the health, education, maintenance or support of the beneficiary. Any undistributed net income shall be accumulated and added to principal.

When the beneficiary attains 25 years of age or is no longer incapacitated (as the case may be), the Trustee shall distribute the remainder trust property to the beneficiary.

If the beneficiary should die before the complete distribution of the trust share, then upon the death of the beneficiary, the Trustee shall distribute the remaining net income and principal of this trust share to such persons or entities (including the beneficiary's estate) in such manner, interests, and proportions either outright or upon such new trusts, conditions or limitations as the beneficiary may direct by Last Will and Testament or by any other written instrument that expressly refers to this power. If the beneficiary fails to validly exercise this testamentary general power of appointment, the Trustee shall distribute the balance of this trust property to the then living descendants of the beneficiary, per stirpes.

If the beneficiary has no then living descendants, the Trustee shall distribute the remaining trust property as provided in Article Eight of this agreement.

Article Ten
Trust Administration

Section 10.01 Distributions to Beneficiaries

Whenever in this agreement, the Trustee is authorized to make a distribution of net income or principal to a beneficiary of this trust, the Trustee may apply for the benefit of such beneficiary any property that otherwise could be distributed directly to such beneficiary.

Section 10.02 No Court Proceedings

The trust shall be administered expeditiously consistent with its provisions, free of judicial intervention, and without order, approval or action of any court. It shall be subject only to the jurisdiction of a court being invoked by the Trustee or by other interested parties. Proceedings to seek instructions or court determinations shall be initiated in the court having original jurisdiction over matters relating to the construction and administration of trusts. Seeking instructions or court determination shall not thereafter subject the trust to the continuing jurisdiction of the court.

Any questions or disputes that may arise during the administration of the trust should be resolved by mediation and if necessary, arbitration in accordance with the Uniform Arbitration Act. Each of the Trustees shall select an arbiter and, if necessary to establish a majority decision, the arbiters so selected shall select an additional arbiter. The decision of a majority of the arbiters so selected shall control with respect to such matter.

Section 10.03 No Bond

No Trustee acting under this trust shall be required to furnish any bond for the faithful performance of such Trustee's duties. If required by any law or court rule, no surety shall be required on such bond.

Section 10.04 Trustee Compensation

An individual serving as Trustee shall be entitled to fair and reasonable compensation for the services he or she renders as a fiduciary. Any corporate fiduciary serving as the Trustee shall be compensated by agreement with the individual Trustee or, in the absence of such agreement, in accordance with the corporate fiduciary's published fee schedule in effect at the time the services are rendered.

The Trustee may charge additional fees for services it provides to any trust hereunder that are not comprised within its duties as Trustee, including, but not limited to, fees for legal services, fees for tax return preparation, fees for providing corporate finance or investment banking services.

The Trustee may be reimbursed for reasonable costs and expenses incurred in carrying out its duties under this agreement.

Section 10.05 Employment of Professionals

The Trustee may appoint, employ and remove, at any time and from time to time, investment advisors, accountants, auditors, depositories, custodians, brokers, consultants, attorneys, expert advisers, agents, and employees to advise or assist the Trustee in the performance of its duties. The Trustee may act with or without independent investigation upon the recommendations of the persons or entities employed

The Trustee may reasonably compensate those persons or entities regardless of whether any person or entity so employed shall be a Trustee hereunder or shall be a corporate affiliate of a Trustee of any trust created under this agreement and regardless of whether any entity so employed shall be one in which a Trustee of a trust created under this agreement shall be a partner, member, stockholder, officer, director or corporate affiliate or shall have any other interest.

The Trustee may pay the usual compensation for such services out of principal or income as the Trustee may deem advisable, and such compensation may be paid without diminution of or charging the same against the compensation of any Trustee hereunder, and any Trustee who shall be a partner, stockholder, officer, director or corporate affiliate in any such entity shall nonetheless be entitled as a partner, member, stockholder, officer, director or corporate affiliate to receive such Trustee's share of the compensation paid to such entity.

Section 10.06 Exercise of Testamentary Power of Appointment

A testamentary power of appointment granted under this instrument may be exercised by valid Last Will and Testament, by valid revocable living trust, or by any other written instrument that specifically refers to this power of appointment. The appointment may be exercised to appoint the property among the permissible appointees in equal or unequal proportions, and on such terms and conditions, whether outright or in trust, as the holder of the power designates. The holder of the power may grant further powers of appointment to any person to whom principal may be appointed.

The Trustee may conclusively presume that any power of appointment granted to any beneficiary in this Agreement has not been exercised by the beneficiary if the Trustee has no knowledge of the existence of a valid will, living trust agreement or other written instrument exercising such power within three (3) months after the beneficiary's death.

Section 10.07 Trust Accounting

The Trustee shall render an accounting at least annually to the income beneficiaries of any trust created in this agreement during the accounting period. Such accounting shall include the receipts, disbursements, and distributions occurring during the accounting period together with a statement of the trust property.

The assent by all income beneficiaries, to any accounting rendered by the Trustee, other than an interested Trustee, shall make the matters disclosed in such accounting, in the absence of fraud or manifest error, binding and conclusive upon all persons, whether or not in being, then having or who may thereafter have any interest, vested or contingent, in either income or principal. In the case of a minor or incapacitated beneficiary, that beneficiary's natural guardian or legal representative shall give the assent.

The failure of any such person to object to any account by written notice to the Trustee within 60 days of the receipt of a copy of such account shall be deemed to be an assent by such person.

The trust's financial records along with the trust documentation shall be available at reasonable times and upon reasonable notice for inspection by trust beneficiaries and their representatives. The Trustee shall not be required to furnish trust information regarding the trust to any individual, corporation, or other entity that is not a beneficiary or the representative of a beneficiary, or is not requesting such pursuant to a valid court order.

Section 10.08 Action of Trustees; Disclaimer

If two Trustees are eligible to act with respect to a given matter, then the concurrence of both shall be required for action to be taken with respect to any trust under this agreement.

If more than two Trustees are eligible to act with respect to a given matter, then the concurrence of a majority of the Trustees shall be required and shall control all action to be taken with respect to any trust under this agreement.

If there is not the concurrence and joinder of a majority of trustees with respect to a matter as to which they have joint powers, the matter shall be settled by mediation and if necessary, arbitration in accordance with the Uniform Arbitration Act. Each of the Trustees shall select an arbiter and if necessary to establish a majority decision, the arbiters so selected shall select an additional arbiter. The decision of a majority of the arbiters so selected shall control with respect to such matter.

A nonconcurring Trustee may dissent or abstain from a decision of the majority. Such Trustee shall be absolved from personal liability by registering such dissent or abstention in the records of such trust, and shall thereafter act with the other trustees in any way necessary or appropriate to effectuate the decision of the majority.

Notwithstanding the foregoing and any provision of this agreement to the contrary, any beneficiary serving as a Trustee may disclaim or release, by an instrument in writing, any power as Trustee in whole or in part, irrevocably or for such period of time as such Trustee may specify, without affecting the continuance of the power in any other Trustee.

Section 10.09 Delegation of Trustee Authority; Power of Attorney

Any Trustee may, by an instrument in writing, delegate to any other Trustee the power to exercise any powers, including discretionary powers, granted the Trustee in this agreement. During any such delegation, the delegated powers may be exercised by the Trustee to whom delegated to the same extent as if the delegating Trustee had personally joined in the exercise of such power. The delegating Trustee may revoke such delegation at any time by written notice to the non-delegating Trustee.

The Trustee may execute and deliver a revocable or irrevocable power of attorney appointing any individual or corporation to transact any and all business on behalf of any trust created in this agreement. The power of attorney may grant to the attorney-in-fact all of the rights, powers, and discretion that the Trustee could have exercised.

Section 10.10 Power to Terminate Trusts

If, at any time, the Trustee, other than an Interested Trustee, in its sole and absolute discretion, determines that any trust created under this agreement is no longer economical to administer or that any trust is otherwise inadvisable to administer as a trust, or if the Trustee deems it in the best interest of the beneficiaries, the Trustee, without further responsibility, may terminate such trust or trusts and distribute the trust property, including any undistributed net income to those persons then entitled to receive mandatory distributions of the net income from the trust property and in the same proportions to which they are entitled to receive the net income. If a group of beneficiaries is eligible to receive discretionary distributions of the net income from a trust, such trust shall vest in such beneficiaries in equal shares per capita.

Section 10.11 Merger of Corporate Fiduciary

If any corporate fiduciary acting under this agreement is merged with or transfers substantially all of its trust assets to another corporation or if a corporate fiduciary changes its name, the successor shall automatically succeed to the trusteeship as if originally named a Trustee and no document of acceptance of trusteeship shall be required.

Section 10.12 Beneficiary's Status

Until the Trustee receives notice of any incapacity, birth, marriage, death or other event upon which the right to payments may depend, the Trustee shall not be liable for acting or failing to act with respect thereto or for disbursements made in good faith to persons whose interest may have been affected by such event.

The Trustee may rely on any information provided by a beneficiary with respect to the beneficiary's assets and income. The Trustee shall have no independent duty to investigate the status of any beneficiary and shall not incur any liability for failure to do so.

Section 10.13 Discharge of Third Persons

Persons dealing in good faith with the Trustee shall not be required to see to the proper application of money paid or property delivered to the Trustee, or to inquire into the authority of the Trustee as to any transaction, and the receipt from the Trustee for any money or property paid, transferred or delivered to it shall be a sufficient discharge to the person or persons paying, transferring or delivering the same from all liability to see to the application thereof.

Section 10.14 Certificate by Trustee

A written statement of the Trustee at any time as to any facts relative to the trust may always be relied upon and shall always be conclusive evidence in favor of any transfer agent and any other person dealing in good faith with the Trustee in reliance upon such statement.

Article Eleven
Trustee's Powers

Section 11.01 Introduction to Trustee's Powers

The Trustee may exercise, without prior approval from any court, all powers conferred by this trust agreement and any other powers conferred by law, including, without limitation, those powers set forth under the common law or any fiduciary powers act or other laws of the State of Tennessee, except as otherwise specifically provided in this agreement. Each power conferred upon the Trustee by state or federal statutes shall be subject to any express limitations or contrary directions contained in this agreement.

The Trustee of a trust may have duties and responsibilities in addition to those described in this agreement. Any Trustee serving under this agreement is encouraged to obtain legal advice when appropriate.

Notwithstanding anything to the contrary contained in the other provisions of this trust, the Trustee shall possess the powers contained in this Article subject to the "Prudent Man Rule."

Section 11.02 Rights of Persons Dealing with the Trustee

The Trustee may execute and deliver any and all instruments in writing, which our Trustee considers necessary to carry out any of the powers granted in this agreement.

A third party dealing with the Trustee shall not be required to inquire into the terms of this agreement, the authority of the Trustee, or to see to the application which the Trustee makes of funds or other property received by the Trustee.

Any person dealing with the Trustee shall be entitled to rely upon an Affidavit or a Certificate of Trust, and upon any instruments duly executed in accordance with the provisions thereof, to the same extent as such person might rely upon the original trust agreement.

Section 11.03 Powers to Be Exercised in the Best Interests of the Beneficiaries

The Trustee shall exercise the administrative and investment powers granted in this Article without the order of any court, as the Trustee determines in its sole and absolute discretion to be in the best interests of the beneficiaries.

Despite any conflicting provision in this agreement, the Trustee shall not exercise any power in a manner inconsistent with the beneficiaries' right to the beneficial enjoyment of the trust property in accordance with the general principles of the law of trusts.

Section 11.04 The Trustee's Investment Powers

Except as otherwise specifically provided in this trust agreement, the investment powers of the Trustee shall include the following:

(a) Investment Powers in General

The Trustee may invest in any type of investment that the Trustee determines is consistent with the investment goals and overall goals of the trust, taking into account the trust's overall investment portfolio. Accordingly, the Trustee may administer, invest, and reinvest trust property in stocks, bonds, securities, commodities, options, and all forms of real or personal property, both tangible and intangible, whether such property is located inside or outside the geographic borders of the United States of America or its possessions or territories.

Without limiting the Trustee's investment authority in any way, the Trustee should exercise reasonable care and skill in selecting and retaining trust investments. The Trustee should also take into account the following factors in choosing investments for the trust:

The potential total return from the investment, both in the form of income and appreciation;

The potential income tax consequences of the investment;

The investment's potential for volatility and return; and

The role the investment will play in the trust portfolio.

The Trustee should also consider the possible effects of inflation or deflation, changes in global and U.S. economic conditions, transaction expenses, and the need for liquidity in constructing the trust's investment portfolio.

The Trustee may delegate to any registered investment adviser or corporate fiduciary the discretion to manage trust investments.

The Trustee may sell at public or private sale, transfer, exchange property for other property, or otherwise dispose of trust property for such consideration and upon such terms and conditions as the Trustee deems advisable, including options of any duration for any such sales, exchanges, or transfers.

The Trustee may invest in investment companies, mutual funds, common trust funds and like investments.

The Trustee may purchase life, disability, medical, liability, long-term health care and other insurance on the behalf of and for the benefit of any trust beneficiary. The Trustee may purchase annuities and like investments for any trust beneficiary.

The Trustee may enter into any contracts, and deliver deeds or other instruments as the Trustee deems appropriate to the purposes of the trust.

(b) Banking Powers

The Trustee may establish bank accounts of all types in one or more banking institutions as the Trustee may choose. The Trustee may open such accounts in the name of the Trustee (with or without disclosing fiduciary capacity) or in the name of the trust. When an account is in the name of the trust, checks on that account, and authorized signatures need not disclose the fiduciary nature of the account or refer to any trust or Trustee.

An account from which frequent disbursements are made need not be an interest bearing account. The Trustee may authorize withdrawal from an account by check, draft or other instrument or in any other manner.

(c) Business Powers

The Trustee is authorized to serve as officer, director, manager, and/or in any other capacities of any proprietorship, partnership, joint venture, corporation, or other enterprise in which the trust has an interest (whether or not total or controlling). The Trustee may receive compensation for its services as such.

The Trustee may contract with and otherwise deal with any such enterprise in the same manner as with any such enterprise in which the trust has no interest, and to use any voting power the Trustee may have (whether as Trustee or as officer, director, or other official of the enterprise) to implement any such authority.

With respect to any units in a limited liability company, limited partnership, and/or stock in a closely-held corporation ("closely-held company") contributed to the trust, the powers set forth in this Article shall not disqualify any Trustee acting personally and independently, and not in a fiduciary capacity, from holding office in a closely-held company, accepting remuneration from a closely-held company, voting any units or stock in favor of such Trustee as a director or officer of a closely-held company, or purchasing or selling units or stock of a closely-held company.

The Trustee may elect to qualify any trust created in this agreement that is funded with Subchapter S stock as a Qualified Subchapter S Trust ("QSST") under Section 1361(d)(3) of the Internal Revenue Code of 1986 to administer such trust in accordance with the requirements of that Section in order that the stock and trust will continue to be treated as a QSST for tax purposes.

(d) Common Investments

For purposes of convenience with regard to the administration and investment of the trust property, the Trustee may invest and reinvest part or all of the trust property jointly with trust property of other trusts of which the Trustee is also serving as a Trustee. For this purpose, a corporate fiduciary acting as Trustee under this agreement may use common funds for investment.

However, when trust property is managed and invested in this manner, the Trustee shall maintain records that sufficiently identify that portion of the jointly invested assets that constitute the trust property of this trust.

(e) Farm, Ranch and Other Agricultural Powers

The Trustee may retain, sell, acquire, and continue any farm or ranching operation whether as a sole proprietorship, partnership, or corporation.

The Trustee may engage in the production, harvesting, and marketing of either farm and ranch products either by operating directly or with management agencies, hired labor, tenants, or sharecroppers.

The Trustee may engage and participate in any government farm program, whether state or federally sponsored.

The Trustee may purchase or rent machinery, equipment, livestock, poultry, feed, and seed.

The Trustee may improve and repair all farm and ranch properties; construct buildings, fences, and drainage facilities; acquire, retain, improve, and dispose of wells, water rights, ditch rights, and priorities of any nature.

The Trustee may, in general, do all things customary or desirable to operate a farm or ranch operation for the benefit of the beneficiaries of the various trusts created under this agreement.

(f) Real Estate Powers

The Trustee may sell at public or private sale, purchase, exchange, lease for any period, mortgage, manage, alter, improve and in general deal in and with real property in such manner and on such terms and conditions as any person might do as owner of such real property.

The Trustee may grant or release easements in or over, subdivide, partition, develop, raze improvements or abandon, any real property.

The Trustee may manage real estate in such manner as the Trustee deems best and shall have all other real estate powers requisite for such purpose.

The Trustee may enter into leases and grant options to lease trust property even though the term extends beyond the termination date of the trusts established under this agreement. For such purposes, the Trustee may enter into any contracts, covenants and warranties agreements as the Trustee deems appropriate.

(g) Securities, Brokerage and Margin Powers

The Trustee may buy, sell, and deal in stocks, bonds, commodities, options and other securities of any kind and in any amount, including short sales. The Trustee may write or purchase call or put options, or other derivative securities.

The Trustee may carry stock certificates and other property in the form of street certificates, or in any other form, without disclosing the existence of any trust. The Trustee may permit trust property to be held in the custody of a banking institution or brokerage firm.

The Trustee may maintain margin accounts with brokerage firms and may pledge securities to secure loans and advances made to the Trustee or to (or for the benefit of) a beneficiary of any trust created under this agreement.

The Trustee may place all or any part of the securities held by the trust in the custody of a bank or trust company. The Trustee may have all securities registered in the name of the bank or trust company or in the name of its nominee. The Trustee may appoint such bank or trust company as the agent or attorney in fact to collect, receive, receipt for and disburse any income, and generally to perform the duties and services incident to a custodian of accounts.

The Trustee may employ a broker-dealer as a custodian for securities held by the trust and register such securities in the name of the broker-dealer, register securities in the name of a nominee with or without the addition of words indicating that such security is held in a fiduciary capacity, or hold securities in bearer or uncertificated form; and use a central depository, clearing agency or book-entry system, such as The Depository Trust Company, Euroclear or the Federal Reserve Bank of New York.

The Trustee may participate in any reorganization, recapitalization, merger or similar transaction and may give proxies or powers of attorney which may be discretionary and with or without powers of substitution and the Trustee may vote or refrain from voting as to any matter. The Trustee may exercise or sell conversion or subscription rights for securities of all kinds and description.

The Trustee may vote, in person or by proxy, at stockholder meetings.

(h) Loans and Borrowing Powers

The Trustee may loan money to any beneficiary with or without interest, on any term or on demand, with or without collateral, as the Trustee deems to be in the best interests of the trust beneficiaries.

The Trustee may loan money to any other person or entity on any terms or on demand. Any such loan shall be fully secured with good collateral and shall bear a market rate of interest.

It may borrow money upon such terms and conditions as it shall deem advisable, including, in the case of a corporate fiduciary, the power to borrow from its own banking or commercial department.

The Trustee shall have the power to obligate the trust property for the repayment of any sums borrowed where the best interests of the beneficiaries have been taken into consideration.

The Trustee may encumber trust property by mortgages, pledges or other hypothecation and shall have the power to enter into any mortgage whether as a mortgagee or mortgagor even though the term may extend beyond the termination of any trust created under this agreement and even though the term may extend beyond the period that is required for an interest created under this agreement to vest in order to be valid under the rule against perpetuities.

(i) Residences and Tangible Personal Property

The Trustee may acquire, maintain, invest and reinvest in any residence for the use and benefit of the beneficiaries of any trust whether or not such residence is income producing and without regard to the proportion that the value of the residence may bear to the total value of the trust property even if such retention involves financial risks that trustees would not ordinarily incur. The Trustee may pay and make arrangements for others to pay, or to share in the payment of, all carrying costs of such residence, including, but not limited to any taxes, assessments, insurance, and all expenses of maintaining the residence in suitable repair, and all expenses relating to the operation of the residence for the benefit of the beneficiaries.

The Trustee may acquire, maintain, invest and reinvest in articles of tangible personal property whether or not such property is income producing and pay the expenses of the repair and maintenance of such property.

The Trustee shall have no duty to convert the property referred to in this Subsection to productive property except as otherwise required by other provisions of this agreement.

The Trustee may permit any income beneficiary of any trust to occupy any real property or use any personal property owned by the trust on such terms or arrangements as the Trustee may determine, whether rent free or in consideration of payment of taxes, insurance, maintenance, repairs, or other charges.

The Trustee shall have no liability for any depreciation or loss as a result of the retention of any property retained or acquired under the authority of this Subsection.

(j) Life Insurance Powers

Except as otherwise provided in this agreement, the Trustee shall have the powers with regard to life insurance as set forth in this Subsection.

The Trustee may purchase, accept, hold, and deal with as owner, policies of insurance on the life of any trust beneficiary, or on the life of any person in whom any trust beneficiary has an insurable interest.

The Trustee shall have the power to execute or cancel any automatic premium loan agreement with respect to any policy, and shall have the power to elect or cancel any automatic premium loan provision in a life insurance policy. The Trustee may borrow money with which to pay premiums due on any policy either from the company issuing the policy or from any other source and may assign any such policy as security for the loan.

The Trustee shall have the power to exercise any option contained in a policy with regard to any dividend or share of surplus apportioned to the policy; to reduce the amount of a policy or convert or exchange the policy; or to surrender a policy at any time for its cash value.

The Trustee may elect any paid-up insurance or any extended term insurance nonforfeiture option contained in a policy.

The Trustee shall have the power to sell policies at their fair market value to the insured or to anyone having an insurable interest in the policies.

The Trustee shall have the right to exercise any other right, option, or benefit contained in a policy or permitted by the insurance company issuing that policy.

Upon termination of any trust created under this agreement, the Trustee shall have the power to transfer and assign the policies held by the trust as a distribution of trust property.

(k) Oil, Gas and Mineral Interests

The Trustee may acquire, maintain, develop and exploit, either alone or jointly with others, any oil, gas, coal, minerals and other natural resource rights or interests.

The Trustee may drill, test, explore, mine, develop, extract, remove, convert, manage, retain, store, sell or exchange any of such rights and interests on such terms and for such price as the Trustee deems advisable.

The Trustee may execute leases, pooling or unitization agreements and other types of agreements in connection with such oil, gas, coal, mineral or other natural resource rights or interests even though such arrangements may extend beyond the termination of any trust under this agreement.

The Trustee may execute division orders, transfer orders, releases, assignments, farm outs, and any other instruments which it deems proper.

The Trustee may employ the services of consultants or outside specialists in connection with the evaluation, management, acquisition, disposition, or development of any mineral interest, and may pay the cost of such services from the principal or income of the trust property.

Section 11.05 The Trustee's Administrative Powers

In addition to the other powers granted the Trustee in other provisions of this agreement, the Trustee shall have the following administrative powers:

(a) Expenses and Compensation

The Trustee shall pay from income or principal all of the reasonable expenses attributable to the administration of the respective trusts created in this Agreement.

The Trustee shall pay itself reasonable compensation for its services as fiduciary as provided in this Agreement, and shall reasonably compensate those persons employed by the Trustee, including agents, auditors, accountants, attorneys, and financial advisors (including brokers, financial planners, professional money managers, registered investment advisors and trust departments and officers).

The Trustee may appoint, employ and remove, at any time and from time to time, any investment counsel, accountants, depositories, custodians, brokers, consultants, attorneys, expert advisers, agents, clerks and employees, irrespective of whether any person, firm or corporation so employed shall be a Trustee hereunder or shall be a corporate affiliate of a Trustee hereunder and irrespective of whether any firm or corporation so employed shall be one in which a Trustee hereunder shall be a partner, stockholder, officer, director or corporate affiliate or shall have any interest.

The Trustee may pay the usual compensation for such services out of principal or income as the Trustee may deem advisable, and such compensation may be paid without diminution of or charging the same against the commissions or compensation of any Trustee hereunder, and any Trustee who shall be a partner, stockholder, officer, director or corporate affiliate in any such firm or corporation shall nonetheless be entitled as a partner, stockholder, officer, director or corporate affiliate to receive such Trustee's share of the compensation paid to such firm or corporation.

(b) Power to Merge or Sever Trusts

The Trustee may merge and consolidate any trust created in this agreement with any other trust created by any person at any other time, if the other trust contains substantially the same terms for the same beneficiaries, and has at least one Trustee in common with the trust or trusts created in this agreement.

The Trustee may administer such merged and consolidated trusts as a single trust or unit. If, however, such a merger or consolidation does not appear feasible, as determined in the sole and absolute discretion of the Trustee, the Trustee may consolidate the assets of such trusts for purposes of investment and trust administration while retaining separate records and accounts for the respective trusts.

The Trustee may sever any trust on a fractional basis into two or more separate and identical trusts for any reason or to segregate by allocation to a separate account or trust, a specific amount from, a portion of, or specific assets included in, the trust property of any trust. Income earned on a segregated amount, portion, or specific asset after the segregation is effective, passes with the amount, portion, or asset segregated. Each separate trust must be held and administered upon substantially identical terms and conditions of the trust from which it was severed.

Subject to the terms of the trust, the Trustee may consider differences in federal tax attributes and other pertinent factors in administering the trust property of any separate account or trust, in making applicable tax elections, and in making distributions. A separate trust created by severance must be treated as a separate trust for all purposes from the date on which the severance is effective. The effective date of the severance may be retroactive to a date before the date on which the Trustee exercises such power.

(c) Income and Principal

The Trustee may determine in a fair, equitable, and practical manner how all Trustee's fees, disbursements, receipts, and wasting assets shall be credited, charged, or apportioned between principal and income.

The Trustee may set aside from trust income reasonable reserves for taxes, assessments, insurance premiums, repairs, depreciation, obsolescence, depletion, and for the equalization of payments to or for the beneficiaries; it may select any and all accounting periods with regard to the trust property.

All increases in the value of any life insurance policies prior to the death of the insured held by this trust shall be principal and not income.

(d) Nominee Powers

The Trustee may hold real estate, securities or any other trust property in the name of a nominee or in any other form without disclosing the existence of any trust or its fiduciary capacity.

(e) Settlement Powers

The Trustee may settle, by compromise, arbitration or otherwise any and all claims and demands in favor of or against, or in any way relating to, any trust created under this agreement upon such terms as the Trustee may determine. The Trustee may release or abandon any claims in favor of this trust.

(f) Distribution Powers

The Trustee may make any distribution or division of trust property without the consent of any beneficiary. The Trustee may make distributions in cash or in kind, or partly in each, in such proportion (and not necessarily *pro rata*) and at such values as the Trustee shall determine.

The Trustee may allocate undivided interests in specific assets to any beneficiary or trust share in such kind and proportion (and not necessarily *pro rata*) as the Trustee shall determine.

Such determinations may be made by the Trustee without regard to the basis or other income tax attributes of the property.

(g) Payment of Taxes and Expenses

Except as otherwise provided in this agreement, the Trustee is authorized to pay all property taxes, assessments, fees, charges, and other expenses incurred in the administration or protection of this Trust. All such payments shall be a charge against the Trust fund and shall be paid by the Trustee out of the income of the Trust fund, or, in the event and to the extent that the income may be insufficient, then out of the corpus of the Trust fund, at any time prior to final distribution of the Trust property. The determination of the Trustee in its sole discretion with respect to all such matters shall be conclusive upon the beneficiaries of this Trust.

(h) Retention and Abandonment of Trust Property

Except as otherwise required by any contrary provision of this trust agreement, the Trustee may retain any trust property contributed by any person or received from any estate or any other source, whether or not such property is income producing, marketable or of a character generally prescribed for the investment of trust funds and without regard to the proportion the value of such property bears to the total value of trust property.

The Trustee shall invest contributions of cash and cash equivalents as soon as reasonably practical after such assets have been acquired by the trust. However, the Trustee is permitted to retain a reasonable amount in cash or money market accounts in order to pay anticipated expenses and other costs and to provide for anticipated distributions to, or for the benefit of, a beneficiary.

The Trustee may also abandon any trust property the Trustee deems to be of insignificant value.

(i) Environmental Powers

The Trustee shall have the powers set forth in this Subsection to deal with any actual or threatened contamination of trust property by any hazardous substance to deal with any other environmental matter affecting the trust property.

The Trustee shall have the power to inspect trust property to determine compliance with or to respond to any environmental law affecting trust property. "Environmental Law" shall mean any federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment or of human health.

The Trustee may refuse to accept property if the Trustee determines that such property is or may be contaminated by any hazardous substance or is currently being used for any purpose involving hazardous substances that could create liability to the trust or to the Trustee.

The Trustee may use and expend trust property to (i) conduct environmental assessments, audits or site monitoring; (ii) take remedial action to contain, clean up or remove any hazardous substance including a spill, discharge or contamination; (iii) institute, contest or settle legal proceedings brought by a private litigant or any local, state, or federal agency concerned with environmental compliance; (iv) comply with any order issued by any court or by any local, state, or federal agency directing an assessment, abatement or clean-up of any hazardous substance; and (v) employ agents, consultants and legal counsel to assist the Trustee in these actions.

The Trustee shall not be liable for any loss or reduction in value sustained by the trust as a result of the retention by the Trustee of property on which hazardous materials or substances requiring remedial action are discovered unless the Trustee contributed to that loss or reduction in value through willful misconduct or gross negligence.

The Trustee shall not be liable to any beneficiary or to any other party for any decrease in the value of trust property as a result of the Trustee's compliance with any federal, state, or local environmental law, including any reporting requirement.

The Trustee may release, relinquish or disclaim any power held by the Trustee that the Trustee, in its sole and absolute discretion, determines may cause the Trustee to incur individual liability under any Environmental Law.

Section 11.06 Limitation on Trustee's Powers

All powers granted to the Trustee under this agreement or by applicable law shall be subject to the limitations set forth in this Section, unless explicitly excepted by reference to this Section.

(a) Limitations on the Powers of an Interested Trustee

An Interested Trustee may not exercise or participate in the exercise of discretion with respect to the distribution of income or principal, or the termination of the trust to or for the benefit of a beneficiary, to the extent that the exercise of such discretion is other than for the health, education, maintenance or support of a beneficiary as described under Sections 2041 and 2514 of the Internal Revenue Code.

(b) No Distributions in Discharge of Support Obligation of a Trustee

A Trustee may not exercise or participate in the exercise of discretion with respect to the distribution of income or principal of any trust administered under the terms of this agreement to any person the Trustee is legally obligated to support, to the extent such distribution discharges the support obligation of the Trustee.

(c) Insurance Policy on the Life of a Trustee

If a policy that insures the life of a Trustee is held as part of the trust property, such Trustee shall have no right to exercise any powers or rights in such policy, and such powers and rights shall be exercised solely by the other Trustee or Trustees serving under this agreement.

If the insured Trustee is the only then acting Trustee, then the powers with respect to the insurance policy on the life of the Trustee shall be exercised by a Special Independent Trustee designated under the provisions of this agreement dealing with trustee succession.

If any rule of law or court decision construes the ability of the insured Trustee to name a Special Independent Trustee as an incident of ownership of the life insurance policy on the insured's life, the Special Independent Trustee shall be selected by a majority of the then current mandatory and discretionary income beneficiaries, excluding the insured Trustee if the insured Trustee is a beneficiary.

(d) Insurance Policy on a Beneficiary's Life

If a policy that insures the life of a beneficiary of a trust created under this agreement is held as part of the trust property, the beneficiary acting individually or as Trustee shall not have any power over such policy of insurance, the cash value, or the proceeds thereof. The intent of this denial of any power is to prevent an insured beneficiary from having any power that would constitute an incident of ownership over the policy.

In addition, no distributions of income or principal to the insured beneficiary shall be satisfied out of the insurance policy, the cash value or any other economic benefit of the policy.

The limitations of this Subsection shall not apply if the proceeds of such insurance policy would, upon the death of the beneficiary, be included in the gross estate of such beneficiary for federal estate tax purposes for any reason other than the limitations of this Subsection.

Section 11.07 Investment Manager

The Trustee shall exercise the powers hereinbefore granted to it in this Article with respect to each trust hereunder only on the written direction of the Investment Manager of such trust, provided that:

(a) Trustee shall manage and invest the otherwise uninvested cash in each such trust in its sole discretion;

(b) the Investment Manager may at any time, or from time to time, delegate to Trustee the authority to exercise in its sole discretion the power to buy or sell any property (or, having delegated the authority to do so, revoke such authority); and

(c) if at any time during the continuance of any such trust there shall be no Investment Manager of such trust, or if the Investment Manager of such trust shall fail to communicate in writing to Trustee his or her direction as to the exercise of any of the aforesaid powers for which exercise the direction of such Investment Manager shall be necessary, within ninety (90) days after Trustee shall have sent to such Investment Manager, by certified mail (or by any other means for which the sender shall have evidence of receipt by the addressee), at his or her last known address, a written request for such direction (notwithstanding that Trustee shall be under no obligation to request any such direction), then Trustee is hereby authorized and empowered to take such action in the premises as it, in its sole discretion, shall deem to be for the best interest of the beneficiaries of such trust.

The Investment Manager of each trust hereunder shall be ALBERT M. ALEXANDER, JR., Certified Structured Settlement Consultant, so long as he is willing and able to act as such Investment Manager. If ALBERT M. ALEXANDER, JR. is unwilling or unable to act as such Investment Manager, the successor Investment Manager shall be the Investment Manager appointed by ALBERT M. ALEXANDER, JR. in writing, signed and dated, delivered to the Trustee. Each successor Investment Manager appointed pursuant to this paragraph shall have the right to appoint successor Investment Managers.

If ALBERT M. ALEXANDER, JR. does not appoint a successor Investment Manager, or at any other time a successor Investment Manager has not been appointed, the Trustee can designate a successor Investment Manager.

To qualify, any person appointed Investment Manager of a trust hereunder shall deliver a written instrument to Trustee indicating acceptance and agreement that all powers conferred upon such Investment Manager will be exercised in a fiduciary capacity for the exclusive interest of the beneficiaries. The Investment Manager need not inquire into the Trustee's performance of its duties.

The Investment Manager shall be entitled to fair and reasonable compensation for the services it renders as Investment Manager. The amount of compensation shall be an amount equal to the customary and prevailing charges for services of a similar nature during the same period of time and in the same geographic locale.

Section 11.08 Special Provisions for Cumberland Trust & Investment Company

The provisions of this Section apply when CUMBERLAND TRUST & INVESTMENT COMPANY it is serving as Trustee under this Agreement.

The provisions of this Section shall control if the provisions of this Section conflict with the other provisions of this agreement, unless to do so would clearly be contrary to the intent as expressed in this agreement.

(a) Authority of Investment Manager

The Investment Manager shall exercise all powers referenced in this trust as being held by the Trustee that are related to the marketable assets including but not limited to stocks, bonds, and other liquid assets within the Trust. The Trustee shall have no responsibility or authority to invest the trust property or to make investment decisions, except as directed by the Investment Manager.

(b) Trustee Indemnification and Hold Harmless

The Trustee shall not be liable for any loss resulting from the making, retention or management of any investment or other act within the authority of the Investment Manager. The Trustee is not responsible to any trust beneficiary, for the retention, sale, purchase or management of assets, or for any actions incident thereto, that are done pursuant to the direction of, or within the authority of, the Investment Manager. The Trustee shall be fully indemnified from the trust assets and held harmless against liability for any and all claims, damages, losses, demands, causes of action, fines, taxes, costs and expenses sustained or incurred by the Trustee by reason of the actions or inaction of the Investment Manager or the Trustee's reliance upon such actions or inaction, whether or not such reliance is deemed negligence or a breach of fiduciary duty. Such indemnification extends to, but is not limited to, the Trustee's costs of defending against claims and legal actions, including court costs and reasonable attorneys' fees. The Trustee is afforded this limited liability and indemnification in addition to the Trustee's exclusion from liability pursuant to applicable law, including but not limited to Tennessee Code Annotated Sections 35-3-122, 35-3-123, 35-14-111 and 35-15-807, all of which shall specifically apply to the trusts created hereunder.

(c) Qualifications of Investment Manager

Any successor Investment Manager must be: (i) an investment partnership, where the general partner of such partnership is an individual or entity with assets under management, on a discretionary basis, either as a fiduciary or investment Manager, exceeding Fifty Million Dollars ($50,000,000) at the time of the investment, (ii) a mutual fund, where the sponsor of such fund is an individual or entity with combined assets under management, on a discretionary basis, either as a fiduciary or investment manager, exceeding Fifty Million Dollars ($50,000,000) at the time of the investment, (iii) an individual or entity with assets under management, on a discretionary basis, either as a fiduciary or investment manager, exceeding Fifty Million Dollars ($50,000,000) at the time of the investment, or (iv) an individual or entity who, although not managing, on a discretionary basis, combined assets exceeding Fifty Million Dollars ($50,000,000), invests the entire account in a manner described in (i), (ii) or (iii) above, or any combination thereof.

(d) Administrative Provisions

Any notices hereunder shall be made by a written instrument, effective upon delivery. A removed or resigning Trustee or Investment Manager shall effect a transfer of assets within forty-five (45) days of such notice. The removal of a Trustee or Investment Manager shall not be dependent upon the showing of cause, the approval of any court, or the appointment of guardians for any persons under an incapacity or unborn. No successor Trustee or Investment Manager shall be liable or responsible in any manner for any acts or defaults of any predecessor Trustee or Investment Manager.

Article Twelve
General Provisions

Section 12.01 Maximum Term for Trusts

Notwithstanding any other provision of this agreement, unless sooner terminated under other provisions hereof, any trust created under this agreement shall terminate upon the expiration of the longest period that property may be held in trust under this agreement without violation of the applicable Rule Against Perpetuities.

If the maximum term for trusts is determined by reference to the death of the last to die among a group of individuals living on the date of death, those individuals shall consist of the descendants of the maternal grandparents of GILBERTO KELLY LOPEZ and the descendants of John D. Rockefeller, living at the date of death of GILBERTO KELLY LOPEZ.

At that time, the remaining trust property shall vest in and be distributed to those persons then entitled to mandatory distributions of net income of the trust and in the same proportions. If none of the beneficiaries are entitled to mandatory distribution of net income, the remaining trust property shall vest in and be distributed to the beneficiaries then eligible to receive discretionary distributions of net income of the trust in equal shares per capita.

Section 12.02 Spendthrift Provision

During the lifetime of GILBERTO KELLY LOPEZ, the interest of GILBERTO KELLY LOPEZ or the interest of any other beneficiary in the trust property or the income of the trust property may not be transferred, assigned, pledged or mortgaged, whether voluntary or involuntary, before the Qualified Trustee actually distributes the property or income to the beneficiary.

After the death of GILBERTO KELLY LOPEZ, neither the income nor the principal of the trust property shall be assigned, anticipated or alienated in any manner by any beneficiary; whether voluntary or involuntary, nor shall it be subject to attachment, bankruptcy proceedings or any other legal process, or to the interference or control of creditors or others.

Nothing contained in this Section shall restrict in any way the exercise of any power of appointment granted in this agreement.

Section 12.03 Contest Provision

If, after receiving a copy of this paragraph, any person shall in any manner, directly or indirectly, attempt to contest or oppose the validity of this agreement, including any amendments thereto, or commences, continues or prosecutes any legal proceedings to set this agreement aside, then such person shall forfeit his or her share, cease to have any right or interest in the trust property, and shall for the purposes of this agreement be deemed to have predeceased GILBERTO KELLY LOPEZ.

Section 12.04 Changing the State of Administration

To minimize any tax in respect of any trust created hereunder, or any beneficiary thereof, or for such other purpose as it deems appropriate, the Trustee may, in its sole and absolute discretion, remove all or any part of the property of, or the situs of administration of, such trust from one jurisdiction to another and elect, by an instrument filed with the trust records, that thereafter such trust shall be construed, regulated and governed as to administration by the laws of such other jurisdiction.

If necessary to such change of situs, a corporate fiduciary in the new situs may be appointed as a Trustee hereunder by the unanimous consent of all of the beneficiaries then entitled to receive distributions of net income under such trust who have attained age 21 and are not incapacitated and if there are no such beneficiaries, by the Trustee then serving.

Section 12.05 Definitions

For purposes of this agreement, the following definitions shall apply:

(a) The Act

The Act means the Tennessee Investment Services Act of 2009, as amended, or any corresponding Tennessee statute enacted after the date of this agreement. A reference to a specific section of the Act refers not only to that section but also to any corresponding provisions of any Tennessee statute enacted after the date of this agreement, as amended.

(b) Adopted and Afterborn Persons

A legally adopted person in any generation and his or her descendants, including adopted descendants, shall have the same rights and be treated in the same manner under this agreement as natural children of the adopting parent, provided such person is legally adopted prior to attaining the age of 18 years.

A fetus in utero that is later born alive shall be considered a person in being during the period of gestation.

(c) Agreement

The terms "this agreement" shall refer to this agreement and all trusts created under the terms of this agreement.

(d) Descendants

The term "descendants" shall include a person's lineal descendants of all generations.

(e) Education

For purposes of this agreement, the term "education" shall include, but not be limited to:

> Enrollment at private elementary, junior and senior high schools, including boarding schools;
>
> Undergraduate and graduate study in any field at a college or university;
>
> Specialized, vocational or professional training or instruction at any institution, including private instruction; or
>
> Any other curriculum, institution or activity that the Trustee, in its sole and absolute discretion, deems useful for developing the abilities and interest of the beneficiary including, without limitation, athletic training, musical instruction, theatrical training, the arts and travel.

For purposes of this agreement, education shall also include distributions made by the Trustee for expenses such as tuition, room and board, fees, books and supplies, tutoring, transportation, and reasonable allowance for living expenses.

(f) Incapacity

A person shall be deemed incapacitated in the following circumstances, except as otherwise provided in this agreement:

(1) The Opinion of Two Licensed Physicians

An individual shall be deemed incapacitated whenever, in the opinion of two licensed physicians, such individual is so incapacitated that he or she is unable to effectively manage his or her property or financial affairs whether such incapacity is a result of age, illness, use of prescription medications, drugs or other substances, or any other cause.

An individual shall be deemed restored to capacity whenever that individual's personal or attending physician signs a written opinion that such individual is able to effectively manage his or her property and financial affairs.

(2) Court Determination

An individual shall be deemed incapacitated if a court of competent jurisdiction determines that such individual is legally unable to effectively manage his or her property or financial affairs.

(3) Detention, Disappearance or Absence

An individual shall be deemed incapacitated whenever he or she cannot effectively manage his or her affairs due to such individual's unexplained disappearance or absence for more than 30 days, or whenever he or she is detained under duress.

An individual's disappearance or absence or detention under duress may be established by an affidavit of any current or successor Trustee named in this agreement, or, if no Trustee is serving under this agreement, by the affidavit of any beneficiary under this agreement. The affidavit shall describe the circumstances of an individual's detention under duress, or disappearance or absence and may always be relied upon by any third party dealing in good faith with the Trustee in reliance upon the affidavit.

(g) Income Beneficiary

For purposes of this agreement "income beneficiary" shall mean any beneficiary of a trust who is then entitled to receive mandatory distributions of the net income of such trust or who is eligible to receive discretionary distributions of such net income.

Unless otherwise provided in this agreement, a "majority" of the income beneficiaries shall mean any combination of income beneficiaries who, if all accrued net income were distributed on the day of a vote by the beneficiaries, would receive more than 50% of that accrued net income. For purposes hereof, beneficiaries who are eligible to receive discretionary distributions of net income shall be deemed to be recipients of such income in equal shares.

(h) Independent Trustee

For any trust created under the terms of this agreement, "Independent Trustee" means a Trustee who is not an Interested Trustee as defined in subparagraph (i). Only an Independent Trustee may exercise those powers granted exclusively to an Independent Trustee. Whenever this agreement specifically prohibits an Interested Trustee from exercising discretion or performing an act, then only an Independent Trustee may exercise that discretion or perform that act. An Independent trustee shall not be liable to any person for any good faith exercise or nonexercise of its discretion under this agreement.

(i) Interested Trustee

For any trust created under the terms of this agreement, "Interested Trustee" means a Trustee who is a transferor of property to the trust, including a person whose qualified disclaimer resulted in property passing to the trust, a beneficiary of the trust or a Trustee who the beneficiary can remove and replace by appointing a Trustee that is related or subordinate to the beneficiary within the meaning of Section 672(c) of the Internal Revenue Code.

For these purposes a beneficiary of a trust means a person who pursuant to the terms of the trust is or in the future may be eligible to receive income or principal from the trust. A person shall be considered a beneficiary of a trust even if he or she has only a remote contingent remainder interest in the trust. However, a person shall not be considered a beneficiary of a trust if the person's only interest is as a potential appointee under a testamentary power of appointment.

(j) Internal Revenue Code and Treasury Regulations

References to the "Internal Revenue Code" or "Code" or to provisions thereof are to the Internal Revenue Code of 1986. References to the "Regulations" or "Regs" are to the Treasury Regulations under the Internal Revenue Code. If by the time in question a particular provision of the Internal Revenue Code has been renumbered, or the Internal Revenue Code has been superseded by a subsequent federal tax law, the reference shall be deemed to be made to the renumbered provision or to the corresponding provision of the subsequent law. A similar rule shall apply to references to the Regulations.

(k) Personal Representative

As used in this agreement, the term "Personal Representative" shall mean a person's guardian, conservator, executor, administrator, Trustee, or any other person or entity personally representing a person or the person's estate.

(l) Per Stirpes

Whenever a distribution is to be made to a person or a person's descendants *per stirpes*, the distribution shall be divided into as many shares as there are then living children of such person and deceased children of such person who left then living descendants. Each then living child shall receive one share and the share of each deceased child shall be divided among such child's then living descendants in the same manner.

(m) Qualified Retirement Accounts

"Qualified Retirement Benefits" means any qualified retirement plan, individual retirement account ("IRA") or other retirement arrangement subject to the "minimum distribution rules" of Section 401(a)(9) of the Code, or other comparable provisions of law.

(n) Qualified Trustee

A Qualified Trustee means a person who:

> In the case of a natural person, is a resident of the state of Tennessee, or, in all other cases, is authorized by the law of the state of Tennessee to act as a trustee and whose activities are subject to supervision by the Tennessee department of financial institutions, the federal deposit insurance corporation, the comptroller of the currency, or the office of thrift supervision or any successor thereto;
>
> Maintains or arranges for custody in the state of Tennessee of some or all of the property of this trust, maintains records for the trust on an exclusive or nonexclusive basis, prepares or arranges for the preparation of required income tax returns for the trust, or otherwise materially participates in the administration of the trust; and
>
> Is not the Trustmaker or GILBERTO KELLY LOPEZ.

(o) Shall and May

Unless otherwise specifically provided in this agreement or by the context in which used, the word "*shall*" is used in this agreement as a command, directive or requirement, and the word "*may*" is used in this agreement as allowing or permitting, but not requiring, the taking or omission of any action. In the context of a Trustee, the word "*may*" shall mean that the Trustee is acting in that Trustee's sole and absolute discretion unless otherwise stated in this agreement.

(p) Settlor

"Settlor" shall have the same legal meaning as "Grantor," "Trustor" or any other term referring to the maker of a trust.

(q) Trust

The terms "this trust" or "this trust agreement" shall refer to this agreement and all trusts created under the terms of this agreement.

(r) Trustee

The term "Trustee" refers to the Trustee named in Article One as well as any successor, substitute, replacement or additional person, corporation or other entity from time to time acting as the Trustee, whether there shall be one or more Trustees acting from time to time.

(s) Trust Property

The words "trust property" or words of similar import shall be construed to mean all property at any time held by the Trustee under this agreement, including all property that it may acquire at any time from any source.

Section 12.06 General Provisions

The following general matters of construction shall apply to the provisions of this agreement:

(a) Duplicate Originals

This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original. Any person may rely upon a copy of this agreement certified under oath to be a true copy by the Trustee, to the same effect as if it were the original.

(b) Gender, Number, Captions

Words denoting the masculine or feminine gender shall be construed to mean or include the opposite gender, and the singular form shall be construed to include the plural and the plural the singular, as the context requires or admits.

The captions of Articles, Sections, and Subsections used in this agreement are for reference purposes only and shall have no effect on the interpretation of this agreement.

(c) Governing State Law

This agreement shall be governed, construed and administered according to the laws of the State of Tennessee as from time to time amended, except as to trust property required by law to be governed by the laws of another jurisdiction and unless the Trustee elects to change the State of Administration as provided in this Article.

(d) Notices

Whenever this agreement provides for notice such notice shall be in writing and shall be effective when personally delivered and receipt of delivery received, or when mailed postage prepaid by certified mail, return receipt requested, to the last known address of the party requiring notice.

(e) Severability

The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of any other provision of this agreement. If a court of competent jurisdiction determines that any provision is invalid, the remaining provisions of this agreement shall be interpreted and construed as if any invalid provision had never been included in this agreement.

(f) Tennessee Uniform Trust Code

Except as provided below, the terms of this agreement shall control if there is a conflict between the terms of this agreement and the Tennessee Uniform Trust Code, codified as Section 35-15-101 through Section 35-15-1105, Tennessee Code Annotated, unless to do so would clearly be contrary to my intent as expressed in this agreement.

Notwithstanding the above, the provisions of the Tennessee Uniform Trust Code identified in Section 35-15-105, Tennessee Code Annotated, shall control if those provisions conflict with the provisions of this agreement.

This agreement was executed on the day and year first written above. The foregoing irrevocable trust agreement correctly states the terms and conditions under which the trust property is to be held, managed, and disposed of by the Trustee. The Court approves this irrevocable trust in all particulars, and requests the Trustees to execute it.

____
KIMBERLY DENISE LOPEZ, the natural mother and legal guardian of GILBERTO KELLY LOPEZ, Settlor

Accepted by:

CUMBERLAND TRUST & INVESTMENT COMPANY, Trustee

by: ________________________________

Confirmed and Approved by:

HONORABLE JUDGE ROBERT L. ECHOLS, United States District Court for the Middle District of Tennessee

Schedule A

One Dollar Cash

CUMBERLAND TRUST & INVESTMENT COMPANY

CUMBERLAND TRUST AND INVESTMENT COMPANY

Fee Schedule for
Fiduciary and Administrative Services
On Court Settlement Trusts, Special Needs Trusts, and Special Care Trusts

For accounts requiring court settlement, special needs, or special care trust administration and separate investment advisors or managers

.80% on the first $5,000,000

If the account exceeds $5 million, fee negotiated

Minimum Fee: $5,000.00

Tax Coordination Fees:

Fees for gathering, coordinating and copying all the necessary documentation required for preparation of tax returns, forwarding same to your tax preparer, reviewing prepared tax returns for accuracy and signing them as taxpayer, will be $200 annually per account.

Additional Service Fees:

Fees for services associated with closely held or other unique assets, natural resources, real estate interests, mortgages, notes and insurance policies are assessed separately.

Other Extraordinary Services:

We reserve the right to charge additional fees for rendering any unusual or extraordinary services taking into account the time involved, particular responsibility assumed, and the complexity of issues involved.

EXHIBIT 1

CUMBERLAND
TRUST & INVESTMENT COMPANY

CUMBERLAND TRUST AND INVESTMENT COMPANY

Fee Schedule for
Fiduciary and Administrative Services
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A Special Place to Put Your Trust

Suite 120, Woodmont Centre • 104 Woodmont Boulevard • Nashville, Tennessee 37205
615.783.2540 • fax: 615.783.2559 • email: info@cumberlandtrust.com

1/1/05

EXHIBIT 2