

LIVING TRUST CHARITABLE REMAINDER UNITRUST

I, Peter Miller  
Residing at :  
1287 Pine Avenue  
Dallas , County of , Las Collinas'  
State of Texas  
Herein referred to as Grantor

hereby transfer to  
George Summerlin.  
Residing at :  
6765 Park Avenue, Houston, Texas  
Dallas , County of , 943 Main Street, Tyler, Texas  
State of Texas  
hereinafter called the Trustee

I , hereby transfer to George Summerlin (hereinafter called the Trustee) as Trustee, the property set forth on Schedule A attached hereto and made a part hereof, to be held IN TRUST, for the purposes and in accordance with the provisions which follow:

ARTICLE I

Disposition of Trust Fund

SECTION 1:  
Unitrust Amount

During the lifetime of Sarah Miller , (hereinafter referred to as the recipient), my Trustee shall invest and reinvest such property and pay to the recipient in each taxable year of this trust, an amount, (hereinafter referred to as the unitrust amount) equal to TWELVE percent (12 %) of the net fair market value of trust property valued as of the first day of each such year. The unitrust amount shall be paid in ONE installment from Trust income and, to the extent income is not sufficient, from principal. Trust income for a taxable year in excess of the unitrust amount shall be added to principal. In determining the unitrust amount my Trustee shall pro-rate this amount on a daily basis for any short taxable year of this trust including the taxable year of the recipient's death.

SECTION 2:  
Incorrect payments

If the net fair market value of the trust is incorrectly determined, my Trustee shall, within a reasonable time after the value is finally determined for federal tax purposes, either pay to the recipient or his estate (in the case of an underpayment) or receive from the recipient or his estate (in the case of an overpayment) an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

SECTION 3:

#### Additional Contributions

If any additional contributions are made to this trust after the initial contribution in trust, the unitrust amount for the taxable year in which the assets are added to this trust shall be SIXTEEN percent (16 %) of the sum of (a) the net fair market value of the trust property (excluding the assets so added and any income from, or appreciation on, such assets) and (b) that portion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of the last day of the taxable year or the date of the recipient's death bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or the date of the recipient's death. In the case where there is no valuation date after the time of contribution, the assets so added shall be valued at the time of contribution.

#### SECTION 4: Charitable Disposition

Upon the recipient's death, my Trustee shall distribute all property then belonging to the income and principal of this trust, other than any amount due the recipient, to American Heart Society (Charity) to be used by it for its general purposes; provided that, if at the time of distribution, that organization is not described in Sections 170(b)(1)(A), 170(c), 2055(a) and 2522(a) of the Internal Revenue Code, then all such property shall be distributed to one or more organizations as shall then be so described whose purposes and activities are similar to those of American Heart Society (Charity), in such shares as my Trustee, in its sole discretion, shall determine.

#### SECTION 5: Foundation Restrictions

Except for the payment of the unitrust amount to the recipient, my Trustee is prohibited from engaging in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code, from retaining any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code which would subject this trust to tax under Section 4943 of the Internal Revenue Code, from making any investments which would subject the trust to tax under Section 4944 of the Internal Revenue Code and from making any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code. My Trustee shall make distributions at such time and in such manner as not to subject this trust to tax under Section 4942 of the Internal Revenue Code. Nothing in this trust shall be construed to restrict my Trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets.

#### SECTION 6: Savings Clause

I intend to create a charitable remainder unitrust within the

meaning of Section 664(d)(2) of the Internal Revenue Code and Revenue Procedure 89-20, and to this end I direct that (1) the provisions of this agreement shall be interpreted in accordance with this intent, (2) my Trustee shall not have and may not exercise any power or responsibility granted by this agreement (whether expressly stated or incorporated by reference) or by law to the extent such power or responsibility would cause this trust to fail to qualify for the federal estate or gift tax charitable deductions, and (3) my Trustee shall have the exclusive power to amend the terms of this trust in writing to meet any governing instrument requirements subsequently imposed by law or the interpretation of such law, without instituting judicial proceedings or seeking court approval of same; provided that formal notice of the exercise of this power and a copy of any such written amendment is provided each beneficiary of this trust, and provided further that the beneficial interests of all such beneficiaries are not otherwise changed.

## ARTICLE II

### Irrevocability

I declare that the trust hereby created is irrevocable, and that this agreement may not be altered, amended or modified.

## ARTICLE III

### Fiduciary Powers

I grant my Trustee (Including any Successor Trustee) the authority and power to exercise, in its sole discretion and without court order, in respect of any property forming part of any trust created under this agreement or otherwise in its possession hereunder, all powers conferred by law upon trustees, or expressed in this agreement, and I intend that the powers so granted be construed in the broadest possible manner. In addition, my Trustee shall also have the power, authority and discretion hereinafter set forth:

(1) Facility of Payments: To apply for the benefit of, or to the use of, any person, any property (Whether Principal or Income) vesting in or payable to such person, without seeing to the application of the payments so made and for which the receipt of the payee shall be full acquittance to my Trustee.

(2) Non-Pro Rata Distribution: To make distributions under this agreement (without the consent of any beneficiary) in cash or in specific property, real or personal, or in undivided interests therein, or partly in cash and partly in such property, and to do so without regard to the income tax basis of specific property allocated to any beneficiary (including any trust) and without making pro rata divisions of specific assets.

(3) Court Accounting and Bond Excused: My Trustee shall not be required to qualify, to make or file any inventory, appraisal, account or report to any court or to give bond (unless in each instance it is otherwise required to do so notwithstanding this provision), but shall be required to furnish at least annually to

each current beneficiary a statement giving a summary of receipts and disbursements during each accounting period and assets on hand at the end of the accounting period. Such accountings are deemed correct and are accepted if no notice to the contrary is received within 90 days.

(4) **Withholding For Taxes:** To withhold distribution of an amount of property sufficient, in its judgment, to cover any liability that may be imposed on my Trustee for estate or other taxes until such liability is finally determined and paid.

(5) **Provisions Regarding Holding and Management of Real Property:**

(a) To deal with matters involving the actual or threatened contamination of trust property (including interests in sole proprietorships, partnerships or corporations and any assets owned by such business entities) by hazardous substances, or involving compliance with environmental laws. In particular, my Trustee is empowered:

(i) To inspect any such property periodically, as it deems necessary, to determine compliance with any environmental law affecting such property, with all expenses of such inspection and monitoring to be paid from the income or principal of the trust;

(ii) To respond (or take any other action necessary to prevent, abate or clean up) as it shall deem necessary, prior to or after the initiation of enforcement action by any governmental body, to any actual or threatened violation of any environmental law affecting any of such property, the cost of which shall be payable from trust assets;

(iii) To refuse to accept property as a trust asset if it determines that such property is contaminated by any hazardous substance or that such property is being used or has been used for any activities directly or indirectly involving hazardous substances which could result in liability to the trust or otherwise impair the value of trust assets;

(iv) To settle or compromise at any time any claim against this trust related to any such matter asserted by any governmental body or private party;

(v) To disclaim any power which it determines may cause it to incur personal liability as a result of such matters, whether such power is set forth in this document, incorporated by reference herein, or granted or implied by any statute or rule of law;

(vi) To decline to serve as Trustee or, having undertaken to serve, resign at any time it believes there is or may be a conflict between it in its fiduciary capacity and in its individual capacity because of potential claims or liabilities which might be asserted against this trust because of the type or condition of trust assets.

(6) **Income and Principal Apportionment:** The Trustee shall have

discretion to determine whether items should be charged or credited to income or principal, or be apportioned between income and principal, including the power to provide or not to provide a reasonable reserve against depreciation, depletion or obsolescence. The Trustee shall exercise its discretion in such manner as it may reasonably deem equitable and just under all the circumstances and regardless of whether such items are charged or credited to or apportioned between income and principal as provided in Uniform Principle and Income Act as adopted by this state.

#### ARTICLE IV

Resignation My Trustee or any successor Trustee may resign at any time as Trustee of any trust being held under this agreement in a writing signed, acknowledged and delivered to all adult income beneficiaries of such trust, such resignation to be effective upon a successor Trustee being appointed to act in its place. A majority of the beneficiaries entitled to receive such notice shall have the power to sign an acknowledged writing to be delivered to the then acting Trustee appointing a successor Trustee. In no event shall I be appointed or have the power to appoint a successor Trustee under this agreement.

Any successor corporate Trustee domiciled outside the State in which the Trust is presently sited. and duly appointed hereunder, shall be authorized to remove any personal property constituting the principal of such trust to the domicile of the successor corporate Trustee; provided that the laws of the State in which the Trust was first created shall continue to govern the rights of beneficiaries in such property and the manner in which such trust is construed and administered.

Any successor Trustee is authorized and directed to accept from any prior Trustee the assets delivered by such predecessor on the basis of the predecessor's accounting for such assets without requiring an audit or other independent accounting of the transactions, acts or omissions of such prior Trustee, and any successor Trustee shall not have any duty, responsibility, obligation or liability whatsoever for the acts or omissions of such prior Trustee.

#### ARTICLE V

##### Situs

This agreement shall be construed and the trusts created by this agreement shall be regulated and governed in accordance with the laws of the State of Texas .

LIVING TRUST CHARITABLE REMAINDER UNITRUST

ACCEPTANCE CLAUSE

In Witness Whereof, I do hereby sign and seal this instrument, and my Trustee in executing same hereby acknowledges receipt of property set forth on Schedule A and accepts the trust created hereunder and covenants to faithfully discharge all duties of its office as Trustee,

Date :12th day of August, 2005

.....  
(Grantor), Peter Miller

.....  
(Trustee) , George Summerlin

.....  
Witness (1) Conrad Stuart ,address 1284 8th Street , Houston, Texas

.....  
Witness (2) Simon Smith ,address 3267 17th Street, Dallas, Texas

.....  
Witness (3) Charley Patterson ,address 2289 Palm Avenue, Waco, Texas

On the 12th day of August, 2005 , Peter Miller , and 8\* declared to us, the witnesses , that this instrument, consisting of these few pages including the page signed by us as witnesses, was a LIVING TRUST CHARITABLE REMAINDER UNITRUST and requested us to act as witnesses to it. Peter Miller , and George Summerlin thereupon signed this LIVING TRUST CHARITABLE REMAINDER UNITRUST in our presence, all of us being present at the same time. We now, at his or her request, in Peter Miller,s , and George Summerlin's presence and in the presence of each other, subscribe our names as witnesses. Each states that the Peter Miller and George Summerlin are not a minor and appear to be of sound mind and that we have no knowledge or any facts indicating that the foregoing instrument, or any part of it, was procured by duress, menace, fraud or undue influence. We, each for himself or herself, declare that each of us is at least the age of majority, and that each of us is, and the others appear to be of sound mind. We, each for himself or herself, declare under penalty of perjury that the foregoing is true and correct and that this attestation and this declaration are executed on the 12th day of August, 2005

LIVING TRUST CHARITABLE REMAINDER UNITRUST

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(Grantor) :  
Peter Miller  
Address : 1287 Pine Avenue  
Dallas , County of Las Collinas' , state of Texas , 32343  
Phone : 212-234-4334

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(Trustee) :  
George Summerlin  
Address : 6765 Park Avenue, Houston, Texas  
Dallas ,County of 943 Main Street, Tyler, Texas , State of Texas,  
67545  
Phone : 212-323-6754

State of Texas

County of Las Collinas

On this day, before me, the undersigned authority, in and for and residing in the above County and state, personally appeared Peter Miller and George Summerlin , who are personally known to me to be the same persons whose names are subscribed to the foregoing document, and, being duly sworn, they verified that the information contained in the foregoing document is true and correct on personal knowledge and acknowledged that said document was signed as a free and voluntary act.

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Name and signature

My commission expires: \_\_\_\_\_