

PLEASE NOTE: THIS FORM IS FOR THE USE OF ATTORNEYS ONLY

Sample Amendment

**Naming National Advisors Trust Company, FSB, as Successor Trustee
And
Appointing a National Advisors Holdings, Inc. Shareholder Firm, as
Investment Advisor**

The mission of National Advisors Trust Company, FSB, is to provide custodial and administrative services to its trust clients. This sample amendment was prepared to assist attorneys in creating estate plans that name National Advisors Trust Company, FSB, as Successor Trustee, and a National Advisors Holdings, Inc. shareholder firm ("NAH shareholder firm"), as Investment Advisor in existing self-declarations of trust. By executing an Amendment, similar to that found below, National Advisors Trust Company, FSB, anticipates being named as Successor Trustee of the Trust on the resignation or death of the individual trustee. The Amendment includes sample provisions typically used in conjunction with the appointment of a corporate trustee, and language designating a NAH shareholder firm as the trust's Investment Advisor

The attorney using the form must assume responsibility for the form's applicability and validity. The attorney should be alert to the relevance of state law as it may have a bearing on the applicability or validity of the form. We look forward to the opportunity to work with you and your clients. If you have any questions, call Tom Linhoff, or Dave Roberts at National Advisors Trust Company, 1-913-498-8159.

**AMENDMENT TO AND RESTATEMENT OF
[INSERT NAME OF GRANTOR] REVOCABLE TRUST**

Parties to Trust Agreement. This Agreement made this _____, 2001, between [insert name of Grantor] of [insert city, county and state of Grantor], as Grantor under that certain Trust Agreement dated [insert description and date of Trust and any amendments] and [and insert name of Trustee], as the initial Trustee under said Trust Agreement. [Please note under a self-declaration of trust it is common that the Grantor and Trustee are the same].

Under the terms of [insert applicable reference paragraph] of said Trust Agreement, Grantor reserved the right to amend and revoke the Trust Agreement in whole or in part by written notice to the Trustee. Pursuant to said power reserved, Grantor desires to and does hereby amend the Trust Agreement in the manner and to the extent herein provided.

The Trust Agreement is amended by deleting [insert reference to paragraph of trust to be deleted] and substituting [insert new paragraph reference] to read as follows:

(Sample Provision Naming National Advisors Trust Company, FSB, Successor Trustee)

- A. **Successor Trustee.** If [insert name of current Trustee], shall cease to act as Trustee, National Advisors Trust Company, FSB, of Overland Park, Kansas, a federal savings bank, shall serve as Successor Trustee.

- B. ***Waiver of Bond.*** No bond or surety shall be required in any jurisdiction of any Trustee serving hereunder.
- C. ***Resignation and Removal of Trustee.*** Grantor may resign as Trustee at any time by giving not less than twenty days written notice to Grantor's successor as Trustee. Any other Trustee may resign at any time by giving not less than twenty days' written notice to Grantor and, after Grantors death or incapacity, to a majority in interest of the adult beneficiaries and the natural or legal guardians of any minors or otherwise legally disabled beneficiaries to whom income may then be payable or permitted to be paid hereunder. Grantor and, after Grantor's death or incapacity, the legally competent adult beneficiary then entitled to or permitted to receive the income, if any, from the trust, or, if none, the parent, guardian, or conservator of such income beneficiary of the trust who is a minor or is otherwise under a legal disability, may remove any corporate Trustee by written notice delivered to the Trustee not less than twenty days prior to the effective date of removal. The person or persons to whom the notice of resignation may be given or who may exercise the power of removal, without the concurrence of and without liability to any other beneficiary, (i) may, on behalf of all beneficiaries, approve the accounts of and give a complete release and discharge to any resigned or removed Trustee, notwithstanding that such person's interests may possibly be or become adverse to those of other beneficiaries and, (ii) upon the failure to qualify, resignation or removal of a corporate Trustee, shall appoint a bank or trust company having *[insert qualifications of successor Trustee]*, wherever situated, as successor corporate Trustee. Any resigned or removed Trustee shall deliver the trust assets under such Trustee's control to the successor Trustee and the successor Trustee is authorized and directed to accept such trust assets.
- D. ***Liability of Successor Trustee.*** No successor Trustee shall be liable or responsible for any act or default of any predecessor Trustee or for any loss or expense resulting from anything done or neglected to be done in the administration of the trust prior to becoming a Trustee or be required to inquire into or take notice of the prior administration of the trust.
- E. ***Trustee Compensation.*** While serving hereunder, the corporate Trustee shall receive compensation for its services according to its published schedule of charges in effect at the time such services are rendered.
- F. ***Merger and Consolidation of Successor Trustee.*** The name "*National Advisors Trust Company, FSB*" shall include its successor and successors and any corporation into which it may be merged or with which it may be consolidated and the successor or successors of any such merged or consolidated corporation and any corporation to which the fiduciary business of said federal savings association may at any time be transferred.
- G. ***Accountings of Trustee.*** Notwithstanding any statute or rule of law to the contrary, no Trustee shall be required to qualify or to file inventories or interim or final accountings in any probate or other court and all statutory requirements with regard to the filing of inventories and accountings are waived. While Grantor is not serving as Trustee hereunder, the Trustee shall, however, render an accounting once each twelve months to each adult beneficiary and to the natural or legal guardian, if any, of each minor or otherwise legally disabled beneficiary then receiving or entitled or permitted to receive income and/or other distributions from any trusts hereunder. The accounting shall show

the receipts, disbursements and distributions of principal and income since the last accounting, and the invested and uninvested principal and the undistributed income on hand at the time of the accounting. If no objection shall be made to any account so rendered within ninety (90) days after a copy thereof has been deposited in the mail addressed to any beneficiary entitled thereto, or, if such beneficiary is a minor or is otherwise under a legal disability, to such beneficiary's legal or natural guardian, such accounting such accounting shall be conclusively presumed to have approved as to all actions reflected in the account so rendered.

The trust is further amended by adding a new paragraph *[insert new reference deleting any conflicting provisions as appropriate]* to read as follows:

(Sample Provision Appointing Investment Advisor)

At any time when National Advisors Trust Company, FSB is serving as Trustee hereunder, the following provisions shall apply, notwithstanding anything to the contrary contained herein:

- A. ***Bifurcation of Responsibilities.*** Grantor directs that the administrative and custodial functions of the Trust shall be the sole responsibility of the Trustee, and that the Trustee shall have no responsibility or liability for decisions involving the purchase, sale, retention, or management of the investments of the Trust. Subject to the acceptance of said investment responsibilities, the Trust investment functions shall be the responsibility of the Investment Advisor named below.
- B. ***Appointment of Investment Advisor.*** Grantor directs that *[insert name of NAH shareholder firm]*, as Investment Advisor, shall have the duty and responsibility to review and manage all trust assets, which shall collectively be referred to as the Trust Estate. This duty and responsibility shall include the right of the Investment Advisor, in said Investment Advisor's sole discretion, to designate third party investment manager(s) to review and manage part or all of the Trust Estate as the Investment Advisor may determine from time to time. The Investment Advisor, or his designee, as may be the case, shall direct the trustee in all matters involving the retention and disposition of the investments deposited to the trust, as well as the subsequent investment, reinvestment, exchange, tender, and all other transactions related to the ownership and management of all variety of securities, real and personal property which shall comprise the Trust Estate.
- C. ***Optional- Investment Advisor Management and Servicing Considerations***
[Include any investment related provisions which relate to investment management strategies, specialized asset classes, non-standard assets, products, or services which may be offered by the investment advisor, which may include but not be limited to, limited partnerships, private equity, or hedge funds in which the investment advisor may have an interest, or may be controlled by the investment advisor or an affiliate, access to pooled investment funds sponsored by the investment advisor, investments in insurance products offered by the investment advisor or an affiliate, use of a broker-dealer affiliate, including consent and disclosure provisions relating to these products or services. The investment advisor should provide counsel with the Advisory Firms investment management agreement and ADV or comparable filings with applicable

securities commissions for reference to products or services which may warrant inclusion this document]

- D. ***Investment Advisor Fees.*** In consideration for the services of the Investment Advisor, and in addition to reimbursement of expenses incurred by the Investment Advisor in the performance of its duties with respect to the assets of the trust estate, the Investment Advisor shall receive compensation, separate and apart from the charges of the trustee, for its services rendered the trust estate, all in accordance with its published schedule of fees as may be in effect from time to time.
- E. ***Investment Advisor Resignation and Removal Provisions.*** The resignation, removal, and succession provisions of Article [] relating to the resignation, removal and succession of Trustees shall apply to the resignation, removal and succession of the Investment Advisor, with the provision that the standards of qualification established for a successor Trustee under Article [] are inapplicable to the successor Investment Advisor, whose only qualification is that they be registered under the Investment Advisors Act of 1940 or comparable federal or state regulatory laws.
- F. ***Trustee Relieved of Investment Responsibility.*** The Trustee shall not be held liable or responsible for any loss resulting to the trust estate or to any current or future beneficiary thereof by reason of any such purchase, sale, or action taken pursuant to Grantor's direction of the investment decisions to the Investment Advisor, it being Grantor's intention to relieve and release the Trustee of every duty and responsibility involving the ownership, management, or other investment related action taken pursuant to, and in accordance with, the direction of the Investment Advisor; or by reason of the failure the Trustee to place any such transaction, or take any action, in absence of direction from the Investment Advisor regarding any security or asset which comprises the Trust Estate, and in no event shall the Trustee hereunder be liable for any matter with respect to which the Trustee is not authorized to participate, which includes the duty to review or monitor trust investments.
- G. ***Disclosure of Investment Advisor Affiliation.*** Grantor acknowledges the said Investment Advisor herein named in its name, or in the name of an entity(s) or individual(s) affiliated with the said Investment Advisor, as the case may be, holds less than a ten percent (10%) ownership interest in National Advisors Holdings, Inc., ("NAH"), a Delaware Corporation, the parent of National Advisors Trust Company, FSB. Grantor recognizes and accepts that said Investment Advisor, as a shareholder, or as an affiliated party to a shareholder of NAH may benefit by realizing a profit in the form of dividends or other corporate distributions from NAH, in addition to any investment advisory fees which may be paid it under this Trust Agreement.
- H. ***Merger and Consolidation of Investment Advisor.*** The name [*insert name of NAH shareholder firm*] (the "Advisory Firm") shall include its successor and successors and any sole proprietorship, partnership, corporation, limited liability company, or other third party entity into which it may be merged or with which it may be consolidated, and the successor or successors of any such merged or

consolidated Advisory Firm and any Advisor Firm to which the investment management business of said Advisory Firm may at any time be transferred.

- I. ***Optional - Proxies.*** National Advisors Trust does not vote proxies. If an advisor firm does not vote proxies, consideration should be given to directing in the document that a co-trustee, third party designee, or entity be given proxy voting authority. Additional consideration should be given to a mechanism in the document to transfer voting authority to a successor if the holder of the power initially designated is unable to serve. A Trust Protector may be given the authority to remove and appoint trustees, and potentially could be given authority to designate parties to perform the proxy voting role.
- J. ***Powers Applicable to Investment Advisor.*** In addition to any inherent or statutory powers of the Trustee and Investment Advisor as they may now or hereafter have, or any powers conferred upon the Trustee and Investment Advisor by statute or general rules of law, the Trustee and Investment Advisor shall be expressly authorized and empowered, with regard to their respective functions as set forth above, to exercise the powers set forth in Article *[insert Article which defines the Trustee's powers]* of this Agreement.

The Trustee consents to the amendment herein made and accepts the trust upon the terms of the Trust Agreement as amended.

IN WITNESS WHEREOF, this Agreement has been executed by the Grantor and by the Trustee in _____ counterparts, any one of which shall be deemed an original.

Signature of Grantor and Trustee

**[An acknowledgement prescribed by the law of the
State where the acknowledgement is made should be included here]**