

The _____ Trust

[Ohio Revised Code §2111.182]

This trust is created by order of the Greene County Court of Common Pleas, Probate Division, (“Court”) under *Ohio Revised Code* §2111.182 for the benefit of _____. The trustee will administer this trust according to the terms of this trust document, subject to the continuing jurisdiction of the Court.

Article One Establishing the Trust

Section 1.01 The Beneficiary

_____ is the primary beneficiary of this trust. The beneficiary is a minor on the date of the trust creation. The beneficiary’s birth date is _____.

Section 1.02 The Initial Trustee

_____ is the initial trustee of this trust.

Section 1.03 Identifying the Trust

The name of this trust is “The _____ Trust.”

All assets held in this trust, and all beneficiary or transfer or payable on death designations in favor of this trust, will be titled as “_____, as Trustee of The _____ Trust dated _____, 20____, and any future amendments.” Any variation of this title will be effective if it reasonably identifies this trust and indicates that the trustee holds the trust property in a fiduciary capacity.

Section 1.04 Purpose of Trust

The purpose of this trust is to manage and administer the trust assets for the exclusive benefit of the beneficiary and to distribute the remaining trust assets to the beneficiary upon attaining the age of 25 years. This trust is designed to serve as a substitute for a guardianship of the beneficiary’s estate, which would otherwise terminate by law when the beneficiary attains the age of 18 years. The intent of this trust is to hold the trust assets for a longer period so the beneficiary can gain more financial maturity before having unrestricted access to the trust assets.

Section 1.05 Trust Assets

The trustee may receive and transfer into this trust only those assets the Court authorizes in advance. No person or entity may transfer or attempt to transfer any other assets from any source to this trust without the Court’s prior approval. This restriction on additions to the trust does not apply to interest, dividends or other forms of income that become part of this trust as a result of investing the trust assets.

Section 1.06 Reliance by Third Parties on Affidavit or Certification of Trust

Upon creation of this trust, the Court will issue to the trustee certified Letters of Authority of Trustee. Third parties dealing with the trustee may rely on the certified Letters of Authority as

proof of the trustee's fiduciary appointment and authority to act under the terms of this trust. Since this trust is a public record, third parties have a right to request and receive a complete, unredacted copy of this trust in addition to the certified Letters of Authority. Third parties dealing with the trustee will be exonerated from any liability for actions the third party takes or fails to take in reasonable reliance on the certified Letters of Authority, without obligation to further inquire into the authority of the trustee, or to see to the proper application of funds or other property the trustee receives.

Article Two

Trust Administration

Section 2.01 Trustee's Fiduciary Responsibilities

The trustee agrees to accept, manage, administer and distribute the trust assets for the exclusive benefit of the beneficiary according to the terms of this trust and subject to the trustee's fiduciary duties imposed by law.

Section 2.02 Best Interests of Ward

The trustee will at all times act or refrain from acting in a manner that is in the best interest of the beneficiary regarding every aspect of this trust.

Section 2.03 Bond

The trustee must post a fiduciary bond with the Court in the manner and amount described in R.C. §2109.04. The Court may periodically increase or decrease the amount of the bond requirement as the value of the trust assets changes.

Section 2.04 Inventory

The trustee must file an inventory with the Court within three months after the effective date of this trust. The inventory must comply with the requirements of R.C. §2109.58.

Section 2.05 Accountings

Except as provided in Section 2.06, the fiduciary must file an accounting with the Court in compliance with R.C. §2109.303 and Local Rule 64.4. The first accounting is due on or before the first anniversary of the effective date of the trust. Subsequent accountings are due every two years on or before the anniversary of the effective date of the trust. Simultaneously with filing the account with the Court, the trustee must also provide a copy of the account to the parents, guardians or legal custodians of the minor beneficiary, or directly to the beneficiary after the beneficiary reaches the age of 18 years.

Section 2.06 Statements in Lieu of Account

Except as the Court may order otherwise, during any accounting period in which the trust assets only consist of intangible personal property, the trustee may file with the Court complete and accurate copies of the bank or investment statements for the trust assets instead of filing a formal account. Simultaneously with filing the statements with the Court, the trustee must also provide a copy of the statements to the parents, guardians or legal custodians of the minor beneficiary, or directly to the beneficiary after the beneficiary reaches the age of 18 years.

Section 2.07 Waiver of Reports

As long as the trustee is providing the accounting or statements described in Sections 2.05 or 2.06, the trustee is not required to provide the reports required in R.C. §5808.13, unless the Court orders otherwise.

Section 2.08 Preservation and Investment of Assets

The trustee must comply with all requirements of the Ohio Prudent Investor Act, R.C. Chapter 5809, regarding the management and investment of trust assets, unless the Court orders otherwise.

Section 2.09 Authority to Expend Funds

The trustee is not permitted to expend or distribute any funds or assets from the trust without first obtaining authorization from the Court by appropriate application and entry.

**Article Three
Distributions from Trust**

Section 3.01 Discretionary Distributions

Subject to obtaining prior Court approval, the trustee may distribute to or for the benefit of the beneficiary as much of the net income and principal of the trust as the trustee determines is advisable for the beneficiary's health, education, maintenance or support.

Section 3.02 Restrictions for Parental Support Obligations

The trustee is not permitted to pay or distribute any portion of the trust assets or income to or for the benefit of the beneficiary if that payment or distribution would discharge the legal obligation of support of the beneficiary's parent or parents, unless the Court orders otherwise.

Section 3.03 Final Distribution

When the beneficiary reaches the age of 25 years, the trustee will distribute the entire remaining balance of the trust assets, including all undistributed income, to the beneficiary. The trust will terminate upon the Court's approval of the trustee's final accounting, if the Court so requires.

Section 3.04 Contingent Distribution

If the beneficiary dies before reaching the age of 25 years, the trustee will apply to the court to terminate this trust and to distribute the entire remaining balance of the trust assets, including all undistributed income, to the beneficiary's estate, subject to Section 3.05. The trust will terminate upon the Court's approval of the trustee's final accounting, if the Court so requires.

Section 3.05 Power of Appointment

When the beneficiary reaches the age of 18 years, the beneficiary will have a power of appointment to designate by written instrument one or more contingent beneficiaries to receive the final distributions of the entire remaining balance of trust assets, including all undistributed income, in the amounts or proportions the beneficiary may designate. The beneficiary will have the sole and exclusive right to exercise this power of appointment. If the beneficiary exercises this right, the contingent beneficiary designation will override the final distribution pattern stated in Section 3.04 of this trust. The trust will terminate upon the designated beneficiaries' receipt of the final distribution and the trustee's filing of a final account with the Court, if the Court so requires.

Section 3.06 Spendthrift Provision

No portion of the principal or income of the trust assets may be assigned, anticipated or alienated in any manner by any primary or contingent beneficiary and will not be subject to attachment, bankruptcy proceedings or any other legal process or to the interference or control of creditors or others. Nothing in this Section restricts any exercise of a power of appointment granted in this trust.

**Article Four
Trustee Duties and Powers**

Section 4.01 General

The trustee must comply with all applicable legal requirements imposed by statute, case law, the Ohio Rules of Superintendence, the Court’s Local Rules of Practice and orders of the Court pertaining to the administration and management of this trust.

Section 4.02 Specific Fiduciary Duties and Powers

The trustee will have all duties and powers of a fiduciary under R.C. Chapter 2109, as those provisions pertain to trusts of this nature. The Trustee will also have all duties and powers of a guardian of an estate under R.C. Chapter 2111 to the extent those provisions do not conflict with the terms of this trust.

Section 4.03 Modification of Trustee Duties and Powers

The Court reserves the right to limit or expand any of the trustee’s duties or powers at any time by appropriate order, whether at the request of the trustee or on the Court’s own motion.

Section 4.04 Notice of Proceedings

The trustee must provide prompt notice of all proceedings and copies of all court filings regarding this trust to the parents, guardians or legal custodians of the minor beneficiary, or directly to the beneficiary after the beneficiary reaches the age of 18 years.

**Article Five
Trustee Succession**

Section 5.01 Removal by Court

The trustee serves at the will of the Court. The Court reserves the right to remove the trustee at any time.

Section 5.02 Trustee Death, Resignation or Removal

If the trustee dies or resigns, or if the Court removes the trustee, all of the trustee’s powers and authority immediately terminate. A resigning or removed trustee must follow the procedures in Local Rule 78.8 and must file a final account with the Court within 30 days after the effective date of the resignation or removal.

Section 5.03 Designation of Successor Trustees

Upon the death, resignation or removal of the trustee, the Court will appoint a successor trustee, giving due consideration to the following persons in the order named:

First successor: _____

Second successor: _____

Third successor: _____

If all of the proposed successor trustees are unable or unwilling to serve, the Court will consider the appointment of other prospective qualified applicants or will appoint a successor trustee of its choice.

A successor trustee must meet all of the qualifications for that position as required by law, the Rules of Superintendence and the Court’s Local Rules of Practice.

Section 5.04 Interim Independent Trustee

During any period in which no trustee is then serving under this trust, whether due to failure of a designated successor trustee to qualify, delays in the appointment of a suitable successor trustee or otherwise, the Court may on its own motion and without notice or hearing appoint an interim trustee to serve as trustee pending appointment of a permanent successor trustee. The interim trustee will have the powers and authority the Court may grant by appropriate order.

Section 5.05 Powers and Duties of Successor Trustee

Every successor trustee will have the same powers and duties as the original trustee, unless Court orders otherwise.

**Article Six
General Provisions**

Section 6.01 Governing Law

This is an Ohio trust. Ohio law governs the interpretation of all aspects of this trust.

Section 6.02 Amendment of Trust

This trust may only be amended or terminated by order of the Court, upon presentation of an appropriate application.

Section 6.03 Continuing Jurisdiction of Court

The Court retains jurisdiction over this trust throughout its entire term.

Section 6.04 Compensation of Trustee and Legal Counsel

The trustee and any legal counsel providing services to the trustee are entitled to compensation for their services at the times and in the amounts the Court may approve. Trustee and legal counsel compensation are subject to all requirements in the Court’s Local Rules of Practice.

Section 6.05 Trustee Acceptance

By signing this trust document below, the trustee accepts appointment as the trustee of this trust and agrees to abide by all of the trust’s terms and conditions.

TRUSTEE:

The trustee signed this trust effective as of the date the Court signs this trust. The trustee certifies that he or she has read this trust, understands it, and agrees to abide by its terms.

_____, Trustee

STATE OF OHIO

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SS:

COUNTY OF _____)

_____ in the capacity as Trustee, with no oath or affirmation administered, on
_____ 20____. This notarial certificate is an acknowledgement under Ohio law.

Notary Public

COURT:

The Court approves this trust and the appointment of the trustee as the fiduciary of the trust effective as of _____, 20_____.

Thomas M. O’Diam, Judge
Greene County Court of Common Pleas,
Probate Division