THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Irvin G. Condon, Probate Court Judge

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SC Court of Appeals

Circuit Court Case No. 2014-CP-10-4336

Probate Court Case No. 2013-GC-10-1029

Appellate Case No. 2016-001141

Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, ... Appellants,

v.

Keith S. Wellin, ... Respondent.

RECORD ON APPEAL
Volume 2 of 5

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Keith Wellin, individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001, Plaintiff, Versus Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, individually, and as co-Trustees and beneficiaries of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, and Friendship Management, LLC, Defendants.	C/A No. 2:13-cv-01831-DCN **AMENDED VERIFIED COMPLAINT** **(Jury Trial Demanded)**

Now comes Plaintiff, Keith Wellin, by and through his undersigned attorneys and files this Amended Verified Complaint alleging the following:

PARTIES

1. Plaintiff, Keith Wellin, is and was at all times mentioned, domiciled in and a citizen of the State of South Carolina.

2. Defendant Peter J. Wellin is, and was at all times mentioned, domiciled in and a citizen of the State of Maine.

3. Peter J. Wellin is being sued in his individual capacity and in his capacity as co-Trustee and beneficiary of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009.

4. Defendant Cynthia W. Plum is, and was at all times mentioned, domiciled in and a citizen of the State of Pennsylvania.

5. Cynthia W. Plum is being sued in her individual capacity and in her capacity as co-Trustee and beneficiary of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009.

6. Defendant Marjorie W. King is, and was at all times mentioned, domiciled in and a citizen of the State of Washington.

7. Marjorie W. King is being sued in her individual capacity and in her capacity as co-Trustee and beneficiary of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009.

8. Friendship Management, LLC is a Limited Liability Company organized under the laws of the State of Delaware.

9. The registered agent for Friendship Management, LLC is Nationwide Information Services, Inc., 3500 South DuPont Highway, Dover, DE, 19901.

VENUE AND JURISDICTION

10. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.

11. Every issue of law and fact is wholly between citizens of different states.

12. The United States District Court for the District of South Carolina has jurisdiction over this claim based on diversity jurisdiction pursuant to 28 U.S.C. § 1331.

13. Venue is proper in this District and the Charleston Division pursuant to 28 U.S.C. § 1391(b)(2) and Local Civil Rule 3.01(A)(1) DSC because a substantial part of the transactions or occurrences underlying Plaintiff's claims occurred within the Charleston Division of this District.

14. Plaintiff received communication from Defendants regarding the three transactions that are the subject of this case while he was residing in Charleston, South Carolina.

15. Plaintiff executed the documents effectuating the three transactions that are the subject of this case in Charleston, South Carolina.

25. In furtherance of Plaintiff's estate planning, Friendship Management, LLC, a Delaware Limited Liability Company, was formed on December 8, 2003. See Ex. 1, Friendship Management, LLC Operating Agreement.

26. The members of Friendship Management, LLC are The 2003 KSW Family Trust (40%), Defendant Peter J. Wellin (20%), Defendant Marjorie King (20%), and Defendant Cynthia Plum (20%). See Ex. 1, at 22.

27. Pursuant to Friendship Management, LLC's Operating Agreement, Defendant Cynthia W. Plum is the sole Manager of Friendship Management, LLC and will serve in that capacity until Plaintiff's death. See Ex. 1, at 2.

28. Despite Defendant Cynthia W. Plum's designation as the sole Manager of Friendship Management, LLC, Defendants Peter J. Wellin and Marjorie W. King have actively and personally participated in the actual management, operation, and control of Friendship Management, LLC at all times relevant to this Complaint.

29. On December 12, 2003, Friendship Partners, LP, a Delaware Limited Partnership, was formed with Plaintiff, in his individual capacity, as limited partner, and Friendship Management, LLC as general partner. See Ex. 2, Agreement of Limited Partnership of Friendship Partners, LP.

30. Upon the formation of Friendship Partners, LP, Plaintiff transferred 896 shares of Class A Berkshire Hathaway common shares (hereinafter "BRKa") to the partnership, effectively ceding the control of the shares to Friendship Partners, LP and Friendship Management, LLC as its general partner.

31. Initially, Plaintiff owned approximately 98.90% of Friendship Partners, LP and the remaining partnership "units" were owned by Friendship Management, LLC. See Ex. 2.

32. In 2007, Plaintiff Keith S. Wellin, in his individual capacity, was replaced as limited partner by Plaintiff Keith S. Wellin, Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d 12/11/01.

Plaintiff's Health

33. In 2006, Plaintiff's health began to deteriorate.

34. On May 23, 2006, Plaintiff, from his home in Charleston, South Carolina, executed a Florida General Power of Attorney and a New York Durable General Power of Attorney making his physician son, Defendant Peter J. Wellin, his attorney-in-fact and Defendant Cynthia W. Plum his successor attorney-in-fact. See Ex. 3, Florida Power of Attorney & Ex. 4, New York Power of Attorney.

35. On September 20, 2006, Plaintiff executed a South Carolina General Durable Power of Attorney, a Georgia Financial Power of Attorney, and a Maine General Durable Power of Attorney, all appointing his physician son, Defendant Peter J. Wellin, as his attorney-in-fact and Defendant Cynthia W. Plum as his successor attorney-in-fact. See Ex. 5, South Carolina Power of Attorney; Ex. 6, Georgia Financial Power of Attorney; & Ex. 7, Maine Power of Attorney.

36. In or around 2008, Plaintiff was diagnosed with and treated for tongue cancer.

37. In and throughout 2009, Plaintiff experienced other adverse health problems which required him to take various medications.

38. In 2011, Plaintiff suffered a stroke.

39. Plaintiff's medications at times rendered him unable to manage the complexities of his financial affairs.

40. At all times relevant to the allegations contained in this action, Plaintiff justifiably relied and expected his Defendant children to conduct themselves in reasonable, lawful, loyal, truthful, and trustworthy manners with respect to his assets under the powers of attorney, his interest in Friendship Partners, LP, and the operation, management, and control of Friendship Management, LLC and/or Friendship Partners, LP.

41. At all times relevant to the allegations contained in this Complaint, Defendant Peter J. Wellin was empowered to act on Plaintiff's behalf and bind Plaintiff in business transactions by way of five (5) different powers of attorney.

42. At all times relevant to the allegations contained in this Complaint, Plaintiff was in a confidential relationship with Defendant Peter J. Wellin, as his attorney-in-fact, and Defendant Cynthia W. Plum, as his successor attorney-in-fact, who each owed Plaintiff the highest fiduciary duty under the law.

43. Due to Plaintiff's age and temporary and permanent health problems, he relied upon Defendant Peter J. Wellin's knowledge, expertise, personal integrity and relationship as his son and placed special trust and confidence in him regarding the care, welfare and administration of Plaintiff's property and assets.

44. Due to Plaintiff's age and temporary and permanent health problems, he relied upon Defendant Cynthia W. Plum's education, knowledge, expertise, personal integrity and relationship as his daughter and placed special trust and confidence in her regarding the care, welfare and administration of Plaintiff's property and assets.

45. At all times relevant to the allegations contained in this Complaint, Plaintiff reposed special confidence in Defendant Peter J. Wellin and Defendant Cynthia W. Plum to act in good faith with respect to Plaintiff's interests.

46. Due to the serious breaches of fiduciary duty committed by Defendants Peter J. Wellin and Cynthia W. Plum, which are described below, Plaintiff revoked the five Durable Powers of Attorney on June 20, 2013.

47. Defendant has named his wife, Wendy C. H. Wellin, as his new attorney-in-fact.

The November 2009 Transaction

48. In August 2009, Defendant Peter J. Wellin visited Plaintiff in Maine to discuss a two-part "tax advantaged transaction" (hereinafter the "November 2009 Transaction") with Plaintiff.

49. Defendant Peter J. Wellin immediately directed Thomas Farace to execute the documents for the November 2009 Transaction, and the documents were sent to Plaintiff in Charleston, South Carolina in November 2009.

50. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King each knowingly participated in the design, approval, proposition, and/or execution of documents to effectuate the November 2009 Transaction.

51. At all relevant times respecting the November 2009 Transaction, Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King had a fiduciary relationship with Plaintiff, acted as fiduciaries with respect to Plaintiff, and owed other duties of disclosure in relation to Plaintiff and their treatment and handling of his interests on his behalf.

52. At all relevant times, Defendant Peter J. Wellin owed fiduciary duties to Plaintiff because he:

(i) had a special relationship of trust and confidence with Plaintiff, as his son;

(ii) served as Plaintiff's attorney-in-fact;

(iii) personally and actively participated in the design, approval, proposition, execution, and/or perpetuation of performance of the November 2009 Transaction while serving as a Member of Friendship Management, LLC, which served as general partner of Friendship Partners, LP; or

(iv) personally and actively participated in the design, approval, proposition, execution, and/or perpetuation of performance of the November 2009 Transaction while serving in a confidential relationship with Plaintiff.

53. At all relevant times, Defendant Cynthia W. Plum owed fiduciary duties to Plaintiff because she:

(i) had a special relationship of trust and confidence with Plaintiff, as his daughter;

(ii) served as Plaintiff's successor attorney-in-fact;

(iii) served as Manager of Friendship Management, LLC, which served as general partner of Friendship Partners, LP. Friendship Partners, LP, under its Partnership Agreement, the applicable statutes and/or Delaware law, impose these fiduciary duties upon Cynthia W. Plum to act in the best interests of Friendship Partners, LP and/or any limited partner;

(iv) personally and actively participated in the design, approval, proposition, execution, and/or perpetuation of the November 2009 Transaction while serving as a Member and Manager of Friendship Management, LLC, which served as general partner of Friendship Partners, LP; or

(v) personally and actively participated in the design, approval, proposition, execution, and/or perpetuation of the November 2009 Transaction while serving in a confidential relationship with Plaintiff.

54. At all relevant times, Defendant Marjorie W. King owed fiduciary duties to Plaintiff because she:

(i) had a special relationship of trust and confidence with Plaintiff, as his daughter;

(ii) personally and actively participated in the design, approval, proposition, execution, and/or perpetuation of performance of the November 2009 Transaction while serving as a Member and Manager of Friendship Management, LLC, which served as general partner of Friendship Partners, LP; or

(iii) personally and actively participated in the design, proposition, execution, and/or perpetuation of performance of the November 2009 Transaction as part of and in furtherance of a common scheme, plan or conspiracy with Peter J. Wellin or Cynthia W. Plum, where one or both had fiduciary duties to Plaintiff.

55. As fiduciaries, Members of Friendship Management, LLC actively participating in its operations, the Manager of Friendship Management, LLC operating as general partner of Friendship Partners, LP, or on other grounds, Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King owed duties of care, candor, loyalty, and entire fairness to Plaintiff when participating in the design, approval, and/or execution of documents designed to effectuate the November 2009 Transaction.

56. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King were all aware that the November 2009 Transaction would cause Plaintiff to exchange his interest in Friendship Partners, LP for a fixed amount under a promissory note, while simultaneously leaving Plaintiff with all income tax liability from any sale of the partnership assets without corresponding access to cash flow and/or assets to sell to generate cash flow, severely decreasing Plaintiff's net worth and liquidity, potentially rendering him insolvent.

57. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King knew or should have known that the November 2009 Transaction would create an inherent conflict between themselves and Plaintiff, as the transaction was structured in such a way that incentivized the Defendants to liquidate Friendship Partners, LP during Plaintiff's lifetime, leaving Plaintiff with a heavy tax burden, which—if the BRKa shares continued to appreciate—would be more than the value of the promissory note given to Plaintiff for the value of his partnership interest.

58. Despite knowing the material truth about the November 2009 Transaction and despite their fiduciary duties to Plaintiff, Defendants Peter J. Wellin and Cynthia W. Plum failed to inform Plaintiff of the consequences of the November 2009 Transaction and failed to raise any concern with Plaintiff that the November 2009 Transaction would severely decrease Plaintiff's net worth and liquidity.

59. Instead, Defendants Peter J. Wellin and Cynthia W. Plum induced Plaintiff to engage in the November 2009 Transaction by having Plaintiff first create the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009 (hereinafter "Wellin Family 2009 Irrevocable Trust"). See Ex. 8, Wellin Family 2009 Irrevocable Trust u/a/d Nov. 2, 2009.

60. At that time, the trustees of the Wellin Family 2009 Irrevocable Trust were (1) Defendant Peter J. Wellin; (2) Defendant Marjorie W. King; (3) Defendant Cynthia W. Plum; and (4) South Dakota Trust Company, LLC. See Ex. 8, at 1.

61. The beneficiaries of the Wellin Family 2009 Irrevocable Trust have at all times been and remain (1) Defendant Peter J. Wellin; (2) Defendant Marjorie W. King; and (3) Defendant Cynthia W. Plum, and their respective issue. See Ex. 8, at 5.

62. As the second part of the November 2009 Transaction, Defendants Peter J. Wellin and Cynthia W. Plum induced Plaintiff to sell his approximately 98.90% limited partnership interest in Friendship Partners LP to the newly formed Wellin Family 2009 Irrevocable Trust.

63. At the time of the sale of Plaintiff's partnership interest, the value of the 896 BRKa shares originally held by Plaintiff and then held by Friendship Partners, LP, was approximately $90,000,000.00.

64. In return for selling his approximately 98.90% interest in Friendship Partners, LP, Plaintiff received a Promissory Note (hereinafter "Note") with a nominal value of $49,802,115.00 from the Wellin Family 2009 Irrevocable Trust. See Ex. 9, Promissory Note, Nov. 30, 2009 & Ex. 10, Restated Promissory Note, Sept. 4, 2012.

65. The terms of the Note show that it was not a fair market transaction.

66. The principal amount of the Note was not due for nine (9) years and was not callable prior to the maturity date.

67. When the Note comes due, repayment is not required to be made in cash, but rather can be made by transferring an illiquid limited partnership interest in Friendship Partners, LP back to Plaintiff, with respect to which Plaintiff has no right to compel distributions or liquidation.

68. The Note contains only a nominal interest rate. Under the terms of the Note, interest could be paid with (i) interests in Friendship Partners, LP, or (ii) another note in the amount of the interest, with terms substantially similar to the original Note.

69. Plaintiff unknowingly sold his partnership interest for less than market rate while also retaining the income tax liability should any of the BRKa shares or the partnership interests be sold.

70. Defendant Peter J. Wellin induced Plaintiff to execute the November 2009 Transaction while he was Plaintiff's attorney-in-fact and in a confidential relationship with Plaintiff.

71. Defendants Peter J. Wellin and Cynthia W. Plum orchestrated the November 2009 Transaction at a time when Plaintiff was vulnerable and unable to appreciate the complexities of the transaction.

72. Prior to Spring 2013, Plaintiff did not know or understand that he had lost all control over and access to his partnership interests, which, because of the 2009 Transaction, were now in the control of his children through the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, and Friendship Partners, LP.

73. The conduct of Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King in their various capacities in designing, approving, proposing, executing, and/or perpetuating performance of the November 2009 Transaction on behalf of themselves, Friendship Management, LLC, or as putative Trustees or beneficiaries of the Wellin Family 2009 Irrevocable Trust violated the terms of the Partnership Agreement and/or breached their duties of care, candor, loyalty, and entire fairness to Plaintiff as attorneys-in-fact, fiduciaries, Members, general partners, or individuals.

Removal of South Dakota Trust Company, LLC

74. At the time, Plaintiff did not understand the nature and effect of the November 2009 Transaction, and it was not until spring of 2013 that he realized the true structure and consequences of the November 2009 Transaction.

75. While Plaintiff contests the validity of the sale of his partnership interest for the Note in the November 2009 Transaction, out of an abundance of caution and to protect his interests, Plaintiff elected to utilize certain provisions of the Wellin Family 2009 Irrevocable Trust reserved to him as Grantor.

76. Article VI, Section A, Subsection 9 of the Wellin Family 2009 Irrevocable Trust gives Plaintiff the authority to remove and replace the Trust Protector.

77. By instrument dated November 20, 2013, Plaintiff removed Thomas M. Farace as Trust Protector and appointed Lester S. Schwartz as the new Trust Protector of the Wellin

Family 2009 Irrevocable Trust. See Ex. 11, Trust Protector Removal and Successor Trust Protector Appointment, Nov. 20, 2013.

78. Under the Wellin Family 2009 Irrevocable Trust, the Trust Protector has the authority to remove the Trustee and to appoint a different Trustee or additional Co-Trustees. The Trust Protector also has the authority to appoint successor Trustees.

79. Exercising his authority as Trust Protector, on November 20, 2013, Lester S. Schwartz removed South Dakota Trust Company, LLC as the corporate Trustee and appointed Brown Brothers Harriman Trust Company of Delaware, N.A. ("Brown Brothers") as the new corporate Trustee. See Ex. 12, Trustee Removal and Successor Trustee Appointment, Nov. 20, 2013.

80. As of November 20, 2013, the Trustees of the Wellin Family 2009 Irrevocable Trust became (1) Defendant Peter J. Wellin; (2) Defendant Marjorie W. King; (3) Defendant Cynthia W. Plum; and (4) Brown Brothers.

81. On December 5, 2013, Brown Brothers submitted its letter of resignation. See Ex. 13, Trustee Resignation, Dec. 5, 2013.

Amendment of the Trust

82. Pursuant to the terms of the Wellin Family 2009 Irrevocable Trust, the Trust Protector also has the authority to amend the provisions of the trust with regard to how the beneficiaries will benefit from the trust and also the authority to amend the trust administrative provision.

83. On November 20, 2013, Lester S. Schwartz, exercising his authority as Trust Protector, set forth the following amendments to the Wellin Family 2009 Irrevocable Trust:

a. The situs of the trust was changed from South Dakota to Delaware, but the trust continues to be governed by South Dakota law;

b. Beneficiaries were granted a limited ability to appoint Trust assets for the benefit of their spouses at death;

c. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, are now restricted in their ability to remove and replace the Trust Protector in the event of Plaintiff's death or disability;

d. Article IX, Section B was deleted from the provisions of the Wellin Family 2009 Irrevocable Trust, which had given the corporate Trustee the contingent power to add the spouses of Plaintiff's children or the spouses of Plaintiff's grandchildren as beneficiaries of the trust;

e. All actions of the Trustees are now required to be done by the unanimous vote of all the Trustees, excepting the vote of any Trustee who is also a beneficiary and who may be ineligible to participate in the vote, because he or she as a beneficiary may be affected by the exercise of such power or discretion; and

f. In litigation brought by or against the Wellin Family 2009 Irrevocable Trust, in which any Trustee is a party either individually and/or in his or her capacity as a Trustee, the Trust Protector represents the trust in the litigation and has the power to defend and settle the litigation on behalf of the trust. See Ex. 14, Trust Amendment, Nov. 20, 2013.

Substitution of Assets

84. Under the terms of the Wellin Family 2009 Irrevocable Trust, Plaintiff retained the power at any time during his lifetime to reacquire the trust corpus or any portion thereof by substituting other property of an equivalent value, without the consent or approval of the Trustees.

85. On November 20, 2013, Plaintiff substituted the Note executed by the Wellin Family 2009 Irrevocable Trust with a face value of $49,802,115.00 and an outstanding balance of $50,211,446.55 (being principal and accrued but unpaid interest as of November 20, 2013) for "units" in Friendship Partners, LP representing an assignee interest therein with a fair market value of $50,211.446.55. See Ex. 15, Exercise of Right of Substitution, Nov. 20, 2013.

86. Had the aforementioned amendments to the Wellin Family 2009 Irrevocable Trust not have been possible, Plaintiff would have exercised his substitution power to substitute a promissory note for the full value of the interest in Friendship Partners, LP held by the Wellin Family 2009 Irrevocable Trust.

87. Subsequent to this transaction and in accordance with the provisions of the Wellin Family 2009 Irrevocable Trust, on November 20, 2013, Plaintiff exercised a release of his power of asset substitution. See Ex. 16, Release of Right of Substitution.

88. Plaintiff's release of his substitution power effectively turned off the "grantor trust status" of the trust on November 20, 2013.

89. The Temporary Restraining Order issued by this Court forbidding the Defendants from selling any BRKa shares held by Friendship Partners, LP or selling or transferring Friendship Partners, LP interests held by the Wellin Family 2009 Irrevocable Trust was dissolved on November 22, 2013, and Plaintiff's preliminary injunction motion was denied.

90. Thereafter, in utter disregard of the trust provisions and their fiduciary duties, the Defendants set about to liquidate and dissolve Friendship Partners, LP, with a portion of the partnership still being an asset of the Wellin Family 2009 Irrevocable Trust.

91. By instrument stated to be effective as of December 1, 2013 but executed sometime thereafter, Cynthia W. Plum, as Manager of Friendship Management, LLC, and while serving as Trustee of the Wellin Family 2009 Trust, adopted a Plan of Liquidation, liquidating Friendship Partners, LP and directing that the assets of the partnership be distributed to the partners in accordance with their interests in the partnership. See Ex. 17, Plan of Dissolution and Liquidation of Friendship Partners, LP & Ex. 18, Written Consent of General Partner of Friendship Partners, LP.

92. By instrument stated to be effective as of December 1, 2013 but executed sometime thereafter, Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, as members of the Distribution Committee of the Wellin Family 2009 Irrevocable Trust and as individual Trustees, adopted by written consent and without a meeting, a plan to distribute to themselves individually from the Wellin Family 2009 Irrevocable Trust, certain proceeds from the liquidation of the assets of Friendship Partners, LP. See Ex. 19, Written Consent of the Distribution Committee of the Wellin Family 2009 Irrevocable Trust.

93. Under the terms of their written consent, Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, were to receive directly from Friendship Partners, LP in three (3) equal shares, any proceeds from the liquidation of Friendship Partners, LP exceeding $52,000,000.00 (referred to as the "Trust Retained Amount").

94. These payments were to be made directly from Friendship Partners, LP, and treated as a deemed distribution to the Wellin Family 2009 Irrevocable Trust, and then a distribution to Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, individually, without actually making any distribution to the Wellin Family 2009 Irrevocable Trust.

95. On or about December 6, 2013, Cynthia W. Plum, as the manager of Friendship Management, LLC, the general partner of Friendship Partners, LP, and while serving as Trustee of the Wellin Family 2009 Irrevocable Trust, liquidated Friendship Partners, LP and sold the 906 BRKa shares held by Friendship Partners, LP.

96. Approximately $157,000,000.00 in proceeds was realized from the sale of 906 BRKa shares owned by the partnership of which 896 shares were the original shares contributed by Keith Wellin in exchange for the 99.8% interest in Friendship Partners, LP.

97. Cynthia W. Plum, as Manager of Friendship Management, LLC, ignored the substitution effected by Plaintiff on November 20, 2013, and treated the interests acquired by Plaintiff as still being owned by the Wellin Family 2009 Irrevocable Trust.

98. Upon information and belief, the general partner distributed the proceeds of the liquidation giving approximately 1.40% to the KSW 2011 Qualified Grantor Retained Annuity Trust, approximately 2.92% to the KSW 2012 Grantor Retained Annuity Trust, approximately 1.10% to Friendship Management, LLC, and the remaining proceeds were treated as being distributed to the Wellin Family 2009 Irrevocable Trust. See Ex. 20, Trust Accounting for Friendship Partners, LP Liquidation Proceeds.

99. Over $40,000,000.00 in tax liability resulted from the sale of the BRKa shares.

100. By instrument stated to be effective as of December 5, 2013, Defendants agreed to distribute to Plaintiff $50,228,000.00 only if that amount was accepted in full payment and satisfaction of the Note which had been validly and effectively substituted by Plaintiff for an interest in Friendship Partners, LP on November 20, 2013 and was no longer owned by the Plaintiff. See Ex. 21, Trustee Resolution, Dec. 5, 2013.

101. As such, when the Defendants sent Plaintiff a check in satisfaction of the Note on December 6, 2013, Plaintiff did not accept the check and returned it to the Defendants. See Ex. 22, Ltr from John Hagerty, Dec. 6, 2013 & Ex. 23, Ltr to John Hagerty, Dec. 6, 2013.

102. The written consent agreed to by Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, and the subsequent sale and distribution of assets was all done without the consent, participation, or approval of the corporate Trustee, Brown Brothers.

103. In orchestrating these transactions, the Defendants acted in their own self-interest and in violation of their fiduciary duties and the provisions of the Wellin Family 2009 Irrevocable Trust.

2013 Gifts

104. In January of 2013, Plaintiff accessed information from his UBS account online, which led him to believe that he had in excess of $220 million in liquid assets.

105. Unbeknownst to Plaintiff, this information actually included assets of Friendship Partners, LP which Plaintiff did not know or understand that he had lost all control over and access to his partnership interests.

106. Plaintiff liquidated enough shares of BRKa to make a gift of $10,000,000.00 each to Defendant Peter J. Wellin, Defendant Cynthia W. Plum, and Defendant Marjorie W. King (hereinafter the "2013 Gifts").

107. He also gifted $10 million to his wife, Wendy C. H. Wellin.

108. As a result of the sale of the stock raise cash for the 2013 Gifts and the 2013 Gifts, Plaintiff now faces income tax and gift tax liability in the amount of approximately $27 million.

109. Plaintiff was in a compromised mental state at the time of the 2013 Gifts due to his medications.

110. At that time, Plaintiff was in a fiduciary and confidential relationship with Defendant Peter J. Wellin, as his attorney-in-fact, and Defendant Cynthia W. Plum, as his successor attorney-in-fact.

111. Plaintiff was uninformed of the full impact of the tax consequences of the 2013 Gifts and was unaware that making the 2013 Gifts would so drastically decrease his financial assets to the point of potential insolvency.

112. Defendant Peter J. Wellin knew that Plaintiff mistakenly believed that he had liquid assets in such an amount sufficient to cover the 2013 Gifts and allow him to retain sufficient liquid assets to maintain his lifestyle and cover gifts intended in his Will and Revocable Trust.

113. Defendant Peter J. Wellin discussed the 2013 Gifts with Plaintiff's long-time accountant, who advised against the gifts, but Plaintiff himself did not have an opportunity to speak to his accountant.

114. Defendants Peter J. Wellin and Cynthia W. Plum failed to raise the issue of the tax consequences Plaintiff would incur in making the 2013 Gifts to the individual Defendants.

115. Defendants Peter J. Wellin and Cynthia W. Plum failed to inform Plaintiff that making the 2013 Gifts would leave Plaintiff in a precarious financial situation.

116. Defendants Peter J. Wellin and Cynthia W. Plum failed to inform Plaintiff that the information obtained by accessing his online UBS account did not accurately reflect Plaintiff's actual financial condition, but included accounts he did not own or control.

117. Defendants Peter J. Wellin and Cynthia W. Plum failed to encourage, suggest or insist that Plaintiff obtain independent, professional legal advice regarding the 2013 Gifts.

118. Defendant Peter J. Wellin failed to consult Plaintiff's long-time tax lawyer regarding the 2013 Gifts.

119. Defendant Peter J. Wellin instructed Plaintiff's long-time accountant not to contact Plaintiff's estate planning attorney regarding the 2013 Gifts.

120. Despite having full knowledge of the financial and tax effects the 2013 Gifts would have, Defendant Peter J. Wellin actively encouraged Plaintiff to make the 2013 Gifts, and in reliance upon this counsel and advice, Plaintiff effectuated the 2013 Gifts by liquidating stock into cash causing him to owe substantial sums to the IRS in both income tax and gift tax.

121. Defendant Peter J. Wellin improperly used the confidential relationship imposed upon him by each of the five (5) Durable Powers of Attorney in failing to advise Plaintiff as to the financial and tax effects of the 2013 Gifts and in actively encouraging him to incur the additional income tax liability caused by making the 2013 Gifts in cash rather than stock.

122. Through the November 2009 transaction and the 2013 Gifts, Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King have taken advantage of their vulnerable father and effectively siphoned off a substantial portion of Plaintiff's assets, leaving Plaintiff with such a large tax liability that could potentially render him insolvent.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

123. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

124. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, district courts have the power to make declaratory judgments regarding the rights and legal relations of parties under an agreement, including trust agreements.

125. A real, present, justiciable controversy exists between the parties over the validity and effectiveness of Plaintiff's November 20, 2013 removal and replacement of the Trust Protector and the validity and effectiveness of the Trust Protector's November 20, 2013 amendments to the Wellin Family 2009 Irrevocable Trust.

126. Article VI, Section A, Subsection 9 of the Wellin Family 2009 Irrevocable Trust reserves to Plaintiff the authority to remove a Trust Protector and replace him or her with a different Trust Protector.

127. By instrument dated November 20, 2013, Plaintiff exercised this authority by removing Thomas M. Farace as Trust Protector of the Wellin Family 2009 Irrevocable Trust and replacing him with Lester S. Schwartz as the new Trust Protector.

128. Article VI, Section A, Subsection 3 of the Wellin Family 2009 Irrevocable Trust grants the Trust Protector the power, during Plaintiff's lifetime, to amend the provisions of the trust.

129. On November 20, 2013, Lester S. Schwartz, exercising his authority as Trust Protector, set forth a number of amendments to the Wellin Family 2009 Irrevocable Trust, including an amendment that deleted Article IX, Section B, which had authorized the corporate Trustee to add certain beneficiaries to the trust.

130. Article IX, Section A of the Wellin Family 2009 Irrevocable Trust grants Plaintiff the authority to, at any time during his lifetime, reacquire the trust corpus or any portion thereof by substituting other property of an equivalent value, without the consent or approval of the Trustees.

131. By instrument dated November 20, 2013, Plaintiff substituted the Note executed by the Wellin Family 2009 Irrevocable Trust for an equally valued interest in Friendship Partners, LP, which was then a part of the trust corpus.

132. Subsequent to this substitution of assets, by instrument dated November 20, 2013, Plaintiff released his right of substitution as authorized by the terms of the Wellin Family 2009 Irrevocable Trust.

133. By operation of Plaintiff's release of his power of substitution on November 20, 2013, the grantor trust status of the Wellin Family 2009 Irrevocable Trust was effectively turned off as of November 20, 2013.

134. Each of the three children have wrongfully taken over $31 million from the Wellin Family 2009 Irrevocable Trust without the consent or approval of Brown Brothers and in violation of the clear intent and terms of the trust, leaving Plaintiff with significant tax liability and near insolvency.

135. Pursuant to 28 U.S.C. § 2201 and 2202, based upon the facts herein, Plaintiff seeks a declaration from this Court holding:

a. Thomas M. Farace was effectively and validly removed as Trust Protector by Plaintiff, and Lester S. Schwartz was effectively and validly appointed as Trust Protector by Plaintiff on November 20, 2013, pursuant to the terms of the Wellin Family 2009 Irrevocable Trust.

b. The amendments to the Wellin Family 2009 Irrevocable Trust, enacted by Lester S. Schwartz as Trust Protector on November 20, 2013, were all effectively and validly executed and became the controlling terms of the Wellin Family 2009 Irrevocable Trust as of November 20, 2013.

[DB1]**FOR A SECOND CAUSE OF ACTION**
(Breach of Fiduciary Duty as to Peter J. Wellin and Cynthia W. Plum)

136. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

137. Defendant Peter J. Wellin acted as an agent for Plaintiff pursuant to five (5) different Durable Powers of Attorney.

138. Defendant Cynthia W. Plum acted as successor agent for Plaintiff pursuant to five (5) different Durable Powers of Attorney, including the Georgia Financial Power of Attorney.

139. Defendant Peter J. Wellin, as Plaintiff's attorney-in-fact under one or more of the Florida General Power of Attorney, South Carolina Durable General Power of Attorney, Georgia

Financial Power of Attorney, New York Durable General Power of Attorney, and Maine General Durable Power of Attorney, owed Plaintiff a fiduciary duty.

140. Defendant Cynthia W. Plum, by accepting the appointment as Plaintiff's successor attorney-in-fact and successor agent under the Georgia Financial Power of Attorney, owed Plaintiff a fiduciary duty under Georgia law.

141. Plaintiff reposed a special confidence and trust in Defendants Peter J. Wellin and Cynthia W. Plum, and they owed Plaintiff a fiduciary duty to act in Plaintiff's best interests and owed Plaintiff the utmost duty of care, loyalty, and good faith.

142. Defendants Peter J. Wellin and Cynthia W. Plum breached their fiduciary duties to Plaintiff by, among other things:

a. Failing to safeguard Plaintiff's funds;

b. Failing to act in Plaintiff's best interests;

c. Breaching their duty of loyalty to Plaintiff;

d. Failing to fully inform Plaintiff of the impact on Plaintiff's financial condition the November 2009 Transaction and 2013 Gifts would have;

e. Failing to fully inform Plaintiff of the tax implications the November 2009 Transaction and 2013 Gifts;

f. Making misrepresentations to Plaintiff about Plaintiff's financial condition and the consequences of the November 2009 Transaction and the 2013 Gifts;

g. Violating the terms of the five Durable Power of Attorney documents under which Defendant Peter J. Wellin was designated as Plaintiff's attorney-in-fact and Defendant Cynthia W. Plum was designated as Plaintiff's successor attorney-in-fact;

h. Misleading Plaintiff;

i. Taking advantage of Plaintiff's compromised mental state, whether due to medications or temporary or permanent physical conditions or illnesses;

j. Retaining Plaintiff's funds for their own benefit;

k. Putting their own personal interests over those of Plaintiff;

l. Making the 2013 Gifts, as Plaintiff's attorney-in-fact, to themselves and/or third parties, without the requisite authorization under any of the five (5) Durable Powers of Attorney; and

m. Failing to reimburse Plaintiff for the 2009 Transaction and 2013 Gifts.

143. The November 2009 Transaction and the 2013 Gifts themselves were so unreasonable and improvident, as to give rise to an inference of mental incapacity on the part of Plaintiff and/or undue influence by Defendants Peter J. Wellin and Cynthia W. Plum.

144. There is a presumption of undue influence as Defendant Peter J. Wellin and Cynthia W. Plum were in a confidential relationship with Plaintiff, and suspicious circumstances surrounded the preparation, formulation, or execution of the November 2009 Transaction and the 2013 Gifts.

145. Defendants/Agents Peter J. Wellin and Cynthia W. Plum are responsible to Plaintiff, as their principal, for any and all losses, including interest, lost appreciation on the partnership interests, gift and income taxes incurred, and attorney fees that occurred as a result of their negligence or bad faith.

146. Plaintiff suffered damages as a direct and proximate result of Defendants Peter J. Wellin's and Cynthia W. Plum's breach of their fiduciary duties.

FOR A THIRD CAUSE OF ACTION
(Aiding and Abetting Breach of Fiduciary Duty as to Cynthia W. Plum and Marjorie W. King)

147. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

148. Defendant Peter J. Wellin breached the fiduciary duties he owed to Plaintiff, as described in the paragraphs above.

149. Defendants Cynthia W. Plum and Marjorie W. King knowingly participated in the breach of fiduciary duty by participating in effectuating the November 2009 Transaction.

150. Defendants Cynthia W. Plum and Marjorie W. King knowingly participated in the breach of fiduciary duty by supporting, receiving, and retaining the 2013 Gifts.

151. Plaintiff suffered damages as a direct and proximate result of Defendants Cynthia W. Plum and Marjorie W. King aiding and abetting Defendants Peter J. Wellin's breach of fiduciary duty.

FOR A FOURTH CAUSE OF ACTION
(Fraud as to Peter J. Wellin)

152. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

153. Defendant Peter J. Wellin made a false representation that the November 2009 transaction was a "tax advantaged transaction" and was in Plaintiff's best interest.

154. Defendant Peter J. Wellin made false representations to Plaintiff that Plaintiff had the solvency to afford the 2013 Gifts and the tax consequences for the same.

155. The false representations made to Plaintiff were significant and material representations, leading to Plaintiff's damages.

156. Defendant Peter J. Wellin had either knowledge of the falsity of these statements or acted with a reckless disregard for the truth or falsity of the statements.

157. Defendant Peter J. Wellin made these representations to Plaintiff with the intent that Plaintiff would act upon the statements by (1) consenting to and executing documents to effectuate the November 2009 Transaction without question and (2) making the 2013 Gifts to the Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King.

158. Plaintiff was ignorant of the falsity of Defendant Peter J. Wellin's representations regarding the alleged tax advantages and financial implications of the November 2009 Transaction and the 2013 Gifts.

159. Plaintiff relied on the truth of the representations made by Defendant Peter J. Wellin.

160. Plaintiff had the right to rely on the truth of the statements made by his attorney-in-fact and son, Peter J. Wellin.

161. Plaintiff suffered damages as a direct and proximate result of reliance on the Defendant Peter J. Wellin's above-alleged representations.

FOR A FIFTH CAUSE OF ACTION
(Constructive Fraud as to Peter J. Wellin)

162. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

163. Defendant Peter J. Wellin made a false representation that the November 2009 transaction was a "tax advantaged transaction" and was in Plaintiff's best interest.

164. Defendant Peter J. Wellin made false representations to Plaintiff that Plaintiff had the solvency to afford the 2013 Gifts and the tax consequences for those gifts.

165. The false representations made to Plaintiff were significant and material representations, leading to Plaintiff's damages.

166. Defendant Peter J. Wellin had either knowledge of the falsity of these statements or acted with a reckless disregard for the truth or falsity of the statements.

167. Plaintiff was ignorant of the falsity of Defendant Peter J. Wellin's statements.

168. Plaintiff relied on the truth of the representations made by Defendant Peter J. Wellin.

169. Plaintiff had the right to rely on the truth of the statements made by his attorney-in-fact and son, Peter J. Wellin.

170. Plaintiff was subsequently financially injured by the statements.

FOR A SIXTH CAUSE OF ACTION
(Fraudulent Concealment as to Peter J. Wellin)

171. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

172. Plaintiff and Defendant Peter Wellin had a pre-existing fiduciary relationship that arose under the five (5) Durable Power of Attorney documents under which Peter J. Wellin was designated as Plaintiff's agent.

173. Plaintiff expressly reposed trust and confidence in Defendant Peter J. Wellin in connection with the management of Plaintiff's finances and Plaintiff's estate-planning.

174. The five (5) Durable Power of Attorney documents under which Defendant Peter J. Wellin was named Plaintiff's agent, in their essential nature, are intrinsically fiduciary and necessarily call for perfect good faith and full disclosure on the part of Defendant Peter J. Wellin.

175. Defendant Peter J. Wellin had knowledge of the full scope of the November 2009 Transaction and the 2013 Gifts, as well as knowledge of their tax implications and impact on Plaintiff's liquidity.

176. Defendant Peter J. Wellin had a fiduciary duty to explicitly explain to Plaintiff the full scope of the November 2009 Transaction and the 2013 Gifts, as well as their tax implications and impact on Plaintiff's liquidity.

177. Defendant Peter J. Wellin had a duty to disclose all known information that was significant and material with respect to the November 2009 Transaction and the 2013 Gifts.

178. Defendant Peter J. Wellin breached these duties through his silence and non-disclosure.

179. Defendant Peter J. Wellin intended that his non-disclosure of significant and material information, coupled with the aforementioned false representations made to Plaintiff, would cause Plaintiff to rely on Defendant's advice by (1) consenting to and executing documents to effectuate the 2009 Transfer Transaction without question and (2) making the 2013 Gifts to the Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King.

180. Plaintiff was unaware that Peter J. Wellin was concealing significant and material information.

181. Plaintiff relied on the truth, accuracy and completeness of the representations made by Defendant Peter J. Wellin.

182. Plaintiff had the right to rely on the truth, accuracy and completeness of the statements made by his attorney-in-fact and son, Peter J. Wellin.

183. Plaintiff suffered damages as a direct and proximate result of reliance on the Defendant Peter J. Wellin's advice.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Misrepresentation as to Peter J. Wellin)

184. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

185. Defendant Peter J. Wellin made a false representation that the November 2009 Transaction was a "tax advantaged transaction" and was in Plaintiff's best interest.

186. Defendant Peter J. Wellin made false representations to Plaintiff that Plaintiff had the solvency to afford the 2013 Gifts and the tax consequences for the same.

187. Defendant Peter J. Wellin had a pecuniary interest in making the false representations to Plaintiff that the 2009 Transaction was in Plaintiff's best interest and in making the false representation to Plaintiff that Plaintiff was in a sufficient financial condition to make the 2013 Gifts to the Defendants.

188. Defendant Peter J. Wellin owed a duty of care to Plaintiff to see that truthful information was communicated to Plaintiff regarding management of Plaintiff's finances and Plaintiff's financial condition.

189. Defendant breached his duty of care to Plaintiff by failing to exercise due care and willfully, recklessly and intentionally misrepresenting facts to Plaintiff.

190. Plaintiff was justified in relying on Defendant Peter J. Wellin's misrepresentations as to the November 2009 Transaction and the 2013 Gifts.

191. Plaintiff suffered damages as a direct and proximate result of reliance on Defendant's misrepresentations.

FOR AN EIGHTH CAUSE OF ACTION
(Breach of Contract as to Peter J. Wellin)

192. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

193. On May 23, 2006, Plaintiff executed a Florida General Power of Attorney and a New York Durable General Power of Attorney making his son, Defendant Peter J. Wellin, his attorney-in-fact.

194. On September 20, 2006, Plaintiff executed a South Carolina General Durable Power of Attorney, a Georgia Financial Power of Attorney, and a Maine General Durable Power of Attorney, all appointing his son, Defendant Peter J. Wellin, his attorney-in-fact.

195. Each of these written Durable Powers of Attorney is a formal contract that created a principal-agency relationship between Plaintiff and Defendant Peter J. Wellin.

196. The contractual principal-agent relationship was predicated upon Defendant Peter J. Wellin acting in Plaintiff's best interests regarding all transactions related to Plaintiff.

197. Defendant Peter J. Wellin breached each of the Durable Power of Attorney contracts by his false representations, omissions, and conduct connected with the November 2009 Transaction and the 2013 Gifts.

198. Plaintiff suffered damages as a direct and proximate result of Defendant Peter J. Wellin's breach of contract.

FOR A NINTH CAUSE OF ACTION
(Breach of Contract Accompanied by Fraudulent Act as to Peter J. Wellin)

199. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

200. For the reasons alleged in Plaintiff's Eighth Cause of Action, Defendant Peter J. Wellin breached each of the five Durable Power of Attorney contracts that created the agency relationship between Plaintiff and Defendant.

201. Defendant Peter J. Wellin breached these contracts by failing to act honestly and in Plaintiff's best interests related to the November 2009 Transaction and the 2013 Gifts.

202. Defendant Peter J. Wellin had a fraudulent intent when he breached these contracts.

203. Defendant Peter J. Wellin's false representations that (i) the November 2009 Transaction was a "tax advantaged transaction" that was in Plaintiff's best interest; (ii) Plaintiff had the solvency to afford the 2013 Gifts and their tax consequences; and (iii) his failure to

inform Plaintiff of the financial consequences of the 2013 Gifts and their tax implications were all fraudulent acts that shows Defendant Peter J. Wellin's fraudulent intent.

204. Defendant Peter J. Wellin's actions in connection with the November 2009 Transaction and the 2013 Gifts were characterized by dishonesty in fact or unfair dealing.

205. Plaintiff suffered damages as a direct and proximate result of Defendant Peter J. Wellin's breach of contract with fraudulent intent.

FOR A TENTH CAUSE OF ACTION
(Violation of the South Carolina Uniform Securities Act of 2005, S.C. Code §35-1-101, et seq. as to Defendant Peter J. Wellin, individually and as co-Trustee of the Wellin Family 2009 Irrevocable Trust)

206. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

207. The November 2009 Transaction involved a contract of sale, contract to sell, or disposition of a security or interest in a security for value.

208. Pursuant to the South Carolina Uniform Securities Act of 2005, S.C. Code §35-1-501, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

a. to employ a device, scheme, or artifice to defraud;

b. to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

c. to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

209. Defendant Peter J. Wellin, individually and as co-trustee of the Wellin Family 2009 Irrevocable Trust, employed a device, scheme, or artifice to defraud Plaintiff in connection with the November 2009 Transaction.

210. Defendant Peter J. Wellin, individually and as co-trustee of the Wellin Family 2009 Irrevocable Trust, made an untrue statement of a material fact when he told Plaintiff that the November 2009 Transaction was a "tax advantaged transaction" that was in Plaintiff's best interest.

211. Defendant Peter J. Wellin, individually and as co-trustee of the Wellin Family 2009 Irrevocable Trust, omitted the following material facts necessary to make his statement that the November 2009 Transaction was a "tax advantaged transaction" not misleading:

a. Defendant failed to inform Plaintiff of the overall impact the November 2009 Transaction would have on Plaintiff's finances;

b. Defendant failed to inform Plaintiff that Plaintiff will lose all access to and control over his assets, but still would be left with tax liability; and

c. Defendant failed to inform Plaintiff that the November 2009 Transaction was not advantageous from a tax perspective for Plaintiff during his lifetime.

212. Through the above-referenced untrue statements of a material fact and omissions, Defendant Peter J. Wellin, individually and as co-trustee of the Wellin Family 2009 Irrevocable Trust, engaged in an act, practice or course of business that operated as a fraud or deceit upon Plaintiff.

213. Defendant Peter J. Wellin, individually and as co-trustee of the Wellin Family 2009 Irrevocable Trust, entered into the November 2009 Transaction in violation of S.C. Code Ann. §35-1-501.

214. Plaintiff, as seller in the November 2009 Transaction, was unaware of Defendant's untruths and omissions.

215. Defendant Peter J. Wellin, individually and as co-trustee of the Wellin Family 2009 Irrevocable Trust, knew, or in the exercise of reasonable care, could have known of his untruths and omissions.

216. Defendant Peter J. Wellin's violation of the South Carolina Uniform Securities Act of 2005, proximately caused Plaintiff significant financial damages.

217. Under the South Carolina Uniform Securities Act of 2005, Plaintiff is entitled to recover the securities and any income received on the securities, costs, and reasonable attorney's fees to be determined by the court.

FOR AN ELEVENTH CAUSE OF ACTION
(Unjust Enrichment as to all Defendants)

218. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

219. Defendants obtained and wrongfully retained money from the 2013 Gifts that belonged to Plaintiff.

220. Defendants obtained and wrongfully withheld proceeds owed to Plaintiff arising out of the liquidation of Friendship Partners, LP.

221. Defendants have been unjustly enriched by the retention of these funds.

222. Plaintiff suffered damages as a direct and proximate result of Defendants' retention of funds from the 2013 Gifts and the liquidation of Friendship Partners, LP.

FOR A TWELFTH CAUSE OF ACTION
(Constructive Trust as to all Defendants)

223. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

224. There existed a confidential relationship between Plaintiff as the principal and Defendant Peter J. Wellin as his attorney-in-fact.

225. Defendant Peter J. Wellin abused his confidential relationship as Plaintiff's attorney-in-fact by inducing Plaintiff through misrepresentations to make the November 2009 Transaction and 2013 Gifts that transferred significant assets to Defendants.

226. Plaintiff allowed these transfers in reliance on the above-described representations of Defendant Peter J. Wellin.

227. Defendants obtained funds through the November 2009 transaction and 2013 Gifts through fraud, bad faith, abuse of confidence, and/or violation of a fiduciary duty, which gives rise to an obligation in equity to make restitution to Plaintiff.

228. Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King participated in and ratified the November 2009 Transaction and 2013 Gifts to the detriment of Plaintiff.

229. All Defendants have retained Plaintiff's assets transferred through the November 2009 Transaction and 2013 Gifts.

230. All Defendants have been unjustly enriched as a result of the November 2009 Transaction and 2013 Gifts.

231. The abuse of confidence committed by Defendants Peter J. Wellin and Cynthia W. Plum with respect to Plaintiff's property renders it unconscionable and inequitable for Defendants to retain the property transferred through the November 2009 Transaction and 2013 Gifts.

232. Plaintiff suffered damages as a direct and proximate result of Defendants retention of funds from the November 2009 Transaction and 2013 Gifts.

233. Based upon the foregoing, Plaintiff is informed and believes that he is entitled to the imposition of the equitable remedy of a constructive trust.

234. Based upon the foregoing, Plaintiff is informed and believes that he is entitled to restitution in the amount unjustly retained, including interest and attorney fees and expenses for having to bring this lawsuit.

Claims Arising Under Delaware Law

FOR A THIRTEENTH CAUSE OF ACTION
(Breach of Fiduciary Duty as to Friendship Management, LLC, Peter J. Wellin, Marjorie W. King, and Cynthia W. Plum)

235. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

236. Defendant Friendship Management, LLC, as the general partner of Friendship Partners, LP, owes fiduciary duties to both Friendship Partners, LP and Plaintiff.

237. Defendant Cynthia W. Plum, as the Manager of Friendship Management, LLC, acting in its role as general partner of Friendship Partners, LP, or due to her active and personal participation in a general partnership role as defined by the Partnership Agreement in control of Friendship Partners, LP, owes fiduciary duties to both Friendship Partners, LP and Plaintiff.

238. Defendants Peter J. Wellin and Marjorie W. King, by actively and personally participating in the control of Friendship Management, LLC as general partner of Friendship Partners, LP, or by actively and personally participating in the control of Friendship Partners, LP as a general partner owe fiduciary duties to both Friendship Partners, LP and Plaintiff.

239. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King have acted in concert or conspired to act in concert in controlling Friendship Management, LLC or Friendship Partners, LP and therefore, they owe fiduciary duties to both Friendship Partners, LP and Plaintiff.

240. The Partnership Agreement §8.5(a) expressly preserves the right of Friendship Partners, LP or the limited partner, i.e. Plaintiff, to sue the general partner, i.e. Friendship

Management, LLC, and its affiliate, officers and agents for any "act or omission [that] was performed or omitted fraudulently, or in bad faith or constituted gross negligence or willful misconduct."

241. The acts described in this Amended Verified Complaint, including without limitation the self-dealing November 2009 Transaction, constitute breaches of the fiduciary duties of loyalty, candor, care, and good faith under Delaware law.

242. The acts described in this Amended Verified Complaint, including without limitation the self-dealing November 2009 Transaction in violation of the Partnership Agreement, were fraudulent, wrongful or illegal and they constitute "gross negligence", "willful misconduct", and "bad faith" within the meaning of the Partnership Agreement §8.5(a) and Delaware law.

243. The said breaches caused Plaintiff to suffer damages, the exact amount to be proven at trial.

FOR A FOURTEENTH CAUSE OF ACTION
(Aiding and Abetting Breach of Fiduciary Duty as to Peter J. Wellin and Marjorie W. King)

244. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

245. Friendship Management, LLC and Cynthia W. Plum, as the Manager of Friendship Management, LLC, owe Friendship Partners, LP and Plaintiff fiduciary duties.

246. The acts described in this Amended Verified Complaint, including without limitation the self-dealing November 2009 Transaction, constitute a breach of the fiduciary duties of candor, loyalty, care, and good faith under Delaware law by Friendship Management, LLC and Cynthia W. Plum.

247. To the extent Defendant Peter J. Wellin did not owe Friendship Partners, LP and Plaintiff fiduciary duties, said Defendant knowingly promoted, facilitated, aided or abetted the breach of fiduciary duties by Friendship Management, LLC or Cynthia W. Plum by actively participating in the said breach of fiduciary duty by, *inter alia*, travelling to South Carolina to urge, induce, or convince Plaintiff to execute the November 2009 Transaction, which was described as a "tax advantaged" transaction, and by executing the documents and agreements necessary to effectuate the November 2009 Transaction.

248. To the extent Defendant Marjorie W. King did not owe Friendship Partners, LP and Plaintiff fiduciary duties, said Defendant knowingly promoted, facilitated, aided or abetted the breach of fiduciary duties by Friendship Management, LLC or Cynthia W. Plum by actively participating in the said breach of fiduciary duty by, *inter alia*, approving executing, performing, or perpetuating performance of the November 2009 Transaction.

249. Due to the said individual or concerted actions of Defendants Friendship Management, LLC, and Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King in connection with the 2009 Transfer Transaction, and the breaches of fiduciary duty therein, Plaintiff has suffered damages, the exact amount to be proven at trial.

FOR A FIFTEENTH CAUSE OF ACTION
(Breach of the Friendship Partners, LP Agreement as to Friendship Partners, LLC, Peter J. Wellin, Marjorie W. King, and Cynthia W. Plum)

250. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

251. The Partnership Agreement is a valid and enforceable contract representing a legitimate exchange of consideration, rights, and liabilities between Plaintiff and Friendship Management, LLC.

252. Defendant Friendship Management, LLC owes contractual duties to Plaintiff under the Partnership Agreement pursuant to Delaware law.

253. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King own and control a majority interest in Friendship Management, LLC.

254. Under the Partnership Agreement, Friendship Management, LLC is the general partner and Plaintiff is a limited partner.

255. Sections 8.1, 8.2, and 8.5 of the Partnership Agreement set out a general partner's powers, authorities, roles and responsibilities. The Partnership Agreement also contains an implied covenant of good faith and fair dealing. Abuse by a general partner of its power, authority, role, or responsibilities is a breach of the Partnership Agreement or at least a breach of the implied covenant of good faith and fair dealing.

256. Section 9.2 of the Partnership Agreement sets forth certain conditions that must be met for a limited partner's interest in the Partnership to be transferred. A general partner is duty bound to enforce the provisions of Section 9.2 and related other provisions for the material protection and benefit of the limited partnership and its "Partners."

257. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King and Friendship Management, LLC, acting as general partner of Friendship Partners, LP, individually or collectively, directly or through Friendship Management, LLC, under all circumstances, breached the Partnership Agreement by abusing the power, authority, role, or responsibilities of a general partner or breaching the said implied covenant of good faith and fair dealing, by (i) designing, approving, proposing, executing, and effectuating the November 2009 Transaction for their own individual benefits and economic gain at the expense and to the detriment of Plaintiff, a limited partner of Friendship Partners, LP; (ii) promoting, facilitating and approving the

transaction with Plaintiff, the limited partner and "transferor" under Section 9 while knowing (or recklessly disregarding the fact) that the transaction was fraudulent, wrongful, or illegal; and (iii) failing to require, ensure, or receive representations or equivalent assurances as set forth in and required by Section 9.2(a)(iv) of the Partnership Agreement; or (iv) by their self-interested dealing, rendering said section illusory or ineffective.

258. The breaches resulted from Defendants Peter J. Wellin's, Cynthia W. Plum's, and Marjorie W. King's acts or omissions that were "performed or omitted fraudulently or in bad faith or constituted gross negligence or willful misconduct," as such provision is set out in Section 8.5 of the Partnership Agreement.

259. The said breaches caused Plaintiff to suffer damages, the exact amount to be proven at trial.

FOR A SIXTEENTH CAUSE OF ACTION
(Civil Conspiracy as to Peter J. Wellin, Marjorie W. King, Cynthia W. Plum)

260. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

261. In or about 2009, Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King devised and agreed to an illicit plan to induce Plaintiff, their father, to enter into the November 2009 Transaction.

262. The purpose of the illicit plan of the Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King was to enhance their own personal wealth and derive financial benefits, to the detriment of Plaintiff and Friendship Partners, LP, under the guise that the transaction was a "tax advantaged transaction."

263. In furtherance of their illicit scheme, among other acts, Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King made false representations to Plaintiff by

misrepresentations or omissions of material information concerning the consequences and impacts of and the purported "tax advantages" to the November 2009 Transaction with the intention that Plaintiff would rely on such false representations or omissions.

264. In furtherance of their illicit scheme, among other acts, the Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King caused the creation of the Wellin Family 2009 Irrevocable Trust, for the purpose of effectuating the November 2009 Transaction.

265. Plaintiff has been damaged as a direct and proximate result of said Co-Defendants' actions, the exact amount to be proven at trial.

266. Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King are jointly and severally liable to Plaintiff.

FOR A SEVENTEENTH CAUSE OF ACTION
(Breach of Covenant of Good Faith and Fair Dealing as to Friendship Management, LLC, Peter J. Wellin, Marjorie W. King, and Cynthia W. Plum)

267. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

268. There is implied in the Partnership Agreement a covenant of good faith and fair dealing whereby Defendants agreed that they would perform their obligations in good faith and in the exercise of fair dealing.

269. As alleged herein, Defendants have breached the covenant of good faith and fair dealing by acting to evade the letter and spirit of the bargain between the parties.

270. Plaintiff has performed all his duties, obligations, conditions and covenants under the Partnership Agreement, except for those promises, performances, duties and obligations which have been excused by Defendants' breaches.

271. As a direct and proximate result of Defendants' breach of covenant of good faith and fair dealing, Plaintiff has suffered damages, the exact amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Issue a declaratory judgment that:

a. Thomas M. Farace was effectively and validly removed as Trust Protector by Plaintiff, and Lester S. Schwartz was effectively and validly appointed as Trust Protector by Plaintiff on November 20, 2013, pursuant to the terms of the Wellin Family 2009 Irrevocable Trust.

b. The amendments to the Wellin Family 2009 Irrevocable Trust, enacted by Lester S. Schwartz as Trust Protector on November 20, 2013, were all effectively and validly executed and became the controlling terms of the Wellin Family 2009 Irrevocable Trust as of November 20, 2013.

B. Rescission of the November 2009 Transaction

C. Award judgment against Defendants, jointly and severally, for actual damages with pre-judgment and post-judgment interest thereon and attorney fees and expenses for having to bring this lawsuit;

D. Award judgment against the Defendants, jointly and severally, for punitive damages in an amount to be determined at trial;

E. Award judgment against the Defendants, jointly and severally, for the fees and costs of this action;

F. Imposition of a Constructive Trust;

G. Such other and further relief as this Court may deem just and proper, all with pre-judgment and post-judgment interest thereon.

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Attorneys for the Plaintiff
Keith Wellin, individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001

February 28, 2014
Charleston, South Carolina

OPERATING AGREEMENT OF

FRIENDSHIP MANAGEMENT LLC

A DELAWARE LIMITED LIABILITY COMPANY

FRIENDSHIP MANAGEMENT LLC
OPERATING AGREEMENT

This Operating Agreement of FRIENDSHIP MANAGEMENT LLC, a Delaware limited liability company, is entered into as of the 11th day of DECEMBER, 2003 by and among each of the Persons listed at the end of this agreement as Members.

ARTICLE I.
DEFINITIONS

As used in this Operating Agreement the following terms shall have the meanings indicated:

Section 1.01 Capital Account. The sum of the cash and the fair market value of any other property contributed by a Member, adjusted from time to time to reflect the Member's Pro Rata Share of any Net Income or Loss and any Distributions.

Section 1.02 Capital Contributions. The money contributed by a Member and the fair market value of any other property contributed by a Member in accordance with Section 2.06 hereof.

Section 1.03 Certificate of Formation. The Certificate of Formation of FRIENDSHIP MANAGEMENT LLC filed with the Secretary of State of the State of Delaware pursuant to the Delaware Limited Liability Company Act.

Section 1.04 Company. FRIENDSHIP MANAGEMENT LLC, a Delaware limited liability company.

Section 1.05 Distribution. Any transfer of money or other property to a Member, in his, her or its capacity as a Member, from the Company. For purposes of this Section, property is to be valued at its fair market value on the date of transfer.

Section 1.06 Fiscal Period. From January 1 to December 31 of each year or such portion thereof as the Company shall be in existence.

Section 1.07 L.L.C. Act. The Delaware Limited Liability Company Act, as amended from time to time.

Section 1.08 Manager. Cynthia W. Plum or her designated successor or any other Person elected by the Members to serve as a successor Manager of the Company in accordance with Section 4.09 of this Agreement.

Section 1.09 Members. The Persons listed as Members on Schedule A to this Agreement, as such Schedule shall be amended from time to time.

Section 1.10 Net Income or Loss. Net Income or Loss for any Fiscal Period means the difference between gross receipts of the Company during such period and all expenses and deductions of the Company for such period determined in accordance with the accounting method followed by the Company for federal income tax purposes. Every item of income, gain, loss, deduction, credit or tax preference entering into the computation of such Net Income or Loss, or applicable to the period during which Net Income or Loss was realized, shall be allocated to each Member in the same proportion as Net Income or Loss is allocated to such Member.

Section 1.11 Operating Agreement. This Operating Agreement, as amended from time to time.

Section 1.12 Person. An individual, a corporation, a partnership, a limited liability company or partnership, a trust, an unincorporated organization or a government or any agency or political subdivision thereof.

Section 1.13 Pro Rata Share. The Pro Rata Share of each Member shall equal a fraction, the numerator of which shall be the number of Units held by that Member and the denominator of which shall be the total number of Units held by all Members.

Section 1.14 Related Persons. With respect to a corporation, each shareholder, director, officer or employee of such corporation and with respect to a partnership or limited liability company, each partner, member, manager or employee of such partnership or limited liability company.

Section 1.15 Unit. The interest of the Members shall be divided into Units, as set forth on Schedule A hereto. Additional Units may be issued from time to time pursuant to the terms of this Operating Agreement.

ARTICLE II.
ORGANIZATION

Section 2.01 Formation. The Members hereby, and by the filing of the Certificate of Formation with the Department of State of the State of Delaware, form a limited liability company pursuant to the L.L.C. Act.

Section 2.02 Name. The name of the Company is FRIENDSHIP MANAGEMENT LLC.

Section 2.03 Purposes. The purposes for which the Company has been formed are: (i) to make investments, acquire, hold and sell assets of any kind including real estate, notes, mortgages, options, partnership interests (general or limited) and securities issued by

individuals, corporations, partnerships, limited liability companies or other business entities, with a view to generating income and capital appreciation for the Members, and, in furtherance of such purposes, to receive, hold, sell or otherwise dispose of any securities or other property distributed by such entities to the Company and to invest in short-term liquid investments pending the investment or distribution of Company funds; (ii) to engage in any lawful act or activity for which limited liability companies may be formed under the L.L.C. Act; and (iii) to engage in any and all activities necessary or incidental to the foregoing.

Section 2.04 Principal Office. The principal office of the Company shall be located at 10 Waterman Avenue, Philadelphia, Pennsylvania 19118 or at such other place as may be designated by written notice from the Manager to the Members. The Company may have such additional place or places of business as the Manager may from time to time deem advisable.

Section 2.05 Term. The Company shall be formed on the day on which the Certificate of Formation is filed with the Secretary of State of the State of Delaware and shall continue, unless sooner dissolved in accordance with the terms of this Operating Agreement or the laws of the State of Delaware.

Section 2.06 Capital Contributions.

(a) The money or property which each Member has contributed to the Company in exchange for the number of Units set forth opposite such Member's name is set forth on Schedule A. No Member shall be required to contribute money or property to the Company in order to receive Units or to be admitted as a Member.

(b) No Member shall be entitled to the return of all or any part of its Capital Contribution, prior to the partial or total liquidation of the Company. Any return of Capital Contributions to the Members shall be solely from Company assets, and no Member shall have any liability for any such return.

(c) Except as otherwise specifically provided in this Operating Agreement, no Member shall have the right to withdraw or reduce its Capital Contribution or to demand and receive property other than cash from the Company in return for its Capital Contribution or as a Distribution.

(d) No Capital Contribution to the Company shall bear interest.

(e) No Member shall have any right of partition with respect to property owned by the Company.

(f) No Member shall be obligated to make loans to the Company or to repay any deficit in his Capital Account.

Section 2.07 Organizational Expenses. The Company shall pay all formation and organizational expenses of the Company.

ARTICLE III.
ALLOCATIONS AND DISTRIBUTIONS

Section 3.01 Allocation of Net Income or Loss.

(a) Except as otherwise provided in paragraphs (b), (c) and (d) of this Section 3.01, every item of income, gain, loss, deduction, credit or tax preference entering into the computation of Net Income or Loss for any Fiscal Period shall be allocated, as appropriate based upon the source of such item. Every item of income, gain, loss, deduction, credit or tax preference, shall be allocated among the Members in accordance with each Member's Pro Rata Share.

(b) Upon the admission of Members, the making of an additional capital contribution by a Member, an assignment of Units or an interest in the Company pursuant to Section 6.01 during any Fiscal Period, or a partial or complete withdrawal by a Member, items of Net Income or Loss for that Fiscal Period shall be allocated among the Members to reflect their varying interests during the Fiscal Period. For purposes of computing the varying interests of each Member, the Company shall make an interim closing of its books as of the effective date of the admission of a Member, the making of an additional capital contribution, the assignment of Units or an interest in the Company, or a partial or complete withdrawal by a Member and compute the items of Net Income or Loss applicable to the period of time before and after that date.

(c) If any fees paid or other payments made to the Manager or to any other Member are determined to be a distribution of profits of the Company for federal income tax purposes, gross income of the Company in an amount equal to the amount of the fee or other payment determined to be a distribution of profits shall be allocated to the Manager or to such other Member. To the extent that any Distribution to the Manager or to any other Member is determined for federal income tax purposes to be a fee paid to that Member, that Member's allocated share of Loss shall be increased, or its share of Income reduced, by an amount equal to the amount of such Distribution.

(d) The Members acknowledge that Section 704 of the Code may require that items of income, gain, loss and deduction of the Company be allocated among the Members to take account of the difference between the Company's tax basis in its assets and the fair market value of Company assets at the time of receipt of contributions under Section 2.06 of this Operating Agreement. To reflect any requirements of Section 704 of the Code, the Company may allocate Net Income or Loss to the Members to the extent necessary to take into account the differences between the Company's tax basis in Company assets and the fair market value of Company assets at the time of receipt of contributions.

Section 3.02 Distributions.

(a) This Company is designed for capital appreciation and distributions are not anticipated. If the Company recognizes significant income and/or capital

gain for a particular year that is allocable to the Members, the Manager may consider, in its discretion, a distribution to allow the Members to offset some or all of the tax liabilities associated with their allocable share of Company income or gain. Such distributions of cash or property of the Company shall be made at such times and in such manner as shall be approved by the Manager. Any such distribution shall be made to the Members in proportion to their Percentage Interests as of the day on which such distribution is made.

(b) The Manager shall make such Distributions as the Manager, in its sole discretion, deems appropriate.

ARTICLE IV.
MANAGEMENT

Section 4.01 Powers of the Manager.

(a) The management of the Company shall be vested in the Manager. Except for situations in which the approval of the Members is expressly required or permitted by this Operating Agreement or by nonwaivable provisions of applicable law, the Manager shall have complete discretion, power and authority in the management and control of the business of the Company, shall make all decisions affecting the business of the Company and shall manage and control the affairs of the Company to carry out the business and purposes of the Company. Without limiting the generality of the foregoing, the Manager is hereby authorized:

(i) to expend Company funds in furtherance of the purposes of the Company;

(ii) to invest and reinvest in securities or other property of any character, real or personal, including, but not limited to, common and preferred stocks, bonds, notes, debentures, mortgages, leases and partnership interests (general or limited);

(iii) to sell, exchange or otherwise dispose of any such securities or other property at public or private sale and to grant options for the purchase, exchange or other disposition thereof, and to exercise or sell any options and any conversion, subscription, voting and other rights, discretionary or otherwise, in respect thereof;

(iv) to manage and keep in force such insurance as may be required to reasonably protect the Company and its assets;

(v) to loan money to the Company on such terms and at such rates of interest as are commercially reasonable;

(vi) to borrow money for and on behalf of the Company and to incur and/or guarantee obligations for and on behalf of the Company, on such terms and at such rates of interest as the Manager may deem advisable and proper;

(vii) to pledge the credit of the Company and grant security interests in Company assets for Company purposes;

(viii) to employ such agents, employees, independent contractors, attorneys and accountants as the Manager deems reasonably necessary;

(ix) to commence, defend, compromise or settle any claims, proceedings, actions or litigation for and on behalf of the Company;

(x) to execute, deliver and file any amendment, restatement or revocation of the Certificate of Formation as may be necessary or appropriate to reflect actions properly taken by the Manager and/or the Members under this Operating Agreement;

(xi) to prepare and file, on behalf of the Company, any required local, state and federal tax returns or other tax reports or documents relating to the Company and, in its sole discretion, to make or revoke the elections referred to in Section 754 of the Internal Revenue Code of 1986, as amended, or any similar provision enacted in lieu thereof, or any corresponding provision of state tax laws;

(xii) to execute, deliver, file and/or record any and all instruments, documents or agreements of any kind which the Manager may deem appropriate or as may be necessary or desirable to carry out the purposes of the Company; and

(xiii) to take such other actions as the Manager may reasonably believe to be necessary or desirable to carry out the purposes of the Company.

(b) Notwithstanding paragraph (a) of this Section 4.01, the Manager shall not: (i) sell, exchange, lease, mortgage, pledge or otherwise transfer twenty percent (20%) or more of the assets of the Company, without the vote of at least two thirds in interest of the Members; or (ii) merge or consolidate the Company with or into another limited liability company, partnership, corporation or other business entity, without the vote of at least two-thirds in interest of the Members.

(c) The Manager may cause the Company to enter into contracts or other transactions with the Manager and any other corporation, partnership, limited liability company or other business entity in which the Manager, or its directors or officers, are managers, directors or officers or have a substantial financial interest; provided, however, that the material facts as to the Manager's interest in such contract or transaction and as to any such common

managership, directorship, officership or financial interest shall be fully disclosed in good faith to all Members and shall either (i) be on terms that are fair and reasonable as to the Company at the time it is approved by the Manager, or (ii) be approved by the vote of a majority in interest of the Members.

Section 4.02 Duties of Manager. The Manager shall perform its duties as Manager in good faith and with that degree of care that an ordinarily prudent person in a like position would use under similar circumstances. In performing its duties, the Manager shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by (i) one or more agents or employees of the Company, or (ii) counsel, public accountants or other persons as to matters that the Manager believes to be within such Person's professional or expert competence. A Manager who so performs the duties of Manager in accordance with this Section 4.02 shall have no liability by reason of being or having been a Manager of the Company.

Section 4.03 Limit of Manager's Liability. Provided that it has acted in good faith, and not directly contrary to any express prohibitions contained in this Operating Agreement, the Manager shall not be liable to the Company or the Members for any mistakes in judgment or for any failure to perform any of its obligations hereunder, or for any loss due to such mistake or failure to perform, or due to the negligence, dishonesty, fraud or bad faith of any other Person, including any other Manager, Member, employee, agent or independent contractor of the Company or any other Person with whom the Company transacts business.

Section 4.04 Devotion of Time. The Manager shall devote such of its time as it deems reasonably necessary to the affairs of the Company. Neither the Manager nor any of its Related Persons shall be required to devote any specified amount of time or efforts to the business and affairs of the Company. The Manager shall have no obligation to loan money to the Company or to fund operating deficits. Neither the Manager nor any of its Related Persons shall be required to offer investment opportunities to the Company, and the Manager or any Related Persons may make investments or undertake activities that compete or conflict with the Company.

Section 4.05 Right to Rely on Authority of the Manager. In no event shall any person dealing with the Manager with respect to any property of the Company be obligated to see that the terms of this Operating Agreement have been complied with, or be obligated to inquire into the necessity or expediency of any act or action of the Manager; and every contract, agreement, lease, promissory note or other instrument or document executed by the Manager with respect to any property of the Company shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that:

(a) at the time of the execution or delivery thereof, the Company was in full force and effect;

(b) such instrument or document was duly executed in accordance with the terms and provisions of this Operating Agreement and is binding upon the Company and all of the Members thereof; and

(c) the Manager was empowered to execute and deliver any and every such instrument or document for and on behalf of the Company.

Section 4.06 Expenses. The Company shall pay directly, or shall reimburse the Manager for, all costs and expenses of the Company, including without limitation: (a) all fees and expenses incurred by the Manager in connection with the formation of the Company; (b) all expenses incurred in connection with the purchase, ownership or sale of any Company investments or other assets; (c) all professional fees and expenses incurred by or on behalf of the Company; (d) all travel, entertainment and other expenses incurred by the Manager in connection with Company business; (e) all costs and expenses of preparing the reports and statements required by Section 8.01 hereof; and (f) all costs and expenses of obtaining and maintaining any insurance carried by the Company.

Section 4.07 Management Fee. The Manager agrees to serve as Manager without a fee for its time in managing the Company; however, the Manager shall be entitled to reimbursement for expenses incurred by the Manager on behalf of the Company as set forth in Section 4.06.

Section 4.08 Withdrawal and Term. The Manager, notwithstanding Section 6.01 hereof, shall not resign as the Manager or withdraw as a Member of the Company, withdraw its Capital Contribution or transfer, assign, grant, convey, mortgage or otherwise encumber its interest in the Company or in the Company's capital, assets, income or loss. Subject to Section 4.09 hereof, the Manager shall serve as Manager for an unlimited term.

Section 4.09 Ceasing to be the Manager. In the event that the Manager ceases to be the Manager for any reason, a successor, designated by such Manager shall become the Manager. In the event a Manager is not so designated or if such successor ceases to be Manager, Marjorie W. King shall become Manager. If the Manager's designee or Marjorie W. King ceases to be the Manager, the Members holding a majority in interest in the Company (including, without limitation, the former Manager if still a Member), shall within 180 days after the Manager ceases to be manager of the Company designate a Successor Manager, who may or may not be a Member to serve in the place of the Manager. Upon such designation, the Successor Manager shall assume in writing the obligations, and thereby shall be entitled to the rights, of the Manager under this Operating Agreement. Any action taken by the Members under this Section 4.09 shall not modify in any manner the total number of Units held by or the Pro Rata Shares of any Member. In the event that no Successor Manager is designated within 180 days as provided in this Section 4.09, the Company shall be dissolved. Nothing contained in this Section 4.09 shall be construed as limiting any right or cause of action which the Company or the Members may have against the Manager for any breach of its duties hereunder.

Section 4.10 Members' Liability. Provided that a Member acted in good faith, and not directly contrary to any express prohibitions contained in this Operating Agreement, no Member, in its capacity as a Member, shall be liable to the Company or the other Members for any mistakes in judgment or for any inadvertent failure to perform any of its obligations hereunder, or for any loss due to such mistake or failure to perform, or due to the negligence, dishonesty, fraud or bad faith of any other Member, employee, agent or independent contractor of the Company or any other Person with whom the Company transacts business.

Section 4.11 Management Rights of Members. By their execution of this Operating Agreement, the Members consent to the exercise by the Manager of the powers conferred on it by this Operating Agreement. Except as expressly provided herein, or as provided by nonwaivable provisions of applicable law, no Member shall have any right to vote or to take part in the management or control of the Company business or have any right or authority to act for or bind the Company.

Section 4.12 Indemnification of the Manager and Members. The Company shall indemnify, defend and hold harmless, and advance expenses to, the Manager and each of its Related Persons and each Member from and against any and all actual or alleged losses, claims, damages, liabilities, costs and/or expenses (collectively, "Damages") of any nature whatsoever, including without limitation attorneys' fees, arising out of or in connection with any action taken or omitted by the Manager or its Related Persons or by a Member pursuant to authority granted by or otherwise in connection with this Operating Agreement; provided, however, that no indemnification may be made to or on behalf of any Manager, Member or other Person if a judgment or other final adjudication adverse to such Manager, Member or other Person establishes (i) that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or (ii) that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled. Any indemnity under this Section 4.12 shall be paid out of, and to the extent of, Company assets only.

Section 4.13 Officers. The Company shall have those officers, and holding those titles and duties, as determined by the Manager.

ARTICLE V.
MEETING OF MEMBERS AND VOTING

Section 5.01 Voting by Members

(a) Whenever any vote or action is required to be taken by the Members under this Operating Agreement, such vote or action shall be taken (i) at a meeting of the Members entitled to vote or act thereon called and held in accordance with this Article V, or (ii) by the Members entitled to vote or act thereon in accordance with the procedures set forth in Section 5.07 hereof.

(b) The Members shall vote in proportion to each Member's Pro Rata Share.

Section 5.02 Meetings of Members.

(a) An annual meeting of the Members may be held in any month of each year if called by members holding more than 50% of the outstanding units or by the Manager for the purpose of reviewing the business of the Company with the Members and for the transaction of such other business as may come before the meeting. If no annual meetings are called, the Members need not hold annual meetings. Special meetings of the Members, for any purpose or purposes, may be called from time to time by the Manager or by members holding more than 50% of the outstanding units.

(b) When assembled at an annual meeting, the Members may vote or act upon any matter with respect to which they are entitled to vote or act under the terms of this Operating Agreement or under the L.L.C. Act to the extent consistent with this Operating Agreement. When assembled at a special meeting, the Members may vote or act upon any matter described in the immediately preceding sentence which was set forth in the notice calling the meeting or notice of which was or is thereafter waived in accordance with this Operating Agreement.

(c) Members may participate in any meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

Section 5.03 Place of Meeting. The Manager may designate any place, either within or without the State of Delaware, as the place of the meeting for any annual or special meeting of Members; provided, however, that if members holding more than 50% of the outstanding units object to such location, the meeting shall be held at the principal offices of the Company.

Section 5.04 Notice of Meeting.

(a) The Manager, or the Member(s) calling a meeting, shall cause a written or printed notice of such meeting to be given to each Member of record entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting. Such notice shall state (i) the place, date and hour of the meeting, (ii) that it is being issued by or at the direction of the person calling the meeting, and (iii) in the case of a special meeting, the purpose or purposes for which the meeting is called.

(b) Notwithstanding paragraph (a) hereof, notice of meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy. The attendance of a Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice of such meeting by such Member.

Section 5.05 Quorum. A majority in interest of the Members entitled to vote shall constitute a quorum at a meeting of Members for the transaction of any business. If less than such number of Members is present at a meeting, the Members present may adjourn the meeting despite the absence of a quorum

Section 5.06 Proxies. At all meetings of Members, a Member may vote by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. In order to be effective, such proxy shall (i) be signed in the exact name of the Member on record with the Company, and (ii) be filed with the Manager before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

Section 5.07 Action by Members Without a Meeting.

(a) Any action required or permitted to be taken by vote at a meeting of the Members may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing setting forth the action so taken shall be signed by the Members who hold the voting interests having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the Members entitled to vote therein were present and voted and shall be delivered to the principal office of the Company or to the Manager. Delivery may be made to the principal office of the Company or to the Manager by any means permitted under Section 9.02 hereof and shall be deemed to be delivered upon receipt.

(b) Every written consent shall bear the date and signature of each Member who signs the consent, and no such consent shall be effective to take the action referred to therein unless within sixty (60) days of the earliest date a consent is delivered in the manner described in paragraph (a) of this Section 5.07, written consents signed by a sufficient number of Members to take the action are similarly delivered to the Company.

(c) Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those Members who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

ARTICLE VI.
TRANSFER OF MEMBERSHIP INTERESTS

Section 6.01 Assignment of Membership Interest.

(a) No Member shall withdraw from the Company prior to the dissolution and winding up of the Company or withdraw his Capital Contribution without the prior written consent of the Manager.

(b) Each Member hereby covenants and agrees that he will not sell, assign, transfer, mortgage, pledge, encumber, hypothecate or otherwise dispose of all or any part of his interest in the Company to any person, firm, corporation, trust or other entity without first offering in writing to sell such interest to the Company. The Company shall have the right to accept the offer at any time during the thirty (30) days following the date on which the written offer is delivered to the Company. The consent of the Manager shall be required to authorize the exercise of such option by the Company. If the Company shall fail to accept the offer within the thirty (30) day period, such interest may during the following sixty (60) days be disposed of free of the restrictions imposed by this Operating Agreement; provided, however, that the purchase price for such interest shall not be less and the terms of purchase for such interest shall not be more favorable than the purchase price and terms of purchase that would have been applicable to the Company had the Company purchased the interest. Any interest not so disposed of within the sixty (60) day period shall thereafter remain subject to the terms of this Operating Agreement. Notwithstanding the preceding sentences, no assignee of a interest in the Company shall become a Member of the Company except in accordance with the provisions of Section 6.04 hereof.

(c) Notwithstanding paragraph (b) of this Section 6.01, upon the death, disability or legal incapacity of any Member, the interest in the Company held by that Member may, without satisfying the requirements of Section 6.02 hereof, pass to a sibling, child, grandchild or parent of such Member, to another Member or to a trust for the primary benefit of a spouse, sibling, child, grandchild or parent of such Member. A trust for the benefit of a spouse must be a Qualified Terminal Interest Property Trust (QTIP trust) with a remainder interest to children, grandchildren, siblings or parents of such Member. Moreover, such a QTIP trust for a spouse cannot allow for principal distributions to the spouse.

(d) In the event that a Member withdraws from the Company in violation of this Operating Agreement, such Member shall be liable for damages for breach of this Operating Agreement, and the Company shall have no obligation whatsoever to make any special distribution or payments under Section 18-604 of the L.L.C. Act to such Member as a result of such withdrawal.

Section 6.02 Form of Assignment.

(a) No assignment of all or any portion of a Member's interest in the Company, though otherwise permitted by Section 6.01, shall be valid and effective and the

Company shall not recognize the same for the purpose of Distributions or for the allocation of Net Income or Loss with respect to such interest until there is filed with the Manager an assignment or similar instrument in writing which is in form acceptable to the Manager.

(b) After receiving an executed assignment or similar instrument as described in paragraph (a) of this Section 6.02, the Company shall make all further Distributions and allocate any Net Income or Loss to the assignee with respect to the interest transferred.

Section 6.03 Rights of Assignee. Unless admitted as a Member of the Company in accordance with Section 6.04, the transferee of an interest in the Company, by assignment, bequest, operation of law or otherwise, shall not be entitled to any of the rights, powers, or privileges of its predecessor in interest, except that such transferee shall be entitled to receive and have allocated to it, to the extent assigned, the Pro Rata Share of Company Distributions and Net Income or Loss to which the transferor would be entitled.

Section 6.04 Admission of Members. The transferee of an interest in the Company may be admitted as a Member of the Company only with the approval of a majority in interest of the Members and upon furnishing to the Manager all of the following:

(a) acceptance, in form satisfactory to the Manager, of all the terms of this Operating Agreement;

(b) such other documents or instruments as may be required by the Manager or by applicable law in order to effect admission as a Member; and

(c) payment by the transferee of such reasonable expenses as may be incurred in connection with admission as a Member.

Upon compliance with all conditions and provisions hereof applicable to such transferee becoming a Member, such transferee and the other Members (including, without limitation, the transferor) shall execute and deliver such amendments hereto and/or to the Certificate of Formation as are necessary or desirable to constitute such transferee as a Member of the Company.

ARTICLE VII.
DISSOLUTION

Section 7.01 Dissolution.

(a) In addition to any other causes stated herein, the Company shall be dissolved upon:

(i) the vote to dissolve the Company made by Members who own more than two-thirds of the then current percentage or other interest in the profits of the Company owned by all the Members; or

(ii) the occurrence of a dissolution as provided in Section 4.09.

Section 7.02 Winding up the Company.

(a) Upon dissolution, the Company shall immediately commence to wind up its affairs and distribute its assets. The Members shall continue to share in Distributions and Net Income or Loss during the period of liquidation in the same proportions as before the dissolution. The property and proceeds from liquidation of Company assets shall be applied as follows:

(i) first, to the payment of creditors of the Company, including Members who are creditors, to the extent permitted by law;

(ii) and then, to pay the expenses of winding up the Company;

(iii) and finally, to each Member in accordance with Section 3.02(a) hereof.

Section 7.03 Termination. The dissolution of the Company shall be effective on the date that the event causing such dissolution occurs, but the Company shall not terminate until all of its assets have been distributed in accordance with Section 7.02 hereof.

Section 7.04 Final Statement. As soon as practicable after the dissolution of the Company, a final statement of its assets and liabilities shall be prepared and furnished to all Members.

ARTICLE VIII.
BOOKS AND ACCOUNTS

Section 8.01 Books. The Manager shall keep or cause to be kept books of account in which shall be entered fully and accurately in all material respects the transactions of the Company. All books and records and this Operating Agreement and all amendments thereto shall at all times be maintained at the principal office of the Company and shall be open to the inspection and examination of each Member or his representatives during ordinary business hours upon reasonable notice. The Manager shall furnish all Members a report of the affairs of the Company at least annually and shall timely furnish such additional information as the Members may need to prepare their income tax returns.

Section 8.02 Accounting Method. The accounting method for both book and tax purposes shall be the cash receipts and disbursements methods, unless another permissible method is elected by the Manager.

ARTICLE IX.
GENERAL

Section 9.01 Other Business Interests. Each Member, including the Manager, may have other business interests and investments (whether or not in competition with the business and/or investments of the Company) and may engage in any other business, trade, profession, or employment whatsoever (whether or not in competition with the business and/or investments of the Company), on his own account or in partnership, or as a consultant, employee, officer, director, or stockholder of any other Person. Neither the Company nor any other Member shall have any right or interest in any such business, investment, trade, profession or employment by reason of this Operating Agreement. The Members hereby waive any conflicts of interest arising from any such activity on the part of any Member or any shareholder, director, officer, employee and/or agent of any Member.

Section 9.02 Notices. Any notices which may or are required to be given hereunder by any party to another shall be in writing and sent by certified or registered United States mail, postage prepaid, by recognized overnight courier, by telecopier or by hand delivery to the addresses set forth opposite the signature of each Member at the end of this Operating Agreement. Notices shall be deemed to have been given on the fifth business day after being so mailed, the next business day after delivery to such overnight courier, when sent by telecopier or upon receipt when delivered by hand. Any Member may change its address by giving written notice to the other Members in a manner conforming to the notice provisions hereof.

Section 9.03 Captions. The Section titles and captions contained in this Operating Agreement are for convenience only and shall not be deemed part of the context of this Operating Agreement.

Section 9.04 Pronouns and Plurals. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

Section 9.05 Entire Agreement. This Operating Agreement contains the entire understanding among the Members, and supersedes any prior understandings or written or oral agreement between or among any of them, respecting the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between or among any of the Members relating to the subject matter of this Operating Agreement which are not fully expressed herein.

Section 9.06 No Waiver. No delay on the part of any Member in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any Member of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

Section 9.07 Further Actions. The Members shall execute and deliver all documents, provide all information and take or forebear from all such action as may be necessary or appropriate to achieve the purposes of the Company.

Section 9.08 Binding Effect. This Operating Agreement shall be binding upon and inure to the benefit of the Members and their permitted successors and assigns.

Section 9.09 Creditors. None of the provisions of this Operating Agreement shall be for the benefit of, or enforceable by, any creditor of the Company or any creditor of a Member.

Section 9.10 Validity. In the event that any provision of this Operating Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of this Operating Agreement.

Section 9.11 Governing Law. This Operating Agreement shall be governed by the laws of the State of Delaware.

Section 9.12 Amendment. This Operating Agreement may be amended or modified only by the affirmative written consent of the Manager and of a majority in interest of the Members; provided, however, that without the written consent of each Member adversely affected thereby, no amendment of this Operating Agreement shall be made that (i) increases the obligations of any Member to make contributions, (ii) alters the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (iii) alters the manner of computing the Distributions of any Member, or (iv) allows the obligation of a Member to make a contribution to be compromised by consent of less than all the Members.

Section 9.13 Counterparts. This Operating Agreement may be executed in counterparts and all counterparts so executed shall for all purposes constitute one agreement, binding on all the parties hereto, notwithstanding that all parties shall not have executed the same counterparts.

IN WITNESS WHEREOF, this Operating Agreement is executed as of the date first set forth above.

MEMBERS

The 2003 KSW Family Trust By: Richard K. Ketler, Trustee	5347 Surrey Circle Dallas, Texas 75209
Peter J. Wellin	65 Waites Landing Falmouth, Maine 04105
Marjorie W. King	1884 Beans Bright Road, NE Bainbridge Island, Washington 98110
Cynthia W. Plum	10 Waterman Avenue Philadelphia, Pennsylvania 19118

IN WITNESS WHEREOF, this Operating Agreement is executed as of the date first set forth above.

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FRIENDSHIP MANAGEMENT LLC

OPERATING AGREEMENT

SCHEDULE A

Member	Member Units	Capital Contributions BRKa	Capital Contributions Cash
The 2003 KSW Family Trust	3,997	4	$500.00
Peter J. Wellin	2,001	2	$500.00
Marjorie W. King	2,001	2	$500.00
Cynthia W. Plum	2,001	2	$500.00
Total	10,000	10	$2,000.00

R686292.1

AGREEMENT OF LIMITED PARTNERSHIP

OF

FRIENDSHIP PARTNERS LP

A Delaware Limited Partnership

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AGREEMENT OF LIMITED PARTNERSHIP

OF

FRIENDSHIP PARTNERS LP

AGREEMENT OF LIMITED PARTNERSHIP of Friendship Partners LP, dated as of December 12, 2003 among FRIENDSHIP MANAGEMENT LLC, as general partner (together with any subsequently admitted general partners, the "General Partners"), and the Persons whose names are subscribed hereto, as limited partners. Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth in Article II below.

RECITALS

WHEREAS, the parties hereto desire to form a limited partnership under the Revised Limited Partnership Act ("Act") of the State of Delaware on the terms set forth herein;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, the parties agree as follows:

AGREEMENT

ARTICLE I

FORMATION OF PARTNERSHIP

Section 1.1. Formation of the Partnership. The General Partners, for themselves and as agents for the Limited Partners, shall accomplish all filing, recording, publishing and other acts necessary or appropriate for compliance with all the requirements for the formation and operation of the Partnership as a limited partnership under the Act and under all other laws of the State of Delaware and such other jurisdictions in which the General Partners determine that the Partnership may conduct business. Each Limited Partner shall promptly execute all relevant certificates and other documents as the General Partners shall request. The rights and duties of the Partners shall be as provided in the Act except as modified by this Agreement.

Section 1.2. Name. The name of the Partnership is "Friendship Partners LP", as such name may be modified from time to time by the General Partners following written notice to the Limited Partners.

Section 1.3. Location of Principal Place of Business. The location of the principal place of business of the Partnership is 10 Waterman Avenue, Philadelphia, Pennsylvania 19118. The General Partners may change the location of the principal place of business of the Partnership by notice in writing to the Limited Partners. In addition, the Partnership may maintain such other offices as the General Partners may deem advisable at any other place or places within or outside the United States.

Section 1.4. Names and Business Addresses of General Partners. The name and business address of the General Partner is as follows:

FRIENDSHIP MANAGEMENT LLC
10 Waterman Avenue
Philadelphia, Pennsylvania 19118

Each General Partner may, from time to time, upon prior notice to the Limited Partners, change its name or business address.

Section 1.5. Purpose. The purpose and business of the Partnership shall be the conduct of any business or activity that may be conducted by a limited partnership organized pursuant to the Act, including without limitation to invest in securities of every kind (including without limitation stocks, options, warrants, promissory notes secured by deeds of trust, bonds, limited partnership interests), physical commodities and commodity futures, and ownership interests and indebtedness of every kind; to engage in other investment activities including, without limitation, investing in mutual funds, real estate and other investments that offer the opportunity for an appropriate return; to make direct investments or form partnerships, corporations, limited liability companies or other entities for the purpose of making investments; and to engage in any and all activities related or incidental to the foregoing and to do all things necessary or convenient for the accomplishment thereof.

Section 1.6. Location of Registered Office and Registered Agent for Service of Process. The location of the registered office of the Partnership is Incorporating Services, Ltd., 15 East North Street, in the City of Dover, County of Kent, Delaware 19901. The General Partners may change the location of the registered office of the Partnership by notice in writing to the Limited Partners. The agent for service of process for the Partnership shall be Incorporating Services, Ltd., 15 East North Street, in the City of Dover, County of Kent, Delaware 19901, or such other agent for service of process as the General Partners may designate from time to time.

Section 1.7. Term. The term of the Partnership shall commence on the date hereof and shall terminate on December 31, 2103 unless earlier dissolved and terminated in accordance with the provisions of this Agreement.

ARTICLE II

DEFINITIONS

"Act" means the Delaware Revised Uniform Limited Partnership Act (Del. Code Ann. tit. 6 § 17-101 et seq), as in effect on the date hereof and as it may be amended hereafter from time to time.

"Additional General Partner" means any General Partner admitted to the Partnership as an additional General Partner pursuant to Section 8.7.

"Additional Limited Partner" means any Limited Partner admitted to the Partnership as an additional Limited Partner pursuant Section 7.4.

"Agreement" means this Agreement of Limited Partnership, as amended, modified or supplemented from time to time.

"Assigning Partner" has the meaning set forth in Section 9.3 hereof.

"Capital Account" means, with respect to each Partner, the account established and maintained for the Partner on the books of the Partnership in compliance with Treasury Regulation §§ 1.704-1(b)(2)(iv) and 1.704-2, as amended. Subject to the preceding sentence, each Partner's Capital Account shall initially equal the amount of cash and the Contribution Value of any other property initially contributed by such Partner to the Partnership. Throughout the term of the Partnership, each Partner's Capital Account will be (i) increased by the amount of (A) income and gains allocated to such Partner pursuant to Article IV, and (B) the amount of any cash or the Contribution Value of any property subsequently contributed by such Partner to the Partnership, and (ii) decreased by the amount of (A) losses and deductions allocated to such Partner pursuant to Article IV, and (B) the amount of distributions in cash and the value (as determined by the General Partners) of property (net of liabilities secured by the property that such Partner is treated as assuming or taking subject to pursuant to the provisions of Section 752 of the Code) distributed to such Partner.

"Capital Contribution" means the amount of cash or the Contribution Value of property contributed or deemed to be contributed to the Partnership by a Partner pursuant to Sections 3.1 and 3.2.

"Certificate" means the Certificate of Limited Partnership of the Partnership, as amended, modified or supplemented from time to time.

"Code" means the Internal Revenue Code of 1986, as amended from time to time (or any succeeding law).

"Contribution Value" means the fair market value as reasonably determined by the General Partners of property (other than cash) contributed by a Partner to the Partnership (net of liabilities secured by such contributed property that the Partnership is treated as assuming or taking subject to pursuant to the provisions of Section 752 of the Code).

"Fiscal Year" means the calendar year; provided, however, that the last Fiscal Year of the Partnership shall end on the date on which the Partnership is terminated.

"General Partners" has the meaning set forth in the forepart of this Agreement.

"Indemnified Party" has the meaning set forth in Section 8.6 hereof.

"Interest", when used in reference to an interest in the Partnership, means the entire ownership interest of a Partner in the Partnership at any particular time.

"Limited Partner" means each Person named as a limited partner on Annex A hereto and each Person admitted as a Substituted Limited Partner or an Additional Limited Partner pursuant to the terms of this Agreement, and, with respect to those provisions of this Agreement concerning a Limited Partner's rights to receive a share of profits or other distributions or the

return of a Limited Partner's contribution, any Transferee of a Limited Partner's Interest in the Partnership (except that a Transferee who is not admitted as a Limited Partner shall have only those rights specified by the Act and which are consistent with the terms of this Agreement).

"Liquidator" has the meaning set forth in Section 10.2(b) hereof.

"Net Income" and "Net Loss", respectively, mean the income or loss of the Partnership as determined in accordance with the method of accounting followed by the Partnership for Federal income tax purposes, including, for all purposes, any income exempt from tax and any expenditures of the Partnership which are described in section 705(a)(2)(B) of the Code; provided, however, that if any property is carried on the books of the Partnership at a value that differs from that property's adjusted basis for tax purposes, gain, loss, depreciation and amortization with respect to such property shall be computed with reference to the book basis of such property, consistently with the requirement of Treasury Regulation § 1.704-1(b)(2)(iv)(g); and provided, further, that any item allocated under Section 4.2 hereof shall be excluded from the computation of Net Income and Net Loss.

"Option" has the meaning set forth in Section 10.7 hereof.

"Option Notice" has the meaning set forth in Section 10.7 hereof.

"Option Period" has the meaning set forth in Section 10.7 hereof.

"Option Price" has the meaning set forth in Section 10.7 hereof.

"Partners" means all General Partners and all Limited Partners, collectively, where no distinction is required by the context in which the term is used.

"Partnership" means the limited partnership formed pursuant to this Agreement under the name "Friendship Partners LP"

"Percentage Interests" means with respect to each Partner the percentage determined by dividing the number of Units held by such Partner by the total number of Units held by all of the Partners.

"Person" means any individual, partnership, limited liability company, corporation, trust or other entity.

"Substituted General Partner" means any Person admitted to the Partnership as a substituted General Partner pursuant to Section 9.1.

"Substituted Limited Partner" means any Person admitted to the Partnership as a substituted Limited Partner pursuant to Section 9.2(b).

"Tax Matters Partner" has the meaning set forth in Section 8.8 hereof.

"Transfer", "Transferee" and "Transferor" have the respective meanings set forth in Section 9.1.

"Treasury Regulations" means regulations promulgated under the Code by the Department of the Treasury of the United States of America.

"Unit" means the interests of the Partners that are divided into Units as set forth in Annex A.

ARTICLE III

CAPITAL CONTRIBUTIONS

Section 3.1. Capital Contributions. Each General Partner shall contribute to the capital of the Partnership the assets set forth opposite such Partner's name in Annex A hereto under the column headed Initial Capital Contribution. Thereupon, each Limited Partner shall contribute to the capital of the Partnership the assets set forth opposite such Partner's name in Annex A hereto under the column headed Initial Capital Contribution. The Partners admitted to the Partnership as-of the date hereof hereby agree that the amount set forth under the column headed "Initial Capital Account Balance" opposite each Partner's name in Annex A hereto accurately reflects the fair market value of the assets contributed to the Partnership by such Partner.

Section 3.2. Additional Capital Contributions. Any Partner may make additional Capital Contributions at any time upon the unanimous consent of all General Partners. Following any such additional Capital Contribution, the number of Units held by each Partner shall be adjusted in the manner provided in Section 4.5(b). The General Partners shall from time to time make additional Capital Contributions in cash to the Partnership such that at all times the General Partners' aggregate Capital Contributions are equal to at least 1.00% of the aggregate Capital Contributions made by the Limited Partners. Such additional Capital Contributions shall be allocated among the General Partners as they shall agree or, if they cannot agree to an allocation, in proportion to the balances in the General Partners' Capital Accounts.

Section 3.3. Interest on Capital Contributions. No Partner shall be entitled to interest on or with respect to any Capital Contribution. Notwithstanding the foregoing, a Partner may make loans to the Partnership on such terms (including rate of interest) as shall be determined by the General Partners.

Section 3.4. Withdrawal and Return of Capital Contributions. No Partner shall be entitled to withdraw any part of that Partner's Capital Contribution or to receive any distributions from the Partnership, except as expressly provided in this Agreement.

ARTICLE IV

ALLOCATION OF INCOME AND LOSSES

Section 4.1. Allocation of Net Income and Net Loss. Subject to Sections 4.2 and 4.3, the Partnership's Net Income and Net Loss for each Fiscal Year shall be allocated to the Partners in proportion to their Percentage Interests.

Section 4.2. Regulatory Provisions.

(a) The General Partners shall modify the allocations provided for in Section 4.1 as they deem appropriate to comply with Treasury Regulations §§ 1.704-1(b) and 1.704-2. Without limiting the generality of the foregoing, the General Partners shall, prior to making any allocations required by Section 4.1, make any allocations required by the "minimum gain chargeback" provision of Treasury Regulations § 1.704-2(f), the "chargeback of partner nonrecourse debt minimum gain" provision of Treasury Regulations § 1.704-2(i)(4) and the "qualified income offset" provision of Treasury Regulations § 1.704-1(b)(2)(ii)(d); in addition, Partnership losses, deductions or expenditures described in Code section 705(a)(2)(B) attributable to a particular partner nonrecourse liability shall be allocated to the Partner that bears the economic risk of loss for the liability in accordance with Treasury Regulations §1.704-2(i).

(b) The General Partners shall limit allocations of Net Losses to any Partner if such allocation would cause such Partners' Capital Account balance, as increased for any deficit balance in its Capital Account which the Partner is required to restore or is deemed required to restore as a result of its share of the Partnership's minimum gain (within the meaning of Treasury Regulations §§ 1.704(2)(g)(1) and (3)) and its share of partner nonrecourse debt minimum gain (within the meaning of Treasury Regulations § 1.704(2)(i)(5)) and as decreased by the adjustments referred to in Treasury Regulations §§1.704l(b)(2)(ii)(d)(4), (5) and (6), to be negative while any other Partner's Capital Account balance (as so adjusted) is positive. The General Partners may also make allocations reasonably designed to offset allocations provided for in this Section 4.2 to the extent such allocations shall not be offset by other allocations provided for in this Section 4.2. The General Partners may alter the Partnership's allocations of items entering into the computation of Net Income and Net Losses in the year in which the Partnership is liquidated to avoid any Partner recognizing gain or loss pursuant to Code section 731 on the liquidation of the Partnership.

(c) Solely for purposes of adjusting Capital Accounts (and not for tax purposes), if any property is distributed in kind, the difference between the fair market value of the property and its book value at the time of distribution shall be treated as gain or loss recognized by the Partnership and allocated pursuant to Section 4.1.

(d) Except to the extent otherwise required by the Code and Treasury Regulations, if an Interest or part thereof is transferred in any Fiscal Year, the items of income, gain, loss, deduction and credit allocable to the Interest for such Fiscal Year shall be apportioned between the transferor and the transferee in proportion to the number of days in such Fiscal Year the Interest is held by each of them, except that, if they agree between themselves and so notify the Partnership within 30 days after the transfer, then at their option and expense, (i) all items or (ii) extraordinary items, including capital gains and losses, may be allocated to the Person who held the Interest on the date such items were realized or incurred by the Partnership.

Section 4.3. Allocations for Income Tax Purposes. The income, gains, losses, deductions and credits of the Partnership for Federal, state and local income tax purposes shall be allocated in the same manner as the corresponding items entering into the computation of Net Income and Net Losses were allocated pursuant to Sections 4.1 and 4.2, provided that solely for Federal, state and local income and franchise tax purposes and not for book or Capital Account

purposes, income, gain, loss and deduction with respect to property properly carried on the Partnership's books at a value other than its tax basis shall be allocated in accordance with the requirements of Code Section 704(c) and Treasury Regulations § 1.704-3.

Section 4.4. Withholding. The Partnership shall comply with withholding requirements under Federal, state and local law and shall remit amounts withheld to and file required forms with the applicable jurisdictions. To the extent the Partnership is required to withhold and pay over any amounts to any authority with respect to distributions or allocations to any Partner, the amount withheld shall be treated as a distribution in the amount of the withholding to that Partner. In the event of any claimed over-withholding, Partners shall be limited to an action against the applicable jurisdiction. If the amount withheld was not withheld from actual distributions, the Partnership may, at its option, (i) require the Partner to reimburse the Partnership for such withholding or (ii) reduce any subsequent distributions by the amount of such withholding. Each Partner agrees to furnish the Partnership with any representations and forms as shall reasonably be requested by the Partnership to assist it in determining the extent of, and in fulfilling, its withholding obligations.

Section 4.5. Revaluation of Property. (a) The assets of the Partnership shall be revalued on the books of the Partnership to equal their fair market values in accordance with Treasury Regulations § 1.704-1(b)(2)(iv)(f) at the following times: (A) the day immediately preceding the acquisition of an additional Interest in the Partnership by any existing or new Partner in exchange for more than a de minimis Capital Contribution to the capital of the Partnership pursuant to Sections 3.2, 7.4 and 8.7; (B) on the day of any withdrawal of more than a de minimis portion of the Capital Account pursuant to Section 5.2 before taking into account such withdrawal; (C) the termination of the Partnership for Federal income tax purposes, other than a termination pursuant to Code section 708(b)(1)(B); and (D) the occurrence of any other event upon which the General Partners believe such revaluation is appropriate. Upon revaluation of the Partnership's assets pursuant to this Section 4.5(a), (i) the fair market value of the assets shall be determined by the unanimous agreement of all General Partners and (ii) each Partner's Capital Account shall be adjusted as if such assets were sold for their fair market values and the Net Income and Net Losses recognized on such sale were allocated to the Partners in accordance with Section 4.1.

(b) Immediately following the occurrence of any event which has caused the revaluation of the assets of the Partnership pursuant to Section 4.5(a), the number of Units held by each Partner shall be adjusted so that such Partner's Percentage Interest shall be equal the percentage determined by dividing the balance in such Partner's Capital Account immediately after such revaluation by the aggregate balance of all Partners' Capital Accounts immediately after such revaluation.

(c) For purposes of Section 4.1, the Fiscal Year in which the assets of the Partnership are revalued pursuant to Section 4.5(a) shall be treated as two separate Fiscal Years, one beginning on the first day of the Fiscal Year and ending on the day of the revaluation and the other beginning on the day immediately following the revaluation and ending on the last day of the Fiscal Year, and Net Income and Net Loss shall be allocated to the Partners separately for each portion of the Fiscal Year based on operations for such portion of the year as reflected by a

closing of the Partnership's books. Analogous divisions of the Fiscal Year into multiple Fiscal Years will be made if there be more than one revaluation of assets in any Fiscal Year.

ARTICLE V

DISTRIBUTIONS AND WITHDRAWALS

Section 5.1. Distributions. This Partnership is designed for capital appreciation and distributions are not anticipated. If the Partnership recognizes significant income and/or capital gain for a particular year that is allocable to the Partners, the General Partners may consider, in their discretion, a distribution to allow Partners to offset some or all of the tax liabilities associated with their allocable share of partnership income or gain. Subject to Section 10.3, such distributions of cash or property of the Partnership shall be made at such times and in such manner as shall be approved by unanimous consent of the General Partners. Any such distribution shall be made to the Partners in proportion to their Percentage Interests as of the day on which such distribution is made.

Section 5.2 Withdrawals of Capital Account Balance. No Partner shall have the right to withdraw or reduce its Capital Account balance prior to the partial or total dissolution of the Partnership.

ARTICLE VI

BOOKS OF ACCOUNT

Section 6.1. Books and Records. Proper and complete records and books of account shall be kept by the General Partners in accordance with the Act in which shall be entered fully and accurately all transactions and other matters relative to the Partnership's business as are usually entered into records and books of account maintained by Persons engaged in businesses of a like character, including a Capital Account for each Partner. The Partnership books and records shall be kept on such method of accounting as the General Partners shall determine. The determinations of the General Partners with respect to the treatment of any item or its allocation for Federal, state or local tax purposes shall be binding upon all Partners so long as that determination is not inconsistent with any express term of this Agreement. The books and records shall at all times be maintained at the principal office of the Partnership and shall be open to the examination and inspection of the Partners or their duly authorized representative for a proper purpose during reasonable-business hours at the sole cost and expense of the inspecting or examining Partner. The Partnership shall maintain at its office and make available to each Partner or any designated representative of a Partner a list of names and addresses of, and Interests owned by, all Partners.

Section 6.2. Partnership Tax Returns. The Partnership shall file a Federal income tax return and all other tax returns required to be filed by the Partnership for each Fiscal Year or part thereof, and shall provide, within 90 days following the end of such Fiscal Year, to each Person who at any time during such Fiscal Year was a Partner with a copy of the Partnership's Federal, state and local income tax or information returns.

ARTICLE VII

POWERS, RIGHTS AND DUTIES OF THE LIMITED PARTNERS

Section 7.1. Limitations. Other than as set forth in this Agreement, the Limited Partners shall not participate in the management or control of the Partnership's business nor shall they transact any business for the Partnership, nor shall they have the power to act for or bind the Partnership, said powers being vested solely and exclusively in the General Partners. The Limited Partners shall have no interest in the properties or assets of the General Partners, or any equity therein, or in any proceeds of any sales thereof (which sales shall not be restricted in any respect), by virtue of acquiring or owning an Interest in the Partnership.

Section 7.2. Liability. Subject to the provisions of the Act, no Limited Partner shall be liable for the repayment, satisfaction or discharge of any Partnership liabilities in excess of the balance of the Capital Account of such Limited Partner.

Section 7.3. Priority. Except as set forth in Article IV and Article V, no Limited Partner shall have priority over any other Limited Partner as to Partnership allocations or distributions.

Section 7.4. Admission of Additional Limited Partners. Any Person may be admitted to the Partnership as an Additional Limited Partner at any time with the unanimous consent of all the General Partners and Limited Partners who own more than two-thirds of the current interests in the profits of the Partnership owned by all the Limited Partners. Such Person shall make such Capital Contribution as all of the General Partners shall determine. Upon admission of an Additional Limited Partner, the number of Units held by each Partner shall be adjusted in accordance with Section 4.5(b).

ARTICLE VIII

POWERS, RIGHTS AND DUTIES OF GENERAL PARTNERS

Section 8.1. Authority. The General Partners shall have exclusive and complete authority and discretion to manage the operations and affairs of the Partnership and to make all decisions regarding the business of the Partnership. Except as otherwise specifically provided herein, any action permitted or required to be taken by the General Partners pursuant to this Agreement shall be taken by the General Partners holding more than 50% of the Units held by all General Partners. Any such action shall constitute the act of and serve to bind the Partnership, the Partners and their respective successors, assigns and personal representatives. Persons dealing with the Partnership are entitled to rely conclusively on the power and authority of the General Partners as set forth in this Agreement.

Section 8.2. Powers and Duties of General Partners. Except as otherwise specifically provided herein, the General Partners shall have all rights and powers of general partners under the Act, and shall have all authority, rights and powers in the management of the Partnership business to do any and all other acts and things necessary, proper, convenient or advisable to effectuate the purposes of this Agreement. Without limiting the generality of the foregoing, the

General Partners may appoint one or more investment advisers to manage the Partnership assets for the Partnership. Any such investment adviser may be given discretionary authority in the management of the Partnership's portfolio.

Section 8.3. Expenses of the Partnership.

(a) The Partnership shall pay, and the General Partners shall not be obligated to pay, all expenses incurred by or on behalf of the Partnership other than those expenses payable by the General Partners pursuant, to paragraph (b) below. The General Partners may, in their discretion, advance funds to the Partnership for the payment of these expenses and shall be entitled to the reimbursement of any funds so advanced.

(b) The General Partners shall pay and the Partnership shall not be obligated to pay salaries and fringe benefits of the officers and employees of the General Partners; and rent, office equipment, fire and theft insurance, heat, light, cleaning, power, water and utilities of any office space maintained by the General Partners on their behalf.

Section 8.4. Other Activities and Competition; Additional Investments by the General Partners and Affiliates. The General Partners shall not be required to manage the Partnership as their sole and exclusive function. The General Partners, their affiliates and agents, officers, directors and employees of the General Partners and their affiliates may enter into transactions with the Partnership and may engage in or possess any interests in business ventures and may engage in other activities of every kind and description independently or with others in addition to those relating to the Partnership, including the rendering of advice or services of any kind to other investors and the making or management of other investments. Without limiting the generality of the foregoing, the General Partners, their affiliates and any agent, officer, director or employee of a General Partner or its affiliates may act as a director of any corporation, trustee of any trust, partner of any partnership or administrative officer of any business entity, and may receive compensation for service as a director, employee, advisor, consultant or manager with respect to, or participate in profits derived from, investments in or of any such corporation, trust, partnership or other business entity. The Limited Partners authorize, consent to and approve such present and future activities by such Persons, whether or not such activities may conflict with any interest of the Partnership or any of the Partners or be competitive with the business of the Partnership or represent an opportunity that the Partnership might wish to engage in. Without limiting the generality of the foregoing, the General Partners shall not have any obligation or responsibility to disclose or refer any such investments or other activities to the Partnership or any Partner. Neither the Partnership nor any Partner shall have any right by virtue of this Agreement or the partnership relationship created hereby in or to other ventures or activities of the General Partners or their affiliates or to the income or proceeds derived therefrom.

Section 8.5. Liability. Neither the General Partners nor any of their affiliates nor any officer, agent or employee of the General Partners or any of their affiliates shall be personally liable for the return of any portion of the Capital Contributions of the Limited Partners; the return of these Capital Contributions shall be made solely from assets of the Partnership. Neither the General Partners nor any of their affiliates nor any officer, agent or employee of the General Partners or any of their affiliates shall be required to pay to the Partnership or the Limited

Partners any deficit in a Limited Partner's Capital Account upon dissolution or otherwise. The Limited Partners shall not have the right to demand or receive property other than cash for their Interest. Neither the General Partners nor any of their affiliates nor any officer, agent or employee of the General Partners or any of their affiliates shall be liable, responsible or accountable to the Partnership or the Limited Partners for (a) any act or omission performed or omitted by them, including without limitation, those acts performed or omitted on advice of legal counsel, accountants, brokers or consultants of the Partnership, or for any costs, damages or liabilities arising therefrom, or by law, unless that act or omission was performed or omitted fraudulently or in bad faith or constituted gross negligence or willful misconduct, (b) any tax liability imposed on the Partnership or the Limited Partners or (c) any loss due to the negligence, dishonesty or bad faith of any employee, officer, broker, consultant or other agent of the Partnership selected, engaged or retained in good faith by the General Partners or any stockholder in the General Partners.

Section 8.6. Indemnification.

(a) The Partnership shall indemnify and hold harmless the General Partners, their members and owners, and the officers, agents and employees of the General Partners (including investment advisers appointed pursuant to Section 8.2) and the affiliates of the General Partners and the officers, agents and employees of such affiliates (each an "Indemnified Party"), from and against any loss, expense, damage or injury suffered or sustained by them, by reason of any acts, omissions or alleged acts or omissions arising out of their activities on behalf of the Partnership or in furtherance of the interests of the Partnership, including but not limited to any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim and including any payments made by the General Partners to any affiliate, or any of their respective officers, agents or employees pursuant to an indemnification agreement no broader than this Section 8.6, provided, that none of the General Partners, any of their affiliates, any officer, agent or employee of the General Partners or any of their affiliates shall be entitled to indemnification under this Section 8.6(a) if the acts, omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claims are based were performed or omitted fraudulently or in bad faith or constituted gross negligence or willful misconduct.

(b) The Partnership shall indemnify and hold harmless the Limited Partners, including, but not limited to, their trustees and beneficiaries, (each an "Indemnified Party"), from and against any loss, expense, damage or injury suffered or sustained by them, by reason of any acts, omissions or alleged acts or omissions arising out of their activities on behalf of the Partnership or in furtherance of the interests of the Partnership, including but not limited to any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim and including any payments made by the Limited Partners to any trustee or beneficiary pursuant to an indemnification agreement no broader than this Section 8.6, provided, that none of the Limited Partners, any of their affiliates, any officer, agent or employee of the Limited Partners or any of their affiliates shall be entitled to indemnification under this Section 8.6(b) if the acts, omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claims are based were performed or omitted fraudulently or in bad faith or constituted gross negligence or willful misconduct.

(c) Any indemnification pursuant to this Section 8.6 shall be only from the assets of the Partnership.

Section 8.7. Admission of Additional General Partners. Any Person may be admitted to the Partnership as an Additional General Partner at any time upon the written consent of each General Partner, if any is remaining at such time, and the affirmative vote of all of the Limited Partners at such time. Such Person shall make such Capital Contribution as all of the General Partners shall determine and shall have such of the rights of a General Partner as provided herein as all of the General Partners may determine to grant such Person. Upon admission of an Additional General Partner, the number of Units held by each Partner shall be adjusted in accordance with Section 4.5(b).

Section 8.8. Tax Matters Partner.

(a) For purposes of Code Section 6231(a)(7), the "Tax Matters Partner" shall be the General Partner or, if there is more than one General Partner, whichever General Partner is designated by the General Partners as "Tax Matters Partner", in each case for so long as such General Partner remains a general partner of the Partnership. The Tax Matters Partner shall keep the Limited Partners fully informed of any inquiry, examination or proceeding.

(b) The Tax Matters Partner shall promptly notify Partners who do not qualify as "notice partners" within the meaning of Code section 6231(a)(i) of the beginning and completion of an administrative proceeding at the Partnership level promptly upon such notice being received by the Tax Matters Partner.

ARTICLE IX

TRANSFERS OF INTERESTS BY PARTNERS

Section 9.1. Transfer of Interest By General Partners.

(a) Except as otherwise provided in Section 9.3, no General Partner may sell, assign, pledge or in any manner dispose of, or create, or suffer the creation of, a security interest in or any encumbrance on all or a portion of its Interest in the Partnership (the commission of any such act being referred to as a "Transfer", any Person who effects a Transfer being referred to as a "Transferor" and any person to whom a Transfer is effected being referred to as a "Transferee"), without the prior consent of all of the General Partners which consent may be granted or withheld in each General Partner's sole discretion. No Transfer of an Interest shall be effective until such date as all requirements of this Article IX in respect thereof have been satisfied and, if consents, approvals or waivers are required by the Partners, all of same shall have been confirmed in writing by the Partners. Any Transfer or purported Transfer of an Interest in the Partnership not made in accordance with this Agreement shall be null and void and of no force or effect whatsoever.

(b) The Transferee of a General Partner's Interest in the Partnership may be admitted to the Partnership as a Substituted General Partner only upon the receipt of the prior written consent of each General Partner, which consent may be given or withheld in each General Partner's sole discretion.

Section 9.2. Transfer and Assignment of Limited Partners' Interests; Substituted Limited Partners.

(a) A Limited Partner may Transfer all or a portion of that Limited Partner's Interest in the Partnership (including any beneficial interest therein), provided the following conditions are met:

(i) the Transferee executes documents reasonably satisfactory to the General Partners pursuant to which the Transferee agrees to be bound by this Agreement and any amendments hereto;

(ii) the Transferee assumes, if so requested, the obligations, if any, of the Transferor to the Partnership;

(iii) all certificates or other instruments shall have been recorded or filed in the proper records of each jurisdiction in which such recordation or filing is necessary to qualify the Partnership to conduct business or to preserve the limited liability of the Limited Partners under the laws of the jurisdiction in which the Partnership is doing business; and

(iv) The Transferee represents, and, at the request of the General Partners, furnishes to the Partnership an opinion of counsel satisfactory to the General Partners, in form and substance satisfactory to the General Partners, as to such matters as the General Partners may reasonably request including, without limitation, that such Transfer (A) was made in accordance with and would not violate the Securities Act of 1933, as amended, or any other applicable Federal, state or local law; (B) would not require the Partnership to register as an investment-company under the Investment Company Act of 1940, as amended; (C) would not jeopardize the status of the Partnership as a partnership for Federal income tax purposes; and (D) would not cause the Partnership to be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code.

(b) Any Transfer by a Limited Partner shall be subject to a right of first refusal as provided herein. The Transferor shall give the General Partners written notice of the proposed Transfer which shall state the name of the proposed Transferee, the portion of the Transferor's Interest proposed to be transferred, the proposed purchase price or, if none, the fair market value, as determined by all of the General Partners (without regard to this right of first refusal), of the Interest to be transferred, and any other material terms of such proposed Transfer. The Partnership shall, for a period of thirty days after such notice is given, have the right to purchase such Interest at the proposed purchase and on the proposed terms or to assign such right or any portion thereof to such other Person or Persons as the General Partners, in their sole discretion, shall determine.

(c) Notwithstanding paragraph (b) of this Section 9.2, upon the death, disability or legal incapacity of any Limited Partner, the interest in the Partnership held by that Limited

Partner may, without satisfying the requirements of paragraph (a) of this Section 9.2 hereof, pass to a sibling, child, grandchild or parent of such Limited Partner, to another Limited Partner or to a trust for the primary benefit of a spouse, sibling, child, grandchild or parent of such Limited Partner. A trust for the benefit of a spouse must be a testamentary Qualified Terminal Interest Property Trust (QTIP trust), with a remainder interest to children, grandchildren, siblings or parents of such limited partner. Moreover, such a QTIP trust for a spouse cannot allow for principal distributions to the spouse.

(d) The Transferee of a Limited Partner's Interest in the Partnership may be admitted to the Partnership as a Substituted Limited Partner only upon the receipt of the prior written consent of all General Partners, which consent may be given or withheld in each Partner's sole discretion. Unless a Transferee of a Limited Partner's Interest in the Partnership is admitted as a Substituted Limited Partner under this Section 9.2(d), it shall have none of the powers of a Limited Partner hereunder and shall only have such rights of an assignee under the Act as are consistent with the other terms and provisions of this Agreement. No Transferee of a Limited Partner's Interest shall become a Substituted Limited Partner unless such Transfer shall be made in compliance with Section 9.2(a), (b) and (d).

(e) Unless a Transferee of a Limited Partner's Interest becomes a Substituted Limited Partner, such Transferee shall have no right to obtain or require any information or account of Partnership transactions, or to inspect the Partnership's books, or to vote on Partnership matters. Such a Transfer shall merely entitle the Transferee to receive the share of distributions, income and losses to which the transferring Limited Partner otherwise would be entitled.

(f) All expenses incurred by the Partnership in connection with any Transfer or substitution of a Limited Partner pursuant to this Section 9.2 shall be paid by the Transferor prior to the time of the Transfer or substitution (including, without limitation, any fees and costs of the preparation, filing and publishing of any amendment to this Agreement or to the Certificate, if any, and any legal and other fees, expenses and costs of any investigation and preparation, in connection with any action, proceeding or investigation related to any Transfer or attempted Transfer by a Limited Partner of a Limited Partner's Interest or in connection with the admission into the Partnership of the Transferee). The Transferor also will indemnify the Partnership and the General Partners against any losses, claims, damages or liabilities to which any of them may become subject in connection therewith. The reimbursement and indemnity obligations of the Transferor under this paragraph shall be in addition to any liability which the Transferor may otherwise have, shall extend upon the same terms and conditions to the Partnership and the General Partners, shall inure to the benefit of any successors and assigns of the Partnership and the General Partners and shall survive any termination of this Agreement.

(g) The Transfer of a Limited Partner's Interest and the admission of a Substituted Limited Partner shall not be cause for dissolution of the Partnership.

Section 9.3. Right to Treat Successor-in-Interest as Assignee. Upon the death, disability, winding-up and termination (in the case of a Partner that is a partnership), dissolution and termination (in the case of a Partner that is a corporation or limited liability company), termination (in the case of a Partner that is a trust), withdrawal in contravention of Section 10.1 or occurrence of an event described in Section 17-402(a)(4)(a)-(f) of the Act with regard to a

Partner, whether a Limited Partner or a General Partner (the "Assigning Partner"), the General Partners shall have the right to treat the successor(s)-in-interest of the Assigning Partner as assignees of the Interest in the Partnership of the Assigning Partner, with only such rights of an assignee of a partnership interest under the Act as are consistent with the other terms and provisions of this Agreement and with no other rights under this Agreement. Without limiting the generality of the foregoing, the successor(s)-in-interest of the Assigning Partner shall have only the rights to the allocations provided in Article IV and the distributions provided in Article V. For purposes of this Section 9.3, if the Assigning Partner's Interest in the Partnership is held by more than one person (for purposes of this subsection, the "Assignees"), the Assignees by majority vote shall appoint one person with full authority to accept notices and distributions with respect to such Interest in the Partnership on behalf of the Assignees and to bind them with respect to all matters in connection with the Partnership or this Agreement.

Section 9.4. Transferees Bound by Agreement. Any successor or Transferee of a Limited Partner hereunder or any successor or Transferee of a General Partner shall be subject to and bound by all the provisions of this Agreement as if originally a party to this Agreement.

Section 9.5. Effect of Transfer. Upon the Transfer of the entire Interest in the Partnership of a Partner and effective upon the admission of such Partner's Transferee(s) pursuant to either Section 9.1 or Section 9.2, the transferring Partner shall be deemed to have withdrawn from the Partnership as a Partner.

ARTICLE X

WITHDRAWAL OF PARTNERS; DISSOLUTION OF PARTNERSHIP; LIQUIDATION AND DISTRIBUTION OF ASSETS

Section 10.1. Withdrawal of Partners. No Partner may withdraw from the Partnership without the unanimous consent of the Partners, which consent may be granted or withheld in their sole discretion. Any Partner withdrawing in contravention of this Section 10.1 shall indemnify, defend and hold harmless the Partnership and all other Partners from and against any losses, expenses, judgments, fines, settlements or damages suffered or incurred by the Partnership or any other Partner arising out of or resulting from such retirement or withdrawal. No transfer of all or a portion of a Partner's interest in accordance with Article IX shall constitute a withdrawal within the meaning of this Section 10.1.

Section 10.2. Dissolution of Partnership.

(a) The Partnership shall be dissolved, wound up and terminated as provided herein upon the occurrence of the earliest of the following events:

(i) the written consent to dissolve the Partnership of all the General Partners;

(ii) the occurrence of an event of withdrawal of the General Partner under Section 17-402 of the Act, unless (y) at the time there is at least one other General Partner and the remaining General Partner or General Partners carry on the business of the Partnership (which they are hereby permitted to do) or (z) within 90 days after the withdrawal, all of the Partners agree

in writing to continue the business of the Partnership and, if there is no remaining General Partner, to the appointment, effective as of the date of withdrawal, of one or more additional General Partner(s);

(iii) the entry of a decree of judicial dissolution under Section 17-802 of the Act; or

(iv) December 31, 2103.

(b) In the event of the dissolution of the Partnership for any reason, the General Partners remaining in the Partnership, or, if there are no General Partners remaining, then a liquidating agent or committee appointed by all of the Limited Partners (the General Partners or such Person or committee so designated hereinafter referred to as the "Liquidator"), shall begin to wind up the affairs of the Partnership and to liquidate the Partnership's assets. The Partners shall continue to share all income, losses and distributions during the period of liquidation in accordance with Articles IV and V. The Liquidator shall have full right and unlimited discretion to determine the time, manner and terms of any sale or sales of Partnership property pursuant to such liquidation, giving due regard to the activity and condition of the relevant market and general financial and economic conditions.

(c) The Liquidator shall have all of the rights and powers with respect to the assets and liabilities of the Partnership in connection with the liquidation and termination of the Partnership that the General Partners would have with respect to the assets and liabilities of the Partnership during the term of the Partnership, and the Liquidator is hereby expressly authorized and empowered to execute and file any and all documents (including a certificate of dissolution) necessary or desirable to effectuate the liquidation and termination of the Partnership and the transfer of any assets.

(d) Notwithstanding the foregoing, a Liquidator which is not a General Partner shall not be deemed a Partner in this Partnership and shall not have any of the economic interests in the Partnership of a Partner; and such Liquidator shall be compensated for its services to the Partnership at normal, customary and competitive rates for its services to the Partnership as reasonably determined by all of the Limited Partners.

Section 10.3. Distribution in Liquidation. The Liquidator shall, as soon as practicable, wind up the affairs of the Partnership and sell and/or distribute the assets of the Partnership. The assets of the Partnership shall be applied in the following order of priority:

(a) First, to creditors of the Partnership (including Partners who are creditors to the extent permitted by law), in the order of priority provided by law.

(b) Second, to establish reserves reasonably adequate to meet any and all contingent or unforeseen liabilities or obligations of the Partnership, provided that at the expiration of such period of time as the Liquidator may deem advisable, the balance of such reserves remaining after the payment of such contingencies or liabilities shall be distributed as hereinafter provided.

(c) Third, to the Partners in accordance with Section 5.1.

If the Liquidator, in its sole discretion, determines that assets other than cash are to be distributed, then the Liquidator shall cause the fair market value of the assets not so liquidated to be determined. Such assets shall be retained or distributed by the Liquidator as follows:

(i) The Liquidator shall retain assets having an appraised value, net of any liability related thereto, equal to the amount by which the net proceeds of liquidated assets are insufficient to satisfy the requirements of paragraphs (a) and (b) of this Section 10.3; and

(ii) The remaining assets shall be distributed to the Partners in the same proportion as cash would be distributed to the Partners pursuant to paragraph (c) of this Section 10.3.

If the Liquidator, in its sole discretion, deems it not feasible or desirable to distribute to each Partner its allocable share of each asset, the Liquidator may allocate and distribute specific assets to one or more Partners, individually or as tenants-in-common, as the Liquidator shall in good faith determine to be fair and equitable, taking into consideration, inter alia, the fair market value of the assets, the liens, if any, to which such property may be subject and the tax consequences of the proposed distribution to each of the Partners (including both distributees and others if any). Any distributions in kind shall be subject to such conditions relating to the disposition and management thereof as the Liquidator deems reasonable and equitable.

Section 10.4. Rights of the Limited Partners. Each of the Limited Partners shall look solely to the assets of the Partnership for all distributions with respect to the Partnership and such Partner's Capital Contribution (including return thereof), and such Partner's share of profits or losses thereof, and shall have no recourse therefor (upon dissolution or otherwise) against the General Partners or any other Limited Partner. No Partner shall have any right to demand or receive property other than cash upon dissolution and termination of the Partnership.

Section 10.5. Deficit Restoration. Notwithstanding any other provision of this Agreement to the contrary, upon liquidation of a Partner's Interest (whether or not in connection with a liquidation of the Partnership), no Partner shall have any liability to restore any deficit in its Capital Account. In addition, no allocation to any Partner of any loss, whether attributable to depreciation or otherwise, shall create any asset of or obligation to the Partnership, even if such allocation reduces a Partner's Capital Account or creates or increases a deficit in such Partner's Capital Account; it is also the intent of the Partners that no Partner shall be obligated to pay any such amount to or for the account of the Partnership or any creditor of the Partnership (however, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, the Limited Partner is obligated to make any such payment, such obligation shall be the obligation of such Limited Partner and not of the General Partners or of the Partnership). The obligations of the Partners to make contributions pursuant to Article III are for the exclusive benefit of the Partnership and not of any creditor of the Partnership; no such creditor is intended as a third-party beneficiary of this Agreement nor shall any such creditor have any rights hereunder, including without limitation the right to enforce any Capital Contribution obligation of the Partners.

Section 10.6. Termination. The Partnership shall terminate when all property owned by the Partnership shall have been disposed of and the assets shall have been distributed as provided in Section 10.3. The Liquidator shall then execute and cause to be filed a Certificate of Cancellation of the Partnership.

ARTICLE XI

AMENDMENT OF PARTNERSHIP AGREEMENT AND POWER OF ATTORNEY

Section 11.1. Approval of Amendments. Amendments to this Agreement which do not adversely affect the right of the Limited Partners in any material respect may be made by the General Partners without the consent of the Limited Partners if those amendments are (i) of an inconsequential nature (as determined in good faith by the General Partners), (ii) necessary to maintain the Partnership's status as a partnership according to Code section 7701(a)(2), (iii) necessary to preserve the validity of any and all allocations of Partnership income, gain, loss or deduction pursuant to Code section 704(b), or (iv) contemplated by this Agreement (including without limitation amendments in connection with the admission of new Partners, making of additional Capital Contributions or withdrawal of a Partner). Amendments to this Agreement other than those described in the foregoing sentence may be made only if embodied in an instrument signed by all General Partners and all Limited Partners. The Limited Partners, however, are not permitted to participate in any amendment which would grant such Limited Partners voting rights with respect to distribution, termination or liquidation, nor shall the General Partners amend this agreement to grant voting rights to the Limited Partners with respect to distributions, termination, or liquidation. Any such supplemental agreement or amendment shall be adhered to and have the same effect from and after its effective date as if the same had originally been embodied in, and formed a part of, this Agreement. The General Partners shall give written notice to all Partners promptly after any amendment has become effective. Any amendment to this Agreement must be in writing.

Section 11.2. Amendment of Certificate. In the event this Agreement shall be amended pursuant to Section 11.1, the General Partners shall amend the Certificate to reflect that change if they deem the amendment of the Certificate to be necessary or appropriate.

Section 11.3. Power of Attorney. Each Limited Partner hereby irrevocably constitutes and appoints each General Partner (and the Liquidator) as its true and lawful attorney-in-fact, with full power of substitution, in its name, place and stead to make, execute, sign, acknowledge (including swearing to), record and file, on behalf of it and on behalf of the Partnership, the following:

(a) The Certificate and any other certificates or instruments which may be required to be filed by the Partnership or any of the Partners under the laws of the State of Delaware and any other jurisdiction whose laws may be applicable;

(b) A certificate of cancellation of the Partnership and such other instruments as may be deemed necessary or desirable by the holder of such power upon the termination of the Partnership; and

(c) Any and all amendments of the instruments described in paragraphs (a) and (b) hereof, provided such amendments are either required by law to be filed or have been authorized by the Limited Partners.

The foregoing grant of authority:

(i) shall survive the delivery of an assignment by a Limited Partner of the whole or any portion of its Interest and any assignee of such Limited Partner does hereby constitute and appoint the aforesaid holders his attorney in the same manner and force and for the same purposes as does the assignor;

(ii) is a special power of attorney coupled with an interest, is irrevocable and shall survive the death or incapacity of the Limited Partner granting the power; and

(iii) may be exercised by the holder on behalf of a Limited Partner by a facsimile signature or by listing all of the Limited Partners executing any instrument with a single signature as attorney-in-fact for all of them.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Notices. All notices and demands required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given when delivered in person or by registered or certified mail to the addresses of the Partners as shown from time to time on the records of the Partnership. Any Partner may specify a different address by notifying the General Partners in writing of that different address among them, and may be modified or amended only in writing as set forth herein.

Section 12.2. Entire Agreement. This Agreement constitutes the entire agreement among the parties. It supersedes any prior agreement or understandings among them, and may be modified or amended only in writing as set forth herein.

Section 12.3. Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the law of the State of Delaware.

Section 12.4. Effect. Except as herein otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the parties and their legal representatives, successors and assigns.

Section 12.5. Pronouns and Number. Wherever it appears appropriate from the context, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, feminine or neuter shall include the masculine, feminine and neuter.

Section 12.6. Captions. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

Section 12.7. Partial Enforceability. If any provision of this Agreement, or the application of that provision to any Person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of that provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Section 12.8. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and this Agreement may be executed by the affixing of the signatures of each of the Partners to one of such counterpart signature pages. All of those counterpart signatures pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

GENERAL PARTNER:

FRIENDSHIP MANAGEMENT LLC
by its Manager and Member, Cynthia W. Plum

LIMITED PARTNERS:

Keith S. Wellin

FRIENDSHIP MANAGEMENT LLC
by its Manager and Member, Cynthia W. Plum

ANNEX A
TO FRIENDSHIP PARTNERS LP
PARTNERSHIP
AGREEMENT

Names, Addresses, and
Capital Accounts of Partners

Name and Address of Partner	Initial Capital Contribution and Initial Capital Account Balance		Initial Units		
	BRKa	Cash	General	Limited	Total
FRIENDSHIP MANAGEMENT LLC 10 Waterman Avenue Philadelphia, PA 19118	10 shs	--	10,000	1,037	11,037
Keith S. Wellin 161 Coquille Way Vero Beach, FL 32963-3468	896 shs	$2,000		988,963	988,963
TOTAL	906 shs	$2,000	10,000	990,000	1,000,000

R686376.1

ANNEX A
TO FRIENDSHIP PARTNERS LP
PARTNERSHIP AGREEMENT
(Revised 12/26/07)

Names, Addresses, and
Capital Accounts of Partners

Name and Address of Partner	Capital Account Balance		Units		
	BRKa	Cash	General	Limited	Total
FRIENDSHIP MANAGEMENT LLC 10 Waterman Avenue Philadelphia, PA 19118	10 shs	--	10,000	1,037	11,037
Keith S. Wellin, Trustee of The Keith S. Wellin Florida Revocable Living Trust u/a/d 12/11/01 161 Coquille Way Vero Beach, FL 32963-3468	896 shs	$2,000	____	988,963	988,963
TOTAL	906 shs	$2,000	10,000	990,000	1,000,000

R686376.1

ANNEX A
TO FRIENDSHIP PARTNERS LP
PARTNERSHIP AGREEMENT
Before Transfer
(Revised 11/30/09)

Names, Addresses, and
Capital Accounts of Partners

Name and Address of Partner	Capital Account Balance	Units		
		General	Limited	Total
FRIENDSHIP MANAGEMENT LLC 10 Waterman Avenue Philadelphia, PA 19118	$1,005,973	10,000	1,037	11,037
Keith S. Wellin, Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d 12/11/01, as Amended and Restated 161 Coquille Way Vero Beach, FL 32963-3468	$90,139,575	___	988,963	988,963
TOTAL	$91,145,548	10,000	990,000	1,000,000

R686376.1

ANNEX A
TO FRIENDSHIP PARTNERS LP
PARTNERSHIP AGREEMENT
After Transfer
(Revised 11/30/09)

Names, Addresses, and
Capital Accounts of Partners

Name and Address of Partner	Capital Account Balance	Units		
		General	Limited	Total
FRIENDSHIP MANAGEMENT LLC 10 Waterman Avenue Philadelphia, PA 19118	$1,005,973	10,000	1,037	11,037
Peter J. Wellin, Marjorie W. King and Cynthia W. Plum and South Dakota Trust Company LLC, Trustees of the Wellin Family 2009 Irrevocable Trust u/a/d 11/2/09 201 South Phillips Avenue Suite 200 Sioux Falls, SD 57104	$90,139,575	____	988,963	988,963
TOTAL	$91,145,548	10,000	990,000	1,000,000

R686376.1

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CERTIFICATE OF LIMITED PARTNERSHIP OF FRIENDSHIP PARTNERS L.P.

The undersigned, desiring to form a limited partnership pursuant to the Delaware Revised Uniform Limited Partnership Act, Delaware Code, Title 6, Chapter 17, does hereby certify as follows:

(1) The name of the limited partnership is Friendship Partners L.P.

(2) The address of the Partnership's registered office in the State of Delaware is 15 East North Street, Dover, DE 19901, in the City of Dover, County of Kent, State of Delaware. The name of the Partnership's registered agent for service of process in the State of Delaware at such address is Nationwide Information Services, Inc.

(3) The name and business address of the general partner of the Partnership is:

Friendship Management LLC
10 Waterman Avenue
Philadelphia, PA 19118

IN WITNESS WHEREOF, the undersigned, being the general partner, has executed this Certificate of Limited Partnership of Friendship Partners L.P. this 8th day of December, 2003.

FRIENDSHIP MANAGEMENT LLC

By: Cynthia W. Plum
Name: Cynthia W. Plum
Title: Manager

R:\323950.1

Form **SS-4**
(Rev. December 2001)
Department of the Treasury
Internal Revenue Service

Application for Employer Identification Number

(For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.)

▶ See separate instructions for each line. ▶ Keep a copy for your records.

EIN [redacted]

OMB No. 1545-0003

Type or print clearly.

1 Legal name of entity (or individual) for whom the EIN is being requested
Friendship Partners LP

2 Trade name of business (if different from name on line 1)

3 Executor, trustee, "care of" name

4a Mailing address (room, apt., suite no. and street, or P.O. box)
10 Waterman Avenue

5a Street address (if different) (Do not enter a P.O. box.)

4b City, state, and ZIP code
Philadelphia, PA 19118

5b City, state, and ZIP code

6 County and state where principal business is located
Philadelphia, Pennsylvania

7a Name of principal officer, general partner, grantor, owner, or trustor
Friendship Management LLC

7b SSN, ITIN, or EIN [redacted]

8a Type of entity (check only one box)

- ☐ Sole proprietor (SSN) ____
- ☑ Partnership
- ☐ Corporation (enter form number to be filed) ▶ ____
- ☐ Personal service corp.
- ☐ Church or church-controlled organization
- ☐ Other nonprofit organization (specify) ▶ ____
- ☐ Other (specify) ▶
- ☐ Estate (SSN of decedent) ____
- ☐ Plan administrator (SSN) ____
- ☐ Trust (SSN of grantor) ____
- ☐ National Guard ☐ State/local government
- ☐ Farmers' cooperative ☐ Federal government/military
- ☐ REMIC ☐ Indian tribal governments/enterprises

Group Exemption Number (GEN) ▶ ____

8b If a corporation, name the state or foreign country (if applicable) where incorporated | State | Foreign country

9 Reason for applying (check only one box)

- ☐ Started new business (specify type) ▶ ____
- ☐ Hired employees (Check the box and see line 12.)
- ☐ Compliance with IRS withholding regulations
- ☑ Other (specify) ▶ **Creation of new entity**
- ☐ Banking purpose (specify purpose) ▶ ____
- ☐ Changed type of organization (specify new type) ▶ ____
- ☐ Purchased going business
- ☐ Created a trust (specify type) ▶ ____
- ☐ Created a pension plan (specify type) ▶ ____

10 Date business started or acquired (month, day, year)
December 9, 2003

11 Closing month of accounting year
December

12 First date wages or annuities were paid or will be paid (month, day, year). **Note:** *If applicant is a withholding agent, enter date income will first be paid to nonresident alien. (month, day, year)* ▶

13 Highest number of employees expected in the next 12 months. **Note:** *If the applicant does not expect to have any employees during the period, enter "-0-."* ▶ | Agricultural | Household | Other

14 Check one box that best describes the principal activity of your business.

- ☐ Construction ☐ Rental & leasing ☐ Transportation & warehousing ☐ Health care & social assistance ☐ Accommodation & food service ☐ Wholesale-agent/broker ☐ Wholesale-other ☐ Retail
- ☐ Real estate ☐ Manufacturing ☐ Finance & insurance ☑ Other (specify) **N/A**

15 Indicate principal line of merchandise sold; specific construction work done; products produced; or services provided.
N/A

16a Has the applicant ever applied for an employer identification number for this or any other business? ☐ Yes ☑ No
Note: *If "Yes," please complete lines 16b and 16c.*

16b If you checked "Yes" on line 16a, give applicant's legal name and trade name shown on prior application if different from line 1 or 2 above.
Legal name ▶ Trade name ▶

16c Approximate date when, and city and state where, the application was filed. Enter previous employer identification number if known.
Approximate date when filed (mo., day, year) | City and state where filed | Previous EIN

Third Party Designee

Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.

Designee's name | Designee's telephone number (include area code) ( )

Address and ZIP code | Designee's fax number (include area code) ( )

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.

Name and title (type or print clearly) ▶ **Cynthia W. Plum**

Applicant's telephone number (include area code) **(215) 248-3554**

Signature ▶ Cynthia W. Plum Date ▶ 12/13/03

Applicant's fax number (include area code) (215) 248-1624

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 16055N Form **SS-4** (Rev. 12-2001)

I, Cynthia W. Plum, understand that by providing my social security number, that Nixon Peabody LLP will apply for and receive the EIN on behalf of both Friendship Management LLC and Friendship Partners LP.

Cynthia W. Plum

Name: Cynthia W. Plum

R734391.1

Friendship Partners LP
12/31/03 Balance Sheet

	% Ownership	Beginning 12/24/03	Activity	Period Ending 12/31/03*	Fair Market Value at 12/31/03
Cash		2,000	–	2,000	2,000
Investment in Berkshire Hathaway (906 shares)		75,198,000	–	75,198,000	76,330,500
Total Assets		$75,200,000		$75,200,000	$76,332,500
Partners Capital:					
Friendship Management LLC (GP)	1.0000%	752,000	–	752,000	763,325
Friendship Management LLC (LP)	0.1037%	78,000	–	78,000	79,157
Keith S. Wellin (LP)	98.8963%	74,370,000	–	74,370,000	75,490,018
Total Capital	100.0000%	$75,200,000	–	$75,200,000	$76,332,500

* historical "contribution" value for determining partnership capital (book basis)

R743585.1 2/4/2004

FLORIDA GENERAL POWER OF ATTORNEY - DURABLE

Name of Principal:	KEITH S. WELLIN
Address of Principal:	161 Coquille Way Vero Beach, Florida 32963-3468
Telephone Number:	(772) 231-1448
Name of Attorney-in-Fact:	Peter J. Wellin
Address of Attorney-in-Fact:	65 Waits Landing Falmouth, Maine 04105
Telephone Number:	(207) 781-2802
Alternate Attorney-in-Fact:	Cynthia W. Plum
Address of Alternate:	10 Waterman Avenue Philadelphia, PA 19118
Telephone Number:	(215) 248-3554

I hereby appoint the above-named person to be my true and lawful Attorney-in-Fact, to act in my behalf, to do every act that I may legally do through an Attorney-in-Fact, including but not limited to acting in my name, place, and stead, and for my use and benefit. If my Attorney-in-Fact is deceased or is mentally or physically unable to act as such, then I appoint the other person named above as my Alternate Attorney-in-Fact, with the same powers and authority. For purposes of this document, my Attorney-in-Fact shall be deemed disabled or incapacitated upon the election of my Alternate Attorney-in-Fact to accept the certification of my Attorney-in-Fact's physician which states that such physician has examined my Attorney-in-Fact and that he/she is incapacitated mentally or physically and is unable to continue to act as my Attorney-in-Fact. A copy of such certification shall be attached to this document.

1. To manage my affairs, handle my investments, arrange for the investment, reinvestment and disposition of funds, exercise all rights with respect to my investments, accept remittances of income and disburse the same, including authority to open bank accounts in my name and to endorse checks for deposit

therein or in any bank where I may at any time have money on deposit and sign checks covering withdrawals therefrom;

2. To endorse and deliver certificates for transfer of stocks, bonds or other securities to be sold for my account and receive the proceeds of such sale;

3. To sign, execute, acknowledge and deliver on my behalf any deed of transfer or conveyance covering personal property or real property wherever situated, (specifically including the property described in Schedule A attached hereto, if any) any discharge or release of mortgage held by me on real property or any other instrument in writing;

4. To negotiate and execute leases of any property, real or personal, which I may own, for terms that may extend beyond the duration of this power and to provide for the proper care and maintenance of such property and pay expenses incurred in connection therewith;

5. To subdivide, partition, improve, alter, repair, adjust boundaries of, manage, maintain and otherwise deal with any real property including power to demolish any building in whole or in part and to erect buildings;

6. To enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

7. To hold securities in bearer form or in the name of a nominee or nominees and to hold real property in the name of a nominee or nominees;

8. To continue or participate in the operation of any business or other enterprise;

9. To borrow money from time to time in my name, and to give promissory notes or other obligations therefor, and to deposit as collateral, pledge as security for the payment thereof or mortgage any or all my securities or other property of whatever nature;

10. To have access to any and all safe deposit boxes of which I am now or may become possessed, and to remove therefrom any securities, papers or other articles;

11. To have access to any and all records, reports and statements, including but not limited to financial records, reports and statements from any health care providers or health insurance providers, which may be protected under the Health Insurance Portability and Accountability Act (HIPAA);

12. To prepare, execute and file all tax returns and pay all taxes required by law, to represent me before the taxing authorities in connection with any audit or examination, to file all claims for abatement, refund or other papers relating thereto, and to collect any refunds or other payments from taxing authorities;

13. To demand, collect, sue for, receive and receipt for any money, debts, or property of any kind, now or hereafter payable, due or deliverable to me, to pay or contest claims against me, to settle claims by compromise, arbitration or otherwise and to release claims;

14. To employ such persons, firms, or organizations as investment counsel, custodians, brokers, accountants, appraisers, attorneys-at-law or other agents as deemed necessary or desirable, and to pay such persons, firms or organizations such compensation as is deemed reasonable and to determine whether or not to act upon the advice of any such agent without liability for acting or failing to act thereon;

15. To expend or distribute income or principal of my estate for the support, education, care or benefit of me and my dependents;

16. To renounce and disclaim any interest otherwise passing to me by testate or intestate succession or by inter vivos transfer, or to act for me in connection with any interest which I may have in any estate or trust, specifically including the power to request withdrawals of principal from a trust created by me;

17. To exercise my rights to elect options and change beneficiaries under insurance and annuity policies and to surrender the policies for their cash value;

18. To transfer or convey any real or personal property in which I have an interest to a revocable trust created by me during my lifetime;

19. To renounce any fiduciary positions to which I have been or may be appointed, including, but not limited to Personal Representative, Trustee, Guardian, Attorney-in-Fact, and Officer or Director of a corporation; to resign such positions in which capacity I am presently serving; and to file an account with a court of competent jurisdiction, or settle on a receipt and release or other informal method as my Attorney-in-Fact deems advisable;

20. To execute a revocable agreement of trust with such trustee or co-trustees ("trustee") as my Attorney-in-Fact selects (including my Attorney-in-Fact), and which provides that all income and principal shall be paid to me or the guardian of my estate, or shall be applied for my benefit in such

amounts as I or my Attorney-in-Fact shall request or as the trustee shall determine, and that on my death any remaining income and principal shall be paid to my Personal Representative, and that the trust may be revoked or amended by me or my Attorney-in-Fact at any time and from time to time; PROVIDED, HOWEVER, that any amendment by my Attorney-in-Fact must be such that it could have, by law, been included in the original agreement of trust; and to deliver and convey any or all of my assets to the trustee; and to add any and all of my assets to such a trust;

21. To add assets to or request withdrawals of principal from any living trust of which I am the Grantor and Beneficiary; and

22. To make gifts, outright or in trust, to my spouse and my issue (including my Attorney-in-Fact) in an amount not greater than the maximum annual federal gift tax exclusion (presently $12,000 per year per donee) under Section 2503(b) of the Internal Revenue Code of 1986 as in effect at the time of the transfer.

In general I give to my said Attorney-in-Fact full power to act in the management and disposition of all my estate, affairs and property of every kind and wherever situate in such manner and with such authority as I myself might exercise if personally present.

This Durable General Power of Attorney shall be effective beginning on the date hereof and shall not be affected by my later disability (whether physical, mental, or both) except as provided by Florida Statute.

For the purpose of inducing any bank, broker, custodian, insurer, lender, transfer agent, or other party to act in accordance with the powers granted by this Durable Power of Attorney and in furtherance thereof, such person or entity may rely on the Affidavit of my Attorney-in-Fact that the powers conferred in this instrument are then effective. I hereby represent, warrant and agree that if this Power of Attorney is terminated or amended for any reason, I and my heirs, distributees, legal representatives, successors and assigns will hold such party or parties harmless from any loss suffered or liability incurred by such party or parties in acting in accordance with this Power of Attorney prior to that party's receipt of written notice of any such termination or amendment.

This Power of Attorney shall be binding on me and my heirs, Personal Representatives and administrators and shall remain in force up to the time of the receipt by my said attorneys of a written revocation signed by me.

To accomplish the purposes set forth herein, I hereunto set my hand and seal this 23rd day of May, 2006.

KEITH S. WELLIN

The foregoing instrument was signed by the Principal in the presence of each of us, and we have hereunto subscribed our names as Witnesses, this 23rd day of May, 2006.

Name

Address

[redacted]

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED before me by KEITH S. WELLIN and by Thomas S. Tisdale, Jr. and J. James Duggan, the Witnesses, all of whom personally appeared before me on the 23d day of May, 2006. KEITH S. WELLIN is personally known to me.

Thomas S. Tisdale Jr. is personally known to me or has produced SC Drivers License as identification.

J. James Duggan is personally known to me or has produced SC Drivers License as identification.

Thomas O. Johnston
Notary Public (Affix seal) South Carolina
My commission expires: 4/2/13
My commission number is: na

* * * * *

This is a specimen of the signature of my Attorney-in-Fact and my Alternate Attorney-in-Fact, for reference only:

P. Wellin

PETER J. WELLIN
Attorney-in-Fact

Cynthia W. Plum

CYNTHIA W. PLUM
Alternate Attorney-in-Fact

DURABLE GENERAL POWER OF ATTORNEY
NEW YORK STATUTORY SHORT FORM

THE POWERS YOU GRANT BELOW CONTINUE TO BE EFFECTIVE SHOULD YOU BECOME DISABLED OR INCOMPETENT

CAUTION: THIS IS AN IMPORTANT DOCUMENT. IT GIVES THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY DURING YOUR LIFETIME, WHICH MAY INCLUDE POWERS TO MORTGAGE, SELL, OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. THESE POWERS WILL CONTINUE TO EXIST EVEN AFTER YOU HAVE BECOME DISABLED OR INCOMPETENT. THESE POWERS ARE EXPLAINED MORE FULLY IN NEW YORK GENERAL OBLIGATIONS LAW, ARTICLE 5, TITLE 15, SECTIONS 5-1502A THROUGH 5-1506, WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS. YOU MAY EXECUTE A HEALTH CARE PROXY TO DO THIS. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

This is intended to constitute a DURABLE GENERAL POWER OF ATTORNEY pursuant to Article 5, Title 15 of the New York General Obligations Law:

I, KEITH S. WELLIN, residing at 161 Coquille Way, Vero Beach, Florida 32963-3468, do hereby appoint: PETER J. WELLIN, residing at 65 Waits Landing, Falmouth, Maine 04105, my attorney-in-fact.

TO ACT IN MY NAME, PLACE AND STEAD in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in Title 15 of Article 5 of the New York General Obligations Law to the extent that I am permitted by law to act through an agent:

(DIRECTIONS: Initial in the blank space to the left of your choice any one or more of the following lettered subdivisions as to which you WANT to give your agent authority. If the blank space to the left of any particular lettered subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Alternatively, the letter corresponding to each power you wish to grant may be written or typed on the blank line in subdivision "(Q)", and you may then put your initials in the blank space to the left of subdivision "(Q)" in order to grant each of the powers so indicated)

( ) (A) real estate transactions;
( ) (B) chattel and goods transactions;
( ) (C) bond, share and commodity transactions;
( ) (D) banking transactions;
( ) (E) business operating transactions;
( ) (F) insurance transactions;
( ) (G) estate transactions;
( ) (H) claims and litigation;
( ) (I) personal relationships and affairs;
( ) (J) benefits from military service;
( ) (K) records, reports and statements;
( ) (L) retirement benefit transactions;
( ) (M) authority to make gifts, outright or in trust, to my spouse, children and more remote descendants (including my attorney-in-fact) not to exceed in the aggregate the amount of the maximum annual exclusion from federal gift tax (currently $12,000 per year donee) to each of such persons in any calendar year;
( ) (N) tax matters;
( ) (O) all other matters;
( ) (P) full and unqualified authority to my attorney(s)-in-fact to delegate any or all of the foregoing powers to any person or persons whom my attorney(s)-in-fact shall select;
(KW) (Q) each of the matters identified by the following letters: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O and P;
(KW) (R) authority to consent and direct that my health care providers, health plan sponsors, insurers and others disclose to my attorney-in-fact, or to each person or organization that shall be designated by my attorney-in-fact, any and all "health information" as that term is defined in the Health Insurance Portability and Accountability Act and its implementing regulations (HIPAA) relating to me, including, but not limited to, financial, claim membership and benefit information and physician, hospital and case management records, including information which may be protected under HIPAA and state law, in order to enable my attorney-in-fact to fulfill his or her duties under this Power of Attorney; and
(KW) (S) authority to renounce all or a portion of any disposition made to me under a Will or trust agreement, a transfer created by a life insurance or annuity contract, a transfer created by a joint tenancy or tenancy by the entirety, a transfer under an employee benefit plan (including any pension, retirement, death benefit, stock bonus or profit-sharing plan, system or trust), or any other disposition or transfer created in my favor by any testamentary or non-testamentary instrument or by operation of

law, and to seek such Court authorization as may be required by law.

(Special provisions and limitations may be included in the statutory short form durable power of attorney only if they conform to the requirements of Section 5-1503 of the New York General Obligations Law.)

This durable Power of Attorney shall not be affected by my subsequent disability or incompetence.

If every agent named above is unable or unwilling to serve, I appoint Cynthia W. Plum, residing at 10 Waterman Avenue, Philadelphia, PA, 19118, to be my agent for all purposes hereunder.

TO INDUCE ANY THIRD PARTY TO ACT HEREUNDER, I HEREBY AGREE THAT ANY THIRD PARTY RECEIVING A DULY EXECUTED COPY OR FACSIMILE OF THIS INSTRUMENT MAY ACT HEREUNDER, AND THAT REVOCATION OR TERMINATION HEREOF SHALL BE INEFFECTIVE AS TO SUCH THIRD PARTY UNLESS AND UNTIL ACTUAL NOTICE OR KNOWLEDGE OF SUCH REVOCATION OR TERMINATION SHALL HAVE BEEN RECEIVED BY SUCH THIRD PARTY, AND I FOR MYSELF AND FOR MY HEIRS, EXECUTORS, LEGAL REPRESENTATIVES AND ASSIGNS, HEREBY AGREE TO INDEMNIFY AND HOLD HARMLESS ANY SUCH THIRD PARTY FROM AND AGAINST ANY AND ALL CLAIMS THAT MAY ARISE AGAINST SUCH THIRD PARTY BY REASON OF SUCH THIRD PARTY HAVING RELIED ON THE PROVISIONS OF THIS INSTRUMENT.

THIS DURABLE GENERAL POWER OF ATTORNEY MAY BE REVOKED BY ME AT ANY TIME.

IN WITNESS WHEREOF, I have hereunto signed my name this 23rd day of May, 2006.

KEITH S. WELLIN

South Carolina

STATE OF ~~FLORIDA~~)
COUNTY OF ~~INDIAN RIVER~~ Charleston) ss:

On the 23rd day of May, in the year 2006 before me, the undersigned, personally appeared KEITH S. WELLIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned.

Thelma A. Johnston
Notary Public South Carolina
Comm. Exp. 4/2/13

SOUTH CAROLINA GENERAL DURABLE POWER OF ATTORNEY

THE POWERS YOU GRANT BELOW CONTINUE TO BE EFFECTIVE SHOULD YOU BECOME DISABLED OR INCOMPETENT

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, **KEITH S. WELLIN**, residing at 161 Coquille Way, Vero Beach, Florida 32963-3468, appoint my son, **PETER J. WELLIN**, residing at 65 Waits Landing, Falmouth, Maine 04105, as my Agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (P) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

Note: If you initial Item A or Item B, which follow, a notarized signature will be required on behalf of the Principal.

INITIAL

_____ **(A) Real property transactions.** To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any interest in real property whatsoever, on such terms and conditions, and under such covenants, as my Agent shall deem proper; and to maintain, repair, tear down, alter, rebuild, improve manage, insure, move, rent, lease, sell, convey, subject to liens, mortgages, and security deeds, and in any way or manner deal with all or any part of any interest in real property whatsoever, including specifically, but without limitation, real property lying and being situated in the State of South Carolina, under such terms and conditions, and under such covenants, as my Agent shall deem proper and may for all deferred payments accept purchase money notes payable to me and secured by mortgages or deeds to secure debt, and may from time to time collect and cancel any of said notes, mortgages, security interests, or deeds to secure debt.

_____ **(B) Tangible personal property transactions.** To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any personal property whatsoever, tangible or intangible, or interest thereto, on such terms and conditions, and under such

covenants, as my Agent shall deem proper; and to maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens or mortgages, or to take any other security interests in said property which are recognized under the Uniform Commercial Code as adopted at that time under the laws of the State of South Carolina or any applicable state, or otherwise hypothecate (pledge), and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I own at the time of execution or may thereafter acquire, under such terms and conditions, and under such covenants, as my Agent shall deem proper.

_____ **(C) Stock and bond transactions.** To purchase, sell, exchange, surrender, assign, redeem, vote at any meeting, or otherwise transfer any and all shares of stock, bonds, or other securities in any business, association, corporation, partnership, or other legal entity, whether private or public, now or hereafter belonging to me.

_____ **(D) Commodity and option transactions.** To buy, sell, exchange, assign, convey, settle and exercise commodities futures contracts and call and put options on stocks and stock indices traded on a regulated options exchange and collect and receipt for all proceeds of any such transactions; establish or continue option accounts for the principal with any securities or futures broker; and, in general, exercise all powers with respect to commodities and options which the principal could if present and under no disability.

_____ **(E) Banking and other financial institution transactions.** To make, receive, sign, endorse, execute, acknowledge, deliver and possess checks, drafts, bills of exchange, letters of credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of banks, savings and loans, credit unions, or other institutions or associations. To pay all sums of money, at any time or times, that may hereafter be owing by me upon any account, bill of exchange, check, draft, purchase, contract, note, or trade acceptance made, executed, endorsed, accepted, and delivered by me or for me in my name, by my Agent. To borrow from time to time such sums of money as my Agent may deem proper and execute promissory notes, security deeds or agreements, financing statements, or other security instruments in such form as the lender may request and renew said notes and security instruments from time to time in whole or in part. To have free access at any time or times to any safe deposit box or vault to which I might have access.

_____ **(F) Business operating transactions.** To conduct, engage in, and otherwise transact the affairs of any and all lawful business ventures of whatever nature or kind that I may now or hereafter be involved in. To organize or continue and conduct any business which term includes, without limitation, any farming, manufacturing, service, mining, retailing or other type of business operation in any form, whether as a proprietorship, joint venture, partnership, corporation, trust or other legal entity; operate, buy, sell, expand, contract, terminate or liquidate any business; direct, control, supervise, manage or participate in the operation of any business and engage, compensate and discharge business managers, employees, agents, attorneys, accountants and consultants; and, in general, exercise all powers with respect to business interests and operations which the principal could if present and under no disability.

_____ **(G) Insurance and annuity transactions.** To exercise or perform any act, power, duty, right, or obligation, in regard to any contract of life, accident, health, disability, liability, or other type of insurance or any combination of insurance; and to procure new or additional

contracts of insurance for me and to designate the beneficiary of same; provided, however, that my Agent cannot designate himself or herself as beneficiary of any such insurance contracts.

_____ **(H) Estate, trust, and other beneficiary transactions.** To accept, receipt for, exercise, release, reject, renounce, assign, disclaim, demand, sue for, claim and recover any legacy, bequest, devise, gift or other property interest or payment due or payable to or for the principal; assert any interest in and exercise any power over any trust, estate or property subject to fiduciary control; establish a revocable trust solely for the benefit of the principal that terminates at the death of the principal and is then distributable to the legal representative of the estate of the principal; and, in general, exercise all powers with respect to estates and trusts which the principal could exercise if present and under no disability; provided, however, that the Agent may not make or change a will and may not revoke or amend a trust revocable or amendable by the principal or require the trustee of any trust for the benefit of the principal to pay income or principal to the Agent unless specific authority to that end is given.

_____ **(I) Claims and litigation.** To commence, prosecute, discontinue, or defend all actions or other legal proceedings touching my property, real or personal, or any part thereof, or touching any matter in which I or my property, real or personal, may be in any way concerned. To defend, settle, adjust, make allowances, compound, submit to arbitration, and compromise all accounts, reckonings, claims, and demands whatsoever that now are, or hereafter shall be, pending between me and any person, firm, corporation, or other legal entity, in such manner and in all respects as my Agent shall deem proper.

_____ **(J) Personal and family maintenance.** To hire accountants, attorneys at law, consultants, clerks, physicians, nurses, agents, servants, workmen, and others and to remove them, and to appoint others in their place, and to pay and allow the persons so employed such salaries, wages, or other remunerations, as my Agent shall deem proper.

_____ **(K) Benefits from Social Security, Medicare, Medicaid, or other governmental programs, or military service.** To prepare, sign and file any claim or application for Social Security, unemployment or military service benefits; sue for, settle or abandon any claims to any benefit or assistance under any federal, state, local or foreign statute or regulation; control, deposit to any account, collect, receipt for, and take title to and hold all benefits under any Social Security, unemployment, military service or other state, federal, local or foreign statute or regulation; and, in general, exercise all powers with respect to Social Security, unemployment, military service, and governmental benefits, including but not limited to Medicare and Medicaid, which the principal could exercise if present and under no disability.

_____ **(L) Retirement plan transactions.** To contribute to, withdraw from and deposit funds in any type of retirement plan (which term includes, without limitation, any tax qualified or nonqualified pension, profit sharing, stock bonus, employee savings and other retirement plan, individual retirement account, deferred compensation plan and any other type of employee benefit plan); select and change payment options for the principal under any retirement plan; make rollover contributions from any retirement plan to other retirement plans or individual retirement accounts; exercise all investment powers available under any type of self-directed retirement plan; and, in general, exercise all powers with respect to retirement plans and retirement plan account balances which the principal could if present and under no disability.

_____ **(M) Tax matters.** To prepare, to make elections, to execute and to file all tax, social security, unemployment insurance, and informational returns required by the laws of the United States, or of any state or subdivision thereof, or of any foreign government; to prepare, to execute, and to file all other papers and instruments which the Agent shall think to be desirable or necessary for safeguarding of me against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation; and to pay, to compromise, or to contest or to apply for refunds in connection with any taxes or assessments for which I am or may be liable.

_____ **(N) Gifts.** Authority to make gifts, outright or in trust, to my spouse, children and more remote descendants (including my attorney-in-fact) not to exceed in the aggregate the amount of the maximum annual exclusion from federal gift tax (currently $12,000 per year donee) to each of such persons in any calendar year.

_____ **(O) Health care release.** To consent and direct that my health care providers, health plan sponsors, insurers and others disclose to my attorney-in-fact, or to each person or organization that shall be designated by my attorney-in-fact, any and all "health information" as that term is defined in the Health Insurance Portability and Accountability Act and its implementing regulations (HIPAA) relating to me, including, but not limited to, financial, claim membership and benefit information and physician, hospital and case management records, including information which may be protected under HIPAA and state law, in order to enable my attorney-in-fact to fulfill his or her duties under this Power of Attorney.

KH (P) **ALL OF THE POWERS LISTED ABOVE.** YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (P).

THIS POWER OF ATTORNEY SHALL BE CONSTRUED AS A GENERAL DURABLE POWER OF ATTORNEY.

(YOUR AGENT WILL HAVE AUTHORITY TO EMPLOY OTHER PERSONS AS NECESSARY TO ENABLE THE AGENT TO PROPERLY EXERCISE THE POWERS GRANTED IN THIS FORM, BUT YOUR AGENT WILL HAVE TO MAKE ALL DISCRETIONARY DECISIONS. IF YOU WANT TO GIVE YOUR AGENT THE RIGHT TO DELEGATE DISCRETIONARY DECISION-MAKING POWERS TO OTHERS, YOU SHOULD KEEP THE NEXT SENTENCE, OTHERWISE IT SHOULD BE STRICKEN.)

Authority to Delegate. My Agent shall have the right by written instrument to delegate any or all of the foregoing powers involving discretionary decision-making to any person or persons whom my Agent may select, but such delegation may be amended or revoked by any agent (including any successor) named by me who is acting under this power of attorney at the time of reference.

Successor Agent. If any Agent named by me shall die, become incompetent, resign or refuse to accept the office of Agent, I name my daughter, **CYNTHIA W. PLUM**, residing at 10 Waterman Avenue, Philadelphia, Pennsylvania 19118, as successor to such Agent.

Choice of Law. THIS POWER OF ATTORNEY WILL BE GOVERNED BY THE LAWS OF THE STATE OF SOUTH CAROLINA WITHOUT REGARD FOR CONFLICTS OF LAWS

PRINCIPLES. IT IS INTENDED TO BE VALID IN ALL JURISDICTIONS OF THE UNITED STATES OF AMERICA AND ALL FOREIGN NATIONS.

I am fully informed as to all the contents of this form and understand the full import of this grant of powers to my Agent.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. **I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.**

Signed this 1st day of April, 2006

Keith S. Wellin
KEITH S. WELLIN

STATEMENT OF WITNESS

On the date written above, the principal declared to me in my presence that this instrument is his general durable power of attorney and that he or she had willingly signed or directed another to sign for him or her, and that he or she executed it as his or her free and voluntary act for the purposes therein expressed.

Barbara Nystrom [Signature of Witness #1]
BARBARA NYSTROM [Printed or typed name of Witness #1]
[redacted] [Address of Witness #1, Line 1]
[redacted]ddress of Witness #1, Line 2]

M. Louise Reed [Signature of Witness #2]
M. Louise Reed [Printed or typed name of Witness #2]
[redacted] [Address of Witness #2, Line 1]
[redacted] [Address of Witness #2, Line 2]

10019142.1

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF Maine
COUNTY OF Knox

This document was acknowledged before me on September 20, 2006 by **KEITH S. WELLIN.**

[Notary Seal, if any]:

Kathleen A. McCleod
(Signature of Notarial Officer)

Notary Public for the State of
Main

My commission expires: July 15, 2011

ACKNOWLEDGMENT OF AGENT

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

PETER J. WELLIN

CYNTHIA W. PLUM

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF Maine
COUNTY OF Cumberland

This document was acknowledged before me on December 19, 2006 by **PETER J. WELLIN.**

[Notary Seal, if any]:

Susan A. Bagley
(Signature of Notarial Officer)

Notary Public for the State of
SUSAN A. BAGLEY
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES FEBRUARY 2, 2010
My commission expires:

10019142.1

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF Pennsylvania
COUNTY OF Philadelphia

This document was acknowledged before me on Dec. 14, 2006 by **CYNTHIA W. PLUM**.

[Notary Seal, if any]:

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Alexandra S. Jones, Notary Public
City Of Philadelphia, Philadelphia County
My Commission Expires Sept. 18, 2008
Member, Pennsylvania Association Of Notaries

Alexandra S. Jones
(Signature of Notarial Officer)

Notary Public for the State of Pennsylvania

My commission expires: 9/18/2008

10019142.1

GEORGIA FINANCIAL POWER OF ATTORNEY

I, **KEITH S. WELLIN,** residing at 161 Coquille Way, Vero Beach, Florida 32963-3468, (hereinafter "Principal"), do hereby constitute and appoint my son, **PETER J. WELLIN,** residing at 65 Waits Landing, Falmouth, Maine 04105 my true and lawful attorney-in-fact (hereinafter "Agent") for me and give such person the power(s) specified below to act in my name, place, and stead in any way which I, myself, could do if I were personally present with respect to the following matters:

(Directions: To give the Agent the powers described in paragraphs 1 through 15, place your initials on the blank line at the end of each paragraph. If you DO NOT want to give a power to the Agent, strike through the paragraph or a line within the paragraph and place your initials beside the stricken paragraph or stricken line. The powers described in any paragraph not initialed or which has been struck through will not be conveyed to the Agent. Both the Principal and the Agent must sign their full names at the end of the last paragraph.)

1. Bank and Credit Union Transactions: To make, receive, sign, endorse, execute, acknowledge, deliver, and possess checks, drafts, bills of exchange, letters of credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of banks, savings and loans, credit unions, or other institutions or associations. KW

2. Payment Transactions: To pay all sums of money, at any time or times, that may hereafter be owing by me upon any account, bill or exchange, check, draft, purchase, contract, note, or trade acceptance made, executed, endorsed, accepted, and delivered by me or for me in my name, by my Agent. KW

Note: If you initial paragraph 3 or paragraph 4 which follow, a notarized signature will be required on behalf of the Principal.

3. Real Property Transactions: To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any interest in real property whatsoever, on such terms and conditions, and under such covenants, as my Agent shall deem proper; and to maintain, repair, tear down, alter, rebuild, improve, manage, insure, move, rent, lease, sell, convey, subject to liens, mortgages, and security deeds, and in any way or manner deal with all or any part of any interest in real property whatsoever, including specifically, but without limitation, real property lying and being situate in the State of Georgia, under such terms and conditions, and under such covenants, as my Agent shall deem proper and may for all deferred payments accept purchase money notes payable to me and secured by mortgages or deeds to secure debt, and may from time to time collect and cancel any of said notes, mortgages, security interests, or deeds to secure debt. KW

4. Personal Property Transactions: To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any personal property whatsoever, tangible or intangible, or interest thereto, on such terms and conditions, and under such covenants, as my Agent shall deem proper; and to maintain, repair, improve, manage, insure,

rent, lease, sell, convey, subject to liens or mortgages, or to take any other security interests in said property which are recognized under the Uniform Commercial Code as adopted at that time under the laws of Georgia or any applicable state, or otherwise hypothecate, and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I own at the time of execution or may thereafter acquire, under such terms and conditions, and under such covenants, as my Agent shall deem proper.

5. Stock and Bond Transactions: To purchase, sell, exchange, surrender, assign, redeem, vote at any meeting, or otherwise transfer any and all shares of stock, bonds, or other securities in any business, association, corporation, partnership, or other legal entity, whether private or public, now or hereafter belonging to me.

6. Safe Deposits: To have free access at any time or times to any safe-deposit box or vault to which I might have access.

7. Borrowing: To borrow from time to time such sums of money as my Agent may deem proper and execute promissory notes, security deeds or agreements, financing statements, or other security instruments in such form as the lender may request and renew said notes and security instruments from time to time in whole or in part.

8. Business Operating Transactions: To conduct, engage in, and otherwise transact the affairs of any and all lawful business ventures of whatever nature or kind that I may now or hereafter be involved in.

9. Insurance Transactions: To exercise or perform any act, power, duty, right, or obligation, in regard to any contract of life, accident, health, disability, liability, or other type of insurance or any combination of insurance; and to procure new or additional contracts of insurance for me and to designate the beneficiary of same; provided, however, that my Agent cannot designate himself or herself as beneficiary of any such insurance contracts.

10. Disputes and Proceedings: To commence, prosecute, discontinue, or defend all actions or other legal proceedings touching my property, real or personal, or any part thereof, or touching any matter in which I or my property, real or personal, may be in any way concerned. To defend, settle, adjust, make allowances, compound, submit to arbitration, and compromise all accounts, reckonings, claims, and demands whatsoever that now are, or hereafter shall be, pending between me and any person, firm, corporation, or other legal entity, in such manner and in all respects as my Agent shall deem proper.

11. Hiring Representatives: To hire accountants, attorneys at law, consultants, clerks, physicians, nurses, agents, servants, workmen, and others and to remove them, and to appoint others in their place, and to pay and allow the persons so employed such salaries, wages, or other remunerations, as my Agent shall deem proper.

12. Gifts: Authority to make gifts, outright or in trust, to my spouse, children and more remote descendants (including my attorney-in-fact) not to exceed in the aggregate the amount of the maximum annual exclusion from federal gift tax (currently $12,000 per year donee) to each of such persons in any calendar year.

13. HIPAA: To consent and direct that my health care providers, health plan sponsors, insurers and others disclose to my attorney-in-fact, or to each person or organization that shall be designated by my attorney-in-fact, any and all "health information" as that term is defined in the Health Insurance Portability and Accountability Act and its implementing regulations (HIPAA) relating to me, including, but not limited to, financial, claim membership and benefit information and physician, hospital and case management records, including information which may be protected under HIPAA and state law, in order to enable my attorney-in-fact to fulfill his or her duties under this Power of Attorney.

14. Tax, Social Security, and Unemployment: To prepare, to make elections, to execute and to file all tax, social security, unemployment insurance, and informational returns required by the laws of the United States, or of any state or subdivision thereof, or of any foreign government; to prepare, to execute, and to file all other papers and instruments which the Agent shall think to be desirable or necessary for safeguarding of me against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation; and to pay, to compromise, or to contest or to apply for refunds in connection with any taxes or assessments for which I am or may be liable.

15. Broad Powers: Without, in any way, limiting the foregoing, generally to do, execute, and perform any other act, deed, matter, or thing whatsoever, that should be done, executed, or performed, including, but not limited to, powers conferred by Code Section 53-12-232 of the Official Code of Georgia Annotated, or that in the opinion of my Agent, should be done, executed, or performed, for my benefit or the benefit of my property, real or personal, and in my name of every nature and kind whatsoever, as fully and effectually as I could do if personally present.

16. Effective Date: This document will become effective upon the date of the Principal's signature.

It is my desire and intention that this power of attorney shall not be affected by my subsequent disability, incapacity, or mental incompetence. However, I understand that it shall be revoked and the Agent's power canceled in the event a guardian is appointed for my property, but only if such guardian is a child of mine. As long as no such guardian is appointed, any and all acts done by the Agent pursuant to the powers conveyed herein during any period of my disability, incapacity, or mental incompetence shall have the same force and effect as if I were not disabled, incapacitated, or mentally incompetent.

I may, at any time, revoke this power of attorney, and it shall be canceled by my death. Otherwise, unless a guardian is appointed for my property, this power of attorney shall be deemed to be in full force and effect as to all persons, institutions, and organizations which shall act in reliance thereon prior to the receipt of written revocation thereof signed by me and prior to my death.

I do hereby ratify and confirm all acts whatsoever which my Agent shall do, or cause to be done, in or about the premises, by virtue of this power of attorney.

All parties dealing in good faith with my Agent may fully rely upon the power of and authority of my Agent to act for me on my behalf and in my name, and may accept and rely

on agreements and other instruments entered into or executed by the agent pursuant to this power of attorney.

This instrument shall not be effective as a grant of powers to my Agent until my Agent has executed the Acceptance of Appointment appearing at the end of this instrument. This instrument shall remain effective until revocation by me or my death, whichever occurs first.

If the agent named above is unable or unwilling to serve, I appoint my daughter, **CYNTHIA W. PLUM**, residing at 10 Waterman Avenue, Philadelphia, PA, 19118, to be my agent for all purposes hereunder.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 20th day of August, 2006.

KEITH S. WELLIN

WITNESSES:

Signature of Witness — Address [redacted]

Barbara Nystrom
Print Name — Address [redacted]

Signature of Witness — Address [redacted]

M. Louise Reed
Print Name — Address [redacted]

10018648.1

COUNTY OF Knox

STATE OF Maine

I, Kathleen Ann MacLeod, a Notary Public, do hereby certify that **KEITH S. WELLIN** personally appeared before me this date and acknowledged the due execution of the foregoing Power of Attorney.

Kathleen Ann MacLeod
Notary Public

10018648.1

ACCEPTANCE OF APPOINTMENT

I, **PETER J. WELLIN**, have read the foregoing Power of Attorney and am the person identified therein as Agent for **KEITH S. WELLIN**, the Principal named therein. I hereby acknowledge the following:

I owe a duty of loyalty and good faith to the Principal, and must use the powers granted to me only for the benefit of the Principal.

I must keep the Principal's funds and other assets separate and apart from my funds and other assets and titled in the name of the Principal. I must not transfer title to any of the Principal's funds or other assets into my name alone. My name must not be added to the title of any funds or other assets of the Principal, unless I am specifically designated as Agent for the Principal in the title.

I must protect, conserve, and exercise prudence and caution in my dealings with the Principal's funds and other assets.

I must keep a full and accurate record of my acts, receipts, and disbursements on behalf of the Principal, and be ready to account to the Principal for such acts, receipts, and disbursements at all times. I must provide an annual accounting to the Principal of my acts, receipts, and disbursements, and must furnish an accounting of such acts, receipts, and disbursements to the personal representative of the Principal's estate within 90 days after the date of death of the Principal.

I acknowledge my authority to act on behalf of the Principal ceases at the death of the Principal.

I hereby accept the foregoing appointment as Agent for the Principal with full knowledge of the responsibilities imposed on me, and I will faithfully carry out my duties to the best of my ability.

Dated: December 19, 2006

P. Wellin

PETER J. WELLIN

65 Waites Landing

(Address) Falmouth, ME 04105

STATE OF Maine
COUNTY OF Cumberland

I, Susan A. Bagley, a Notary Public, do hereby certify that **PETER J. WELLIN** personally appeared before me this date and acknowledge the due execution of the foregoing Acceptance of Appointment.

Susan A. Bagley
Notary Public

SUSAN A. BAGLEY
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES FEBRUARY 2, 20[illegible]

10018648.1

ACCEPTANCE OF SUBSTITUTE APPOINTMENT

I, **CYNTHIA W. PLUM**, have read the foregoing Power of Attorney and am the person identified therein as Alternate Agent for **KEITH S. WELLIN**, the Principal named therein. I hereby acknowledge the following:

I owe a duty of loyalty and good faith to the Principal, and must use the powers granted to me only for the benefit of the Principal.

I must keep the Principal's funds and other assets separate and apart from my funds and other assets and titled in the name of the Principal. I must not transfer title to any of the Principal's funds or other assets into my name alone. My name must not be added to the title of any funds or other assets of the Principal, unless I am specifically designated as Agent for the Principal in the title.

I must protect, conserve, and exercise prudence and caution in my dealings with the Principal's funds and other assets.

I must keep a full and accurate record of my acts, receipts, and disbursements on behalf of the Principal, and be ready to account to the Principal for such acts, receipts, and disbursements at all times. I must provide an annual accounting to the Principal of my acts, receipts, and disbursements, and must furnish an accounting of such acts, receipts, and disbursements to the personal representative of the Principal's estate within 90 days after the date of death of the Principal.

I acknowledge my authority to act on behalf of the Principal ceases at the death of the Principal.

I hereby accept the foregoing appointment as Alternate Agent for the Principal with full knowledge of the responsibilities imposed on me, and I will faithfully carry out my duties to the best of my ability.

Dated: 12/14, 2006

Cynthia W. Plum
CYNTHIA W. PLUM

10 Waterview Ave, Ithaca PA 19118
(Address)

STATE OF Pennsylvania
COUNTY OF Philadelphia

I, Alexandra S. Jones, a Notary Public, do hereby certify that **CYNTHIA W. PLUM** personally appeared before me this date and acknowledge the due execution of the foregoing Acceptance of Appointment.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Alexandra S. Jones, Notary Public
City Of Philadelphia, Philadelphia County
My Commission Expires Sept. 18, 2008
Member, Pennsylvania Association Of Notaries

Alexandra S. Jones
Notary Public

10018648.1

MAINE GENERAL DURABLE POWER OF ATTORNEY

THE POWERS YOU GRANT BELOW ARE EFFECTIVE EVEN IF YOU BECOME DISABLED OR INCOMPETENT

Notice to the Principal: As the "Principal," you are using this Durable Power of Attorney to grant power to another person (called the "Agent" or "Attorney-in-fact") to make decisions about your money, property or both and to use your money, property or both on your behalf. If this written Durable Power of Attorney does not limit the powers that you give your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property and spend your money without advance notice to you or approval by you. Under this document, your Agent will continue to have these powers after you become incapacitated, and you may also choose to authorize your Agent to use these powers before you become incapacitated. The powers that you give your Agent are explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and in Maine case law. You have the right to revoke or take back this Durable Power of Attorney at any time as long as you are of sound mind. If there is anything about this Durable Power of Attorney that you do not understand, you should ask a lawyer to explain it to you.

Notice to the Agent: As the "Agent" or "Attorney-in-fact," you are given power under this Durable Power of Attorney to make decisions about the money, property or both belonging to the Principal and to spend the Principal's money, property or both on that person's behalf in accordance with the terms of this Durable Power of Attorney. This Durable Power of Attorney is valid only if the Principal is of sound mind when the Principal signs it. As the Agent, you are under a duty (called a "fiduciary duty") to observe the standards observed by a prudent person dealing with the property of another. The duty is explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and Title 18-B, sections 802 to 807 and chapter 9 and in Maine case law. As the Agent, you are not entitled to use the money or property for your own benefit or to make gifts to yourself or others unless the Durable Power of Attorney specifically gives you the authority to do so. As the Agent, your authority under this Durable Power of Attorney will end when the Principal dies and you will not have the authority to administer the estate unless you are authorized to do so in accordance with the Probate Code. If you violate your fiduciary duty under this Durable Power of Attorney, you may be liable for damages and may be subject to criminal prosecution. If there is anything about this Durable Power of Attorney or your duties under it that you do not understand, you should ask a lawyer to explain it to you.

I, **KEITH S. WELLIN,** residing at 161 Coquille Way, Vero Beach, Florida 32963-3468, appoint my son, **PETER J. WELLIN**, residing at 65 Waits Landing, Falmouth, Maine 04105 as my Agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (P) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

Note: If you initial Item A or Item B, which follow, a notarized signature will be required on behalf of the Principal.

INITIAL

_____ **(A) Real property transactions.** To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any interest in real property whatsoever, on such terms and conditions, and under such covenants, as my Agent shall deem proper; and to maintain, repair, tear down, alter, rebuild, improve manage, insure, move, rent, lease, sell, convey, subject to liens, mortgages, and security deeds, and in any way or manner deal with all or any part of any interest in real property whatsoever, including specifically, but without limitation, real property lying and being situated in the State of Maine, under such terms and conditions, and under such covenants, as my Agent shall deem proper and may for all deferred payments accept purchase money notes payable to me and secured by mortgages or deeds to secure debt, and may from time to time collect and cancel any of said notes, mortgages, security interests, or deeds to secure debt.

_____ **(B) Tangible personal property transactions.** To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any personal property whatsoever, tangible or intangible, or interest thereto, on such terms and conditions, and under such covenants, as my Agent shall deem proper; and to maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens or mortgages, or to take any other security interests in said property which are recognized under the Uniform Commercial Code as adopted at that time under the laws of the State of Maine or any applicable state, or otherwise hypothecate (pledge), and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I own at the time of execution or may thereafter acquire, under such terms and conditions, and under such covenants, as my Agent shall deem proper.

_____ **(C) Stock and bond transactions.** To purchase, sell, exchange, surrender, assign, redeem, vote at any meeting, or otherwise transfer any and all shares of stock, bonds, or other securities in any business, association, corporation, partnership, or other legal entity, whether private or public, now or hereafter belonging to me.

_____ **(D) Commodity and option transactions.** To buy, sell, exchange, assign, convey, settle and exercise commodities futures contracts and call and put options on stocks and stock indices traded on a regulated options exchange and collect and receipt for all proceeds of any such transactions; establish or continue option accounts for the principal with any securities or futures broker; and, in general, exercise all powers with respect to commodities and options which the principal could if present and under no disability.

_____ **(E) Banking and other financial institution transactions.** To make, receive, sign, endorse, execute, acknowledge, deliver and possess checks, drafts, bills of exchange, letters of

credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of banks, savings and loans, credit unions, or other institutions or associations. To pay all sums of money, at any time or times, that may hereafter be owing by me upon any account, bill of exchange, check, draft, purchase, contract, note, or trade acceptance made, executed, endorsed, accepted, and delivered by me or for me in my name, by my Agent. To borrow from time to time such sums of money as my Agent may deem proper and execute promissory notes, security deeds or agreements, financing statements, or other security instruments in such form as the lender may request and renew said notes and security instruments from time to time in whole or in part. To have free access at any time or times to any safe deposit box or vault to which I might have access.

_____ **(F) Business operating transactions.** To conduct, engage in, and otherwise transact the affairs of any and all lawful business ventures of whatever nature or kind that I may now or hereafter be involved in. To organize or continue and conduct any business which term includes, without limitation, any farming, manufacturing, service, mining, retailing or other type of business operation in any form, whether as a proprietorship, joint venture, partnership, corporation, trust or other legal entity; operate, buy, sell, expand, contract, terminate or liquidate any business; direct, control, supervise, manage or participate in the operation of any business and engage, compensate and discharge business managers, employees, agents, attorneys, accountants and consultants; and, in general, exercise all powers with respect to business interests and operations which the principal could if present and under no disability.

_____ **(G) Insurance and annuity transactions.** To exercise or perform any act, power, duty, right, or obligation, in regard to any contract of life, accident, health, disability, liability, or other type of insurance or any combination of insurance; and to procure new or additional contracts of insurance for me and to designate the beneficiary of same; provided, however, that my Agent cannot designate himself or herself as beneficiary of any such insurance contracts.

_____ **(H) Estate, trust, and other beneficiary transactions.** To accept, receipt for, exercise, release, reject, renounce, assign, disclaim, demand, sue for, claim and recover any legacy, bequest, devise, gift or other property interest or payment due or payable to or for the principal; assert any interest in and exercise any power over any trust, estate or property subject to fiduciary control; establish a revocable trust solely for the benefit of the principal that terminates at the death of the principal and is then distributable to the legal representative of the estate of the principal; and, in general, exercise all powers with respect to estates and trusts which the principal could exercise if present and under no disability; provided, however, that the Agent may not make or change a will and may not revoke or amend a trust revocable or amendable by the principal or require the trustee of any trust for the benefit of the principal to pay income or principal to the Agent unless specific authority to that end is given.

_____ **(I) Claims and litigation.** To commence, prosecute, discontinue, or defend all actions or other legal proceedings touching my property, real or personal, or any part thereof, or touching any matter in which I or my property, real or personal, may be in any way concerned. To defend, settle, adjust, make allowances, compound, submit to arbitration, and compromise all accounts, reckonings, claims, and demands whatsoever that now are, or hereafter shall be, pending between me and any person, firm, corporation, or other legal entity, in such manner and in all respects as my Agent shall deem proper.

_____ **(J) Personal and family maintenance.** To hire accountants, attorneys at law, consultants, clerks, physicians, nurses, agents, servants, workmen, and others and to remove them, and to appoint others in their place, and to pay and allow the persons so employed such salaries, wages, or other remunerations, as my Agent shall deem proper.

_____ **(K) Benefits from Social Security, Medicare, Medicaid, or other governmental programs, or military service.** To prepare, sign and file any claim or application for Social Security, unemployment or military service benefits; sue for, settle or abandon any claims to any benefit or assistance under any federal, state, local or foreign statute or regulation; control, deposit to any account, collect, receipt for, and take title to and hold all benefits under any Social Security, unemployment, military service or other state, federal, local or foreign statute or regulation; and, in general, exercise all powers with respect to Social Security, unemployment, military service, and governmental benefits, including but not limited to Medicare and Medicaid, which the principal could exercise if present and under no disability.

_____ **(L) Retirement plan transactions.** To contribute to, withdraw from and deposit funds in any type of retirement plan (which term includes, without limitation, any tax qualified or nonqualified pension, profit sharing, stock bonus, employee savings and other retirement plan, individual retirement account, deferred compensation plan and any other type of employee benefit plan); select and change payment options for the principal under any retirement plan; make rollover contributions from any retirement plan to other retirement plans or individual retirement accounts; exercise all investment powers available under any type of self-directed retirement plan; and, in general, exercise all powers with respect to retirement plans and retirement plan account balances which the principal could if present and under no disability.

_____ **(M) Tax matters.** To prepare, to make elections, to execute and to file all tax, social security, unemployment insurance, and informational returns required by the laws of the United States, or of any state or subdivision thereof, or of any foreign government; to prepare, to execute, and to file all other papers and instruments which the Agent shall think to be desirable or necessary for safeguarding of me against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation; and to pay, to compromise, or to contest or to apply for refunds in connection with any taxes or assessments for which I am or may be liable.

_____ **(N) Gifts.** Authority to make gifts, outright or in trust, to my spouse, children and more remote descendants (including my attorney-in-fact) not to exceed in the aggregate the amount of the maximum annual exclusion from federal gift tax (currently $12,000 per year donee) to each of such persons in any calendar year.

_____ **(O) Health care release.** To consent and direct that my health care providers, health plan sponsors, insurers and others disclose to my attorney-in-fact, or to each person or organization that shall be designated by my attorney-in-fact, any and all "health information" as that term is defined in the Health Insurance Portability and Accountability Act and its implementing regulations (HIPAA) relating to me, including, but not limited to, financial, claim membership and benefit information and physician, hospital and case management records, including information which may be protected under HIPAA and state law, in order to enable my attorney-in-fact to fulfill his or her duties under this Power of Attorney.

KW (P) **ALL OF THE POWERS LISTED ABOVE.** YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (P).

THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

THIS POWER OF ATTORNEY SHALL BE CONSTRUED AS A GENERAL DURABLE POWER OF ATTORNEY AND SHALL CONTINUE TO BE EFFECTIVE EVEN IF I BECOME DISABLED, INCAPACITATED, OR INCOMPETENT.

(YOUR AGENT WILL HAVE AUTHORITY TO EMPLOY OTHER PERSONS AS NECESSARY TO ENABLE THE AGENT TO PROPERLY EXERCISE THE POWERS GRANTED IN THIS FORM, BUT YOUR AGENT WILL HAVE TO MAKE ALL DISCRETIONARY DECISIONS. IF YOU WANT TO GIVE YOUR AGENT THE RIGHT TO DELEGATE DISCRETIONARY DECISION-MAKING POWERS TO OTHERS, YOU SHOULD KEEP THE NEXT SENTENCE, OTHERWISE IT SHOULD BE STRICKEN.)

Authority to Delegate. My Agent shall have the right by written instrument to delegate any or all of the foregoing powers involving discretionary decision-making to any person or persons whom my Agent may select, but such delegation may be amended or revoked by any agent (including any successor) named by me who is acting under this power of attorney at the time of reference.

Successor Agent. If any Agent named by me shall die, become incompetent, resign or refuse to accept the office of Agent, I name my daughter, **CYNTHIA W. PLUM**, residing at 10 Waterman Avenue, Philadelphia, Pennsylvania 19118, as successor to such Agent.

Choice of Law. THIS POWER OF ATTORNEY WILL BE GOVERNED BY THE LAWS OF THE STATE OF MAINE WITHOUT REGARD FOR CONFLICTS OF LAWS PRINCIPLES. IT WAS EXECUTED IN THE STATE OF MAINE AND IS INTENDED TO BE VALID IN ALL JURISDICTIONS OF THE UNITED STATES OF AMERICA AND ALL FOREIGN NATIONS.

I am fully informed as to all the contents of this form and understand the full import of this grant of powers to my Agent.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. **I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.**

Signed this 20th day of Sept., 2006

KEITH S. WELLIN

10019104.1

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF Maine
COUNTY OF Knox

This document was acknowledged before me on September 20 2006 by KEITH S. WELLIN.

[Notary Seal, if any]:

Kathleen A. MacLeod
(Signature of Notarial Officer)

Notary Public for the State of
Maine

My commission expires: July 15, 2011

ACKNOWLEDGMENT OF AGENT

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

P. Wellin

PETER J. WELLIN

Cynthia W. Plum

CYNTHIA W. PLUM

10019104.1

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF Maine
COUNTY OF Cumberland

This document was acknowledged before me on December 19, 2006 by **PETER J. WELLIN**.

[Notary Seal, if any]:

Susan A. Bagley
(Signature of Notarial Officer)

Notary Public for the State of SUSAN A. BAGLEY
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES FEBRUARY 2, 20 16

My commission expires: _____

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF Pennsylvania
COUNTY OF Philadelphia

This document was acknowledged before me on December 14, 2006 by **CYNTHIA W. PLUM**.

[Notary Seal, if any]:

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Alexandra S. Jones, Notary Public
City Of Philadelphia, Philadelphia County
My Commission Expires Sept. 18, 2008
Member, Pennsylvania Association Of Notaries

Alexandra S. Jones
(Signature of Notarial Officer)

Notary Public for the State of
Pennsylvania

My commission expires: 9/18/2008

10019104.1

WELLIN FAMILY

2009 IRREVOCABLE TRUST

I, KEITH S. WELLIN, of Vero Beach, Indian River County, Florida, as Grantor, hereby transfer to PETER J. WELLIN, of Portland, Cumberland County, Maine, MARJORIE W. KING, of Bainbridge Island, Kitsap County, Washington, CYNTHIA W. PLUM, of Philadelphia, Philadelphia County, Pennsylvania, and SOUTH DAKOTA TRUST COMPANY LLC, of Sioux Falls, Minnehaha County, South Dakota, as the Trustees (hereinafter collectively referred to as the "Trustee") of the "WELLIN FAMILY 2009 IRREVOCABLE TRUST," the property identified on the attached Schedule of Property, which property and all additions, investments, and accretions shall be administered pursuant to the following terms:

ARTICLE I

Irrevocable trust

I waive irrevocably all rights, power and authority to amend or revoke this instrument or any trust hereby evidenced.

ARTICLE II

A. **Additions.** I (and any other person with the Trustee's written consent) shall have the right at any time and from time to time, by deed, assignment or other conveyance executed during my lifetime, and/or by devise or bequest by Will, to contribute property acceptable to the Trustee to any trust created under this Agreement. After my death, any other person may, with the Trustee's written consent, at any time and from time to time, by deed, assignment or other conveyance and/or by devise or bequest by Will, contribute property

acceptable to the Trustee to any trust created under this Agreement. The addition to the trust of any such property may be indicated by attaching to this trust Agreement a schedule of property. Any additional contributions shall be held by the Trustee subject to the terms of this Agreement. The Trustee is exonerated from liability for acting in good faith in accepting any additions to the trust.

B. **Acceptance by Trustee.** The Trustee has agreed to accept said Trusteeship and all interest in property that may come to the Trustee by reason of this trust Agreement for the benefit and use of the beneficiaries, all in accordance with the provisions hereinafter set forth, and hereby acknowledges receipt of certain assets that are described on the receipt to be delivered by the Trustee to me, which receipt is attached to this Agreement as part of the attached schedule of property.

C. **Trust Estate.** All property that is from time to time held by the Trustee subject to the terms of this Agreement and contained in the attached schedule of property may be sometimes referred to herein as "the Trust Estate."

D. **Grantor Relinquishes All Rights In Assets of Trust Estate.** The Trustee is hereby vested with all right, title and interest in and to the property described in the attached schedule of property (and any property at any time added to this trust or purchased by the Trustee) and is authorized and empowered to exercise and enjoy for the purposes of the trusts herein created and as absolute owner of those assets, all the options, benefits, rights and privileges that attend such assets. I hereby absolutely and irrevocably relinquish and divest myself of all rights, powers and incidents of ownership in and to such property. Without limiting the generality of the foregoing provisions of this paragraph, notwithstanding any other provision of this trust Agreement or any instrument pursuant to which I transfer assets to this trust, I hereby

relinquish any right directly or indirectly (a) to manage such property; (b) to defer or accelerate the enjoyment of such property or the income from it; (c) to designate the persons who possess or enjoy such property and the income from it or to affect the beneficial interests in such property; (d) to vote shares of stock held as part of the Trust Estate; (e) to direct or control the trust's investments or otherwise control actions of the Trustee; or (f) to hold any power of appointment with respect to such property.

E. **Covenant of Grantor to Provide Further Instruments.** I covenant and agree to make, execute and deliver to the Trustee such other and further assignments, covenants or instruments as the Trustee may deem necessary or appropriate to effectuate the purposes of this Agreement (including without limitation, the relinquishment of all rights in the property of the Trust Estate as set forth in paragraph D).

F. **Reliance.** The Trustee may rely on, without liability, (a) the accuracy of an item reported on a tax return, (b) a copy of a tax return provided by the taxpayer filing the return or the tax return preparer, (c) the representation of another fiduciary or family tax advisor who filed or prepared a tax return as to the amount of any item reported on that return or, (d) the representation by the family whether or not a gift or generation skipping tax form has ever been filed as well as how much of the respective exemptions have been utilized.

ARTICLE III

Governing Law

Unless changed by the Trustee, the situs of this trust is the State of South Dakota and its laws shall govern the interpretation and validity of the provisions of this instrument and all questions related to the management, administration and investment of the trusts hereby created. The situs of any trust created hereunder may be maintained in any jurisdiction

(including outside the United States), as the Trustee, in the exercise of sole and absolute discretion, may determine, and thereafter transferred at any time or times to any jurisdiction selected by the Trustee. Upon any such transfer of situs, the Trust Estate may thereafter, at the election of the Trustee, be administered exclusively under the laws of and subject, as required, to the exclusive supervision of the courts of the jurisdiction to which it has been transferred. Accordingly, if the Trustee of any trust created hereunder elects to change the situs of any such trust, the Trustee of said trust is hereby relieved of any requirement of having to qualify in any other jurisdiction and of any requirement of having to account in any court of such other jurisdiction.

ARTICLE IV

Administration of Trust Estate

Commencing on the date of this Agreement and until termination (as defined later in this Article), the Trustee shall hold, manage, invest and reinvest the Trust Estate, and shall collect the income thereof and, shall dispose of the net income and principal as follows:

A. I direct the Trustee to divide the trust property into two parts, one to be known and designated as the "Exempt Trust" and the second to be known and designated as the "Non-Exempt Trust."

1. The Exempt Trust shall consist of a fractional amount of all of the property transferred to the trust by me or any other transferor at a particular time. The denominator shall be an amount equal to the value of all of the property transferred to the trust by me or any other transferor at such time, and the numerator shall be equal to the generation skipping tax federal exemption remaining on the date of such transfer, after taking into

consideration all prior and contemporaneous allocations of such exemption by me or by any other transferor.

The Trustee of the Exempt Trust may refuse to accept any property allocated, transferred, devised or bequeathed to the Exempt Trust if the Trustee, in its discretion, believes that the acceptance of such property would cause the Exempt Trust to have an inclusion ratio, as defined in Internal Revenue Code Section 2642(a), greater than zero.

2. The Non-Exempt Trust shall consist of the remainder of the trust property not allocated to the Exempt Trust, and property that the Trustee refuses to accept as provided for in paragraph 1, above, if any.

B. With regard to the Exempt Trust, I direct the Trustee to hold and administer the property of the Exempt Trust as follows:

1. I currently have three (3) children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM (each hereinafter referred to as the "beneficiary"). I direct the Trustee at the time of the making of the first discretionary distribution as provided for below to divide the trust property into as many equal shares as shall be necessary to provide one such equal share as a separate trust with respect to each beneficiary who is then living and one such equal share for the lineal descendants (collectively) who are then living of each beneficiary who is not then living but of whom there are lineal descendants then living. After making such division the Trustee shall hold, manage, and invest each share as a separate trust for each beneficiary and his or her lineal descendants, or the lineal descendants of a predeceased beneficiary, as the case may be, and shall administer each such share as follows:

a. The Trustee shall first pay to the beneficiary, or his or her lineal descendants, such amounts from the trust income as the Trustee in its sole and absolute

discretion shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study), or any other reasonable purpose. Such payments of income, if any, shall be made according to their respective needs and without regard to equality of distribution. The Trustee's decision as to whether any such income shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust. Any remaining income shall be accumulated. The Trustee may add such accumulated income to the principal from time to time in its discretion.

b. In addition to the payments of income, as provided above, I authorize the Trustee to pay to the beneficiary, or to his or her lineal descendants, so much of the trust principal as the Trustee in its sole discretion shall deem necessary or advisable for their health, support, maintenance, or education (including a college education and professional or post-graduate study), or any other reasonable purpose. Such principal payments shall be made on the basis of need and without regard to equality of distribution. The Trustee's decision as to whether any such principal shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust.

c. Upon the last to die of the beneficiary and all of his or her lineal descendants, such trust shall terminate and the remaining assets of such trust shall be added equally to the principal of any other trusts then in existence under this paragraph B, to be held and administered pursuant to the terms thereof, but if there be none then as provided in Article V hereof, subject to the provisions of paragraph D, below.

C. With regard to the Non-Exempt Trust, I direct the Trustee to hold and administer the Non-Exempt Trust as follows:

1. I direct the Trustee at the time of the making of the first discretionary distribution as provided for below to divide the trust property into as many equal shares as shall be necessary to provide one such equal share as a separate trust with respect to each child of mine who is then living and one such equal share for the lineal descendants (collectively) who are then living of each child of mine who is not then living but of whom there are lineal descendants then living. After making such division the Trustee shall hold, manage, and invest each share as a separate trust for each such child (each hereinafter referred to as the "beneficiary") and his or her lineal descendants, or the lineal descendants of a predeceased beneficiary, as the case may be, and shall administer each such share as follows:

a. The Trustee shall first pay to the beneficiary, or his or her lineal descendants, such amounts from the trust income as the Trustee in its sole and absolute discretion shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study), or for any other reasonable purpose. Such payments of income, if any, shall be made according to their respective needs and without regard to equality of distribution. The Trustee's decision as to whether any such income shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust. Any remaining income shall be accumulated. The Trustee may add such accumulated income to the principal from time to time in its discretion.

b. In addition to the payments of income, as provided above, I authorize the Trustee to pay to the beneficiary, or to his or her lineal descendants, so much of the

trust principal as the Trustee in its sole discretion shall deem necessary or advisable for their health, support, maintenance, or education (including a college education and professional or post-graduate study), or for any other reasonable purpose. Such principal payments shall be made on the basis of need and without regard to equality of distribution. The Trustee's decision as to whether any such principal shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust.

c. Upon the last to die of the beneficiary and all of his or her lineal descendants, such trust shall terminate and the remaining assets of such trust shall be added equally to the principal of any other trusts then in existence under this paragraph C, to be held and administered pursuant to the terms thereof, but if there be none then as provided in Article V hereof, subject to the provisions of paragraph D, below.

D. Notwithstanding the foregoing, all trusts created under this Article IV shall continue and terminate on (the "termination date"): (i) the day the term of the trust ends as required by applicable law, or (ii) the death of the last to die of my lineal descendants, whichever shall first occur. On the termination date, the Trustee shall distribute the remaining trust principal as provided in Article V hereof.

ARTICLE V

Ultimate Disposition; Holdback Provisions

A. Upon termination of a trust at the end of its stated term under this instrument, the Trustee shall distribute any trust principal not otherwise effectively disposed of by the foregoing provisions of this instrument to the WELLIN FAMILY FOUNDATION, INC. incorporated on October 21, 2002, but if the WELLIN FAMILY FOUNDATION, INC. is no

longer in existence or does not qualify as an organization described in Sections 170(c), 2055(a) and 2522(a) of the Internal Revenue Code of 1986, then to HAMILTON COLLEGE of Clinton, New York, without restriction or condition of any kind, but if for any reason HAMILTON COLLEGE cannot accept this gift, then the Trustee shall distribute any trust principal not otherwise effectively disposed of to such one or more organizations selected by the Trustee, each of which is, at the time of payment, a charitable organization, and in such proportions among such organizations as the Trustee shall decide and the Trustee shall be exonerated from liability for acting in good faith.

B. Despite the preceding provisions of this instrument, upon the termination of any trust at the end of its stated term under this instrument the Trustee may elect to withhold any principal which is not effectively appointed and is otherwise required to be distributed to a beneficiary who has not reached the age of twenty-five (25) years or is disabled. The Trustee shall retain any principal so withheld in a separate trust named for that beneficiary, to be distributed to the beneficiary when he or she reaches the age of twenty-five (25) years, or if later, upon the termination of the disability. Until then, the Trustee shall apply as much of the net income and principal of the trust as the Trustee determines from time to time to be required for the health, education, maintenance and support of that beneficiary, adding any undistributed net income to principal from time to time, as the Trustee determines. If the beneficiary for whom the trust is named dies before complete distribution of the trust, the Trustee shall distribute the remaining principal of the trust to that beneficiary's estate.

ARTICLE VI

Trust Protector

A. The Trust Protector shall initially be THOMAS M. FARACE of Perinton, New York. The last Trust Protector still serving and still able and willing to serve has the authority to appoint additional successor Trust Protectors. The last of them still serving and still able and willing to serve has the authority to appoint additional successor Trust Protectors, and so forth, down through the generations. The Trust Protector may also appoint different successor Trust Protectors for different separate trusts, who in turn will have the authority to appoint successor Trust Protectors for those trusts and different successor Trust Protectors for additional different separate trusts, down through the generations. A successor Trust Protector shall not be me or any beneficiary of this trust or any subtrust of this trust, or any person who is related or subordinate to us within the meaning of Internal Revenue Code section 672(c). A successor Trust Protector may be any other person. The powers of the Trust Protector shall be exercised or not exercised in the sole and absolute discretion of the Trust Protector and shall be binding on all other persons. There shall always be a Trust Protector for each separate trust. If no successor Trust Protector is available to serve when the then serving Trust Protector dies, becomes incapacitated or resigns, I may appoint a successor Trust Protector other than myself or any beneficiary of this trust or any subtrust of this trust, or any person who is related or subordinate to us within the meaning of Internal Revenue Code section 672(c). If I am not living or do not have capacity and thus cannot act to appoint a successor Trust Protector, then my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, may appoint a new Trust Protector other than me or any beneficiary of this trust or any subtrust of this trust, or any person who is related or subordinate to us within the meaning of Internal Revenue Code section

672(c). This authority to appoint a new Trust Protector shall pass from PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. Each named designee shall have the right to pass this authority to appoint a new Trust Protector to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. The last acting designee shall have the right to pass this authority appoint a new Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above, and so forth, down through the generations. If at any time there is no designee appointed or acting and thus there is a vacancy in this position to appoint a new Trust Protector, then the Distribution Committee shall have the right to pass this authority to appoint a new Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above.

1. The Trust Protector has the authority to remove the Trustee, and to appoint a different Trustee or additional Co-Trustees. The Trust Protector also has the authority to appoint successor Trustees. When appointing successor Trustees, preference shall be given to my lineal descendants. Notwithstanding the foregoing, the Trust Protector has no authority to remove a child of mine who is then acting as a Trustee nor to appoint me.

2. The Trust Protector has the authority to amend the trust to achieve favorable tax status, or to take account of changes in the Internal Revenue Code, state law, or the cases, rulings and regulations thereunder.

3. During my lifetime, the Trust Protector has the authority to amend the provisions of the trust with regard to how the beneficiaries will benefit from the trust, and to amend the trust administrative provisions. The Trust Protector has no authority, however to amend the trust with regard to the identities of the beneficiaries.

4. The Trust Protector has the authority to appoint Distribution Committee members and to remove Distribution Committee members. The Trust Protector has the authority to appoint Investment Committee members and to remove Investment Committee members.

5. Notwithstanding the foregoing, the Trust Protector has no authority to remove a child of mine who is then serving as a member of the Distribution Committee or the Investment Committee nor to appoint me to serve as a Distribution Committee member or an Investment Committee member.

6. The Trust Protector, in that capacity, shall have no duty to monitor any trust created hereunder in order to determine whether any of the powers and discretions conferred under this instrument should be exercised. Further, the Trust Protector, in that capacity, 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 instrument. Absent bad faith, fraud or willful misconduct, the Trust Protector, in that capacity, is hereby exonerated from any and all liability for the acts or omissions of any fiduciary or any beneficiary hereunder or arising from any

exercise or non-exercise by the Trust Protector of the powers and discretions conferred under this instrument.

7. The Trust Protector has the authority to use trust assets to hire legal counsel to advise and defend the Trust Protector in connection with any matter concerning the trust, subject to the Trust Protector's responsibility to repay those assets if the Trust Protector is found liable of bad faith, fraud or willful misconduct.

8. The Trust Protector acting from time to time, if any, on his or her own behalf and on behalf of all successor Trust Protectors, may at any time irrevocably release, renounce, suspend, or modify to a lesser extent any or all powers and discretions conferred under this instrument by a written instrument delivered to the Trustee.

9. I have the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to me within the meaning of Internal Revenue Code section 672(c). If due to death or disability I am unable to exercise this authority, I grant to my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with the successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to my children or me within the meaning of Internal Revenue Code section 672(c). This authority to remove and replace the Trust Protector shall pass from PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the

same fashion and in the same manner as provided above. Each named designee shall have the right to pass this authority to remove and replace the Trust Protector to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. The last acting designee shall have the right to pass this authority to remove and replace the Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above, and so forth, down through the generations. If at any time there is no designee appointed or acting and thus there is a vacancy in this position to remove and replace the Trust Protector, then the Distribution Committee shall have the right to pass this authority to remove and replace the Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above.

ARTICLE VII

Distribution Committee and Investment Committee

A. The following provisions shall apply to supersede or modify the general powers of the Trustee as set forth in other Articles of this instrument, where the context admits, during any period in which a Distribution Committee or an Investment Committee shall be acting.

B. I appoint my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, as the initial members of the Distribution Committee. Successor members shall be appointed as provided in paragraph C of this Article. If at any time there is no Distribution Committee acting hereunder, then the Trustee shall exercise all rights and powers of the Distribution Committee. The Distribution Committee shall make decisions by majority vote

of its members; provided, however, any member who is also a beneficiary hereunder shall be precluded from participating in decisions involving discretionary distributions to that member personally, except to the extent governed by and made pursuant to a standard under this instrument which constitutes an ascertainable standard within the meaning of Sections 2041 and 2514 of the Code, and no member may participate in decisions involving discretionary distributions to a beneficiary to whom such member holds a legal obligation of support. Where one member is not qualified to vote on a particular decision, then the decision shall be made by a majority of the other members. A member who does not vote or does not concur in any vote shall not be liable for any act or failure to act of the others.

1. The Distribution Committee shall direct the Trustee with regard to all discretionary distributions of trust property to beneficiaries hereunder, and the Trustee is required to follow the written directions of the Distribution Committee with respect thereto (provided, however, that the Distribution Committee shall not be authorized to direct the Trustee to make any distributions that would violate the provisions of this Agreement). The Trustee shall not be accountable for (i) any action taken pursuant to direction of the Distribution Committee or (ii) inaction of the Distribution Committee. The rights and powers conferred on the Distribution Committee shall be exercisable only in a fiduciary capacity. By accepting an appointment to serve or act hereunder such Distribution Committee members shall be deemed to have consented to submit to the jurisdiction of any courts in which jurisdiction and venue are proper to review the administration of the trust and to be made parties to any proceedings in such courts that place in issue the decisions or actions of such Distribution Committee.

2. Absent bad faith, fraud or willful misconduct, the Trustee is hereby exonerated from any and all liability for its acts or omissions that are directed by the Distribution Committee.

C. The current members of the Distribution Committee may appoint successor (other than me) Distribution Committee members to any of them. Should there not exist a Distribution Committee member, then the Trust Protector may appoint successor (other than me) Distribution Committee members. Should there not exist a Trust Protector, a successor or successors shall be appointed by instrument and delivered to the Trustee indicating the new Distribution Committee member or members by a majority in number of the beneficiaries of the trust age 18 or older. If a beneficiary lacks legal capacity, then a guardian (other than me) of such beneficiary shall make the determination. When appointing a successor, preference shall be given to my lineal descendants.

D. I appoint my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, as the initial members of the Investment Committee. Successor members shall be appointed as provided in paragraph E of this Article. If at any time there is no Investment Committee acting hereunder, then the Trustee shall exercise all rights and powers of the Investment Committee. The Investment Committee shall make decisions by majority vote of its members. Where one member is not qualified to vote on a particular decision, then the decision shall be made by a majority of the other members. A member who does not vote or does not concur in any vote shall not be liable for any act or failure to act of the others. Despite the general powers of the Trustee the following provisions shall apply, where the context admits, during any period in which the Investment Committee shall be acting:

1. The Trustee shall follow the written directions of the Investment Committee with respect to the retention, purchase, sale or encumbrance of trust property and the investment and reinvestment of principal and income held hereunder, the sole authority and discretion for which shall belong to the Investment Committee (provided, however, that the Investment Committee shall not be authorized to direct the Trustee to purchase any asset that would violate federal, state or local law, or the provisions of this Agreement), and accordingly the Trustee shall have no duty to review or monitor trust investments while the Investment Committee is acting. The Investment Committee shall have full authority to direct the Trustee to take any action with respect to the trust assets that the Trustee is authorized to take under Article X of this instrument. The Trustee shall be exonerated for acting in good faith in following any such direction.

2. The Trustee shall issue proxies to vote all securities held by the trust to or on the written order of the Investment Committee. The Trustee shall not thereafter be liable for the manner in which those securities are voted, for any direct or indirect result of the voting, or for any failure to vote those securities.

3. The Investment Committee, at any time and from time to time, shall have the power and authority (i) to select one or more investment advisers, managers or counselors (hereinafter "Investment Advisers"), including the Trustee or any of its affiliates, and to delegate to them any or all of its powers, whether discretionary or nondiscretionary, as set forth in this Article with respect to all or any portion of the trust assets; (ii) to negotiate the terms of, and execute management agreements with, such Investment Advisers; and (iii) to direct the Trustee to pay the compensation and costs of such Investment Advisers from the trust assets. It is understood and agreed that if the Trustee or any of its affiliates is appointed as an Investment

Adviser hereunder, fees in addition to the compensation the Trustee is entitled to receive while an Investment Committee is acting may be charged.

4. The Investment Committee, at any time and from time to time, shall have the power and authority to direct brokerage instructions for any security transactions executed with respect to the trust, provided that the broker selected is acceptable to the Trustee as a counter party. In connection therewith, the Investment Committee may (i) enter into such contracts, agreements or other arrangements as the Investment Committee deems appropriate with such brokers as it selects and (ii) direct the Trustee to pay the compensation and costs of brokers from the trust assets. I recognize that pursuant to such brokerage instructions as the Investment Committee may direct, the trust may pay more in commissions for the purchase or sale of a particular security than might have been obtained elsewhere. Neither the Trustee nor the Investment Committee shall have any liability for any such differences in brokerage commissions.

5. The Trustee shall not be accountable for any loss or depreciation in value sustained by reason of action (i) taken pursuant to direction of the Investment Committee or any Investment Adviser or (ii) not taken by reason of disapproval or inaction by the Investment Committee or any Investment Adviser pursuant to the preceding provisions of this Article. The foregoing sentence shall not be construed as placing any affirmative obligation on the Trustee to seek advice and directions from the Investment Committee or any Investment Adviser under any circumstances, it being my specific intention to relieve and exclude the Trustee of all responsibility for investment performance of the trust assets while the Investment Committee is acting. No person dealing with the Trustee shall be required or privileged to inquire whether there has been compliance with these provisions.

6. Despite the foregoing provisions of this Article if, in any case of emergency, it is impossible or impracticable for the Trustee, as determined solely by the Trustee, to obtain the direction of the Investment Committee with respect to trust investments by reasons of vacancies in such Investment Committee or the absence of members thereof, or an incapacity, disability or other condition preventing such members from acting, then all the rights, powers and discretion conferred upon the Investment Committee under this paragraph shall, until the passing of such emergency, vest in and may be exercised by the Trustee as fully and effectively as if such rights, powers and discretion had originally been conferred upon the Trustee solely. The Trustee shall incur no liability for actions taken in good faith pursuant to the powers granted by this paragraph 6.

7. The rights and powers herein conferred on the Investment Committee shall be exercisable only in a fiduciary capacity, and any Investment Adviser accepting the delegation of a discretionary function of the Investment Committee pursuant to subparagraph D. 3. of this Article also shall be considered to be acting in a fiduciary capacity. By accepting an appointment to serve or act hereunder such Investment Committee members and Investment Advisers shall be deemed to have consented to submit to the jurisdiction of any courts in which jurisdiction and venue are proper to review the administration of the trust and to be made parties to any proceedings in such courts that place in issue the decisions or actions of such Investment Committee or Investment Advisers, notwithstanding, with respect to an Investment Adviser, the terms of any investment management agreement or contract.

8. The Trustee shall have the entire care and/or custody of all of the assets comprising the trust and shall have sole responsibility for (i) making all payment of liabilities and administration expenses, and (ii) effecting all distributions pursuant to the

instruction of the Distribution Committee, whether of principal or of income, to the beneficiaries under this Agreement. The Trustee shall maintain full and accurate books of account and records of all financial transactions relative to the trust, which shall be available at all reasonable times for inspection by the Distribution Committee members, the Investment Committee members, the Trust Protector, each presently vested income, principal and remainder beneficiary of this trust, and their respective representatives; and me.

9. Absent bad faith, fraud or willful misconduct, the Trustee is hereby exonerated from any and all liability for its acts or omissions that are directed by the Distribution Committee and/or Investment Committee.

E. The current members of the Investment Committee may appoint successor (other than me) Investment Committee members to any of them. Should there not exist an Investment Committee member, then the Trust Protector may appoint successor (other than me) Investment Committee members. Should there not exist a Trust Protector, then a successor or successors shall be appointed by instrument and delivered to the Trustee indicating the new Investment Committee member or members by a majority in number of the beneficiaries of the trust age 18 or older. If a beneficiary lacks legal capacity, then a guardian (other than me) of such beneficiary shall make the determination. When appointing a successor, preference shall be given to my lineal descendants.

F. The Distribution Committee and the Investment Committee may be divided into three (3) separate committees by the majority vote of the then acting members of each Committee. In the event of such division, one (1) Distribution Committee and one (1) Investment Committee shall have all the duties and responsibilities for the trusts herein created for the benefit of my son, PETER J. WELLIN, and his lineal descendants, one (1) Distribution

Committee and one (1) Investment Committee shall have all the duties and responsibilities for the trusts herein created for the benefit of my daughter MARJORIE W. KING and her lineal descendants, and one (1) Distribution Committee and one (1) Investment Committee shall have all the duties and responsibilities for the trusts herein created for the benefit of my daughter CYNTHIA W. PLUM and her lineal descendants. Said Committees shall have the same authority and powers and be subject to the same administrative provisions as are herein set forth or provided for under the terms of this Agreement.

G. In the event that the members of either the Distribution Committee or the Investment Committee are unable to act so as to fulfill any of the Committee duties or responsibilities due to the inability to obtain the agreement of a majority of the Committee members, then the acting Trust Protector shall have the authority to break any tie decisions.

ARTICLE VIII

S Corporation Stock

Notwithstanding any provision of this Agreement to the contrary, in the event that any trust hereunder receives stock in an S corporation (as defined in Section 1361(a) of the Internal Revenue Code), the Trustee shall segregate said stock into a separate trust. Such separate trust shall be held, administered and distributed upon the same terms and conditions as the original trust except that said trust shall meet all of the requirements of either a "qualified subchapter S trust" (as set forth in Section 1361(d) of the Internal Revenue Code) or an "electing small business trust" (as set forth in Section 1361(c)(2)(A)(v) of the Internal Revenue Code), as the Trustee may determine to be in the best interests of the trust or its beneficiaries, or both; it being my express intention that any such trust shall be a permissible shareholder of an S corporation for federal income tax purposes. To effectuate the foregoing provisions of this Article, I hereby

grant to the Trustee the power, acting alone, to amend the provisions of this Agreement in any manner necessary for the sole purpose of ensuring that any such trust qualifies as a permissible shareholder of an S corporation. Further, I hereby grant to the Trustee the authority, acting alone, to file any elections necessary to qualify any such trust as a permissible shareholder of an S corporation on behalf of the trust and/or its beneficiaries. Moreover, if at any time after the execution of this Agreement, all or any portion of a trust established under this Agreement is funded with shares of stock or any other interest in a corporation, limited liability company, partnership (either general or limited), limited liability partnership, joint venture or any other business entity which wishes to become an S corporation for federal income tax purposes, I hereby grant to the Trustee the power, acting alone, to consent to any such S corporation election if the Trustee deems it to be in the best interests of the trust and/or its beneficiaries and, in connection therewith, to segregate said stock into a separate trust upon the same terms and conditions more particularly set forth in the foregoing provisions of this Article. To effectuate the provisions of the immediately preceding sentence, I hereby grant to the Trustee all of the powers and discretions otherwise set forth in this Article.

ARTICLE IX

Miscellaneous Provisions

A. **Power of Asset Substitution**. I hereby retain the power, exercisable during my lifetime, at any time and from time to time, without the consent of or approval by the Trustee, to reacquire the trust corpus or a portion thereof by substituting other property of an equivalent value.

B. **Contingent Power to Add Beneficiaries.** I grant to the corporate Trustee acting from time to time the power to add the spouse of a child of mine and the spouses of the

children of a child of mine to the class of discretionary income and principal beneficiaries of the trust during the lifetime of a child.

C. **Release of Powers.** I hereby retain the power to release the power described in paragraph A of this Article by delivering to the Trustee a written statement to that effect. This power may be exercised by my agent acting under a duly executed Power of Attorney or by my duly appointed guardian, in the event of my disability or incapacity. I authorize the Trustee acting at any point in time to give up the power described in paragraph B of this Article by delivering to the current income beneficiaries of the trust a written statement to that effect, which shall then permanently remove such power from such Trustee and all subsequent Trustees.

ARTICLE X

Trustee Provisions

A. During my lifetime or judicial determination of my incapacity, the Trustee shall not be required to inform any beneficiary who is not entitled to a mandatory distribution of income or principal from the trust on an annual or more frequent basis of the trust or the court in which the trust is registered and the Trustee's name and address. In addition, during the shorter of my lifetime or judicial determination of my incapacity, the Trustee shall not be required to provide any beneficiary who is not entitled to a mandatory distribution of income or principal from the trust on an annual or more frequent basis with a copy of the terms of the trust and shall not be required to provide a statement of accounts of the trust. The Trustee and the Trustee's officers, agents, and employees, if any, shall be indemnified out of and held harmless by the Trust Estate from any and all liability to any beneficiary for any loss of any kind that may result

by reason of any action or non-action taken by the Trustee and the Trustee's officers, agents, and employees in accordance with the directions in this subdivision.

B. Any Trustee may resign at any time by giving prior written notice to the Trust Protector or if none a majority of the adult competent income beneficiaries, and if a successor Trustee is not appointed within 30 days after the Trustee's resignation, the resigning Trustee may deposit the trust property with the court having jurisdiction over the administration of the trust. All trusts created under this instrument need not have or continue to have the same Trustee. The provisions of this instrument that relate to the Trustee shall be separately applicable to each trust held hereunder. While two or more Trustees are acting, the following provisions shall apply where the context admits:

1. The corporate Trustee, if any, shall have the entire care and/or custody of the trust property and of the books and records of the Trustees;

2. With respect to any matter as to which two or more Trustees have joint authority, a Trustee, by written notice, may temporarily delegate any or all of that Trustee's rights, powers, duties, and discretion as Trustee to any other Trustee sharing that authority, with the consent of the latter and the non-responsible Trustee will be exonerated for the acts or failure to act of the responsible Trustee;

3. The Trustees may establish bank and brokerage accounts and may authorize that checks or drafts may be drawn on, or withdrawal made from, any such account on the individual signature of any Trustee;

4. Any Trustee alone may perform on behalf of the Trustees all acts necessary for the acquisition, sale and transfer of personal and real property, including the giving of directions and the signing and endorsing of checks and other negotiable instruments, stock and

bond certificates and powers, deeds of real estate and related transfer documents, applications, tax forms and other forms or documents; and no person dealing with the Trustees need inquire into the propriety of any such act if such Trustee certifies in writing to that person that the Trustees have approved that act; and

5. The Trustees may execute documents by jointly signing one document or separately signing concurrent counterpart documents.

C. In the event of a difference of opinion between my individual and corporate Trustees, the decision of my individual Trustee shall be binding, but there shall be no responsibility on my corporate Trustee for the action taken pursuant to any such decision.

D. Unless specifically provided otherwise, at any time when more than one Trustee is acting, the action or decision of a majority in number shall control; and a Trustee who does not vote or does not concur in any vote shall not be liable for any act or failure to act of the others.

E. If any individual entitled to act under the preceding provisions of this Article is then disabled and such disability does not otherwise disqualify the individual from acting, the lawful guardian of that individual may sign the instrument of appointment or approval on his or her behalf.

F. If any corporate Trustee designated to act or at any time acting hereunder is merged with or transfers substantially all of its assets to another corporation, or is in any other manner reorganized or reincorporated, the resulting or transferee corporation shall become Trustee in place of its predecessor.

G. Any person designated to act in a fiduciary capacity may release or renounce any or all powers granted hereunder at any time by written instrument filed with the

trust records, and, if so specified, that release or renunciation shall bind all successors acting in that fiduciary capacity. Except as otherwise provided in the preceding sentence, the incumbent Trustee shall have all of the title, powers, and discretion granted to the original Trustee, without court order or act of transfer. No successor Trustee shall be personally liable for any act or failure to act of a predecessor Trustee.

ARTICLE XI

GST Provisions

A. **Perpetuity Clauses.** The "termination date" shall be whichever of the following events occurs first, (i) the day the term of the trust ends as required by applicable law, or (ii) the death of the last to die of my lineal descendants. On the termination date, the Trustee shall distribute the remaining trust principal as provided in Article V hereof.

B. **GST Administrative Provisions.** Notwithstanding any other provision of this instrument:

1. If a trust created under this instrument (the "original trust") would otherwise be partially exempt from federal generation-skipping tax after the intended allocation of a GST exemption to it, then, before such intended allocation and as of the relevant valuation date under Section 2642 of the Code with respect to such allocation, the Trustee may (but need not) create instead two separate trusts of equal or unequal value which shall be funded fractionally out of the available property, and which shall be identical in all other respects to the original trust, so that the allocation of GST exemption can be made to one trust which will be entirely exempt from federal generation-skipping tax. The two trusts created under this subparagraph (i) shall have the same name as the original trust except that the trust to which the GST exemption is allocated shall have the phrase "GST exempt" added to its name, and (ii) are

sometimes referred to herein as "related." As used in this instrument, the "GST exemption" means the exemption from federal generation-skipping tax allowed under Section 2631 of the Code.

2. If property which is held in, or is to be added or allocated to, a trust pursuant to this instrument is subject to different treatment for any reason for purposes of the federal generation-skipping tax than other property being added or allocated to, or also held in, that trust, then the Trustee may (but need not) hold such property instead as a separate trust that is appropriately designated to distinguish it from the trust to which the property otherwise would have been allocated, but that is identical in all other respects to that trust. The identical trusts resulting from application of this subparagraph are also sometimes referred to herein as "related."

3. It is my intent that the Trustee shall not be required to create or administer a trust hereunder that is only partially exempt from federal generation-skipping tax, or to commingle property subject to different treatment for federal generation-skipping tax purposes whether because the transferors with respect to the property are assigned to different generations or otherwise. The provisions of paragraph B are intended to enable the Trustee to avoid such situations by empowering the Trustee to segregate trust property (i) that is entirely exempt from federal generation-skipping tax from trust property that is not exempt, or (ii) that is otherwise treated differently from other trust property for purposes of the federal generation-skipping tax, and the provisions of this paragraph B should be applied in a manner consistent with this intention.

C. To the extent it is consistent with the Trustee's fiduciary obligations, the Trustee, in making discretionary distributions of net income and principal from the related trusts

referred to earlier in this Article, shall take advantage of the opportunities provided by the creation of such related trusts to avoid or delay federal generation-skipping tax when making discretionary distributions, to pursue different investment strategies for those trusts, if appropriate, and to maximize the amount of trust property that eventually may be distributed to my grandchildren or more remote descendants without transfer tax of any kind at the termination of all trusts created under this instrument.

D. The Trustee may at any time merge and consolidate any related trusts under this instrument and thereafter administer them as a single trust hereunder, if the Trustee determines that maintaining the trusts as separate entities will not serve to minimize federal generation-skipping taxes.

E. If any portion of a trust named for a beneficiary hereunder, in the absence of any testamentary power of appointment granted under this instrument to that beneficiary, would immediately incur a federal generation-skipping tax upon the beneficiary's death as a result of a taxable termination, then in addition to any other power of appointment granted to that beneficiary under this instrument, the beneficiary may appoint that portion to the creditors of his or her estate. To the extent that the foregoing general power of appointment is in existence on the beneficiary's death, then unless the beneficiary directs otherwise by Will, the Trustee shall pay to the personal representative of the beneficiary's estate, from the portion of the trust to which the power pertains, the amount, if any, by which the estate and inheritance taxes payable in any jurisdiction by reason of the beneficiary's death shall be increased as a result of the inclusion of that portion in the beneficiary's estate for such tax purposes, as certified in writing by that personal representative.

F. No Trustee who is also a beneficiary hereunder shall participate in exercising discretion under this Article to create separate trusts, to merge and consolidate trusts, or to allocate GST exempt and non-exempt property among trusts, and if no Trustee who would qualify to exercise those discretions is then acting, then the Trust Protector shall appoint an individual or corporation who is not such a beneficiary as a special Trustee, whose authority shall be limited to exercising those discretions.

ARTICLE XII

Financial Powers

A. The Trustee shall have the power and authority to do any act or thing necessary or advisable for the proper administration and distribution of each trust created by this Agreement. I grant to the Trustee as to all properties and without the necessity of approval of any court or person, full power and authority during the terms of the trusts and for the purposes of division and distribution after their termination in the Trustee's continuing sole discretion the powers granted to such Trustee by the South Dakota Trust Powers Act.

B. In addition to all powers granted by law, the Trustee shall have the following powers with respect to each trust held under this instrument, exercisable in the discretion of the Trustee:

1. To retain for any period, without liability for loss or depreciation in value, any property transferred to the Trustee, including partnership interests of any kind, even though the Trustee could not properly purchase the property as a trust investment and though its retention might violate principles of investment diversification;

2. To sell at public or private sale, wholly or partly for cash or on credit, contract to sell, grant or exercise options to buy, convey, transfer, exchange, or lease (for

a term within or extending beyond the term of the trust) any trust property, and to partition, dedicate, grant easements in or over, subdivide, improve, and remodel, repair, or raise improvements on any real property of the trust, and in general to deal otherwise with the trust property in such manner, for such prices, and on such terms and conditions as any individual might do as outright owner of the property;

3. To borrow money at interest rates then prevailing from any individual, bank, or other source, whether or not the lender is then acting as a Trustee, and to create security interests in the trust property;

4. To make loans, secured or unsecured, for adequate consideration to such individuals upon such terms and conditions as the Trustee, in its discretion, shall determine;

5. To invest in interest bearing deposit accounts, bonds, common or preferred stocks, notes, real estate mortgages, common trust funds, shares of regulated investment companies, real estate (including residential real estate to be occupied by one or more of the beneficiaries hereunder), registered mutual funds (including funds for which the Trustee, or an affiliate of the Trustee, provides investment advisory, custodial or other compensated services), interests in limited liability companies, partnership interests of any kind, currencies, or other securities or property, including partial interests therein, such as life estate, term or remainder interests, and to hold funds in non-interest bearing deposit accounts pending investment or disbursement thereof, in each case without being limited by any statute or rule of law governing trust investments; and any such deposit accounts may be held at any bank, including the Trustee or any bank affiliated with the Trustee;

6. To allocate, divide, and distribute trust property in cash or in kind, or partly in each, and to value any such property for those purposes; to allocate different kinds or

disproportionate shares of property or undivided interests in property among the beneficiaries or separate trusts, without liability for, or obligation to make compensating adjustments by reason of, disproportionate allocations of unrealized gain for federal income tax purposes; and, in funding any fractional shares created hereunder in kind, to allocate that property in entire or disproportionate shares, as the Trustee determines to be in the best interests of the beneficiaries, without compensating adjustments;

7. To make such elections and allocations under the tax laws permitted to be made by the Trustee as the Trustee considers advisable (whether or not the election or allocation relates to the trust property), without regard to, or adjustments between, principal and income or the relative interests of the beneficiaries;

8. To exercise in person or by general or limited proxy all voting and other rights, powers, and privileges and to take all steps to realize all benefits with respect to stocks or other securities; and to enter into or oppose, alone or with others, voting trusts, mergers, consolidations, foreclosures, liquidations, reorganizations, or other changes in the financial structure of any business entity;

9. To cause any trust property to be held, without disclosure of any fiduciary relationship, in the name of the Trustee, in the name of a nominee, or in unregistered form;

10. To pay all expenses incurred in the administration of the trust, including reasonable compensation to any Trustee for actual services rendered, and to employ or appoint and pay reasonable compensation to accountants, depositaries, investment counsel, attorneys, attorneys-in-fact, and agents (in each case with or without discretionary powers);

11. To deal with the fiduciary or fiduciaries of any other trust or estate, even though a Trustee is also a fiduciary of the other trust or estate;

12. To compromise or abandon any claim in favor of or against the trust;

13. To purchase assets from, make loans to, or otherwise deal without restriction with the representative of my estate or the Trustee of any trust created by me, and to retain any assets purchased for any period, without liability for loss or depreciation in value, and notwithstanding any risk, unproductivity, or lack of diversification; and the determination of the Trustee with respect to the desirability of any such purchase, loan or other transaction shall be conclusive on all persons, absent bad faith;

14. To commingle for investment purposes the trust property with the property of any other trust held hereunder, allocating to each trust an undivided interest in the commingled property;

15. To merge at any time all the trust property with the property of any other trust created by me during life or by Will, and held by the same Trustee for the benefit of the same beneficiaries and upon substantially the same terms and conditions as those set forth herein, and, at the Trustee's discretion, either administer the merged assets as a single trust hereunder or transfer the trust property to that other trust, to be administered under the instrument governing that other trust, and thereafter terminate the trust hereunder as a separate entity;

16. To receive additional property from me in any event (and, if the Trustee consents in writing, from any other person) by lifetime or testamentary transfer or

otherwise, except that no gift property over which withdrawal rights are to be granted shall be transferred to the trust, or accepted by the Trustee, in December of any year;

17. To execute instruments of any kind, including instruments containing covenants and warranties binding upon and creating a charge against the trust property and containing provisions excluding personal liability;

18. 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, including power:

a. To inspect and monitor any such property periodically, as it deems necessary, to determine compliance with any environmental law affecting such property;

b. 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 and to any potential contamination of trust property, whether or not required by law;

c. 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, to require as a prerequisite to accepting property as a trust asset that the donor warrant that such property has not been contaminated by any hazardous substance and is not and has not 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, and to refuse to accept such property as a trust asset until receiving from the donor an indemnification agreement in which the donor agrees to indemnify the Trustee against any claims filed against the Trustee as an "owner" or "operator" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as from time to time amended, or any regulation thereunder, or any other environmental law;

d. To settle or compromise at any time any claim against the trust related to any such matter asserted by any governmental body or private party;

e. 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 instrument, incorporated by reference herein, or granted or implied by any statute or rule of law;

f. 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 the trust because of the type or condition of trust assets;

g. To carry at the expense of the trust estate insurance of such kinds and in such amounts as the Trustee deems advisable to protect the trust assets and the Trustee against any claims filed against the trust or against the Trustee personally under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as from time to time amended, or any regulation thereunder, or any other environmental law;

h. To waive or forbear to sue on any default in the performance of any covenant or condition of or payment due under any mortgage, deed of trust, or lease or in the performance of any guarantee or to enforce any such default in such manner

and to such extent as the Trustee determines to be advisable; to exercise and enforce and to forbear to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies, including foreclosure, in respect of any mortgage, deed of trust, lease or guarantee held hereunder, and at any foreclosure to purchase the real property covered by any mortgage or deed of trust; and to retain any real property received on any foreclosure; and

i. To charge all expenses and costs incurred by the Trustee pursuant to the authority granted under this subparagraph against income or principal as the Trustee shall determine.

19. To perform all other acts necessary for the proper management, investment, and distribution of the trust property.

20. In addition to any other powers granted to the Trustee in this trust, the Trustee shall have the following additional powers with respect to real property:

a. to make ordinary or extraordinary repairs, alterations and improvements to any building or other structure, to demolish any buildings or other structures, to construct new buildings and structures, and to make any other improvements, all as the Trustee shall determine;

b. to insure against any casualty or loss whatever, including fire, explosion and hurricane; and

c. to subdivide and plot any real property, to lay out and dedicate streets, ways and public places, to square lines, make partition or enter into any agreement or partition of any real property, and to give or receive money or other property for partition under arrangement with adjoining or neighboring owners or otherwise.

In the event I transfer any real property to the Trustee, I hereby certify to the Trustee that (i) such real property does not and will not contain dangerous, toxic or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of any applicable statutes, regulations, rules, ordinances and similar requirements of any governmental authority, agency or unit relating to the environment or Hazardous Substances (as defined below) ("Legal Requirements") and including without limitation, urea-formaldehyde, polychlorinated biphenyls, materials containing or contaminated with polychlorinated biphenyls, asbestos, asbestos containing materials, radon gas, radioactive materials and petroleum, including without limitation, crude oil and fractions thereof ("Hazardous Substances") and (ii) such real property and all operations thereon are in material compliance with applicable Legal Requirements and do not give rise to any obligation to Remediate (as defined below) any Hazardous Substances on such property or elsewhere. If the real property does contain Hazardous Substances or if the real property or operations thereon are not in material compliance with applicable Legal Requirements or give rise to an obligation to Remediate Hazardous Substances, prior to any transfer to the Trustee, I shall, in accordance with all applicable Legal Requirements, with such assurances as shall be required by the Trustee, and at my sole cost and expense, remove, contain, remediate or abate ("Remediate") all Hazardous Substances to the extent required by all applicable Legal Requirements, and otherwise bring the real property and operations thereon into compliance with all applicable Legal Requirements.

If at any time after the real property has been transferred to the Trustee, any Hazardous Substances are required to be Remediated by any applicable Legal Requirements or to otherwise preserve the value of the real property, as the Trustee in its sole discretion shall determine, all costs and expenses, including any penalties, damages and attorneys' and

consultants fees ("Damages") resulting from the existence or alleged existence or exposure to Hazardous Substances, shall be charged against the Trust Estate. Notwithstanding the above, the Trustee need not remediate any Hazardous Substances which may tend to involve it in any expense or liability, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it by the security afforded to it by the terms of this Agreement.

The Trustee shall not have individual liability for any loss, depreciation in the value of any real property, or any Damages resulting from the actual or alleged presence or release of Hazardous Substances on or under such property, or generated by operations thereon. I (on behalf of myself, and after my death, my personal representatives) agree to defend, indemnify and hold harmless the Trustee from and against all such Damages or depreciation in value to the extent such cannot be satisfied by the assets of the trust estate.

The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith with respect to Hazardous Substances and shall not be liable for any error of judgment made in good faith unless it shall be proved the Trustee was grossly negligent beyond a reasonable doubt in ascertaining the pertinent facts. The Trustee may consult with counsel and the advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered hereunder in good faith in accordance with such advice or opinion.

21. To maintain, improve, operate, drill, mine, develop, utilize, lease, or sublease, alone or with others, coal, oil, gas, or other mineral property or interest therein, real or personal, in any jurisdiction within or without the United States, or any other property or interest therein relating directly or indirectly to the exploration, drilling, mining, developing, producing, processing, treatment, storage, transportation, or marketing of such coal, oil, gas, or

other mineral property, including all products and constituents thereof; and, in general, to deal with any such property in like manner and with the same full power, authority and discretion, alone or with others, as an individual owner would possess with respect to such property.

To exercise discretion with respect to allocations between income and principal by crediting to principal only that part (and crediting to income the balance) of amounts received as the result of the severance of natural resources from lands constituting a part of the trust principal and of other rents, royalties, and returns from property subject to depletion, such as leaseholds, patents, copyrights, and royalty rights, as may be equal to whichever is less, the deduction for amortization or depletion from time to time allowable for federal income tax purposes, or a reasonable provision for amortization or depletion, based upon such estimate of the probable productive or remaining life of the resources or other property as the Trustee considers reasonable, and upon the cost thereof to the Trustee, if purchased by the Trustee, or such other estimate of original cost or subsequent value as the Trustee from time to time considers reasonable, which discretion shall be exercised as the Trustee, in the Trustee's sole judgment, determines to be in the best interests of the beneficiaries.

22. To (a) become a limited or general partner in any partnership, (b) extend the term of any partnership and/or otherwise amend and/or modify any partnership agreement relating thereto and/or enter into new partnership agreements relating thereto, (c) contribute or invest all or any part of the principal of such trust to or in, and enter into such contracts in such forms and on such terms as it shall determine with, any business enterprise, including as a partner, sole proprietor or shareholder, (d) lend such funds or other property of such trust to any such business enterprise for such period (whether or not in excess of the period authorized by the law of any jurisdiction) and upon such other terms, including on credit, as it

shall determine, (e) continue the business of any business enterprise in the form in which it shall exist at the time the Trustee shall acquire the same or in any other form, including to incorporate any such business which shall not be carried on in corporate form, and as such partner, sole proprietor, shareholder or otherwise, join in, consent to and/or participate in (and/or dissent from and/or oppose) any decision, agreement (including any loan agreement and/or note and/or deed of trust or mortgage or guarantee relating thereto and/or extension or other modification thereof), merger, consolidation, reorganization or exchange which, in its discretion, it shall be necessary or desirable for the partners of any such partnership of which it shall be a partner or such sole proprietor or the shareholders of any corporation of which it shall be a shareholder to join in, consent to and/or participate in and, in general, in the administration of such partnership, proprietorship or corporation, to exercise all the powers it could exercise in the administration of such trust if the property owned by such partnership, proprietorship or corporation was held by it as such Trustee.

23. Other Business Interests.

a. To retain any business interest transferred to the Trustee from any source, including any other corporation or corporations succeeding to the business of that corporation by consolidation, merger, purchase of assets, or otherwise, as shareholder, security holder, creditor, partner or otherwise, for any period of time whatsoever, even though the interest may constitute all or a large portion of the trust principal and without regard to risk or productivity; to comply with the provisions of any agreement restricting transfer of the interest; to participate in the conduct of the related business or rely upon others to do so, and to take or delegate to others discretionary power to take any action with respect to its management and affairs which an individual could take as outright owner of the business or the business interest,

including the voting of stock (by separate trust or otherwise regardless of whether that separate trust will extend for a term within or beyond the term of the trust) and the determination of all questions of policy; to execute and amend partnership agreements; to participate in any incorporation, reorganization, merger, consolidation, sale of assets, recapitalization, liquidation, or dissolution of the business, or any change in its nature, or in any buy-sell, stock restriction, or stock redemption agreements; to invest in additional stock or securities of, or make secured, unsecured, or subordinated loans to, the business with trust funds; to elect or employ with compensation, as directors, officers, employees, or agents of the business, any persons, including a Trustee of any trust held under this instrument, or any director, officer, employee, or agent of a corporate Trustee of the trust or any other trust held under this instrument without adversely affecting the compensation to which that Trustee would otherwise be entitled; to rely upon reports of certified public accountants as to the operations and financial condition of the business, without independent investigation; to deal with and act for the business in any capacity, including in the case of a corporate Trustee any banking or trust capacity and the loaning of money out of the Trustee's own funds, and to be compensated therefore; and to sell or liquidate the business or any interest in the business.

b. Any family enterprise shall be deemed a suitable investment of trust property, even though such investment may not be marketable, may involve a high degree of investment risk, may never yield a dividend or other income, and may constitute a substantial portion or all of the trust property. Notwithstanding any rule of law with respect to the suitability of investments by a fiduciary or requirements of diversification of investments, the Trustee is expressly authorized to invest and reinvest trust funds in any family enterprise and to hold any family enterprise for any indefinite period and the Trustee shall be held harmless and

indemnified for any and all actions either taken or not taken in the exercise of its discretion under this sub-section.

c. To make or terminate elections with respect to S corporation stock and to make adjustments between income and principal to compensate for the effects of the consequences resulting from the ownership by the trust of S corporation stock, as the Trustee may deem just and equitable; except that if the trust holds S corporation stock, the Trustee shall not make adjustments which could have the effect of denying to any income beneficiary the net income of the trust to which the beneficiary must be entitled in order for the trust to qualify as a Qualified Subchapter S trust under Section 1361(d) of the Code; and during the term of any trust under this instrument, (i) if the Trustee sells any interest in a corporation or if the assets of any entity constituting a corporation in which the trust has an ownership interest are sold, and (ii) if that corporation has made an election to be taxed under Subchapter S of the Code, then Trustee, may, in its absolute and sole discretion, distribute to the income beneficiary such amounts of principal as shall be necessary to pay any income tax caused by such sale, if the income or gain attributable to such sale is taxed directly to the income beneficiary under applicable federal tax law.

d. To make purchases and sales, outright or financed, by way of short sales, puts, calls, straddles, and sales against the box, on margin or otherwise, covered or uncovered, whether of commodities, precious metals, financial instruments, contracts for future delivery, or other investment media, however speculative, and for the purpose of enabling the Trustee to exercise the powers granted under this subparagraph, to maintain and operate margin accounts, discretionary accounts, or any other type of brokerage accounts, and to pledge or

mortgage the trust property as security for loans or advances made to the Trustee in conjunction with any transactions permitted under this subparagraph.

C. The powers granted in this Article may be exercised even after termination of all trusts hereunder until actual distribution of all trust principal, but not beyond the period permitted by any applicable rule of law relating to perpetuities.

D. To the extent that such requirements can legally be waived, no Trustee hereunder shall ever be required to give bond or security as Trustee, or to qualify before, be appointed by, or account to any court, or to obtain the order or approval of any court respecting the exercise of any power or discretion granted in this instrument.

E. The Trustee's exercise or nonexercise of powers and discretions in good faith shall be conclusive on all persons. No person paying money or delivering property to any Trustee hereunder shall be required or privileged to see to its application. The certificate of the Trustee that the Trustee is acting in compliance with this instrument shall fully protect all persons dealing with the Trustee.

F. The corporate Trustee acting hereunder from time to time shall have the power, exercisable in its sole and absolute discretion without court order or approval, to retain an "affiliate" (as defined in this paragraph) to act as agent or broker in the purchase of life insurance policies, investment management, or to perform other services. Any affiliate so retained may accept its normal compensation for its services and neither the Trustee nor an affiliate shall be required to reduce or waive its compensation for its services because of the compensation received by the other. In no event shall the Trustee's retention of an affiliate be treated as a conflict of interest or similar prohibited act unless it is proved that the Trustee was clearly motivated by and acted in its own self-interest, knowing that such action was not in the interests

of the trust. For purposes of this paragraph, an "affiliate" means any individual, corporation, firm or partnership that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Trustee.

G. The Trustee, the Trust Protector, and members of both Investment and Distribution Committees, shall not be personally liable to any beneficiary or other party interested in the trust, or to any third parties, for any claim against the trust for the diminution in value of trust property resulting from matters involving hazardous substances, including any reporting of or response to (1) the contamination of trust property by hazardous substances, or (2) violations of any environmental laws related to the trust; provided that the Trustee shall not be excused from liability for its own negligence in administration of the trust property or wrongful or willful acts.

H. Notwithstanding any contrary provision of this instrument, the Trustee may withhold a distribution to a beneficiary from a trust hereunder until receiving from the beneficiary an indemnification agreement in which the beneficiary agrees to indemnify the Trustee against any claims filed against the Trustee as an "owner" or "operator" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as from time to time amended, or any regulation thereunder, or any other environmental law.

ARTICLE XIII

Administrative Powers and Rules

The provisions of this Article shall apply to each trust held under this instrument:

A. If a beneficiary eligible to receive income or principal distributions is disabled at the time of distribution, then the Trustee may, without further responsibility, either (i) make those distributions to the beneficiary directly, to a lawful guardian of the beneficiary, or to

a qualified individual or trust company designated by the Trustee as custodian for that beneficiary under an applicable Uniform Transfers to Minors Act or similar law, or (ii) expend that distributable property for the benefit of the beneficiary in such manner as the Trustee considers advisable. Determinations made by the Trustee under this paragraph in good faith shall be conclusive on all persons.

B. All net income accrued or undistributed at the termination of any interest shall be treated as if it had accrued or been received immediately after that termination.

C. In determining whether to make discretionary distributions of net income or principal to a beneficiary, the Trustee may consider such circumstances and factors as the Trustee believes are relevant, including the other income and assets known to the Trustee to be available to that beneficiary and the advisability of supplementing such income or assets, and shall be exonerated for acting in good faith. As used throughout this instrument:

1. The term "support" means support in reasonable comfort;

2. The term "education" includes, but is not limited to, the expenses of private schooling at the elementary and secondary school level, college, graduate and professional schools, and specialized or vocational training; and

3. The term "health" shall be construed liberally to include all forms of mental or physical health care, including, but not limited to, nursing home or other extended care.

D. Notwithstanding any other provision of this instrument, I hereby limit the general discretionary powers of the Trustee so that (i) no Trustee shall participate in any decision regarding a discretionary distribution to that Trustee personally, except to the extent governed by and made pursuant to a standard under this instrument which constitutes an ascertainable

standard within the meaning of Sections 2041 and 2514 of the Code, and (ii) no Trustee may use trust income or principal to discharge the legal obligation of the Trustee individually to support or educate a beneficiary hereunder.

E. To the fullest extent permitted by law, (i) no power of appointment or power of withdrawal shall be subject to involuntary exercise, and (ii) no interest of any beneficiary shall be subject to anticipation, to claims for alimony, maintenance, or support, to voluntary transfer without the written consent of the Trustee, or to involuntary transfer in any event.

F. The Trustee shall distribute any trust principal or net income as to which a power of appointment is exercised to the designated appointee or appointees (whether living at the time of exercise or thereafter born) upon such conditions and estates, in such manner (in trust or otherwise), with such powers, in such amounts or proportions, and at such time or times (but not beyond the period permitted by any applicable rule of law relating to perpetuities) as the holder of the power may specify in the instrument exercising the power. To be effective, the exercise of any power of appointment granted hereunder shall make specific reference to the provision creating the power. In determining whether a testamentary power of appointment has been exercised, the Trustee, without liability, may rely on a Will admitted to probate in any jurisdiction as the Will of the holder of the power or may assume the holder left no Will in the absence of actual knowledge of one within three months after the holder's death.

G. Notwithstanding any other provision of this instrument, the term of any trust hereunder shall cease as provided by applicable law, and the Trustee, subject to the holdback provisions of a previous Article of this instrument, shall then distribute the trust principal to the beneficiary for whom the trust is named.

H. The Trustee reserves the right to terminate any trust hereunder without necessity of court approval if the Trustee believes such trust to be too small to administer economically or practically. In the event of such termination the Trustee shall transfer the assets of such trust to those individuals under the trust entitled to net income from the trust at the time of such distribution and shall have no liability to any other beneficiary of such trust.

ARTICLE XIV

Life Insurance Provisions

A. I consider life insurance policies as proper investments of trust income and principal. In addition to the other powers granted to the Trustee, the Trustee at all times and in all events, and acting alone in the sole discretion of the Trustee, is specifically authorized, but not obligated, to receive or acquire, and to retain, any one or more policies of insurance, including policies on my life, the life of any other person, or the joint lives of any two or more persons, directly or indirectly in any arrangement deemed appropriate by the Trustee; to pay such premiums as are required or permitted to be paid thereby out of trust principal; to enter into split-dollar or premium sharing arrangements with any appropriate corporation or other entity; to split any policy into two or more policies; to convert any policy of term life insurance to whole life insurance; and to exercise any and all rights, powers, discretions, elections, options, privileges, and other incidents of ownership with respect to any such policy available to the Trustee as owner, including without limitation the rights to change the beneficiary, to borrow money for any purpose (from the issuing company, the banking department of any corporate Trustee acting hereunder, or others) using the policy as security, to select optional modes of settlement, to allow dividends to remain with the insurance company or to use them to reduce premiums or to purchase additional insurance, to allow cash values to be used to pay premiums, to surrender any

such policy for its cash value, to convert any such policy to a paid-up policy, or to settle or sell any insurance policy. The Trustee is hereby exonerated from any and all liability for the results of any exercise or non-exercise of any incident of ownership with respect to any such policies. On behalf of myself and my successors, heirs and assigns, I hereby indemnify and hold harmless the Trustee from and against any and all claims, liabilities, penalties and costs, including attorneys' fees, arising from any claim, demand, order or other action related in any way to investing in and retaining any such insurance policies and exercising or failing to exercise any incident of ownership therein. Notwithstanding any contrary provision of this instrument, the Trustee may also at any time require any beneficiary hereunder to indemnify and hold harmless the Trustee from and against any and all claims, liabilities, penalties and costs, including attorneys' fees, arising from any claim, demand, order, or other action related in any way to investing in and retaining any such insurance policies and exercising or failing to exercise any incident of ownership therein and the Trustee may withhold a distribution to or for the benefit of that beneficiary until receiving from that beneficiary such indemnification.

B. With respect to any life insurance policies payable to the Trustee hereunder (whether or not owned by the Trustee), I direct that:

1. The Trustee shall have no responsibility for payment of premiums or assessments on the policies, and the companies issuing them shall have no responsibility to see to the fulfillment of any trust hereunder or to the application of any proceeds;

2. The Trustee's receipt and release shall release and discharge any obligor for any payment made and shall bind every trust beneficiary hereunder; and

3. The Trustee shall have no duty to bring suit for payment of any of the policies or plan benefits, unless the Trustee holds funds out of which the Trustee may be indemnified against all expenses of suit, including legal fees.

ARTICLE XV

Spendthrift Provisions

No interest in the principal or income of any trust shall vest in any beneficiary and neither the principal nor the income shall be liable for the debts of any beneficiary nor subject to assignment or anticipation by the beneficiary, to garnishment, attachment, execution or bankruptcy proceedings, to claims for alimony or support or any other claims of any other creditor nor shall any beneficiary have the power to sell, assign, encumber or in any manner anticipate or dispose of any interest in the trust or the income prior to actual distribution to such beneficiary.

ARTICLE XVI

Interpretive Rules

For all purposes of this instrument:

A. In determining who is a descendant of mine or of any other person:

1. Legal adoption before the adopted person reached the age of twenty-one years, but not thereafter, shall be equivalent to blood relationship; and

2. A person born out of lawful wedlock and those claiming through that person shall be considered to be descendants of (i) the natural mother and her ancestors, and (ii) if the natural father acknowledges paternity, the natural father and his ancestors, in each case unless a decree of adoption terminates such natural parent's parental rights.

B. Whenever reference is made to the descendants, "per stirpes," of a person, representation shall be calculated from the generation of that person's children, whether or not a child of that person in fact is living at the time of calculation.

C. For purposes of this trust I and/or any beneficiaries shall be considered disabled, incapacitated or incompetent only if so declared by a court of competent jurisdiction or if so certified in writing by two licensed physicians familiar with me and/or the beneficiaries. The Trustee shall not be considered to be on notice of any such disability, incapacity or incompetency unless and until Trustee has received a copy of such court order or written certifications.

D. The term "Trustee" and any pronoun referring to that term designate the Trustee or Trustees at any time acting hereunder, regardless of number.

E. The term "lawful guardian" means successively in the order named, (i) the court-appointed conservator, (ii) either parent (other than me), or (iii) the individual having personal custody (whether or not court-appointed) where no conservator has been appointed.

F. The term "charitable organization" means any organization which is described in Sections 170(c) and 2055(a) of the Code.

G. The term "Code" means the Internal Revenue Code of 1986, as from time to time amended.

H. The term "hazardous substance(s)" shall mean any substance defined as hazardous or toxic or otherwise regulated by any federal, state or local law(s), rule(s) or regulation(s) relating to the protection of the environment or human health ("environmental law(s)").

I. The corporate Trustee may rely on any notice, certificate, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine, or upon any evidence reasonably deemed by it to be sufficient, in making any payment or distribution. The Trustee shall incur no liability for any payment or distribution reasonably made in good faith and without actual notice of knowledge of a changed condition or statute affecting any person's interest in the trust.

J. The "spouse" of any person means the person, if any, who is married to and not living separate and apart from that person (other than for medical reasons), or who satisfied these requirements at that person's death and has not remarried.

K. If any beneficiary under this trust instrument in any manner, directly or indirectly, contests or attacks the validity of this instrument, or any disposition under this instrument, my Will, or any other trust created by me by filing suit against the Trustee under this instrument, my executor, or the Trustee or Trustees under any other trust created by me, or otherwise, any share or interest given to such beneficiary under the provisions of this instrument is hereby revoked and shall be disposed of in the same manner provided hereunder as if that contesting beneficiary and all descendants of that beneficiary had predeceased me.

L. Notwithstanding any other provisions of this instrument, I hereby limit the general discretionary powers of the Trustee so that (i) no Trustee shall participate in any decision regarding a discretionary distribution to that Trustee personally, except to the extent governed by and made pursuant to a standard under this instrument which constitutes an ascertainable standard within the meaning of Section 2041 and 2514 of the Code, and (ii) no Trustee (other than me) may use trust income or principal to discharge the legal obligation to the Trustee individually to support or educate a beneficiary hereunder.

ARTICLE XVII

Trustee Compensation

A. **Corporate Trustee.** South Dakota Trust Company shall be entitled to receive compensation for its services as Trustee hereunder in accordance with its schedule of rates, including the applicable minimum fee, as published from time to time, even though such rates may exceed the commissions customarily allowed in the jurisdiction in which the appointment of South Dakota Trust Company, as Trustee is made or as specified in a separate letter agreement. In addition to such fees, the Corporate Trustee, or its affiliates shall also be entitled to receive any payments under Rule 12 b-1 of the Investment Company Act of 1940 from any registered investment company.

B. **Individual Trustee.** The Individual Trustees, and any Successor Individual Trustees, shall be entitled to compensation as provided for under the laws of the state where the trust is being administered, as may be amended by such state from time to time. Any Individual Trustee shall have the right at any time from time to time, if so desired, to waive such compensation by a written notification delivered to the Corporate Trustee, the Distribution Committee and the Investment Committee.

ARTICLE XVIII

Execution In Counterpart

This trust Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. In addition, this trust Agreement may contain more than one counterpart signature page and this trust Agreement may be executed by the affixing of the signatures of each of the signers to one of such counterpart signature pages. All of those counterpart signature pages shall be read as

though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

I now sign this trust agreement on Nov 7, 2009.

KEITH S. WELLIN, Grantor

The trusts created by the foregoing instrument are accepted as of the day and year last above written.

PETER J. WELLIN, Trustee

MARJORIE W. KING, Trustee

CYNTHIA W. PLUM, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

By:
As its:

though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

I now sign this trust agreement on _____, 2009.

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PETER J. WELLIN, Trustee

_____
MARJORIE W. KING, Trustee

_____
CYNTHIA W. PLUM, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

Patti Graumann
By: Patti Graumann
As its: Trust officer

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared KEITH S. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

Notary Public
My commission expires:

David O. Spotter
Notary Public - South Carolina
My Commission Expires Nov. 18, 2015

STATE OF MAINE)
COUNTY OF CUMBERLAND) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared PETER J. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

Notary Public
My commission expires:

STATE OF WASHINGTON)
COUNTY OF KITSAP) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared MARJORIE W. KING to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

Notary Public
My commission expires:

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared KEITH S. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

_____
Notary Public
My commission expires:

STATE OF MAINE)
COUNTY OF CUMBERLAND) ss:

On this 2nd day of Nov., 2009, before me the subscriber, personally appeared PETER J. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

Marie Booth
Notary Public
My commission expires:
Oct. 16, 2010

STATE OF WASHINGTON)
COUNTY OF KITSAP) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared MARJORIE W. KING to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

_____
Notary Public
My commission expires:

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared KEITH S. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

_____
Notary Public
My commission expires:

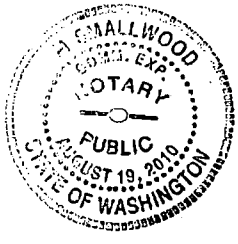
STATE OF MAINE)
COUNTY OF CUMBERLAND) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared PETER J. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

_____
Notary Public
My commission expires:

STATE OF WASHINGTON)
COUNTY OF KITSAP) ss:

On this 2nd day of November, 2009, before me the subscriber, personally appeared MARJORIE W. KING to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.



_____
Notary Public
My commission expires: 8/19/2010

12738491.1

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA) ss:

On this 2nd day of Nov., 2009, before me the subscriber, personally appeared CYNTHIA W. PLUM to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Alexandra S. Jones, Notary Public
City of Philadelphia, Philadelphia County
My Commission Expires Sept. 18, 2012
Member, Pennsylvania Association of Notaries

Alexandra S. Jones
Notary Public
My commission expires: 9/18/12

STATE OF SOUTH DAKOTA)
COUNTY OF _____) ss:

On this _____ day of _____, 2009, before me, the subscriber, personally appeared _____ to me known, who being by me duly sworn, did depose and say that he/she resides at _____; that he/she is _____ of South Dakota Trust Company LLC, the corporation described in and which executed the above Instrument; that he/she knows the seal of said corporation and that the seal affixed to said Instrument is such corporate seal; that it was so affixed to said Instrument by order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

_____
Notary Public
My commission expires:

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared CYNTHIA W. PLUM to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

_____
Notary Public
My commission expires:

STATE OF SOUTH DAKOTA)
COUNTY OF Minnehaha) ss:

On this 4th day of November, 2009, before me, the subscriber, personally appeared Patti Graumann to me known, who being by me duly sworn, did depose and say that he/she resides at Sioux Falls SD; that he/she is a trust officer of South Dakota Trust Company LLC, the corporation described in and which executed the above Instrument; that he/she knows the seal of said corporation and that the seal affixed to said Instrument is such corporate seal; that it was so affixed to said Instrument by order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

Mary L Meadors
Notary Public
My commission expires: 10/11/2012

MARY L. MEADORS NOTARY SEAL PUBLIC SOUTH DAKOTA

12738491.1

FARACE 000830

SCHEDULE OF PROPERTY

This schedule is attached to and forms a part of the WELLIN FAMILY 2009 IRREVOCABLE TRUST, executed by KEITH S. WELLIN and identifies the initial property held subject to that trust.

$35,000

PROMISSORY NOTE

$49,802,115.00

Sioux Falls, South Dakota
November 30, 2009

1. FOR VALUE RECEIVED, PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, in their capacity as Trustees, and not individually, including any successor Trustee(s) serving from time to time, (the "Borrowers"), of the WELLIN FAMILY 2009 IRREVOCABLE TRUST, (the "Trust"), created under an Agreement of Trust dated November 2, 2009 by and between KEITH S. WELLIN, as Grantor, and PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, hereby unconditionally promise to pay to the order of the KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST, created under an Agreement of Trust dated December 11, 2001, as amended and restated, by and between KEITH S. WELLIN as Grantor and KEITH S. WELLIN as Trustee (the "Payee") the principal sum equal to $49,802,115.00, the fair market value of a 98.8963% limited partnership interest in FRIENDSHIP PARTNERS L.P., a Delaware limited partnership, as determined by an independent appraiser, on the day immediately preceding the ninth (9^{th}) anniversary of the date hereof (the "Maturity Date").

2. (a) The Borrowers hereby unconditionally promise to pay to the order of the Payee interest on the unpaid principal amount of this Promissory Note for the period from and including the date hereof to but excluding the Maturity Date, at the applicable federal mid-term rate in effect on the date hereof as determined under Section 1274(d) of the Internal Revenue Code (26 U.S.C. §1274(d)), per annum, compounded annually from the date of this Promissory Note, to wit 2.59%. Accrued interest shall be paid annually on each anniversary of the date hereof, commencing on November 30, 2010. Interest shall be calculated on the basis of a year of 365 days and actual days elapsed (including the first day but excluding the last day) in the period for which it is payable. All accrued and unpaid interest shall be payable on the Maturity Date. This is an unqualified obligation of the Borrowers to pay the sum set forth above, with interest as provided, which obligation is payable as provided herein regardless of the income or lack thereof of the Borrowers.

(b) Notwithstanding the foregoing, the Borrowers hereby unconditionally promise to pay to the order of the Payee interest at a rate of 7% per annum (the "Post-Default Rate"), calculated in the same manner as in paragraph 2(a), on any amount of principal or interest payable by the Borrowers under this Promissory Note that shall not be paid in full when due (whether at the Maturity Date, by acceleration, or otherwise) for the period from and including the due date of such payment to but excluding the date the same is paid in full.

(c) The Borrowers may, at the Borrowers' option, prepay all or any portion of the principal of this Promissory Note at any time without premium or penalty of any kind, provided that the Borrowers' simultaneously pay accrued and unpaid fees, expenses, interest (including, to the extent applicable, interest at the Post-Default Rate), to but excluding the date of such prepayment, on the amount of principal so prepaid.

3. The Borrowers may, at the Borrowers' option, execute and deliver to the

Payee on any anniversary of this Promissory Note another promissory note that (except as provided in the next sentence of this paragraph) is identical to this Promissory Note in form and substance (each other such promissory note being referred to herein as a "Capitalized Interest Note") in satisfaction of the Borrowers' obligation to pay interest hereon that has accrued and remains unpaid. Each Capitalized Interest Note shall be in a principal amount equal to the accrued and unpaid interest to which it relates, shall be dated the date of the execution and delivery thereof, and shall bear interest at the "Applicable Federal Rate" as defined in Section 7872 (or any successor provisions) of the Internal Revenue Code of 1986, as amended, and as determined by reference to the maturity of such Capitalized Interest Note. Without limiting the obligation of the Borrower under any Capitalized Interest Note, the execution and delivery of any Capitalized Interest Note shall constitute payment of the interest hereon to which such Capitalized Interest Note relates. The undersigned Borrower and maker of this Promissory Note shall have the right, but not the obligation, to make any payments due hereunder by transferring to the Payee one or more limited partnership units ("Units") of the FRIENDSHIP PARTNERS L.P. The value of the Units shall be determined by mutual agreement of the parties, or, if they are unable to agree, by an independent appraiser selected by the Payee.

4. Right of Set-Off. The Borrower agree that, in addition to (and without limitation of) any right of set-off the Payee may otherwise have, the Payee shall be entitled, at its option, to offset amounts owing by the Payee to the Borrowers, in dollars or in any other currency (regardless of whether such amounts are then due to the Borrowers), against any amount payable by the Borrowers to the Payee under this Promissory Note that is not paid when due; provided that nothing contained herein shall require the Payee to exercise any such right.

5. Representations and Warranties. The Borrowers hereby represent and warrant to the Payee as follows:

(a) Organization; Powers. (i) The Borrowers are the Trustees of a trust duly organized and validly existing under the laws of the jurisdiction of its formation, (ii) the Trustees have all requisite power and authority to carry out the terms of its Trust, including, but not limited to, carry on its activities as now conducted, and (iii) the Investment Trustee has the legal capacity and full power and authority to execute and deliver, and to bind the Borrowers to perform their obligations under, this Promissory Note, and to execute and deliver any and all documents and instruments in connection therewith.

(b) Authorization; Enforceability. The Borrowers have all necessary corporate, trust, partnership or other power, authority and legal right to execute, deliver and perform its obligations under this Promissory Note; the execution, delivery and performance by the Borrowers of this Promissory Note have been duly authorized by all necessary trust action on its part (including, without limitation, any required approvals); and this Promissory Note has been duly and validly executed and delivered by the Borrowers and constitutes legal, valid and binding obligations, enforceable against the Borrowers in accordance with its terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (b) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Approvals. No authorizations, approvals or consents of, and no filings

or registrations with, any governmental or regulatory authority or agency, or any securities exchange, are necessary for the execution, delivery or performance by the Borrowers of this Promissory Note or for the legality, validity or enforceability hereof or thereof.

(d) No Breach. None of the execution and delivery of this Promissory Note, the consummation of the transactions herein and therein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, the fiduciary duties of the Trustees under the Trust, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or, to the knowledge of the Borrowers, any agreement or instrument to which the Borrowers are a party or by which they or their Property are bound or to which they are subject, or constitute a default under any such agreement or instrument, or result in the creation or imposition of any Lien upon any Property of the Borrowers pursuant to the terms of any such agreement or instrument.

(e) Indebtedness for Borrowed Money. To the knowledge of the Borrowers, there are no Liens on the assets or properties of the Borrowers existing as of the date hereof.

6. This Promissory Note evidences the obligation of the Borrowers to pay to the Payee the deferred purchase price for a 98.8963% limited partnership interest in FRIENDSHIP PARTNERS L.P., a Delaware limited partnership (herein referred to as the "Interest") transferred by the Payee to the Borrowers on the date hereof, and the payment hereof is secured by a pledge of the Interest, and the proceeds thereof (the "Pledged Interest"), under a Pledge Agreement dated as of the date hereof (as the same may be modified and supplemented and from time to time in effect, the "Pledge Agreement") between the Borrowers and the Payee. Terms defined in the Pledge Agreement but not herein have the respective meanings ascribed to such terms in the Pledge Agreement.

7. Expenses. The Borrowers agree to pay or reimburse Payee for: (a) all reasonable out-of-pocket costs and expenses of Payee (including, without limitation, the reasonable fees and expenses of legal counsel) in connection with (i) any default and any enforcement or collection proceedings resulting therefrom, including, without limitation, all manner of participation in or other involvement with (x) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, (y) judicial or regulatory proceedings and (z) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated); and (b) all transfer, stamp, documentary or other similar taxes, assessments or charges levied by any governmental or revenue authority in respect of this Promissory Note or any other document referred to herein.

8. Definitions. As used herein, the following terms shall have the following respective meanings:

"Business Day" shall mean a day other than Saturday, Sunday or any day on which banks located in the State of Delaware are authorized or obligated to close.

"Dollars" or "$" refers to lawful money of the United States of America.

"Lien" shall mean, with respect to any Property, any mortgage, lien,

pledge, charge, security interest or encumbrance of any kind in respect of such Property. For purposes of this Promissory Note, a Person shall be deemed to own subject to a Lien any Property that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement (other than an operating lease) relating to such Property.

"Person" shall mean any individual, corporation, company, voluntary association, partnership, joint venture, trust, unincorporated organization or government (or any agency, instrumentality or political subdivision thereof).

"Property" shall mean any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

9. If one or more of the following events shall occur and be continuing (each an "Event of Default"):

(a) The Borrowers shall default in the payment of any interest when due under this Promissory Note and the same shall continue for thirty (30) or more Business Days;

(b) Any representation or warranty made herein (or in any modification or supplement hereto) by the Borrowers, or any certificate furnished to Payee pursuant to the provisions hereof, shall prove to have been false or misleading as of the time made or furnished in any material respect;

(c) The Borrowers shall incur any indebtedness for borrowed money without the prior written consent of Payee (which consent shall not be unreasonably withheld) or any event specified in any note, agreement, indenture or other document evidencing or relating to any other indebtedness for borrowed money of the Borrowers shall occur if the effect of such event is to cause, or (with the giving of any notice or the lapse of time or both) to permit the holder or holders of such indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such indebtedness to become due, or to be prepaid in full (whether by redemption, purchase, offer to purchase or otherwise), prior to its stated maturity;

(d) A proceeding or case shall be commenced, without the application or consent of the Borrowers, in any court of competent jurisdiction, seeking (i) its reorganization, liquidation, dissolution, arrangement or winding-up, or the composition or readjustment of its debts, (ii) the appointment of a receiver, custodian, trustee, examiner, liquidator or the like of the Borrowers or of all or any substantial part of their Property, or (iii) similar relief in respect of the Borrowers under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) or more days; or an order for relief against the Borrowers shall be entered in an involuntary case under the Federal Bankruptcy Code of 1978, as amended from time to time, presently codified as Title 11 of the United States Code (the "Bankruptcy Code");

(e) The Borrowers shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, examiner or liquidator of themselves

or of all or a substantial part of their Property, (ii) make a general assignment for the benefit of their creditors, (iii) commence a voluntary case under the Bankruptcy Code, (iv) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, arrangement or winding-up, or composition or readjustment of debts, (v) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code or (vi) take any corporate action for the purpose of effecting any of the foregoing;

(f) A final judgment or judgments for the payment of money of $50,000 or more in the aggregate shall be rendered by one or more courts, administrative tribunals or other bodies having jurisdiction against the Borrowers and the same shall not be discharged (or provision shall not be made for such discharge), or a stay of execution thereof shall not be procured, within thirty (30) days from the date of entry thereof and the Borrowers shall not, within such period of thirty (30) days, or such longer period during which execution of the same shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrowers to enforce any such judgment;

(g) The Borrowers shall default in the payment of any principal of or interest on this Promissory Note when due or in the performance of the Borrowers' obligations under the Pledge Agreement and any such default shall have continued unremedied for thirty (30) or more days after notice thereof by the Payee to the Borrowers;

(h) Any representation or warranty made in the Pledge Agreement by the Borrowers shall prove to have been false as of the time made in any material respect and shall have continued unremedied for thirty (30) or more days after notice thereof by the Payee to the Borrowers; or

(i) The Trust shall terminate, be liquidated or dissolved.

THEREUPON: (1) in the case of an Event of Default other than one referred to in clause (d) or (e) of this Section 9 with respect to the Borrowers, if not already fully due and payable at the Maturity Date, Payee may, by notice to the Borrowers, declare the principal amount then outstanding of, and the accrued interest on, this Promissory Note to be accelerated, whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrowers; and (2) in the case of the occurrence of an Event of Default referred to in clause (d) or (e) of this Section 9 with respect to the Borrowers, the principal amount then outstanding of, and the accrued interest on, this Promissory Note to be accelerated, whereupon such amounts shall automatically be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrowers.

10. Payments of principal and interest and any other amounts under this Promissory Note may be made in cash or in property (whether tangible or intangible) or a combination thereof. Any property other than cash transferred in payment of any amount of principal of or interest on this Promissory Note shall be valued as of the date of such payment in accordance with the principles set forth in Treasury Regulations §§25.2512-1 to 25.2512-8 (26 C.F.R. §§25.2512-1 to 25.2512-8). Payments hereunder shall be made to the Payee at

161 Coquille Way, Vero Beach, Florida 32963-3468, or such other address as the Payee shall notify the Borrowers.

11. Notices to the Payee hereunder shall be sent by certified mail or delivered by a recognized commercial courier service to the Payee at 161 Coquille Way, Vero Beach, Florida 32963-3468, or such other address as the Payee shall notify the Borrowers. Notices to the Borrowers shall be sent by certified mail or delivered by a recognized commercial courier service to the Borrower, Wellin Family 2009 Irrevocable Trust, South Dakota Trust Company LLC, Trustee, 201 South Phillips Avenue, Suite 200, Sioux Falls, South Dakota 57104, or such other address as the Borrowers shall notify the Payee.

12. The terms of this Promissory Note may be waived, altered or amended only by an instrument in writing duly executed by the Payee and the Borrowers. No failure to exercise and no delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

13. The Investment Trustee has executed and delivered this Promissory Note for and on behalf of all of the Borrowers, in their capacity as Trustees, and in no case shall any Borrower be personally liable for or on account of any of the obligations of the Borrowers hereunder, recourse for which obligations shall be limited to the Collateral (which shall consist of the Pledged Interest) and any other assets of the Trust. Subject to the foregoing provisions of this paragraph, this Promissory Note shall be binding upon any successor Trustees of the Trust, and all references herein to the "Borrowers" shall include all such successor trustees but shall exclude any person or entity that, at the time of determination, shall have ceased to be a Trustee of the Trust. The Trust is personally obligated and fully liable for the amount due under this Promissory Note. The Payee has the right to sue on this Promissory Note and obtain a personal judgment against the Trust for satisfaction of the amount due under this Promissory Note either before or after a foreclosure of the Pledged Interest under the Delaware Uniform Commercial Code.

14. Choice of Law. This Promissory Note shall be governed by, and construed in accordance with, the law of the State of Delaware, without giving effect to any principles of choice of law thereof that could require the application of the law of another jurisdiction.

15. Waiver of Jury Trial. THE BORROWERS AND, BY ITS ACCEPTANCE OF THIS PROMISSORY NOTE, PAYEE HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

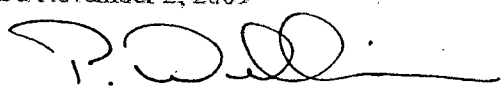
16. Counterparts. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

17. This Promissory Note, which sets forth the appraised fair market value of the purchased interest (less any down payment), replaces and supersedes that original Promissory Note dated November 30, 2009, executed prior to the completion of the appraisal, and contained the term "$ TO BE DETERMINED" in the upper left corner. Upon Borrower's delivery of this replacement Promissory Note to Payee, Payee shall return the original Promissory Note to Borrower, and thereupon this Promissory Note shall be Promissory Note under the Purchase Agreement dated November 30, 2009.

IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009



Peter J. Wellin, Trustee

Cynthia W. Plum, Trustee

Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By:_____

12786496.2

17. This Promissory Note, which sets forth the appraised fair market value of the purchased interest (less any down payment), replaces and supersedes that original Promissory Note dated November 30, 2009, executed prior to the completion of the appraisal, and contained the term "$ TO BE DETERMINED" in the upper left corner. Upon Borrower's delivery of this replacement Promissory Note to Payee, Payee shall return the original Promissory Note to Borrower, and thereupon this Promissory Note shall be Promissory Note under the Purchase Agreement dated November 30, 2009.

IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

Cynthia W. Plum, Trustee

_____
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By:_____

12786496.2

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IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

_____
Cynthia W. Plum, Trustee

Marjorie W. King
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By:_____

12786496.2

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IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

_____
Cynthia W. Plum, Trustee

_____
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By: Patti Graumann
Patti Graumann, Trust Officer

12786496 2

PROMISSORY NOTE

$49,802,115.00

Sioux Falls, South Dakota
September 4, 2012

1. FOR VALUE RECEIVED, PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, in their capacity as Trustees, and not individually, including any successor Trustee(s) serving from time to time, (the "Borrowers"), of the WELLIN FAMILY 2009 IRREVOCABLE TRUST, (the "Trust"), created under an Agreement of Trust dated November 2, 2009, by and between KEITH S. WELLIN, as Grantor, and PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, hereby unconditionally promise to pay to the order of the KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST, created under an Agreement of Trust dated December 11, 2001, as amended and restated, by and between KEITH S. WELLIN as Grantor and KEITH S. WELLIN as Trustee (the "Payee") the principal sum equal to Forty-Nine Million Eight Hundred Two Thousand One Hundred Fifteen and 00/100 Dollars ($49,802,115.00) on September 3, 2021 (the "Maturity Date"). The Note is given for the purpose of continuing, revising and restating the Note dated November 30, 2011, and is not intended to evidence or create any new indebtedness.

2. (a) The Borrowers hereby unconditionally promise to pay to the order of the Payee interest on the unpaid principal amount of this Promissory Note for the period from and including the date hereof to but excluding the Maturity Date, at the applicable federal mid-term rate in effect on the date hereof as determined under Section 1274(d) of the Internal Revenue Code (26 U.S.C. §1274(d)), per annum, compounded annually from the date of this Promissory Note, to wit 0.84%. The Borrowers shall pay to the Payee a partial year interest payment on November 30, 2012 (along with interest on the November 30, 2011, Note to date), and then shall pay the Payee annual interest only payments on each November 30 thereafter until paid in full. Interest shall be calculated on the basis of a year of 365 days and actual days elapsed (including the first day but excluding the last day) in the period for which it is payable. All accrued and unpaid interest shall be payable on the Maturity Date. This is an unqualified obligation of the Borrowers to pay the sum set forth above, with interest as provided, which obligation is payable as provided herein regardless of the income or lack thereof of the Borrowers.

(b) Notwithstanding the foregoing, the Borrowers hereby unconditionally promise to pay to the order of the Payee interest at a rate of 7% per annum (the "Post-Default Rate"), calculated in the same manner as in paragraph 2(a), on any amount of principal or interest payable by the Borrowers under this Promissory Note that shall not be paid in full when due (whether at the Maturity Date, by acceleration, or otherwise) for the period from and including the due date of such payment to but excluding the date the same is paid in full.

(c) The Borrowers may, at the Borrowers' option, prepay all or any portion of the principal of this Promissory Note at any time without premium or penalty of any kind, provided that the Borrowers simultaneously pay accrued and unpaid fees, expenses, interest (including, to the extent applicable, interest at the Post-Default Rate), to but excluding the date of such prepayment, on the amount of principal so prepaid.

3. The Borrowers may, at the Borrowers' option, execute and deliver to the Payee on any anniversary of this Promissory Note another promissory note that (except as provided in the next sentence of this paragraph) is identical to this Promissory Note in form and substance (each other such promissory note being referred to herein as a "Capitalized Interest Note") in satisfaction of the Borrowers' obligation to pay interest hereon that has accrued and remains unpaid. Each Capitalized Interest Note shall be in a principal amount equal to the accrued and unpaid interest to which it relates, shall be dated the date of the execution and delivery thereof, and shall bear interest at the "Applicable Federal Rate" as defined in Section 7872 (or any successor provisions) of the Internal Revenue Code of 1986, as amended, and as determined by reference to the maturity of such Capitalized Interest Note. Without limiting the obligation of the Borrower under any Capitalized Interest Note, the execution and delivery of any Capitalized Interest Note shall constitute payment of the interest hereon to which such Capitalized Interest Note relates. The undersigned Borrower and maker of this Promissory Note shall have the right, but not the obligation, to make any payments due hereunder by transferring to the Payee one or more limited partnership units ("Units") of the FRIENDSHIP PARTNERS L.P. The value of the Units shall be determined by mutual agreement of the parties, or, if they are unable to agree, by an independent appraiser selected by the Payee.

4. Right of Set-Off. The Borrowers agree that, in addition to (and without limitation of) any right of set-off the Payee may otherwise have, the Payee shall be entitled, at its option, to offset amounts owing by the Payee to the Borrowers, in dollars or in any other currency (regardless of whether such amounts are then due to the Borrowers), against any amount payable by the Borrowers to the Payee under this Promissory Note that is not paid when due; provided that nothing contained herein shall require the Payee to exercise any such right.

5. Representations and Warranties. The Borrowers hereby represent and warrant to the Payee as follows:

(a) Organization; Powers. (i) The Borrowers are the Trustees of a trust duly organized and validly existing under the laws of the jurisdiction of its formation, (ii) the Trustees have all requisite power and authority to carry out the terms of its Trust, including, but not limited to, carry on its activities as now conducted, and (iii) the Investment Trustee has the legal capacity and full power and authority to execute and deliver, and to bind the Borrowers to perform their obligations under, this Promissory Note, and to execute and deliver any and all documents and instruments in connection therewith.

(b) Authorization; Enforceability. The Borrowers have all necessary corporate, trust, partnership or other power, authority and legal right to execute, deliver and perform its obligations under this Promissory Note; the execution, delivery and performance by the Borrowers of this Promissory Note have been duly authorized by all necessary trust action on its part (including, without limitation, any required approvals); and this Promissory Note has been duly and validly executed and delivered by the Borrowers and constitutes legal, valid and binding obligations, enforceable against the Borrowers in accordance with its terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (b) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Approvals. No authorizations, approvals or consents of, and no filings or registrations with, any governmental or regulatory authority or agency, or any securities exchange, are necessary for the execution, delivery or performance by the Borrowers of this Promissory Note or for the legality, validity or enforceability hereof or thereof.

(d) No Breach. None of the execution and delivery of this Promissory Note, the consummation of the transactions herein and therein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, the fiduciary duties of the Trustees under the Trust, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or, to the knowledge of the Borrowers, any agreement or instrument to which the Borrowers are a party or by which they or their Property are bound or to which they are subject, or constitute a default under any such agreement or instrument, or result in the creation or imposition of any Lien upon any Property of the Borrowers pursuant to the terms of any such agreement or instrument.

(e) Indebtedness for Borrowed Money. To the knowledge of the Borrowers, there are no Liens on the assets or properties of the Borrowers existing as of the date hereof.

6. This Promissory Note evidences the obligation of the Borrowers to pay to the Payee the deferred purchase price for a 98.8963% limited partnership interest in FRIENDSHIP PARTNERS L.P., a Delaware limited partnership (herein referred to as the "Interest") transferred by the Payee to the Borrowers, and the payment hereof is secured by a pledge of the Interest, and the proceeds thereof (the "Pledged Interest"), under a Pledge Agreement dated November 30, 2009 (as the same may be modified and supplemented from time to time, the "Pledge Agreement") between the Borrowers and the Payee. Terms defined in the Pledge Agreement but not herein have the respective meanings ascribed to such terms in the Pledge Agreement.

7. Expenses. The Borrowers agree to pay or reimburse Payee for: (a) all reasonable out-of-pocket costs and expenses of Payee (including, without limitation, the reasonable fees and expenses of legal counsel) in connection with (i) any default and any enforcement or collection proceedings resulting therefrom, including, without limitation, all manner of participation in or other involvement with (x) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, (y) judicial or regulatory proceedings and (z) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated); and (b) all transfer, stamp, documentary or other similar taxes, assessments or charges levied by any governmental or revenue authority in respect of this Promissory Note or any other document referred to herein.

8. Definitions. As used herein, the following terms shall have the following respective meanings:

"Business Day" shall mean a day other than Saturday, Sunday or any day on which banks located in the State of Delaware are authorized or obligated to close.

"Dollars" or "$" refers to lawful money of the United States of America.

"Lien" shall mean, with respect to any Property, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such Property. For purposes of this Promissory Note, a Person shall be deemed to own subject to a Lien any Property that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement (other than an operating lease) relating to such Property.

"Person" shall mean any individual, corporation, company, voluntary association, partnership, joint venture, trust, unincorporated organization or government (or any agency, instrumentality or political subdivision thereof).

"Property" shall mean any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

9. If one or more of the following events shall occur and be continuing (each an "Event of Default"):

(a) The Borrowers shall default in the payment of any interest when due under this Promissory Note and the same shall continue for thirty (30) or more Business Days;

(b) Any representation or warranty made herein (or in any modification or supplement hereto) by the Borrowers, or any certificate furnished to Payee pursuant to the provisions hereof, shall prove to have been false or misleading as of the time made or furnished in any material respect;

(c) The Borrowers shall incur any indebtedness for borrowed money without the prior written consent of Payee (which consent shall not be unreasonably withheld) or any event specified in any note, agreement, indenture or other document evidencing or relating to any other indebtedness for borrowed money of the Borrowers shall occur if the effect of such event is to cause, or (with the giving of any notice or the lapse of time or both) to permit the holder or holders of such indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such indebtedness to become due, or to be prepaid in full (whether by redemption, purchase, offer to purchase or otherwise), prior to its stated maturity;

(d) A proceeding or case shall be commenced, without the application or consent of the Borrowers, in any court of competent jurisdiction, seeking (i) its reorganization, liquidation, dissolution, arrangement or winding-up, or the composition or readjustment of its debts, (ii) the appointment of a receiver, custodian, trustee, examiner, liquidator or the like of the Borrowers or of all or any substantial part of their Property, or (iii) similar relief in respect of the Borrowers under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) or more days; or an order for relief against the Borrowers shall be entered in an involuntary case under the Federal Bankruptcy Code of 1978, as amended from time to time, presently codified as Title 11 of the United States Code (the "Bankruptcy Code");

(e) The Borrowers shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, examiner or liquidator of themselves or of all or a substantial part of their Property, (ii) make a general assignment for the benefit of their creditors, (iii) commence a voluntary case under the Bankruptcy Code, (iv) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, arrangement or winding-up, or composition or readjustment of debts, (v) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code or (vi) take any corporate action for the purpose of effecting any of the foregoing;

(f) A final judgment or judgments for the payment of money of $50,000 or more in the aggregate shall be rendered by one or more courts, administrative tribunals or other bodies having jurisdiction against the Borrowers and the same shall not be discharged (or provision shall not be made for such discharge), or a stay of execution thereof shall not be procured, within thirty (30) days from the date of entry thereof and the Borrowers shall not, within such period of thirty (30) days, or such longer period during which execution of the same shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrowers to enforce any such judgment;

(g) The Borrowers shall default in the payment of any principal of or interest on this Promissory Note when due or in the performance of the Borrowers' obligations under the Pledge Agreement and any such default shall have continued unremedied for thirty (30) or more days after notice thereof by the Payee to the Borrowers;

(h) Any representation or warranty made in the Pledge Agreement by the Borrowers shall prove to have been false as of the time made in any material respect and shall have continued unremedied for thirty (30) or more days after notice thereof by the Payee to the Borrowers; or

(i) The Trust shall terminate, be liquidated or dissolved.

THEREUPON: (1) in the case of an Event of Default other than one referred to in clause (d) or (e) of this Section 9 with respect to the Borrowers, if not already fully due and payable at the Maturity Date, Payee may, by notice to the Borrowers, declare the principal amount then outstanding of, and the accrued interest on, this Promissory Note to be accelerated, whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrowers; and (2) in the case of the occurrence of an Event of Default referred to in clause (d) or (e) of this Section 9 with respect to the Borrowers, the principal amount then outstanding of, and the accrued interest on, this Promissory Note to be accelerated, whereupon such amounts shall automatically be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrowers.

10. Payments of principal and interest and any other amounts under this Promissory Note may be made in cash or in property (whether tangible or intangible) or a combination thereof. Any property other than cash transferred in payment of any amount of principal of or interest on this Promissory Note shall be valued as of the date of such payment in

accordance with the principles set forth in Treasury Regulations §§25.2512-1 to 25.2512-8 (26 C.F.R. §§25.2512-1 to 25.2512-8). Payments hereunder shall be made to the Payee at 161 Coquille Way, Vero Beach, Florida 32963-3468, or such other address as the Payee shall notify the Borrowers.

11. Notices to the Payee hereunder shall be sent by certified mail or delivered by a recognized commercial courier service to the Payee at 161 Coquille Way, Vero Beach, Florida 32963-3468, or such other address as the Payee shall notify the Borrowers. Notices to the Borrowers shall be sent by certified mail or delivered by a recognized commercial courier service to the Borrower, Wellin Family 2009 Irrevocable Trust, South Dakota Trust Company LLC, Trustee, 201 South Phillips Avenue, Suite 200, Sioux Falls, South Dakota 57104, or such other address as the Borrowers shall notify the Payee.

12. The terms of this Promissory Note may be waived, altered or amended only by an instrument in writing duly executed by the Payee and the Borrowers. No failure to exercise and no delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

13. The Investment Trustee has executed and delivered this Promissory Note for and on behalf of all of the Borrowers, in their capacity as Trustees, and in no case shall any Borrower be personally liable for or on account of any of the obligations of the Borrowers hereunder, recourse for which obligations shall be limited to the Collateral (which shall consist of the Pledged Interest) and any other assets of the Trust. Subject to the foregoing provisions of this paragraph, this Promissory Note shall be binding upon any successor Trustees of the Trust, and all references herein to the "Borrowers" shall include all such successor trustees but shall exclude any person or entity that, at the time of determination, shall have ceased to be a Trustee of the Trust. The Trust is personally obligated and fully liable for the amount due under this Promissory Note. The Payee has the right to sue on this Promissory Note and obtain a personal judgment against the Trust for satisfaction of the amount due under this Promissory Note either before or after a foreclosure of the Pledged Interest under the Delaware Uniform Commercial Code.

14. Choice of Law. This Promissory Note shall be governed by, and construed in accordance with, the law of the State of Delaware, without giving effect to any principles of choice of law thereof that could require the application of the law of another jurisdiction.

15. Waiver of Jury Trial. THE BORROWERS AND, BY ITS ACCEPTANCE OF THIS PROMISSORY NOTE, PAYEE HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

16. Counterparts. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

Peter J. Wellin, Trustee

Cynthia W. Plum, Trustee

Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By: Patti Graumann
As its: Trust Officer

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16. Counterparts. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

Cynthia W. Plum, Trustee
Cynthia W. Plum, Trustee

_____
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

_____
By: Patti Graumann
As its: Trust Officer

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IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

_____
Cynthia W. Plum, Trustee

Marjorie W. King
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

_____
By: Patti Graumann
As its: Trust Officer

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WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

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Peter J. Wellin, Trustee

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Cynthia W. Plum, Trustee

_____
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

Patti Graumann
By: Patti Graumann
As its: Trust Officer

GUARANTEE MODIFICATION AGREEMENT

This Guarantee Modification Agreement is made as of this 4th day of September, 2012 by PETER J. WELLIN, CYNTHIA W. PLUM and MARJORIE W. KING (each individually, a "Guarantor" and collectively, the "Guarantors").

WITNESSETH

WHEREAS, Peter J. Wellin, Cynthia W. Plum, Marjorie W. King, and South Dakota Trust Company LLC as Trustees, in their capacity as Trustees, and not individually, including any Successor Trustee(s) serving from time to time, (the "Payor"), of the Wellin Family 2009 Irrevocable Trust (the "Family Trust") created under an Agreement of Trust dated the 2nd day of November, 2009, by and between Keith S. Wellin, as Grantor, and Peter J. Wellin, Cynthia W. Plum, Marjorie W. King and South Dakota Trust Company LLC, as Trustees, under a Purchase Agreement dated as of November 30, 2009, by and between the Family Trust and Keith S. Wellin, Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001, as amended and restated, executed a Promissory Note (the "Note") in favor of Keith S. Wellin, Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001 (the "Payee"), evidencing the making of an extension of credit by the Payee to the Payor pursuant to such Purchase Agreement.

WHEREAS, Guarantors entered into an agreement dated November 30, 2009, to guarantee not more than ten percent (10%) of the principal of and interest on a certain promissory note dated November 30, 2009, between the Payor and Payee, to induce the making of the loan thereunder, pursuant to a Purchase Agreement of even date; and

WHEREAS, a conformed copy of such guarantee is attached to this Guarantee Modification Agreement;

WHEREAS, the above-referenced promissory note dated November 30, 2009, was continued, revised and restated through a promissory note dated December 6, 2010, and the Guarantors agreed to substitute the December 6, 2010, note for the November 30, 2009, note referenced in the guarantee;

WHEREAS, the promissory note dated December 6, 2010, was continued, revised and restated through a promissory note dated November 30, 2011, and a new promissory note dated September 4, 2012; and

WHEREAS, the Guarantors agree to substitute the September 4, 2012, note for the November 30, 2009 note referenced in the guarantee, so that the guarantee should be read to guarantee the payment of the new September 4, 2012, promissory note, under the same terms and conditions as contained in the original guarantee.

NOW THEREFORE, in consideration of the premises and promises and agreements below and other consideration hereby acknowledged by the Guarantors, the Guarantors agree as follows:

1. The new Promissory Note dated September 4, 2012, was given for the purpose of continuing, revising, and restating the Promissory Note originally dated November 30, 2009, and is not intended to evidence or create any new indebtedness.

2. The Guarantee dated November 30, 2009, shall continue in full force and effect and be made applicable to the new Promissory Note dated September 4, 2012, by this Guarantee Modification Agreement.

3. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all the signers had signed a single signature page.

IN WITNESS WHEREOF, each Guarantor has executed this Guarantee Modification Agreement as of the date first written above.

Peter J. Wellin

Cynthia W. Plum

Marjorie W. King

1. The new Promissory Note dated September 4, 2012, was given for the purpose of continuing, revising, and restating the Promissory Note originally dated November 30, 2009, and is not intended to evidence or create any new indebtedness.

2. The Guarantee dated November 30, 2009, shall continue in full force and effect and be made applicable to the new Promissory Note dated September 4, 2012, by this Guarantee Modification Agreement.

3. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all the signers had signed a single signature page.

IN WITNESS WHEREOF, each Guarantor has executed this Guarantee Modification Agreement as of the date first written above.

Peter J. Wellin

Cynthia W. Plum

Marjorie W. King

1. The new Promissory Note dated September 4, 2012, was given for the purpose of continuing, revising, and restating the Promissory Note originally dated November 30, 2009, and is not intended to evidence or create any new indebtedness.

2. The Guarantee dated November 30, 2009, shall continue in full force and effect and be made applicable to the new Promissory Note dated September 4, 2012, by this Guarantee Modification Agreement.

3. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all the signers had signed a single signature page.

IN WITNESS WHEREOF, each Guarantor has executed this Guarantee Modification Agreement as of the date first written above.

Peter J. Wellin

Cynthia W. Plum

Marjorie W. King

Marjorie W. King

GUARANTEE AGREEMENT

GUARANTEE AGREEMENT dated as of November 30, 2009, by PETER J. WELLIN, CYNTHIA W. PLUM, and MARJORIE W. KING (each individually, a "Guarantor" and, collectively, the "Guarantors"):

WHEREAS, PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC as Trustees, in their capacity as Trustee, and not individually, including any Successor Trustee(s) serving from time to time, (the "Payor"), of the Wellin Family 2009 Irrevocable Trust (the "Family Trust") created under an Agreement of Trust dated the 2nd day of November, 2009, by and between Keith S. Wellin, as Grantor, and Peter J. Wellin, Cynthia W. Plum, Marjorie W. King and South Dakota Trust Company LLC, as Trustees, have agreed under a Purchase Agreement dated as of November 30, 2009 by and between the Family Trust and Keith S. Wellin, Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001, as amended and restated, to execute a Promissory Note (the "Note") in favor of Keith S. Wellin, Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001 (the "Payee"), evidencing the making of an extension of credit by the Payee to the Payor pursuant to such Purchase Agreement, which Note shall be in substantially the same form as that attached as Exhibit A hereto.

To induce Keith S. Wellin, Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001 to make the extension of credit evidenced by the Note, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Guarantor, each of whom is a beneficiary of the Family Trust, has agreed to guarantee the Guaranteed Obligations (as hereinafter defined). Accordingly, the parties hereto agree as follows:

Section 1. Definitions. Terms used herein and not otherwise defined herein are used herein as defined in the Note.

Section 2. The Guarantee.

2.01 The Guarantee. In consideration of Ten Dollars ($10.00) and other good and valuable consideration paid by South Dakota Trust Company LLC, as Trustee of the Family Trust, the Guarantors hereby jointly and severally guarantee to the Payee and the Payee's successors and assign the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of not more than ten percent (10%) of the principal of and interest on the Note and all other amounts from time to time owing to the Payee by the Payor under the Note, in each case strictly in accordance with the terms thereof, and any subsequent refinancing, substitution or extension of said Note (such obligations being herein collectively called the "Guaranteed Obligations"). The Guarantors hereby further jointly and severally agree that if the Payor shall fail to pay in full when due any of the Guaranteed Obligations, the Guarantors will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be

promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

2.02 Obligations Unconditional. The obligations of the Guarantors under Section 2.01 hereof are absolute and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the Note or any other agreement or instrument referred to herein or therein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 2.02 that the obligations of the Guarantors hereunder shall be absolute and unconditional, joint and several, under any and all circumstances. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder, which shall remain absolute and unconditional as described above:

(i) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of the Note or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be modified, supplemented or amended in any respect, or any right under the Note or any other agreement or instrument referred to herein or therein shall be waived or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with; or

(iv) any Lien granted to, or in favor of, the Payee as security for any of the Guaranteed Obligations shall fail to be perfected.

The Guarantors hereby expressly waive diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Payee exhaust any right, power or remedy or proceed against the Payor under the Note or any other agreement or instrument referred to herein or therein, or against any other entity under any other guarantee of, or security for, any of the Guaranteed Obligations.

2.03 Reinstatement. The obligations of the Guarantors under this Section 2 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Payor in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Guarantors jointly and severally agree that they will indemnify the Payee on demand for all reasonable costs and expenses (including, without limitation, fees of counsel) incurred by the Payee in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

2.04 Subrogation. The Guarantors hereby jointly and severally agree that, until the payment and satisfaction in full of all Guaranteed Obligations, they shall not exercise any right or remedy arising by reason of any performance by them or their guarantee in Section 2.01 hereof, whether by subrogation or otherwise, against the Payor or any other guarantor of any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations.

2.05 Remedies. The Guarantors jointly and severally agree that, as between the Guarantors and the Payee, the obligations of the Payor under the Note may be due and payable (and shall be deemed to be due and payable) for purposes of Section 2.01 hereof notwithstanding any stay, injunction or other prohibition preventing such obligations from becoming due and payable as against the Payor.

2.06 Continuing Guarantee. The guarantee in this Section 2 is a continuing guarantee, and shall apply to all Guaranteed Obligations whenever arising.

Section 3. Representations and Warranties. Each Guarantor represents and warrants to the Payee, solely as to himself or herself, that:

3.01 No Breach. None of the execution and delivery of this Agreement, the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which such Guarantor is a party or by which such Guarantor is bound or to which such Guarantor is subject, or constitute a default under any such agreement or instrument, or result in the creation or imposition of any Lien upon such Guarantor's earnings or assets pursuant to the terms of any such agreement or instrument.

3.02 Action. This Agreement has been duly and validly executed and delivered by such Guarantor and constitutes his or her legal, valid and binding obligation, enforceable in accordance with its terms.

3.03 Approvals. No authorizations, approvals or consents of (including any exchange control approval), and no filings or registrations with, any governmental or regulatory authority or agency, or any securities exchange are necessary for the execution, delivery or performance by such Guarantor of this Agreement or for the validity or enforceability hereof.

Section 4. Covenants. Each Guarantor agree that, solely as to himself or herself, until the payment and satisfaction in full of the Guaranteed Obligations:

4.01 Reports, Etc. Each Guarantor shall deliver, if requested by the Payee, to the Payee:

(a) as soon as possible and in any event within 120 days after the end of each fiscal year, a balance sheet as at the end of such fiscal year, prepared on a cash basis in reasonable detail and certified by such Guarantor; and

(b) from time to time, with reasonable promptness, such further information regarding such Guarantor's business, affairs or financial condition as the Payee may reasonably request.

4.02 Litigation. Each Guarantor will promptly give to the Payee notice of all legal or arbitral proceedings, and of all proceedings by or before any governmental or regulatory authority or agency, affecting such Guarantor, except proceedings that, if adversely determined, would not (either individually or in the aggregate) have a material adverse effect on the financial condition or prospects of such Guarantor.

4.03 Governmental Approvals. Each Guarantor agrees that he or she will promptly obtain from time to time at his or her own expense all such governmental licenses, authorizations, consents, permits and approvals as may be required for such Guarantor to comply with his or her obligations, and preserve his or her rights under, this Agreement.

Section 5. Miscellaneous.

5.01 No Waiver. No failure on the part of the Payee to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

5.02 Notices. All notices, requests, consents and demands hereunder shall be in writing and telecopied or delivered to the intended recipient at the "Address for Notices" specified beneath his or her name on the signature page hereof or, as to any party, at such other address as shall be designated by such party in a notice to each other party. Except as otherwise

provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as aforesaid.

5.03 Expenses. The Guarantors jointly and severally agree to reimburse the Payee for all reasonable costs and expenses of the Payee (including, without limitation, the reasonable fees and expenses of legal counsel) in connection with (i) any Event of Default and any enforcement or collection proceeding resulting therefrom, including, without limitation, all manner of participation in or other involvement with (x) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, (y) judicial or regulatory proceedings and (z) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated) and (ii) the enforcement of this Section 5.03.

5.04 Amendments, Etc. The terms of this Agreement may be waived, altered or amended only by an instrument in writing duly executed by each Guarantor and the Payee. Any such amendment or waiver shall be binding upon the Payee, each holder of any of the Guaranteed Obligations and each Guarantor.

5.05 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of each Guarantor, the Payee and each holder of any of the Guaranteed Obligations (provided, however, that no Guarantor shall assign or transfer his or her rights hereunder without the prior written consent of the Payee).

5.06 Captions. The captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

5.07 Governing Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware.

5.08 Waiver of Jury Trial. **EACH OF THE PAYEE AND EACH GUARANTOR HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

5.09 Agents and Attorneys-in-Fact. The Payee may employ agents and attorneys-in-fact in connection herewith and shall not be responsible for the negligence or misconduct of any such agents or attorneys-in-fact selected by it in good faith.

5.10 Severability. If any provision hereof is invalid and unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (i) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in favor of the Payee in order to carry out the intentions of the parties hereto as nearly as may be possible and (ii) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

5.11 Judgment Currency. The obligation of each Guarantor under this Guarantee to make payment to the Payee in Dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any other currency except to the extent that such tender or recovery results in the effective receipt by the Payee of the full amount of Dollars payable to the Payee hereunder. If for the purpose of obtaining judgment in any court it is necessary to convert a sum due under this Agreement to the Payee in Dollars into another currency the rate of exchange used shall be that at which in accordance with normal banking procedures the Payee could purchase Dollars with such other currency on the Business Day next preceding the day on which final judgment is rendered. The obligation of each Guarantor in respect of any sum payable under this Agreement by her to the Payee shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than Dollars, be discharged only to the extent that on the Business Day next following receipt by the Payee of any sum adjusted to be so due in the Judgment Currency the Payee may in accordance with normal banking procedures purchase Dollars with the Judgment Currency; if the amount of Dollars which could have been so purchased and transferred is less than the sum originally due to the Payee in Dollars, the Payor agrees, as a separate obligation and notwithstanding any such judgment, to indemnify such Payee against the deficiency.

5.12 Counterparts. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

IN WITNESS WHEREOF, each Guarantor has caused this Guarantee Agreement to be duly executed and delivered as of the day and year first above written.

/s/ Peter S. Wellin
Peter J. Wellin

/s/ Cynthia W. Plum
Cynthia W. Plum

/s/ Marjorie W. King
Marjorie W. King

5.10 Severability. If any provision hereof is invalid and unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (i) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in favor of the Payee in order to carry out the intentions of the parties hereto as nearly as may be possible and (ii) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

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IN WITNESS WHEREOF, each Guarantor has caused this Guarantee Agreement to be duly executed and delivered as of the day and year first above written.

/s/ Peter S. Wellin
Peter J. Wellin

/s/ Cynthia W. Plum
Cynthia W. Plum

Marjorie W. King
/s/ Marjorie W. King
Marjorie W. King

Addresses for Notices:

South Dakota Trust Company LLC
201 South Phillips Avenue
Suite 200
Sioux Falls, South Dakota 57104

Peter J. Wellin
65 Waites Landing
Falmouth, Maine 04105

Cynthia W. Plum
10 Waterman Avenue
Philadelphia, Pennsylvania 19118

Marjorie W. King
1884 Beans Bight Road NE
Bainbridge Island, Washington 98110

Keith S. Wellin
161 Coquille Way
Vero Beach, Florida 32963-3468

With copy of notice to:

Thomas M. Farace, Esq.
Nixon Peabody LLP
1100 Clinton Square
Rochester, New York 14604

EXHIBIT A

PROMISSORY NOTE

$ TO BE DETERMINED

Sioux Falls, South Dakota
November 30, 2009

1. FOR VALUE RECEIVED, PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, in their capacity as Trustees, and not individually, including any successor Trustee(s) serving from time to time, (the "Borrowers"), of the WELLIN FAMILY 2009 IRREVOCABLE TRUST, (the "Trust"), created under an Agreement of Trust dated November 2, 2009 by and between KEITH S. WELLIN, as Grantor, and PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, hereby unconditionally promise to pay to the order of the KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST, created under an Agreement of Trust dated December 11, 2001, as amended and restated, by and between KEITH S. WELLIN as Grantor and KEITH S. WELLIN as Trustee (the "Payee") the principal sum equal to the fair market value of a 98.8963% limited partnership interest in FRIENDSHIP PARTNERS L.P., a Delaware limited partnership, as determined by an independent appraiser, on the day immediately preceding the ninth (9^{th}) anniversary of the date hereof (the "Maturity Date").

2. (a) The Borrowers hereby unconditionally promise to pay to the order of the Payee interest on the unpaid principal amount of this Promissory Note for the period from and including the date hereof to but excluding the Maturity Date, at the applicable federal mid-term rate in effect on the date hereof as determined under Section 1274(d) of the Internal Revenue Code (26 U.S.C. §1274(d)), per annum, compounded annually from the date of this Promissory Note. Accrued interest shall be paid annually on each anniversary of the date hereof, commencing on November 30, 2010. Interest shall be calculated on the basis of a year of 365 days and actual days elapsed (including the first day but excluding the last day) in the period for which it is payable. All accrued and unpaid interest shall be payable on the Maturity Date. This is an unqualified obligation of the Borrowers to pay the sum set forth above, with interest as provided, which obligation is payable as provided herein regardless of the income or lack thereof of the Borrowers.

(b) Notwithstanding the foregoing, the Borrowers hereby unconditionally promise to pay to the order of the Payee interest at a rate of 7% per annum (the "Post-Default Rate"), calculated in the same manner as in paragraph 2(a), on any amount of principal or interest payable by the Borrowers under this Promissory Note that shall not be paid in full when due (whether at the Maturity Date, by acceleration, or otherwise) for the period from and including the due date of such payment to but excluding the date the same is paid in full.

(c) The Borrowers may, at the Borrowers' option, prepay all or any portion of the principal of this Promissory Note at any time without premium or penalty of any kind, provided that the Borrowers' simultaneously pay accrued and unpaid fees, expenses, interest (including, to the extent applicable, interest at the Post-Default Rate), to but excluding the date of such prepayment, on the amount of principal so prepaid.

3. The Borrowers may, at the Borrowers' option, execute and deliver to the Payee on any anniversary of this Promissory Note another promissory note that (except as provided in the next sentence of this paragraph) is identical to this Promissory Note in form and substance (each other such promissory note being referred to herein as a "Capitalized Interest Note") in satisfaction of the Borrowers' obligation to pay interest hereon that has accrued and remains unpaid. Each Capitalized Interest Note shall be in a principal amount equal to the accrued and unpaid interest to which it relates, shall be dated the date of the execution and delivery thereof, and shall bear interest at the "Applicable Federal Rate" as defined in Section 7872 (or any successor provisions) of the Internal Revenue Code of 1986, as amended, and as determined by reference to the maturity of such Capitalized Interest Note. Without limiting the obligation of the Borrower under any Capitalized Interest Note, the execution and delivery of any Capitalized Interest Note shall constitute payment of the interest hereon to which such Capitalized Interest Note relates. The undersigned Borrower and maker of this Promissory Note shall have the right, but not the obligation, to make any payments due hereunder by transferring to the Payee one or more limited partnership units ("Units") of the FRIENDSHIP PARTNERS L.P. The value of the Units shall be determined by mutual agreement of the parties, or, if they are unable to agree, by an independent appraiser selected by the Payee.

4. Right of Set-Off. The Borrower agree that, in addition to (and without limitation of) any right of set-off the Payee may otherwise have, the Payee shall be entitled, at its option, to offset amounts owing by the Payee to the Borrowers, in dollars or in any other currency (regardless of whether such amounts are then due to the Borrowers), against any amount payable by the Borrowers to the Payee under this Promissory Note that is not paid when due; provided that nothing contained herein shall require the Payee to exercise any such right.

5. Representations and Warranties. The Borrowers hereby represent and warrant to the Payee as follows:

(a) Organization; Powers. (i) The Borrowers are the Trustees of a trust duly organized and validly existing under the laws of the jurisdiction of its formation, (ii) the Trustees have all requisite power and authority to carry out the terms of its Trust, including, but not limited to, carry on its activities as now conducted, and (iii) the Investment Trustee has the legal capacity and full power and authority to execute and deliver, and to bind the Borrowers to perform their obligations under, this Promissory Note, and to execute and deliver any and all documents and instruments in connection therewith.

(b) Authorization; Enforceability. The Borrowers have all necessary corporate, trust, partnership or other power, authority and legal right to execute, deliver and perform its obligations under this Promissory Note; the execution, delivery and performance by the Borrowers of this Promissory Note have been duly authorized by all necessary trust action on its part (including, without limitation, any required approvals); and this Promissory Note has

been duly and validly executed and delivered by the Borrowers and constitutes legal, valid and binding obligations, enforceable against the Borrowers in accordance with its terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (b) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Approvals. No authorizations, approvals or consents of, and no filings or registrations with, any governmental or regulatory authority or agency, or any securities exchange, are necessary for the execution, delivery or performance by the Borrowers of this Promissory Note or for the legality, validity or enforceability hereof or thereof.

(d) No Breach. None of the execution and delivery of this Promissory Note, the consummation of the transactions herein and therein contemplated or compliance with the terms and provisions hereof and thereof will conflict with or result in a breach of, the fiduciary duties of the Trustees under the Trust, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or, to the knowledge of the Borrowers, any agreement or instrument to which the Borrowers are a party or by which they or their Property are bound or to which they are subject, or constitute a default under any such agreement or instrument, or result in the creation or imposition of any Lien upon any Property of the Borrowers pursuant to the terms of any such agreement or instrument.

(e) Indebtedness for Borrowed Money. To the knowledge of the Borrowers, there are no Liens on the assets or properties of the Borrowers existing as of the date hereof.

6. This Promissory Note evidences the obligation of the Borrowers to pay to the Payee the deferred purchase price for a 98.8963% limited partnership interest in FRIENDSHIP PARTNERS L.P., a Delaware limited partnership (herein referred to as the "Interest") transferred by the Payee to the Borrowers on the date hereof, and the payment hereof is secured by a pledge of the Interest, and the proceeds thereof (the "Pledged Interest"), under a Pledge Agreement dated as of the date hereof (as the same may be modified and supplemented and from time to time in effect, the "Pledge Agreement") between the Borrowers and the Payee. Terms defined in the Pledge Agreement but not herein have the respective meanings ascribed to such terms in the Pledge Agreement.

7. Expenses. The Borrowers agree to pay or reimburse Payee for: (a) all reasonable out-of-pocket costs and expenses of Payee (including, without limitation, the reasonable fees and expenses of legal counsel) in connection with (i) any default and any enforcement or collection proceedings resulting therefrom, including, without limitation, all manner of participation in or other involvement with (x) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, (y) judicial or regulatory proceedings and (z) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated); and (b) all transfer, stamp, documentary or other similar taxes, assessments or charges levied by any governmental or revenue authority in respect of this Promissory Note or any other document referred to herein.

8. Definitions. As used herein, the following terms shall have the following respective meanings:

"Business Day" shall mean a day other than Saturday, Sunday or any day on which banks located in the State of Delaware are authorized or obligated to close.

"Dollars" or "$" refers to lawful money of the United States of America.

"Lien" shall mean, with respect to any Property, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such Property. For purposes of this Promissory Note, a Person shall be deemed to own subject to a Lien any Property that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement (other than an operating lease) relating to such Property.

"Person" shall mean any individual, corporation, company, voluntary association, partnership, joint venture, trust, unincorporated organization or government (or any agency, instrumentality or political subdivision thereof).

"Property" shall mean any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

9. If one or more of the following events shall occur and be continuing (each an "Event of Default"):

(a) The Borrowers shall default in the payment of any interest when due under this Promissory Note and the same shall continue for thirty (30) or more Business Days;

(b) Any representation or warranty made herein (or in any modification or supplement hereto) by the Borrowers, or any certificate furnished to Payee pursuant to the provisions hereof, shall prove to have been false or misleading as of the time made or furnished in any material respect;

(c) The Borrowers shall incur any indebtedness for borrowed money without the prior written consent of Payee (which consent shall not be unreasonably withheld) or any event specified in any note, agreement, indenture or other document evidencing or relating to any other indebtedness for borrowed money of the Borrowers shall occur if the effect of such event is to cause, or (with the giving of any notice or the lapse of time or both) to permit the holder or holders of such indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such indebtedness to become due, or to be prepaid in full (whether by redemption, purchase, offer to purchase or otherwise), prior to its stated maturity;

(d) A proceeding or case shall be commenced, without the application or consent of the Borrowers, in any court of competent jurisdiction, seeking (i) its reorganization, liquidation, dissolution, arrangement or winding-up, or the composition or readjustment of its

debts, (ii) the appointment of a receiver, custodian, trustee, examiner, liquidator or the like of the Borrowers or of all or any substantial part of their Property, or (iii) similar relief in respect of the Borrowers under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) or more days; or an order for relief against the Borrowers shall be entered in an involuntary case under the Federal Bankruptcy Code of 1978, as amended from time to time, presently codified as Title 11 of the United States Code (the "Bankruptcy Code");

(e) The Borrowers shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, examiner or liquidator of themselves or of all or a substantial part of their Property, (ii) make a general assignment for the benefit of their creditors, (iii) commence a voluntary case under the Bankruptcy Code, (iv) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, arrangement or winding-up, or composition or readjustment of debts, (v) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code or (vi) take any corporate action for the purpose of effecting any of the foregoing;

(f) A final judgment or judgments for the payment of money of $50,000 or more in the aggregate shall be rendered by one or more courts, administrative tribunals or other bodies having jurisdiction against the Borrowers and the same shall not be discharged (or provision shall not be made for such discharge), or a stay of execution thereof shall not be procured, within thirty (30) days from the date of entry thereof and the Borrowers shall not, within such period of thirty (30) days, or such longer period during which execution of the same shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrowers to enforce any such judgment;

(g) The Borrowers shall default in the payment of any principal of or interest on this Promissory Note when due or in the performance of the Borrowers' obligations under the Pledge Agreement and any such default shall have continued unremedied for thirty (30) or more days after notice thereof by the Payee to the Borrowers;

(h) Any representation or warranty made in the Pledge Agreement by the Borrowers shall prove to have been false as of the time made in any material respect and shall have continued unremedied for thirty (30) or more days after notice thereof by the Payee to the Borrowers; or

(i) The Trust shall terminate, be liquidated or dissolved.

THEREUPON: (1) in the case of an Event of Default other than one referred to in clause (d) or (e) of this Section 9 with respect to the Borrowers, if not already fully due and payable at the Maturity Date, Payee may, by notice to the Borrowers, declare the principal amount then outstanding of, and the accrued interest on, this Promissory Note to be accelerated, whereupon such amounts shall be immediately due and payable without presentment, demand,

protest or other formalities of any kind, all of which are hereby expressly waived by the Borrowers; and (2) in the case of the occurrence of an Event of Default referred to in clause (d) or (e) of this Section 9 with respect to the Borrowers, the principal amount then outstanding of, and the accrued interest on, this Promissory Note to be accelerated, whereupon such amounts shall automatically be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrowers.

10. Payments of principal and interest and any other amounts under this Promissory Note may be made in cash or in property (whether tangible or intangible) or a combination thereof. Any property other than cash transferred in payment of any amount of principal of or interest on this Promissory Note shall be valued as of the date of such payment in accordance with the principles set forth in Treasury Regulations §§25.2512-1 to 25.2512-8 (26 C.F.R. §§25.2512-1 to 25.2512-8). Payments hereunder shall be made to the Payee at 161 Coquille Way, Vero Beach, Florida 32963-3468, or such other address as the Payee shall notify the Borrowers.

11. Notices to the Payee hereunder shall be sent by certified mail or delivered by a recognized commercial courier service to the Payee at 161 Coquille Way, Vero Beach, Florida 32963-3468, or such other address as the Payee shall notify the Borrowers. Notices to the Borrowers shall be sent by certified mail or delivered by a recognized commercial courier service to the Borrower, Wellin Family 2009 Irrevocable Trust, c/o South Dakota Trust Company LLC, Trustee, 201 South Phillips Avenue, Suite 200, Sioux Falls, South Dakota 57104, or such other address as the Borrowers shall notify the Payee.

12. The terms of this Promissory Note may be waived, altered or amended only by an instrument in writing duly executed by the Payee and the Borrowers. No failure to exercise and no delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

13. The Investment Trustee has executed and delivered this Promissory Note for and on behalf of all of the Borrowers, in their capacity as Trustees, and in no case shall any Borrower be personally liable for or on account of any of the obligations of the Borrowers hereunder, recourse for which obligations shall be limited to the Collateral (which shall consist of the Pledged Interest) and any other assets of the Trust. Subject to the foregoing provisions of this paragraph, this Promissory Note shall be binding upon any successor Trustees of the Trust, and all references herein to the "Borrowers" shall include all such successor trustees but shall exclude any person or entity that, at the time of determination, shall have ceased to be a Trustee of the Trust. The Trust is personally obligated and fully liable for the amount due under this Promissory Note. The Payee has the right to sue on this Promissory Note and obtain a personal judgment against the Trust for satisfaction of the amount due under this Promissory Note either before or after a foreclosure of the Pledged Interest under the Delaware Uniform Commercial Code.

14. Choice of Law. **This Promissory Note shall be governed by, and construed in accordance with, the law of the State of Delaware, without giving effect to any principles of choice of law thereof that could require the application of the law of another jurisdiction.**

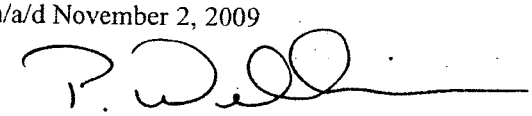
15. **Waiver of Jury Trial. THE BORROWERS AND, BY ITS ACCEPTANCE OF THIS PROMISSORY NOTE, PAYEE HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

16. Counterparts. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009



Peter J. Wellin, Trustee

Cynthia W. Plum, Trustee

Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By: _____

13674202.2

14. Choice of Law. **This Promissory Note shall be governed by, and construed in accordance with, the law of the State of Delaware, without giving effect to any principles of choice of law thereof that could require the application of the law of another jurisdiction.**

15. **Waiver of Jury Trial. THE BORROWERS AND, BY ITS ACCEPTANCE OF THIS PROMISSORY NOTE, PAYEE HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

16. Counterparts. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

_____
Cynthia W. Plum, Trustee

_____
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By:_____

14. Choice of Law. **This Promissory Note shall be governed by, and construed in accordance with, the law of the State of Delaware, without giving effect to any principles of choice of law thereof that could require the application of the law of another jurisdiction.**

15. Waiver of Jury Trial. THE BORROWERS AND, BY ITS ACCEPTANCE OF THIS PROMISSORY NOTE, PAYEE HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

16. Counterparts. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

IN WITNESS WHEREOF, the Borrowers hereto have caused this Promissory Note to be duly executed by its duly authorized representative, as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

_____
Cynthia W. Plum, Trustee

Marjorie W. King
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC,
Trustee

By:_____

1202.2

PLEDGE MODIFICATION AGREEMENT

This Pledge Modification Agreement is made this 4th day of September, 2012, by and between PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, in their capacity as Trustees, and not individually, including any successor Trustee(s) serving from time to time, (the "Borrowers"), of the WELLIN FAMILY 2009 IRREVOCABLE TRUST, (the "Trust"), created under an Agreement of Trust dated November 2, 2009, by and between KEITH S. WELLIN, as Grantor, and PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, and KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST, created under an Agreement of Trust dated December 11, 2001, as amended and restated, by and between KEITH S. WELLIN as Grantor and KEITH S. WELLIN as Trustee, (the "Payee").

WITNESSETH

WHEREAS, the Borrowers entered into a Pledge Agreement dated November 30, 2009, pursuant to a Purchase Agreement of even date, with Payee; and

WHEREAS, a conformed copy of such Pledge Agreement is attached to this modification agreement; and

WHEREAS, the Borrowers are indebted to Payee pursuant to the terms of a Promissory Note dated November 30, 2011, continuing, revising and restating the Promissory Note originally dated November 30, 2009; and

WHEREAS, the Borrowers granted a security interest to Payee, under the above referenced Pledge Agreement, to secure payment of said Promissory Note; and

WHEREAS, the above-referenced Promissory Note dated November 30, 2011, was continued, revised and restated through a new Promissory Note dated September 4, 2012; and

WHEREAS, the Borrowers and Payee wish to substitute the new September 4, 2012, Promissory Note for the November 30, 2009, Note referenced in the Pledge Agreement, so that the Pledge Agreement should be read to secure the payment of the new September 4, 2012, Promissory Note.

NOW, THEREFORE, in consideration of the premises and the promises and agreements below, and other consideration hereby acknowledged by the parties, Borrowers and Payee agree as follows:

1. The new Promissory Note dated September 4, 2012, was given for the purpose of continuing, revising and restating the Promissory Note originally dated November 30, 2009, and is not intended to evidence or create any new indebtedness;

2. The Pledge Agreement dated November 30, 2009, designed to secure the payment of the November 30, 2009, Promissory Note, shall continue with

full force and effect and be made applicable to the new Promissory Note dated September 4, 2012, by this Pledge Modification Agreement.

3. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all the signers had signed a single signature page.

IN WITNESS WHEREOF, the parties have executed this Pledge Agreement Modification as of the date first written above.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

Peter J. Wellin, Trustee

Cynthia W. Plum, Trustee

Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

By: Patti Braumann
As its: Trust Officer

PAYEE:

KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST u/a/d December 11, 2001, as amended and restated

Keith S. Wellin, Trustee

full force and effect and be made applicable to the new Promissory Note dated September 4, 2012, by this Pledge Modification Agreement.

3. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all the signers had signed a single signature page.

IN WITNESS WHEREOF, the parties have executed this Pledge Agreement Modification as of the date first written above.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

Cynthia W. Plum, Trustee
Cynthia W. Plum, Trustee

_____
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

_____
By: Patti Braumann
As its: Trust Officer

PAYEE:

KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST u/a/d December 11, 2001, as amended and restated

_____
Keith S. Wellin, Trustee

full force and effect and be made applicable to the new Promissory Note dated September 4, 2012, by this Pledge Modification Agreement.

3. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all the signers had signed a single signature page.

IN WITNESS WHEREOF, the parties have executed this Pledge Agreement Modification as of the date first written above.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

_____
Cynthia W. Plum, Trustee

Marjorie W. King
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

_____
By: Patti Braumann
As its: Trust Officer

PAYEE:

KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST u/a/d December 11, 2001, as amended and restated

_____
Keith S. Wellin, Trustee

13674194.2

full force and effect and be made applicable to the new Promissory Note dated September 4, 2012, by this Pledge Modification Agreement.

3. This Agreement may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all the signers had signed a single signature page.

IN WITNESS WHEREOF, the parties have executed this Pledge Agreement Modification as of the date first written above.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

_____
Peter J. Wellin, Trustee

_____
Cynthia W. Plum, Trustee

_____
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

Patti Braumann
By: Patti Braumann
As its: Trust Officer

PAYEE:

KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST u/a/d December 11, 2001, as amended and restated

_____
Keith S. Wellin, Trustee

PLEDGE AGREEMENT

PLEDGE AGREEMENT dated as of the 30th day of November, 2009 (this "Agreement") between PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, in their capacity as Trustees, and not individually, including any successor Trustee(s) serving from time to time, (the "Borrowers"), of the WELLIN FAMILY 2009 IRREVOCABLE TRUST, (the "Trust"), created under an Agreement of Trust dated November 2, 2009 by and between KEITH S. WELLIN, as Grantor, and PETER J. WELLIN, CYNTHIA W. PLUM, MARJORIE W. KING, and SOUTH DAKOTA TRUST COMPANY LLC, as Trustees, hereby unconditionally promise to pay to the order of the KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST, created under an Agreement of Trust dated December 11, 2001, as amended and restated, by and between KEITH S. WELLIN as Grantor and KEITH S. WELLIN as Trustee, (the "Payee").

The Borrowers have executed and delivered to the Payee a Promissory Note dated as of the date hereof (as modified, substituted, refinanced, extended, and supplemented and in effect from time to time, the "Promissory Note") in the original principal amount sum equal to the fair market value of a 98.8963% limited partnership interest in FRIENDSHIP PARTNERS L.P., a Delaware limited partnership, as determined by an independent appraiser.

To induce the Payee to accept the Promissory Note as the deferred purchase price for a 98.8963% limited partnership interest in FRIENDSHIP PARTNERS L.P., a New York limited partnership (the "Partnership") owned by the Payee, which the Payee transferred to the Borrowers on the date hereof, the Borrowers have agreed to pledge and grant a security interest in the Collateral as security for the Secured Obligations. Accordingly, the parties hereto agree as follows:

Section 1. Definitions. Terms defined in Articles 8 and 9 of the Delaware UCC (including terms defined in any other Articles thereof and made applicable to either Article 8 or 9 by reference therein) but not in this Agreement have the respective meanings ascribed to such terms in the Delaware UCC. As used herein:

"Collateral" shall have the meaning ascribed to such term in Section 3 hereof.

"Lien" shall mean any voluntary or involuntary lien, pledge, mortgage or security interest.

"Delaware UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of Delaware.

"Partnership Agreement" shall mean the Partnership Agreement of the Partnership, dated as of December 12, 2003, as the same may be modified and supplemented and in effect from time to time.

"Pledged Interest" shall have the meaning ascribed to such term in Section 3(a) hereof.

"Secured Obligations" shall mean the obligations of the Borrowers under the Promissory Note and under this Agreement.

Section 2. Representations and Warranties. The Borrowers represent and warrant to the Payee that:

(a) The Borrowers have the full power, authority and legal right under the Agreement of Trust of the Trust to execute and deliver the Promissory Note and this Agreement and to pledge and grant a security interest in the Collateral as the trustees of the Trust (each a "Trustee" and collectively, the "Trustees").

(b) Each of the Promissory Note and this Agreement has been duly executed and delivered by the Borrowers and, subject to paragraph 13 of the Promissory Note and Section 6.05 hereof, constitutes the legal, valid and binding obligation of the Borrowers, enforceable against the Borrowers in accordance with its terms.

(c) The Borrowers own the entire beneficial interest in the Collateral in which the Borrowers purport to grant a security interest pursuant to Section 3 hereof, and no Lien will exist upon such Collateral as of the time of the "Closing" (as defined in the Purchase Agreement between the WELLIN FAMILY 2009 IRREVOCABLE TRUST under agreement dated November 2, 2009 and the KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST under agreement dated December 11, 2001, as amended and restated), by reason of any action by any Trustee, except for the security interest in favor of the Payee created hereby, which security interest constitutes a first-priority, perfected security interest in and to all of such Collateral.

Section 3. Collateral. As collateral security for the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, the Borrowers hereby pledge and grant to the Payee a security interest in all of the right, title and interest of the Borrowers in the following property, whether now owned by the Borrowers or hereafter acquired and whether now existing or hereafter coming into existence (all being collectively referred to herein as "Collateral"):

(a) the membership interest of the Borrowers in the Partnership (the "Pledged Interest");

(b) all of the rights of the Borrowers under the Partnership Agreement (including, without limitation, all right, title and interest (if any) of the Borrowers to vote as a member and all rights of the Borrowers to property, assets, membership interests and distributions under the Partnership Agreement);

(c) all present and future rights of the Borrowers to receive payments of money or other distributions or payments arising out of or in connection with the membership interest of the Borrowers in the Partnership and of the Borrowers' rights under the Partnership Agreement; and

(d) all proceeds of and to any of the property of the Borrowers described in the preceding clauses of this Section 3 (including, without limitation, all rights to receive money and all causes of action, claims and warranties now or hereafter held by the Borrowers in respect of any of the items listed above) and, to the extent related to any property described in said clauses or such proceeds, all books, correspondence, credit files, records, invoices and other papers.

Section 4. Further Assurances; Remedies. In furtherance of the grant of the security interest pursuant to Section 3 hereof, the Borrowers hereby agree with the Payee as follows:

4.01 Delivery and Other Perfection. The Borrowers shall:

(a) if any certificate representing or evidencing the Pledged Interest is received by the Borrowers, forthwith either (x) transfer and deliver to the Payee such certificate, which thereafter shall be held by the Payee, pursuant to the terms of this Agreement, as part of the Collateral or (y) take such other action as the Payee shall deem necessary or appropriate to duly record the Lien created hereunder in such certificate representing or evidencing such Pledged Interest;

(b) execute and deliver written instructions to the Partnership to register the Lien created hereunder in the books and records maintained by the Partnership for such registrations and cause the Partnership to execute and deliver to the Payee a written confirmation to the effect that the Lien created hereunder has been duly registered in such books and records; and

(c) give, execute, deliver, file and/or record any financing statement, notice, instrument, document, agreement or other papers that may be necessary or desirable (in the judgment of the Payee) to create, preserve, perfect or validate the security interest granted pursuant hereto or to enable the Payee to exercise and enforce the Payee's rights hereunder with respect to such security interest, including, without limitation, causing any or all of the Collateral to be transferred of record into the name of the Payee or the Payee's nominee (and the Payee's agree that if any Collateral is transferred into the Payee's name or the name of the Payee's nominee, the Payee will thereafter promptly give to the Borrowers copies of any notices and communications received by the Payee with respect to the Collateral).

4.02 Other Financing Statements and Liens. The Borrowers shall not file or suffer to be on file, or authorize or permit to be filed or to be on file, in any jurisdiction, any financing statement or like instrument with respect to the Collateral in which the Payee is not named as the sole secured party.

4.03 Preservation of Rights. The Payee shall not be required to take steps necessary to preserve any rights against prior parties to any of the Collateral.

4.04 Special Provisions Relating to Collateral.

(a) So long as no Event of Default (as defined in the Promissory Note) shall have occurred and be continuing, the Borrowers shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Collateral for all purposes not inconsistent with the terms of this Agreement or the Promissory Note.

(b) So long as no Event of Default (as defined in the Promissory Note) has occurred and is continuing, the Borrowers shall be entitled to receive and retain any distributions in respect of the Collateral.

(c) If any Event of Default (as defined in the Promissory Note) shall have occurred, then so long as such Event of Default shall continue, all distributions with respect to the Collateral shall be paid directly to the Payee and applied to the payment or prepayment of the Secured Obligations in such manner as the Payee may determine.

4.05 Events of Default, Etc. During the period during which an Event of Default (as defined in the Promissory Note) shall have occurred and be continuing, the Payee (i) shall have all of the rights and remedies with respect to the Collateral of a secured party under the Delaware UCC (whether or not such rights and remedies are provided for in the Uniform Commercial Code or otherwise in the jurisdiction where they are asserted) and such additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted, including, without limitation, the right, to the maximum extent permitted by law, to exercise all voting, consensual and other powers of ownership pertaining to the Collateral as if the Payee was the sole and absolute owner thereof (and the ~~Borrowers~~ agree to take all such action as may be appropriate to give effect to such right) and (ii) may, upon 10 business days' prior notice to the Borrowers of the time and place, with respect to the Collateral or any part thereof which shall then be or shall thereafter come in the possession, custody or control of the Payee, sell, lease, assign or otherwise dispose of all or any part of such Collateral, at such place or places as the Payee deems best, and for cash or for credit or for future delivery (without thereby assuming any credit risk), at public or private sale, without demand of performance or notice of intention to effect any such disposition or of the time or place thereof (except such notice as is required above or by applicable statute and cannot be waived).

4.06 Automatic Transfer and Retention. Upon the death of the Grantor of the Payee, a revocable living trust, without demand, notice or other formalities of any kind, all of which are hereby expressly waived by the Borrowers: (a) such Collateral with a value equal to the sum of the then outstanding principal of and any accrued and unpaid interest on the Promissory Note shall automatically be transferred to the Payee in payment of the Promissory Note; (b) such transfer shall be deemed to have been effected immediately prior to the death of the Payee; (c) such transfer shall automatically divest the Borrowers of, and vest in the Payee, all right, title and other interest in such Collateral; (d) the Payee may retain such Collateral in satisfaction (in part or in full, as the case may be) of the Secured Obligations hereunder without necessity of any further disposition thereof, including any public or private sale; and (e) Section

4.11 hereof shall apply to any surplus Collateral after giving effect to any such aforementioned automatic transfer. Any property other than cash transferred to and retained by the Payee pursuant to this Section 4.06, in payment of any amount of principal of or interest on the Promissory Note, shall be valued as of the date of such transfer in accordance with the principles set forth in Treasury Regulations §§ 25.2512-1 to 25.2512-8 (26 C.F.R. §§ 25.2512-1 to 25.2512-8).

4.07 Deficiency. If the proceeds of sale, collection or other realization of or upon the Collateral pursuant to Section 4.05 hereof are insufficient to cover the costs and expenses of such realization and the payment in full of the Secured Obligations, the Borrowers shall, subject to paragraph 13 of the Promissory Note and Section 6.05 hereof, remain liable for any deficiency.

4.08 Application of Proceeds. Except as otherwise herein expressly provided, the proceeds of any collection, sale or other realization of all or any part of the Collateral pursuant hereto, shall be applied by the Payee:

First, to the payment of the costs and expenses of such collection, sale or other realization, including reasonable out-of-pocket costs and expenses of the Payee and the fees and expenses of its agents and counsel, and all expenses incurred and advances made by the Payee in connection therewith;

Next, to the payment in full of the Secured Obligations, in such manner as the Payee may determine; and

Finally, to the payment to the Borrowers, or the Borrowers' successors or assigns, or as a court of competent jurisdiction may direct, of any surplus then remaining.

4.09 Attorney-in-Fact. Without limiting any rights or powers granted by this Agreement to the Payee while no Event of Default (as defined in the Promissory Note) has occurred and is continuing, upon the occurrence and during the continuance of any Event of Default (as defined in the Promissory Note) the Payee is hereby appointed the attorney-in-fact of the Borrowers for the purpose of carrying out the provisions of this Section 4 and taking any action and executing any instruments that the Payee may deem necessary or advisable to accomplish the purposes hereof, which appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, so long as the Payee shall be entitled under this Section 4 to make collections in respect of the Collateral, the Payee shall have the right and power to receive, endorse and collect all checks made payable to the order of the Borrowers representing any dividend, payment or other distribution in respect of the Collateral or any part thereof and to give full discharge for the same.

4.10 Further Assurances. The Borrowers agree that, from time to time upon the written request of the Payee, the Borrowers will execute and deliver such further documents, agreements and instruments and do such other acts and things as the Payee may reasonably request in order fully to effect the purposes of this Agreement.

4.11 Termination. When all Secured Obligations shall have been paid in full, this Agreement shall terminate, and the Payee shall forthwith cause to be assigned, transferred and delivered, against receipt but without any recourse, warranty or representation whatsoever, any remaining Collateral and money received in respect thereof, to or on the order of the Borrowers.

Section 5. Transfer of Collateral.

Nothing contained herein shall be construed to prohibit the Borrowers (as the Trustees) from distributing any Collateral to any beneficiary of the Trust in accordance with the Agreement of Trust of the Trust. Collateral so distributed shall continue to be subject to the security interest created hereby and any such distribution shall expressly so provide.

Section 6. Miscellaneous.

6.01 Expenses. The Borrowers agree, subject to Section 6.05 hereof, to reimburse the Payee for all reasonable costs and expenses of the Payee (including, without limitation, the reasonable fees and expenses of legal counsel) in connection with (a) any Event of Default (as defined in the Promissory Note) and any enforcement or collection proceeding resulting therefrom, including, without limitation, all manner of participation in or other involvement with (i) performance by the Payee of any obligations of the Borrowers in respect of the Collateral that the Borrowers have failed or refused to perform, (ii) bankruptcy, insolvency, receivership, foreclosure, winding up or liquidation proceedings, or any actual or attempted sale, or any exchange, enforcement, collection, compromise or settlement in respect of any of the Collateral, and for the care of the Collateral and defending or asserting rights and claims of the Payee in respect thereof, by litigation or otherwise, including expenses of insurance, (iii) judicial or regulatory proceedings and (iv) workout, restructuring or other negotiations or proceedings (whether or not the workout, restructuring or transaction contemplated thereby is consummated) and (b) the enforcement of this Section 6.01, and all such costs and expenses, shall be Secured Obligations entitled to the benefits of the security interest created hereby and of the Collateral provided pursuant to Section 3 hereof.

6.02 Amendments, Etc. The terms of this Agreement may be waived, altered or amended only by an instrument in writing duly executed by the Borrowers and the Payee.

6.03 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

6.04 Governing Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware.

6.05 No Personal Liability. The Borrowers have executed and delivered this Agreement in their capacity as Trustees, and in no case shall any Borrower be personally liable for or on account of any of the obligations of the Borrower hereunder, recourse for which obligations shall be limited to the Collateral and any other assets of the Trust, except with respect

to liability in respect of any misrepresentation under Section 2 hereof. Subject to the foregoing provisions of this paragraph, this Agreement shall be binding upon any successor Trustees of the Trust, and all references herein to the "Borrowers" shall include all such successor Trustees but shall exclude any person or entity that, at the time of determination, shall have ceased to be a Trustee of the Trust. The Trust is obligated and fully liable for the amount due under the Promissory Note. The Payee has the right to sue on the Promissory Note and obtain a personal judgment against the Trust for satisfaction of the amount due under the Promissory Note either before or after a foreclosure of the Pledged Interest under the Delaware Uniform Commercial Code.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

/s/ Peter J. Wellin
Peter J. Wellin, Trustee

/s/ Cynthia W. Plum
Cynthia W. Plum, Trustee

/s/ Marjorie W. King
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

/s/ Patti Graumann
By: Patti Graumann, Trust Officer

PAYEE:

KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST u/a/d December 11, 2001, as amended and restated

/s/ Keith S. Wellin
Keith S. Wellin, Trustee

194.2

to liability in respect of any misrepresentation under Section 2 hereof. Subject to the foregoing provisions of this paragraph, this Agreement shall be binding upon any successor Trustees of the Trust, and all references herein to the "Borrowers" shall include all such successor Trustees but shall exclude any person or entity that, at the time of determination, shall have ceased to be a Trustee of the Trust. The Trust is obligated and fully liable for the amount due under the Promissory Note. The Payee has the right to sue on the Promissory Note and obtain a personal judgment against the Trust for satisfaction of the amount due under the Promissory Note either before or after a foreclosure of the Pledged Interest under the Delaware Uniform Commercial Code.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BORROWER:

WELLIN FAMILY 2009 IRREVOCABLE TRUST
u/a/d November 2, 2009

/s/ Peter J. Wellin
Peter J. Wellin, Trustee

/s/ Cynthia W. Plum
Cynthia W. Plum, Trustee

Marjorie W. King
/s/ Marjorie W. King
Marjorie W. King, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

/s/ Patti Graumann
By: Patti Graumann, Trust Officer

PAYEE:

KEITH S. WELLIN FLORIDA REVOCABLE LIVING TRUST u/a/d December 11, 2001, as amended and restated

/s/ Keith S. Wellin
Keith S. Wellin, Trustee

13674194.2

Wellin Family 2009 Irrevocable Trust

Compound Period ..... : Annual

Nominal Annual Rate .... : 2.590 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	11/30/2009	49,802,115.00	1		
2	Payment	11/30/2010	Interest Only	1		
3	Rate Change	12/06/2010	Rate: 1.530 %	Compounding: Annual		
4	Payment	11/30/2011	770,969.29	1		
5	Rate Change	11/30/2011	Rate: 1.200 %			
6	Rate Change	09/04/2012	Rate: 0.840 %			
7	Payment	11/30/2012	Interest Only	9	Annual	11/30/2020
8	Payment	09/03/2021	50,119,593.25	1		

AMORTIZATION SCHEDULE - Normal Amortization

Date	Payment	Interest	Principal	Balance
Loan 11/30/2009				49,802,115.00
2009 Totals	0.00	0.00	0.00	
1 11/30/2010	1,289,874.78	1,289,874.78	0.00	49,802,115.00
Rate 12/06/2010		21,203.42	21,203.42-	49,823,318.42
12/06/2010	Rate: 1.530 %	Compounding: Annual		
2010 Totals	1,289,874.78	1,311,078.20	21,203.42-	
2 11/30/2011	770,969.29	749,765.87	21,203.42	49,802,115.00
11/30/2011	Rate: 1.200 %			
2011 Totals	770,969.29	749,765.87	21,203.42	
09/04/2012	Rate: 0.840 %			
2012 Totals	0.00	0.00	0.00	
3 11/30/2012	555,007.83	555,007.83	0.00	49,802,115.00
2012 Totals	555,007.83	555,007.83	0.00	
4 11/30/2013	418,337.77	418,337.77	0.00	49,802,115.00
2013 Totals	418,337.77	418,337.77	0.00	
5 11/30/2014	418,337.77	418,337.77	0.00	49,802,115.00
2014 Totals	418,337.77	418,337.77	0.00	
6 11/30/2015	418,337.77	418,337.77	0.00	49,802,115.00
2015 Totals	418,337.77	418,337.77	0.00	
7 11/30/2016	418,337.77	418,337.77	0.00	49,802,115.00
2016 Totals	418,337.77	418,337.77	0.00	

Wellin Family 2009 Irrevocable Trust

Date	Payment	Interest	Principal	Balance
8 11/30/2017	418,337.77	418,337.77	0.00	49,802,115.00
2017 Totals	418,337.77	418,337.77	0.00	
9 11/30/2018	418,337.77	418,337.77	0.00	49,802,115.00
2018 Totals	418,337.77	418,337.77	0.00	
10 11/30/2019	418,337.77	418,337.77	0.00	49,802,115.00
2019 Totals	418,337.77	418,337.77	0.00	
11 11/30/2020	418,337.77	418,337.77	0.00	49,802,115.00
2020 Totals	418,337.77	418,337.77	0.00	
12 09/03/2021	50,119,593.25	317,478.25	49,802,115.00	0.00
2021 Totals	50,119,593.25	317,478.25	49,802,115.00	
Grand Totals	56,082,147.31	6,280,032.31	49,802,115.00	

INVESTMENT AND ADMINISTRATION DIRECTION

September 4, 2012

South Dakota Trust Company LLC
Attn: Patti Graumann, Trust Officer
201 South Phillips Avenue, Suite 200
Sioux Falls, SD 57104

RE: WELLIN FAMILY 2009 IRREVOCABLE TRUST – ACCT. #1679

Dear Independent Corporate Trustee:

Pursuant to the power vested in us as the individual trustees under the Wellin Family 2009 Irrevocable Trust Agreement, we hereby direct South Dakota Trust Company LLC, as Independent Trustee, to refinance the Promissory Note payable to Keith S. Wellin as Trustee of the Keith S. Wellin Florida Revocable Living Trust under Agreement dated December 11, 2001, in the amount of $49,802,115.00 dated November 30, 2011, including, but not limited to the signing of any necessary documents, including:

- Promissory Note dated September 4, 2012
- Pledge Modification Agreement dated September 4, 2012

As Trustee directed as to the investments of the above-referenced trust, we recognize that South Dakota Trust Company LLC has no duty to evaluate the merits or propriety of such decision. Accordingly, the undersigned, on behalf of themselves, and their respective estates, heirs, personal representatives, successors and assigns, agree to indemnify and hold harmless South Dakota Trust Company LLC against any claim or liability asserted against South Dakota Trust Company LLC in its fiduciary capacity (including, but not limited to, any fiduciary surcharge) arising from South Dakota Trust Company LLC's reliance on the direction of the individual trustees set forth herein.

This letter may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

Sincerely,

Peter J. Wellin, Individual Trustee

Cynathia W. Plum, Individual Trustee

Marjorie W. King, Individual Trustee

13673573.2

INVESTMENT AND ADMINISTRATION DIRECTION

September 4, 2012

South Dakota Trust Company LLC
Attn: Patti Graumann, Trust Officer
201 South Phillips Avenue, Suite 200
Sioux Falls, SD 57104

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This letter may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

Sincerely,

Peter J. Wellin, Individual Trustee

Cynthia W. Plum, Individual Trustee

Marjorie W. King, Individual Trustee

13673573.2

INVESTMENT AND ADMINISTRATION DIRECTION

September 4, 2012

South Dakota Trust Company LLC
Attn: Patti Graumann, Trust Officer
201 South Phillips Avenue, Suite 200
Sioux Falls, SD 57104

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- Promissory Note dated September 4, 2012
- Pledge Modification Agreement dated September 4, 2012

As Trustee directed as to the investments of the above-referenced trust, we recognize that South Dakota Trust Company LLC has no duty to evaluate the merits or propriety of such decision. Accordingly, the undersigned, on behalf of themselves, and their respective estates, heirs, personal representatives, successors and assigns, agree to indemnify and hold harmless South Dakota Trust Company LLC against any claim or liability asserted against South Dakota Trust Company LLC in its fiduciary capacity (including, but not limited to, any fiduciary surcharge) arising from South Dakota Trust Company LLC's reliance on the direction of the individual trustees set forth herein.

This letter may be executed in one or more written, fax, PDF and electronic counterparts, all of which taken together shall constitute one and the same instrument and shall have the same force and effect as though all of the signers had signed a single signature page.

Sincerely,

_____
Peter J. Wellin, Individual Trustee

_____
Cynathia W. Plum, Individual Trustee

Marjorie W. King
Marjorie W. King, Individual Trustee

13673573.2

TRUST PROTECTOR REMOVAL AND SUCCESSOR TRUST PROTECTOR APPOINTMENT

WELLIN FAMILY 2009 IRREVOCABLE TRUST

The Wellin Family 2009 Irrevocable Trust was created by agreement dated November 2, 2009 between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees.

Article VI, Section A, thereof, named Thomas M. Farace as the Trust Protector.

Article VI, Section A, Subsection 9 provides that "I [Keith S. Wellin] have the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to me within the meaning of Internal Revenue Code section 672(c)."

Pursuant to the authority cited above, Thomas M. Farace is hereby removed as Trust Protector, effective the date hereof. Lester S. Schwartz, Esq., who is neither related or subordinate to the Grantor, is hereby appointed as successor Trust Protector, such appointment to be effective upon his execution of this instrument.

In witness whereof the undersigned has set his hand and seal this 20th day of November, 2013.

Keith S. Wellin, Grantor

Appointment Accepted:

Lester S. Schwartz

State of South Carolina
County of Charleston

PERSONALLY APPEARED before me on this 20th day of November, 2013, Keith S. Wellin, to me known and known to me to the individual described in and who acknowledged the foregoing instrument and acknowledged to me that he executed the same.

(SEAL)
Notary Public for South Carolina
My Commission Expires: April 25, 2022

TRUSTEE REMOVAL AND SUCCESSOR TRUSTEE APPOINTMENT

By instrument dated November 2, 2009, South Dakota Trust Company LLC was appointed as a Trustee of that certain Trust originally executed on November 2, 2009 between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees and known as the Wellin Family 2009 Irrevocable Trust.

By instrument dated as of the date hereof, Lester S. Schwartz, Esq. was appointed as Trust Protector of the Wellin Family 2009 Irrevocable Trust.

Article VI(A)(1) thereof grants the Trust Protector "the authority to remove the Trustee, and to appoint a different trustee or additional Co-Trustees. The Trust Protector also has the authority to appoint successor Trustees." Pursuant to such authority, South Dakota trust Company LLC is hereby removed as Trustee, effective the date hereof. Furthermore, pursuant to such authority, Brown Brothers Harriman Trust Company of Delaware, N.A. is appointed as Trustee in place of South Dakota Trust Company LLC, such appointment to be effective upon execution of this instrument by a representative of Brown Brothers Harriman Trust Company of Delaware, N.A.

In witness whereof the undersigned has set his hand and seal this 20th day of November, 2013.

Lester S. Schwartz, Esq.

Appointment Accepted:

Brown Brothers Harriman Trust Company of Delaware, N.A.

By: Lynn Welch Watson
Vice President

Its: _____

State of South Carolina

County of Charleston

PERSONALLY APPEARED before me on this 20th day of November, 2013, Lester S. Schwartz, to me known and known to me to the individual described in and who acknowledged the foregoing instrument and acknowledged to me that he executed the same.

_____ (SEAL)
Notary Public for South Carolina
My Commission Expires: 4/25/2022

BROWN BROTHERS HARRIMAN

FACSIMILIE TRANSMISSION

TO:	Robert H. Hood	FROM:	Lynn Welch Watson
	The Hood Law Firm, LLC		
FAX:	843-722-1630	PHONE:	1-302-552-4042
DATE:	12/05/2013	RETURN FAX:	1-302-552-4045
CC:		PAGES:	2 (including cover)
RE:	Wellin Family 2009 Irrevocable Trust		

☑ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

Please see attached written notice of our resignation as co-trustee of the above trust. We regret that we have to take this step and will be following up with a letter of explanation tomorrow.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE.

Wellin Family 2009 Irrevocable Trust

Trustee Resignation

By instrument dated November 20, 2013, Lester S. Schwartz, as Trust Protector of that certain Trust originally executed on November 2, 2009 between Keith S. Wellin, as Grantor and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees, and known as the Wellin Family 2009 Irrevocable Trust (the "Trust"), appointed Brown Brothers Harriman Trust Company of Delaware, N.A. as trustee of the Trust in place of South Dakota Trust Company LLC.

Brown Brothers Harriman Trust Company of Delaware, N.A. accepted its appointment as such Trustee on November 20, 2013.

Paragraph B of Article X of the Trust provides that "[a]ny Trustee may resign at any time by giving prior written notice to the Trust Protector." Pursuant to such authority, the Trustee hereby gives notice to the Trust Protector and resigns as Trustee, effective immediately.

In witness whereof the undersigned has executed this document this 5th day of December, 2013.

Brown Brothers Harriman Trust Company of Delaware, N.A.

By: Lynn Welch Watson
Name: Lynn Welch Watson
Title: Vice President

STATE OF DELAWARE

County of New Castle

On this 5th day of December, 2013, before me personally came Lynn Welch Watson, to me known and known to me to be an authorized officer of BROWN BROTHERS HARRIMAN TRUST COMPANY OF DELAWARE, N.A., the trust company described in and which executed the foregoing trust instrument.

GLENN JOSEPH MORLEY
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires August 6, 2015

Glenn Morley
Notary Public
My commission expires:

BROWN BROTHERS HARRIMAN

December 6, 2013

By Facsimile

Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Co-Trustees
c/o Merritt G. Abney, Esq.
Nelson Mullins Riley & Scarborough, LLP
151 Meeting Street, Suite 600
Charleston, SC 29401
Fax: (843) 720-4324

Lester S. Schwartz, Esq.
Trust Protector
708 Saint Andrews Boulevard
P.O. Box 30356
Charleston, SC 29417-0356
Fax: (843) 571-0881

Re: Wellin Family 2009 Irrevocable Trust (the "Trust")

Dear Mr. Wellin, Ms. Plum, Ms. King and Mr. Schwartz:

We are writing to you in your various capacities under the terms of the Trust to provide an explanation for our decision to resign as co-trustee of the Trust. Our resignation was sent to the Trust Protector yesterday evening and copies sent to counsel for the co-trustees and the grantor.

When we accepted our appointment, we were aware of the litigation brought by Keith Wellin in the Federal Court for the District of South Carolina. We had hoped that our appointment would introduce a neutral party that could help in resolving the family dispute. We do not see that it is appropriate or beneficial to the Trust for the corporate co-trustee to be involved in the litigation initiated by Keith Wellin. Contrary to our understanding that we would be a neutral party, there appears to be expectations on both sides of the family dispute as to how we should act with respect to the Trust. Correspondence from counsel for both sides have put us on notice that each is ready to bring an action against us should we not act in accordance with those expectations.

A co-trustee is required to administer the trust pursuant to its terms and in accordance with

Brown Brothers Harriman
Trust Company of Delaware, N.A.
919 North Market Street, Suite 420
Wilmington, DE 19801
Tel. 302.552.4040 Fax. 302.552.4045
www.bbh.com

applicable state law and to act in the best interest of current and future beneficiaries. We would prefer not to have to seek guidance from our counsel or the courts every time we are threatened with legal action in the performance of our fiduciary obligations or receive conflicting direction. Already we have examples of both. First, grantor's counsel has advised us that he will seek reimbursement from us for any discretionary or directed payments made from the Trust if the Trust assets are ultimately returned to the grantor. Second, we have been advised that the co-trustees do not consider the grantor's exercise of his power of substitution and cancellation of the loan to the Trust from his revocable trust to be valid, so that the interest on the note has come due. Had we received the required written direction from the Investment Committee to pay the interest on the note, we would have been in receipt of conflicting directions and would have had to seek the court's advice.

As you may know, we did engage counsel to monitor the Trust related litigation in South Carolina, and are in the process of engaging counsel in South Dakota. Legal expenses are allowed under Article XII(B)(10) of the Trust and we will expect payment of those incurred during the brief period of our co-trusteeship. We have come to realize that these necessary legal expenses would rapidly increase with our need to seek legal guidance or court advice on every action. We do not believe it is in the best interests of the beneficiaries of the Trust for this to occur.

While we have not yet received any Trust assets from South Dakota Trust Company, the prior corporate co-trustee, we will co-operate with any transfer of assets from South Dakota Trust Company to our successor. We will inform South Dakota Trust Company of our resignation.

Again, we regret that we have to terminate our relationship as we had hoped that we could have been of service to the Trust and its beneficiaries.

Yours sincerely,

Lynn Welch Watson

Lynn Welch Watson

Cc: Edward G. R. Bennett, Esq. (by Fax)
Robert H. Hood, Esq. (by Fax)

TRUST AMENDMENT

The Wellin Family 2009 Irrevocable Trust

On November 30, 2009, a Trust was created between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees, such Trust being known as The Wellin Family 2009 Irrevocable Trust (the "Trust"). This Amendment, when coupled with the original Trust agreement, shall constitute the entire Trust agreement and may be relied upon by any person as constituting the entire Trust Agreement as of the date hereof without reference to any prior Amendment.

Under §A(3) of Article VI of that instrument, the Trust Protector is given the power:

> "...to amend the provisions of the trust with regard to how the beneficiaries will benefit from the trust, and to amend the trust administrative provision. The Trust Protector has no authority, however to amend the trust with regard to the identities of the beneficiaries."

By instrument dated November 20, 2013, Lester S. Schwartz, Esq. was appointed as the Trust Protector of the Trust. He has determined to amend the Trust as follows:

1. The Trust shall have a situs in the State of Delaware; provided, however, that the Trust shall continue to be administered pursuant to the laws of the State of South Dakota until such time as the governing law is changed pursuant to the provisions of Article III of the Trust.

2. Article IV shall be amended by adding a new Section (E), which shall read as follows:

> E. Notwithstanding the foregoing, each beneficiary shall have the right at his or her death to appoint by Will such portion or all of the accumulated income and principal of any trust held under this Article for his or her benefit; provided, however, that (i) such appointment may only be made in favor of a trust for the benefit of his or her spouse; (ii) such trust may grant to such spouse no greater than an income interest for life in the appointed assets, and (iii) such appointment may only be made with the consent of the corporate Trustee (which consent may be granted or withheld in its sole and absolute discretion).

3. Article VI(A)(9) is hereby amended by deleting the first paragraph therefrom and substituting the following in lieu thereof:

> 9. I have the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to me within the meaning of Internal Revenue Code section 672(c).
>
> Upon the later of my death or November 20, 2018, my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, acting by majority vote (or should there be separate Trust Protectors for each subtrust, as provided in Paragraph (A),

above, my child who is the beneficiary of each particular subtrust), may, not more frequently than once every five (5) years, by written notice to the then serving Trust Protector, have the right to request appointment of a committee of three individuals to consider whether a Trust Protector should be removed and replaced. The majority vote of such committee shall be sufficient to remove and replace any Trust Protector with such other Trust Protector as the committee may determine. The individuals who may be appointed to such committee (i) may not be beneficiaries of the Trust, (ii) may not be related or subordinate to either the Trust Protector or any of my children (or child, as the case may be) (within the meaning of §672(c) of the Internal Revenue Code), (iii) must each be Fellows of the American College of Trust and Estate Counsel (ACTEC), and (iv) much each be members of different law firms. Within thirty (30) days of the delivery to the Trust Protector of a written request by my children (or child, as the case may be), my children, by majority vote (or child, as the case may be), and the Trust Protector shall each appoint a committee member. A third committee member shall be chosen by the first two committee members, acting jointly; provided, however, that if a third committee member is not appointed within sixty (60) days of the written notice requesting the appointment of a committee, either my children (or child, as the case may be) or the Trust Protector may petition the Probate Court having jurisdiction over the Trust to appoint such third committee member. The appropriate compensation (at their customary hourly rates) shall be paid to any such committee (if nominated) from the Trust assets.

The committee shall consider information provided by the Trust Protector and my children (or child, as the case may be) (as well as information from such other person(s) as the committee may determine) and, within 30 days of the date of appointment of the last committee member, shall determine whether to remove and replace the Trust Protector. In making its determination, the committee shall consider all issues it considers relevant. As the role of Trust Protector is a limited role (unlike the role of Trustee), the committee is encouraged to consider the duties assigned to the Trust Protector under this Agreement and which, if any, of those duties are being actively undertaken by the Trust Protector, and the Trust Protector's experience with respect to the nature of the duties. Any such consideration shall consider whether any attempted change in Trust Protector may have been initiated for the purpose of seeking a Trust Protector who may not be as likely to honor the Settlor's intent or whether there are genuine personality, performance, and/or expense issues involved in seeking such change of Trust Protector.

Upon completion of the decision for which the committee is appointed, the committee shall have no further responsibility and its powers shall terminate.

This ability to request a committee to remove and replace the Trust Protector shall pass from PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. Each named designee shall have the right to pass this authority to request a committee to remove and replace the Trust Protector to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. The last acting designee shall have the right to pass this authority to request a committee to remove and replace the Trust Protector

to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above, and so forth, down through the generations. If at any time there is no designee appointed or acting and thus there is a vacancy in this position to request a committee to remove and replace the Trust Protector, then the Distribution Committee shall have the right to pass this authority to request a committee to remove and replace the Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above.

4. Article IX shall be amended by deleting Section (B) therefrom.

5. Article IX shall be amended by deleting Section (C) therefrom and substituting the following in lieu thereof, which shall be re-labeled as (B):

B. Release of Powers. I hereby retain the power to release the power described in paragraph A of this Article by delivering to the Trustee a written statement to that effect. This power may be exercised by my agent acting under a duly executed Power of Attorney or by my duly appointed guardian, in the event of my disability or incapacity.

A corporate Trustee, with the prior written consent of the Trust Protector, may restore the released power at any time.

6. Article X(D) shall be amended by deleting Section (D) therefrom and substituting the following in lieu thereof:

D. Unless specifically provided otherwise, all powers and discretions conferred by law of this Agreement upon the Trustees must be exercised by the unanimous vote of the Trustees in office from time to time (excepting the vote of any Trustee who is also a beneficiary who is ineligible to participate in the exercise of the power or discretion because he, as a beneficiary, may be affected by the exercise of such power or discretion).

7. Article XII shall be amended by adding the following, which shall be Paragraph (I) thereof:

I. Notwithstanding any other provision of this Agreement, with respect to any litigation brought by or against any Trust created under this Agreement, if any Trustee of such is a party to such litigation in both an individual or corporate capacity and his or her capacity as a Trustee, then the Trust Protector shall represent such Trust with respect to such litigation, and shall have the power to pay, compromise, contest, submit to arbitration, or otherwise settle such litigation in favor of or against the trust, and may prosecute or defend such litigation for the protection of trust assets. The provisions of this Paragraph (H) shall apply notwithstanding the fact that there may be one or more co-Trustees then serving who are not parties to the litigation in an individual or corporate capacity.

In all other respects the Trust instrument shall remain as originally written, this amendment shall be effective this 20th day of November, 2013.

Lester S. Schwartz

State of South Carolina)
)
County of Charleston)

PERSONALLY APPEARED before me on this 20th day of November, 2013, **Lester S. Schwartz**, to me known and known to me to the individual described in and who acknowledged the foregoing instrument and acknowledged to me that he executed the same.

_____(SEAL)
Notary Public for South Carolina
My Commission Expires: 4/25/2022

EXERCISE OF RIGHT OF SUBSTITUTION

THE WELLIN FAMILY 2009 IRREVOCABLE TRUST

The Wellin Family 2009 Irrevocable Trust was created by agreement dated November 2, 2009 between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees (the "2009 Trust").

Article IX(A) of the 2009 Trust provides as follows:

> A. Power of Asset Substitution. I hereby retain the power, exercisable during my lifetime, at any time and from time to time, without the consent of or approval by the Trustee, to reacquire the trust corpus or a portion thereof by substituting other property of an equivalent value.

Effective this 20th day of November, 2013, the Grantor, Keith S. Wellin, does hereby exercise the right granted to him by Article IX(A) of the 2009 Trust and substitute the promissory note issued by the 2009 Trust in his favor on September 4th, 2012 with a face value of $49,802,115 and a current outstanding balance of $50,211,446.55 (being principal and accrued but unpaid interest as of the date hereof) (the "Note") in exchange for Units in Friendship Partners, LP representing an assignee interest therein with a fair market value equal to $50,211,446.55.

The number of Units in Friendship Partners, L.P. transferred in substitution for the Note are determined in accordance with the calculations attached hereto as Schedule A. The discounts applied to the assets of Friendship Partners, LP and the individual units are consistent with the discounts applied by the general partner of Friendship Partners LP with respect to various transfers between the 2009 Trust and Keith S. Wellin from 2009 through 2012, and the calculation is consistent with the methodology employed by Management Planning Inc. in its report dated November 30, 2009.

Keith S. Wellin recognizes that the cash held by Friendship Partners, L.P. may be different than the estimated balance reflected on Schedule A. If the general partner of Friendship Partners, L.P. provides to Keith S. Wellin evidence of a different cash balance, the Units transferred to Keith S. Wellin shall be adjusted to reflect a number of Units transferred to Keith S. Wellin with a fair market value equal to the value determined by inserting the correct cash balance into the calculations on Schedule A.

In compliance with that Temporary Restraining Order issued by Judge David C. Norton on July 3, 2013 in the United States District Court, District of South Carolina, Charleston Division in *Wellin et. al. v. Wellin et. al., C/A No. 2:13c1813 DCN*, this shall constitute the consent of Keith S. Wellin that the partnership interests be transferred by the 2009 Trust to Keith S. Wellin, individually.

Keith S. Wellin, individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust dated December 11, 2001, as subsequently amended and restated

5:12 PM 11/20/2013

Friendship Partners, LP

Freely Traded Value

As of November 20, 2013

Assets		
Cash	$	10,000
Equity Investment		
Berkshire Hathaway Inc. - 906 A Shares[1]	$	156,266,880
Total Assets	$	156,276,880
Liabilities and Partners' Capital		
Liabilities		--
Partners' Capital (Net Asset Value)	$	156,276,880
Total Liabilities and Partners' Capital	$	156,276,880
Net Asset Value	$	156,276,880
Less: Minority Interest Discount (15%)	$	(23,441,532)
Freely Traded Value of Friendship Partners LP	$	132,835,348
Freely Traded Value Per Unit (based on 1,000,000 units issued and outstanding)	$	132.835
Freely Traded Value Per Unit	$	132.835
Less: Marketability Discount of 35%	$	(46.49)
Fair Market Value Per Unit	$	86.34
Fair Market Value of 581,554.8645 Limited Partnership Units (based on 1,000,000 units issued and outstanding)	**$**	**50,211,447**

[1]Based on the closing price of Berkshire Hathaway Class A stock as of the date of substitution.

Compound Period ..... : Annual

Nominal Annual Rate .... : 2.590 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	11/30/2009	49,802,115.00	1		
2	Payment	11/30/2010	1,289,874.78	1		
3	Rate Change	12/06/2010	Rate: 1.530 %	Compounding: Annual		
4	Payment	11/30/2011	770,969.29	1		
5	Rate Change	11/30/2011	Rate: 1.200 %	Compounding: Annual		
6	Rate Change	09/04/2012	Rate: 0.840 %	Compounding: Annual		
7	Payment	11/30/2012	555,007.83	1		
8	Payment	11/20/2013	50,211,446.55	1		

AMORTIZATION SCHEDULE - Normal Amortization

	Date	Payment	Interest	Principal	Balance
Loan	11/30/2009				49,802,115.00
2009 Totals		0.00	0.00	0.00	
1	11/30/2010	1,289,874.78	1,289,874.78	0.00	49,802,115.00
Rate	12/06/2010		21,203.42	21,203.42-	49,823,318.42
	12/06/2010	Rate: 1.530 %	Compounding: Annual		
2010 Totals		1,289,874.78	1,311,078.20	21,203.42-	
2	11/30/2011	770,969.29	749,765.87	21,203.42	49,802,115.00
Rate	11/30/2011		0.00	0.00	49,802,115.00
	11/30/2011	Rate: 1.200 %	Compounding: Annual		
2011 Totals		770,969.29	749,765.87	21,203.42	
Rate	09/04/2012		456,815.02	456,815.02-	50,258,930.02
	09/04/2012	Rate: 0.840 %	Compounding: Annual		
3	11/30/2012	555,007.83	100,628.02	454,379.81	49,804,550.21
2012 Totals		555,007.83	557,443.04	2,435.21-	
4	11/20/2013	50,211,446.55	406,896.34	49,804,550.21	0.00
2013 Totals		50,211,446.55	406,896.34	49,804,550.21	
Grand Totals		52,827,298.45	3,025,183.45	49,802,115.00	

RELEASE OF RIGHT OF SUBSTITUTION

THE WELLIN FAMILY 2009 IRREVOCABLE TRUST

The Wellin Family 2009 Irrevocable Trust was created by agreement dated November 2, 2009 between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees (the "2009 Trust").

Article IX(A) of the 2009 Trust provides as follows:

> A. Power of Asset Substitution. I hereby retain the power, exercisable during my lifetime, at any time and from time to time, without the consent of or approval by the Trustee, to reacquire the trust corpus or a portion thereof by substituting other property of an equivalent value.

Article IX(B) of the 2009 Trust provides as follows:

> B. Release of Powers. I hereby retain the power to release the power described in paragraph A of this Article by delivering to the Trustee a written statement to that effect. This power may be exercised by my agent acting under a duly executed Power of Attorney or by my duly appointed guardian, in the event of my disability or incapacity.

Effective as of 11:59pm this 20th day of November, 2013, the Grantor, Keith S. Wellin, does hereby release the power granted to him under Article IX(A) of the 2009 Trust and relinquish any right to reacquire the trust corpus, or any portion thereof, of the 2009 Trust.

Keith S. Wellin does acknowledge that, prior to the execution of this instrument, he did exercise the power granted to him in Article IX(A) of the 2009 Trust and reacquire a portion of the 2009 Trust's interest in Friendship Partners, L.P. in exchange for a promissory note issued by the 2009 Trust on September 4, 2012. This instrument is intended to be effective after the time of such exercise.

Keith S. Wellin

State of South Carolina

County of Charleston

PERSONALLY APPEARED before me on this 20th day of November, 2013, Keith S. Wellin, to me known and known to me to the individual described in and who acknowledged the foregoing instrument and acknowledged to me that he executed the same.

_____ (SEAL)
Notary Public for South Carolina
My Commission Expires: April 23, 2022
5:15 PM 11/20/2013

PLAN OF DISSOLUTION AND LIQUIDATION OF FRIENDSHIP PARTNERS, LP

This Plan of Dissolution and Liquidation (the "***Plan***") is intended to accomplish the dissolution and liquidation of Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***"), in accordance with the Delaware Revised Uniform Limited Partnership Act (the "***Act***").

1. ***Approval and Adoption of Plan.*** Friendship Management, LLC, a Delaware limited liability company, the sole general partner of the Partnership (the "***General Partner***"), pursuant to Section 10.2(a)(i) of the limited partnership agreement of the Partnership (the "***Partnership Agreement***") by written consent has adopted and approved this Plan, effective as of December 1, 2013 (the "***Effective Date***").

2. ***Cessation of Business and Investment Activities.*** After the Effective Date, the Partnership shall not engage in any business or investment activities except to the extent necessary to preserve the value of its assets, wind up its business and investment affairs, and distribute its assets in accordance with this Plan.

3. ***Hiring Consultants and Advisors.*** For the purpose of effecting the dissolution of the Partnership, the Partnership may hire or retain, at the discretion of the General Partner, such consultants and advisors as the General Partner deems necessary or desirable to supervise or facilitate the dissolution and winding up of the Partnership.

4. ***Plan of Distribution.***

From and after the Effective Date, the Partnership shall complete the following actions:

(i) The Partnership shall pay its known creditors in satisfaction of known liabilities of the Partnership or make reasonable provision for payment thereof.

(ii) The Partnership shall establish reserves reasonably adequate to meet any and all contingent or unforeseen liabilities or obligations of the Partnership as determined by the General Partner in the General Partner's absolute discretion, provided that at the expiration of one year from the Effective Date, the balance of such reserves remaining after payment of such contingencies or liabilities shall be distributed to the partners of the Partnership in accordance with Section 5.1 of the Partnership Agreement.

(iii) The Partnership shall distribute to its partners, in accordance with Section 10.3(c) and Section 5.1 of the Partnership Agreement, all remaining assets, if any, including all available cash, including the cash proceeds of any sale, exchange or disposition, except such cash, property or assets as are reserved for paying or making reasonable provision for the claims and obligations of the Partnership. Such distributions may occur all at once or in a series of

distributions and shall be in cash or assets, in such amounts, and at the time or times as the General Partner may determine in its absolute discretion.

5. ***Cancellation of Limited Partner Interests.*** The distributions to the Partnership's limited partners pursuant to Section 4 hereof shall be in complete cancellation of the outstanding limited partner interests of the Partnership. From and after the Effective Date, and subject to applicable law, each limited partner of the Partnership shall cease to have any rights in respect thereof, except the right to receive distributions pursuant to and in accordance with Section 4(ii) and (iii) hereof.

6. ***Expenses of Dissolution.*** In connection with and for the purposes of implementing and assuring completion of this Plan, the Partnership may, in the absolute discretion of the General Partner, pay any brokerage, agency, professional and other fees and expenses of persons rendering services to the Partnership in connection with the collection, sale, exchange or other disposition of the Partnership's property and assets and the implementation of this Plan.

7. ***Indemnification.*** The Partnership shall continue to indemnify the General Partner, its members and managers, and its officers, agents and employees in accordance with the Partnership Agreement and contractual arrangements as therein or elsewhere provided, and such indemnification shall apply to acts or omissions of such persons in connection with the implementation of this Plan and the winding up of the affairs of the Partnership.

8. ***Authorization.*** The General Partner is hereby authorized, without further action by any of the other partners of the Partnership, to do and perform, any and all acts, and to make, execute, deliver or adopt any and all agreements, resolutions, conveyances, certificates and other documents of every kind which are deemed necessary, appropriate or desirable, in the absolute discretion of the General Partner, to implement this Plan and the transactions contemplated hereby, including, without limiting the foregoing, all filings or acts required by any state or federal law or regulation to wind up its affairs.

IN WITNESS WHEREOF, the undersigned has caused this Plan of Dissolution and Liquidation to be duly executed as of the Effective Date.

FRIENDSHIP MANAGEMENT, LLC

By: Cynthia W. Plum, Manager

Cynthia W. Plum, Manager

WRITTEN CONSENT IN LIEU OF A MEETING OF THE GENERAL PARTNER OF FRIENDSHIP PARTNERS, LP

Effective December 1, 2013

The undersigned, being the sole general partner (the "***General Partner***") of Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***"), by execution of this document hereby (i) consents to and adopts the following resolutions as of the date of this document, which resolutions shall have the same force and effect as if adopted by an affirmative vote of a meeting of the General Partner duly called and held and (ii) direct that this Written Consent be filed with the minutes of the proceedings of the Partnership.

WHEREAS, pursuant to Section 10.2(a)(i) of the Agreement of Limited Partnership of the Partnership (the "***Partnership Agreement***"), the General Partner has the authority to dissolve the Partnership; and

WHEREAS, the General Partner has determined that the Partnership is no longer serving its original purpose and it is in the best interest of the partners of the Partnership for the Partnership to dissolve and liquidate as described in that certain Plan of Dissolution and Liquidation, a copy of which is attached hereto as **Exhibit A** (the "***Plan of Dissolution and Liquidation***").

NOW, THEREFORE, upon consideration of the above matters, among other things, and having regard for the interests of the Partnership and its partners, **BE IT RESOLVED**, that the General Partner hereby consents to the dissolution, winding up and liquidation of the Partnership and in conjunction with such dissolution, winding up and liquidation hereby approves and adopts the Plan of Dissolution and Liquidation; and

FURTHER RESOLVED; that the General Partner is authorized and directed to do or cause to be done all acts and things the General Partner may deem necessary or proper in order to fully effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, the undersigned has executed this Written Consent in Lieu of a Meeting.

FRIENDSHIP MANAGEMENT, LLC

By: _____
Cynthia W. Plum, Manager

DEFS_000002

WRITTEN CONSENT IN LIEU OF A MEETING OF THE DISTRIBUTION COMMITTEE AND THE INDIVIDUAL TRUSTEES OF WELLIN FAMILY 2009 IRREVOCABLE TRUST

Effective December 1, 2013

The undersigned, being all of the members of the Distribution Committee (the "***Distribution Committee***") and the individual Trustees (the "***Individual Trustees***") of the Wellin Family 2009 Irrevocable Trust (any reference herein to the "***Trust***" shall refer to the Wellin Family 2009 Irrevocable Trust and any trust created thereunder), by execution of this document hereby (i) consent to and adopt the following resolutions as of the date of this document, which resolutions shall have the same force and effect as if adopted by an affirmative vote of a meeting of the Distribution Committee duly called and held and (ii) direct that this Written Consent be filed with the records of the Trust.

WHEREAS, pursuant to Article VII of the Trust, the Distribution Committee is empowered to direct discretionary distributions of Trust property to the beneficiaries of the Trust;

WHEREAS, the Distribution Committee has become aware of a liquidating distribution (the "***Partnership Distribution***") to be received by the Trust from Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***") with respect to the Trust's limited partner interest in the Partnership; and

WHEREAS, the Distribution Committee has decided to exercise its discretion to authorize and cause a distribution from the Trust in an amount equal to the excess of the Partnership Distribution over $52,000,000 (the $52,000,000 hereinafter referred to as the "***Trust Retained Amount***") to Cynthia W. Plum, Peter J. Wellin, and Marjorie W. King, as beneficiaries of the Trust, outright and free of trust and in equal shares (each such distribution share hereinafter referred to as the "***One-Third Share of the Excess Partnership Distribution***").

NOW, THEREFORE, upon consideration of the above matters, among other things, and having regard for the interests of the beneficiaries of the Trust, **BE IT RESOLVED**, that Peter J. Wellin and Marjorie W. King, in their capacity as members of the Distribution Committee, hereby vote in favor of and authorize the distribution of a One-Third Share of the Excess Partnership Distribution to Cynthia W. Plum; that Marjorie W. King and Cynthia W. Plum, in their capacity as members of the Distribution Committee, hereby vote in favor of and authorize the distribution of a One-Third Share of the Excess Partnership Distribution to Peter J. Wellin; and that Peter J. Wellin and Cynthia W. Plum, in their capacity as members of the Distribution Committee, hereby vote in favor of and authorize the distribution of a One-Third Share of the Excess Partnership Distribution to Marjorie W. King; and for the avoidance of doubt, if the Partnership Distribution is distributed to the Trust in more than one distribution, then the Trust may distribute the One-Third Share of the Excess Partnership Distribution to each of the before named beneficiaries as soon as the Trust has sufficient cash to do so and before the funding of the Trust with the Trust Retained Amount; and

FURTHER RESOLVED, that Peter J. Wellin and Marjorie W. King hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Cynthia W. Plum on behalf of the Trust; that Marjorie W. King and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Peter J. Wellin on behalf of the Trust; that Peter J. Wellin and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Marjorie W. King on behalf of the Trust, and that each member of the Distribution Committee and Individual Trustee hereby acknowledges that each such distribution directly from the Partnership to the before mentioned beneficiaries shall be deemed to be a distribution from the Partnership to the Trust followed by a distribution from the Trust to the beneficiaries for Trust accounting purposes;

FURTHER RESOLVED, that each of the members of the Distribution Committee and each of the Individual Trustees is authorized and directed to do or cause to be done all acts and things he or she deems necessary or proper in order to carry out the distributions described above and to fully effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin by Cynthia W. Plum his attorney in fact
Peter J. Wellin

Marjorie W. King

FURTHER RESOLVED, that Peter J. Wellin and Marjorie W. King hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Cynthia W. Plum on behalf of the Trust; that Marjorie W. King and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Peter J. Wellin on behalf of the Trust; that Peter J. Wellin and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Marjorie W. King on behalf of the Trust, and that each member of the Distribution Committee and Individual Trustee hereby acknowledges that each such distribution directly from the Partnership to the before mentioned beneficiaries shall be deemed to be a distribution from the Partnership to the Trust followed by a distribution from the Trust to the beneficiaries for Trust accounting purposes;

FURTHER RESOLVED, that each of the members of the Distribution Committee and each of the Individual Trustees is authorized and directed to do or cause to be done all acts and things he or she deems necessary or proper in order to carry out the distributions described above and to fully effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin

Marjorie W. King

Marjorie W. King

Wellin Family 2009 Irrevocable Trust (the "Trust")
For the Period November 13 to December 13, 2013

Receipts:

Liquidation Distribution received from Friendship Partners LP (the "Partnership")	12/5/2013	$ 147,630,142.45
Return of check tendered in payment of Note	12/9/2013	$ 50,228,000.00
Total Receipts:		$ 197,858,142.45

Disbursements:

Payment of Promissory Note dtd Sept. 4, 2012 (the "Note") (Note 1)	12/6/2013	$ 50,228,000.00
Distribution to Cynthia Plum (Note 2)	12/6/2013	$ 31,876,714.15
Distribution to Peter Wellin (Note 2)	12/6/2013	$ 31,876,714.15
Distribution to Marjorie King (Note 2)	12/6/2013	$ 31,876,714.15
Total Disbursements:		$ 145,858,142.45
Net Receipts (Note 3)		$ 52,000,000.00

Note 1 - The Individual Trustees of the Trust directed the Partnership to pay a portion of the Trust's liquidation distribution directly to the Payee of the Note
Note 2 - The Distribution Committee of the Trust directed the Partnership to pay a portion of the Trust's liquidation distribution directly to the Trust beneficiary
Note 3 - The Net Receipts of the Trust are currently being held by the Partnership on behalf of the Trust due to the fact that the Partnership's account is currently frozen and unable to transfer money to the Trust account.

WRITTEN CONSENT IN LIEU OF A MEETING OF THE INDIVIDUAL TRUSTEES OF WELLIN FAMILY 2009 IRREVOCABLE TRUST

Effective December 5, 2013

The undersigned, being all of the individual Trustees (the "***Individual Trustees***") of the Wellin Family 2009 Irrevocable Trust (any reference herein to the "***Trust***" shall refer to the Wellin Family 2009 Irrevocable Trust and any trust created thereunder), by execution of this document hereby (i) consent to and adopt the following resolutions as of the date of this document, which resolutions shall have the same force and effect as if adopted by an affirmative vote of a meeting of the Individual Trustees duly called and held and (ii) direct that this Written Consent be filed with the records of the Trust.

WHEREAS, On Sept. 4, 2012, the trustees of the Trust in their capacities as trustee of the Trust issued a promissory note (the "***Note***") to the Keith S. Wellin Florida Revocable Living Trust (the "***Payee***") in the original principal amount of $49,802,115.00;

WHEREAS, the outstanding balance of the Note consisting of unpaid principal and accrued interest as of Dec. 6, 2013 is or will be $50,228,000.00 (the "***Outstanding Balance of the Note***");

WHEREAS, the Trust is anticipating the receipt of a liquidating distribution (the "***Partnership Distribution***") from Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***") with respect to the Trust's limited partner interest in the Partnership; and

WHEREAS, the Individual Trustees desire to use a portion of such Partnership Distribution to pay off the Note.

NOW, THEREFORE, upon consideration of the above matters, among other things, and having regard for the interests of the beneficiaries of the Trust, **BE IT RESOLVED,** that the Individual Trustees hereby approve and authorize a payment to the Payee in an amount equal to the Outstanding Balance of the Note in satisfaction of the Note; and

FURTHER RESOLVED, that the Individual Trustees hereby agree to authorize the Partnership to pay a portion of the Trust's share of the Partnership Distribution in an amount equal to the Outstanding Balance of the Note directly to the Payee in satisfaction of the Note and that the Individual Trustees hereby acknowledge that such payment directly from the Partnership to the Payee shall be deemed to be a distribution from the Partnership to the Trust followed by a payment from the Trust to the Payee for Trust accounting purposes;

FURTHER RESOLVED, that each of the Individual Trustees is authorized and directed to do or cause to be done all acts and things he or she deems necessary or proper in order to carry out the distributions described above and to fully effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin by Cynthia W. Plum his Attorney in Fact

Marjorie W. King

IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin

Marjorie W. King

Marjorie W. King

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
151 Meeting Street / Sixth Floor / Charleston, SC 29401-2239
Tel: 843.853.5200 Fax: 843.722.8700
www.nelsonmullins.com

John B. Hagerty
(Admitted in SC)
Tel: 843.720.4308
john.hagerty@nelsonmullins.com

December 6, 2013

Via Hand Delivery

Edward G.R. Bennett, Esq.
Evans, Carter, Kunes & Bennett, P.A.
115 Church Street
Charleston, SC 29401

Robert H. Hood, Esq.
The Hood Law Firm
172 Meeting Street
Charleston, SC 29401

RE: Keith Wellin, individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001 v. Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, individually and as co-Trustees and beneficiaries of the Wellin Family 2009 Irrevocable Trust u/d/a November 2, 2009, South Dakota Trust Company, LLC as co-Trustee of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, Friendship Management, LLC and Friendship Partners, LP
Civil Action No.: 2:13-cv-01831-DCN
NMRS File No.: 39113/01500

Dear Edward and Bobby:

Pursuant to Section 10.2(a)(i) of the Agreement of Limited Partnership of Friendship Partners, LP (the "Partnership Agreement"), Friendship Management, LLC (the "General Partner"), the sole general partner of Friendship Partners, LP (the "Partnership"), has dissolved the Partnership. In connection with the dissolution, the General Partner has liquidated the Partnership assets and is distributing them to the Limited Partners. As you know, the KSW 2011 Qualified Grantor Retained Annuity Trust and the KSW 2012 Qualified Grantor Retained Annuity Trust are Limited Partners of the Partnership. Thus, enclosed with this letter are checks representing distributions to these entities based upon their percentage interests in the Partnership.

RECEIVED DEC 06 2013

Please also find enclosed a check in the amount of $50,228,000.00 to the Keith S. Wellin Florida Revocable Living Trust (the "Revocable Trust"), as Payee of the restated Promissory Note dated September 4, 2012 (the "Note"). This check is hereby tendered on behalf of the Wellin Family 2009 Irrevocable Trust (the "Irrevocable Trust") as payment in full of the outstanding balance on the Note.

Finally, we received correspondence from Edward on November 20, along with a document entitled "Exercise of Right of Substitution," via which Mr. Wellin purported to exercise the Power of Asset Substitution under the Irrevocable Trust by proposing to release the Trust's liability under the Note. This purported exercise of Mr. Wellin's Power of Asset Substitution was ineffective, and the Note remained outstanding until satisfied in full by virtue of the enclosed payment.

Very truly yours,

John B. Hagerty

John B. Hagerty

FRIENDSHIP PARTNERS LP

UBS Financial Services Inc.

101

25-80/440

DATE 12/5/13

PAY TO THE ORDER OF Keith S. Wellin Florida Revocable Living Trust $50,228,000.00

Fifty million two hundred twenty eight thousand dollars and no/100 DOLLARS

BANK ONE, N.A.
Columbus, Ohio 43271

Business Services Account BSA®

MEMO Payment in full of promissory note dated 9/4/2012

[redacted]

MP

FRIENDSHIP PARTNERS LP

UBS Financial Services Inc.

103

25-80/440

DATE 12/5/13

PAY TO THE ORDER OF KSW 2012 Qualified Grantor Retained Annuity Trust $4,565,829.18

Four million five hundred sixty five thousand eight hundred twenty nine dollars and 18/100 DOLLARS

BANK ONE, N.A.
Columbus, Ohio 43271

Business Services Account BSA®

MEMO

[redacted]

MP

FRIENDSHIP PARTNERS LP

UBS Financial Services Inc.

104

25-80/440

DATE 12/5/13

PAY TO THE ORDER OF KSW 2011 Qualified Grantor Retained Annuity Trust $2,193,657.70

Two million one hundred ninety three thousand six hundred fifty seven dollars and 70/100 DOLLARS

BANK ONE, N.A.
Columbus, Ohio 43271

Business Services Account BSA®

MEMO

[redacted]

MP

EVANS, CARTER, KUNES & BENNETT, P. A.
ATTORNEYS AT LAW
115 CHURCH STREET
CHARLESTON, SOUTH CAROLINA 29401

T. HEYWARD CARTER, JR.†
ROBERT M. KUNES†
EDWARD G. R. BENNETT**
ANDREW W. CHANDLER*†
M. JEAN LEE
F. PATRICIA SCARBOROUGH**
DAVID H. KUNES**

†CERTIFIED SPECIALIST IN ESTATE PLANNING AND PROBATE LAW
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*LICENSED IN SC AND GA
**LICENSED IN SC AND NC

MAILING ADDRESS:
P. O. BOX 369
CHARLESTON, SC 29402-0369

TELEPHONE (843) 577-2300
TELECOPIER (843) 577-2055

WWW.ECKB.COM

December 6, 2013

By Hand

John B. Hagerty
Nelson Mullins
151 Meeting Street
Charleston, SC 29401

Re: Wellin Checks

Dear John:

Enclosed is the check for $50,288,000 which you sent over this afternoon. As you know, Keith Wellin substituted the promissory note and accrued interest due him for interests in Friendship Partners, LP on November 20, 2013 thereby extinguishing the promissory note. Until such time as the Court makes a final determination on the validity of the trust and transfers in the first place, Keith clearly is entitled to no less than his pro-rata share of the partnership distribution. According to our computations, his share of the distribution should be somewhere in the range of $90.8mm.

We have retained the checks made payable to the two GRATs as the two GRATs have a right to those distributions, subject, of course to the ongoing litigation which we believe will result in all of these transactions being set aside anyhow. As Keith paid the annuity payments due to him prior to these distributions, we will recompute the annuity distributions based on the percentages which were indicated in his payment documents of the 5th and remit to the children the appropriate amounts due to them on the trust termination, which, distribution, of course will be subject to the pending litigation. In addition, we will want a final accounting and true up with respect to these payments. We will note that the two checks are inconsistent in their computation of the total amount due (please see our tentative computations which show partnership assets of $156,155,493.92 based on one of the checks and $156,150,273.24 based on the other check).

We are not accepting the check which you have tendered for the $50,288,000 with its notation that it is in full payment of a promissory note which no longer exists. Rather, I am returning the check to you and hereby demand, on behalf of my client (subject, of course, to a final determination in the ongoing litigation) that the

partnership immediately distribute to him 58.15548645[1]% of the all assets of the partnership which are being distributed in liquidation of the partnership.

Please give me a call if you have any questions. With my kindest regards, I am,

Yours truly,

Edward G. R. Bennett

cc: Keith S. Wellin
Robert H. Hood
James B. Hood

[redacted]

[1] This percentage being subject to final determination as part of the final accounting.

FRIENDSHIP PARTNERS LP

UBS Financial Services Inc.

101

25-80/440

DATE 12/5/13

PAY TO THE ORDER OF Keith S. Wellin Florida Revocable Living Trust $ 50,228,000.00

Fifty million two hundred twenty eight thousand dollars and no/100 DOLLARS

BANK ONE, N.A.
Columbus, Ohio 43271

A B C D E F G K L M N P R S T U V W Y Z

Business Services Account BSA®

MEMO Payment in full of promissory note dated 9/4/2012

[redacted]

MP

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Keith Wellin, Plaintiff, Versus Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, individually, and as Trustees of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, Defendants.	)	C/A No. 2:14-cv-00579-DCN **COMPLAINT** **(Jury Trial Demanded)**

Now comes Plaintiff, Keith Wellin, by and through his undersigned attorneys and files this complaint alleging the following:

PARTIES

1. Keith Wellin is, and was at all times mentioned, domiciled in and a citizen of the State of South Carolina.

2. Defendant Peter J. Wellin is, and was at all times mentioned, domiciled in and a citizen of the State of Maine.

3. Peter J. Wellin is being sued in his individual capacity and in his capacity as Trustee of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009.

4. Defendant Cynthia W. Plum is, and was at all times mentioned, domiciled in a citizen of the State of Pennsylvania.

5. Cynthia W. Plum is being sued in her individual capacity and in her capacity as Trustee of the Wellin Family 2009 Irrevocable Trust u/a/d November, 2009.

6. Defendant Marjorie W. King is, and was and at all times mentioned, domiciled in and a citizen of the State of Washington.

7. Marjorie W. King is being sued in her individual capacity and in her capacity as Trustee of the Wellin Family 2009 Irrevocable Trust u/a/d November, 2009.

VENUE AND JURISDICTION

8. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.

9. Every issue of law and fact is wholly between citizens of different states.

10. The United States District Court for the District of South Carolina has jurisdiction over this claim based on diversity jurisdiction pursuant to 28 U.S.C. § 1331.

11. Venue is proper in this District and the Charleston Division pursuant to 28 U.S.C. § 1391(b)(2) and Local Civil Rule 3.01 (A)(1) DSC because a substantial part of the transactions or occurrences underlying Plaintiff's claims occurred within the Charleston Division of this District.

12. Plaintiff executed the documents effectuating the transactions that are the subject of this case in Charleston, South Carolina.

FACTUAL ALLEGATIONS

13. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

14. Prior to November 20, 2013 the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009 had issued a note to Plaintiff with a face value, including interest, of at least $50,211,447.00 as of November 20, 2013.

15. On November 20, 2013 Plaintiff substituted the promissory note issued to him for a 58.15548645% interest in Friendship Partners, L.P. and Friendship Partners, L.P. was liquidated and/or dissolved after November 20, 2013.

16. That despite the fact that Plaintiff has substituted the promissory note, marked paid in full, as set forth above, Defendants in this action have refused to surrender the undisputed funds due Plaintiff in the amount of $50,211,447.00 due as of November 20, 2013.

17. On information and belief the funds at issue herein are held in a partnership account in the name of Friendship Partners, L.P., which has been liquidated and/or dissolved; however, said funds are held to the exclusion of Plaintiff's rights to obtain said funds and Defendants are exercising the right of ownership over the funds and have otherwise used the funds and have refused to turn said funds over to the Plaintiff despite the fact that Defendants, through their attorneys in court proceedings, have acknowledged that $50,000,000 belongs to Plaintiff.

18. That by reason of the foregoing Plaintiff has an ownership interest in the funds referred to above, and the Defendants have converted this property to his or her own use, without the Plaintiff's permission and despite the Plaintiff's demand that the funds be returned to him.

19. That the Defendants have refused to surrender these funds unless Plaintiff releases his right to other funds in dispute between the parties and the Defendants have refused to surrender the undisputed funds to Plaintiff or his special conservator, Edward G. R. Bennett and have converted the same to his or her own use.

20. The illegal possession and retention of Plaintiff's funds and conversion thereof was accomplished recklessly and with conscious disregard of the Plaintiff's rights.

21. That by reason of the foregoing and as a direct and proximate result thereof Plaintiff has suffered injuries and damages including the loss of said funds, interest and other gains which

could have been made by the use of said funds, Plaintiff has incurred attorneys' fees in attempting to obtain said funds and he has been otherwise damaged, all to his damage.

WHEREFORE, Plaintiff prays for judgment against Defendants in such amounts as will fully, fairly, and justly compensate him for actual damages, for attorneys' fees and pre-judgment and post-judgment interest and for such punitive damages as may be appropriate and for such other and further relief as may be proper.

HOOD LAW FIRM, LLC
172 Meeting Street
Post Office Box 1508
Charleston, SC 29402
Phone: (843) 577-4435
Facsimile: (843) 722-1630
Email: Info@hoodlaw.com

s/ James B. Hood
Robert H. Hood (1939)
Molly H. Craig (6671)
James B. Hood (9130)

Attorneys for the Plaintiff
Keith Wellin

February 28, 2014
Charleston, South Carolina

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

Peter J. Wellin, Cynthia Wellin Plum, and Marjorie Wellin King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, u/a/d November 2, 2009, Plaintiffs, vs. Wendy Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001, Defendant.	Civil Action No. 2:14-cv-04067-DCN COMPLAINT Jury Trial Requested

Plaintiffs Peter J. Wellin, Cynthia Wellin Plum, and Marjorie Wellin King, individually and as co-trustees and beneficiaries of the Wellin Family 2009 Irrevocable Trust (collectively, "Plaintiffs" or "the children"), by and through their undersigned counsel, file this complaint against Wendy Wellin, individually and in her capacity as trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001 ("Defendant" or "Wendy"), and allege as follows:

NATURE OF ACTION

1. Plaintiffs are the three adult children of the late Keith S. Wellin ("Keith"), and Defendant was Keith's fourth wife, having been married to Keith from 2002 until his death at the age of 88 in September 2014.

2. This action arises as a result of certain torts and breaches of contract committed by Wendy and causing injury to the children.

3. Through her prolonged and consistent pattern of mistreatment toward the children and Keith, Wendy defamed the children to Keith and others, unduly influenced and coerced Keith with respect to his finances and estate planning, isolated Keith from his children, grandchildren, and other relatives, instilled in Keith anger, distrust, and hatred toward his three children, and, ultimately, enriched herself and her family at the expense of the children and Keith's other lineal descendants. As a result of her campaign of lies, undue influence, coercion, and isolation that Wendy directed at Keith, particularly toward the end of Keith's life when his physical and mental capacity were diminished, Wendy destroyed the previously loving relationship the children shared with their father. Furthermore, through her course of conduct, Wendy caused Keith, at a time when his physical and mental capacity were diminished, to bring multiple lawsuits against his children, to transfer tens of millions of dollars to Wendy that Keith had always intended to bequeath and devise to his children as part of a carefully constructed estate plan, and, upon information and belief, to eliminate or severely limit the children's inheritance under Keith's Will and other estate planning documents while increasing the inheritance of Wendy and her family.

4. As a result of Defendant's actions, the children have suffered and continue to suffer significant economic damages, in addition to emotional and mental anguish and humiliation.

PARTIES, VENUE & JURISDICTION

5. Plaintiff Peter J. Wellin is a citizen of and resides in the State of Maine.

6. Plaintiff Cynthia Wellin Plum is a citizen of and resides in the State of Pennsylvania.

7. Plaintiff Marjorie Wellin King is a citizen of and resides in the State of Washington.

8. Defendant Wendy Wellin is a citizen of and resides in the State of South Carolina.

9. This court has diversity jurisdiction pursuant to 28 U.S.C. § 1332, as the amount in controversy, exclusive of interest and costs, exceeds $75,000.00 as specified in 28 U.S.C. § 1332, and every issue of law and fact is wholly between citizens of different states.

10. Venue is proper in this District and in the Charleston Division pursuant to 28 U.S.C. § 1391(b)(2) and Local Rule 3.01(A)(1) because the Defendant, Wendy Wellin, resides in this District and because a substantial part of the transactions or occurrences underlying this Complaint occurred within the Charleston Division of this District.

FACTS

Background

11. Plaintiffs are the three adult children of Keith and Carol Wellin.

12. Carol Wellin passed away in 1970.

13. After Carol Wellin passed away, Keith married three more times, but he never had any more children.

14. Keith's fourth wife was the Defendant, Wendy, who was approximately 15 years younger than him.

15. Keith and Wendy married on November 16, 2002, and remained married until Keith's death on September 14, 2014.

16. Keith and Wendy lived together in Charleston, South Carolina, from approximately 2005 until Keith's death.

17. Collectively, Plaintiffs have eight children ("the grandchildren").

18. Throughout their lives and until 2013, Keith, the children, and the grandchildren maintained a close, loving relationship.

19. The children and the grandchildren continue to maintain a close, loving relationship.

20. During his lifetime, Keith amassed a sizable fortune and, at the time of his marriage to Wendy, Keith's net worth exceeded $150 million.

Prenuptial Agreement

21. On November 12, 2002, immediately prior to marrying, Keith and Wendy entered into a prenuptial agreement (the "Prenuptial Agreement"). Keith and Wendy were represented by separate counsel in connection with the Prenuptial Agreement.

22. The first page of the Prenuptial Agreement recognized that Keith "is a successful investor with significant wealth and continuing income" and that Keith "seeks to protect [the children's] interests in his estate by having this Agreement in full force and effect."

23. The Prenuptial Agreement disclosed Keith's then-current financial condition, required Wendy to acknowledge that Keith's assets were then valued in excess of $150 million, and provided that it was Keith's intention "to actively manage and retain ownership of these holdings during the marriage without subjecting income or assets to a claim or interest of any kind in favor of [Wendy], except as set forth in this Agreement." The Prenuptial Agreement identified Keith's assets at the time of his marriage to Wendy as "Keith's Separate Property," and provided that Wendy expressly "waive[d] any claim whatsoever to KEITH's Separate Property (as herein defined) that she may now have or hereinafter acquire as KEITH's Wife."

24. The Prenuptial Agreement further provided that, although Keith's assets exceeded $150 million at the time, Wendy would receive $7.6 million in the event Keith predeceased Wendy and they were still married.

25. The Prenuptial Agreement provided that, "[i]n the event that KEITH becomes infirm or mentally incapacitated, WENDY shall not take any action to prohibit [the children] reasonable rights of access to KEITH, but will encourage and guarantee their reasonable right of access to KEITH."

26. The Prenuptial Agreement provided that Keith was the sole and exclusive owner of his "Separate Property" and had the sole and exclusive right to manage and dispose of such property in his discretion.

27. The Prenuptial Agreement provided that its terms were "non-modifiable for any reason and no party shall apply to the Court to attempt to modify the terms of this Agreement without the unanimous consent of [the children] and [Wendy's daughter from a prior marriage,] Heather Lane."

Keith's Estate Planning

28. For more than a decade and until 2013, Keith continuously employed the services of, and relied upon the advice of, Tom Farace ("Farace"), an estate planning and tax attorney and partner of the New York firm, Nixon Peabody.

29. Over the course of Farace's representation of Keith, Farace and Keith communicated extensively about Keith's wishes as to the management and disposition of the assets in Keith's estate before and after Keith's death.

30. Upon information and belief, Farace consistently consulted with Keith and asked for his direction and consent before making changes to Keith's estate planning documents.

31. Throughout Farace's representation of Keith and at all times prior to 2013, Keith's clear intention, as evidenced through contemporaneous documents, was to leave the bulk

of his estate—and the residuary of his estate—to his three children, to leave a smaller but substantial amount to Wendy, to fix the value of assets left to Wendy at a certain amount, and to leave relatively minor, fixed amounts to certain friends, charities, and other third parties.

32. Farace assisted Keith with all aspects of his estate planning, including advising him on ways to implement his estate plan in a tax efficient manner, advising him on changes in the law and how to adapt his estate plan to those changes, and drafting the necessary legal documents and discussing those documents with Keith before he executed them.

33. In 2001, Keith, acting with the assistance and direction of Farace, created the Keith S. Wellin Florida Revocable Living Trust (the "Revocable Trust"). The Revocable Trust was the primary instrument that provided how Keith's assets would be distributed upon his death. The Revocable Trust provided that Keith was the Trustee, Peter Wellin was successor Trustee, and Cynthia Plum was the backup successor Trustee.

34. At the beginning of Keith's marriage to Wendy, the Revocable Trust provided that Wendy would receive a fixed amount of $7.6 million upon Keith's death if Keith and Wendy remained married at the time of Keith's death. Over the course of his marriage to Wendy and prior to 2013, Keith revised the Revocable Trust on multiple occasions, increasing the fixed amount Wendy would receive upon his death from $7.6 million to $25 million.

35. At all times prior to 2013, the Revocable Trust and Keith's other estate planning documents were structured so that, when Keith died, Wendy would receive a fixed amount, that amount would be no more than $25 million, and Keith's three children would receive the bulk of the residuary of Keith's estate, representing an amount significantly greater than the amount left to Wendy.

36. In addition to providing for his three children to receive the residuary of his estate under the Revocable Trust, Keith, in 2003, set aside approximately 900 shares of Berkshire Hathaway stock (the "BRK Shares")—assets with a value of less than half the value of Keith's total estate—for the benefit of his children. Acting upon the advice and direction of Farace, Keith placed the BRK Shares in a family limited partnership (the "LP") and granted his three children complete control over the LP while Keith retained a 98.9% limited partnership interest. According to the documents Farace sent Keith and the children at the time of this 2003 transaction, the purpose of the transaction included minimizing taxes and protecting Keith's assets for his children. Communications from Farace to Keith and the children make clear that one goal of the 2003 transaction was to protect Keith's assets from his spouse.

37. Between 2003 and 2009, Keith's Will, Revocable Trust, and other estate planning documents provided that, when Keith died, his three children would receive his 98.9% interest in the LP (which they already controlled) as part of the residuary of Keith's estate, and Wendy would receive a fixed amount between $7.6 million and $25 million.

38. In 2009, Farace advised Keith to enter into a subsequent transaction relating to the BRK Shares, whereby Keith would create an intentionally defective grantor trust, known as the Wellin Family 2009 Irrevocable Trust (the "Irrevocable Trust"), of which Keith's children would be the beneficiaries, and then Keith would transfer to the Irrevocable Trust his 98.9% interest in the LP in exchange for a promissory note. Farace drafted all of the legal documents relating to this transaction and discussed them with the children, who were parties to the transaction. At the time of this transaction, Farace clearly communicated with Keith about the advantages and disadvantages of entering into this transaction and the impact that the transaction would have upon his estate.

39. The children, none of whom are lawyers, did not come up with—and could not have come up with—the idea for the 2003 or 2009 estate planning transactions, nor did they play any role in convincing Keith that he should enter into those transactions.

40. Both before and after the 2003 transaction, and both before and after the 2009 transaction, Keith's Will, Revocable Trust, and other estate planning documents provided that, upon Keith's death, the children would receive all of the value of the BRK Shares—whether in the form of the BRK Shares or partnership units—and that Wendy would receive only the fixed amount provided in the Revocable Trust—an amount that fluctuated between $7.6 million and $25 million and that at all times represented significantly less than half of Keith's remaining estate beyond the BRK Shares.

Powers of Attorney

41. In 2006, Keith executed powers of attorney appointing Peter Wellin as his attorney-in-fact, and Cynthia Wellin Plum as the successor attorney-in-fact, in the States of South Carolina, New York, Florida, Georgia, and Maine.

42. In the summer of 2011, the majority of the liquid assets in the Revocable Trust were in a UBS account, which as of July 2011 had a value of approximately $77 million.

43. On or around July 29, 2011, Keith, in his role as Trustee of the Revocable Trust, divided the UBS account into two separate accounts. Following the division, the UBS account bearing account number XXX-4378 contained approximately $45 million.

44. On or around July 29, 2011, Keith, in his role as Trustee of the Revocable Trust, executed a power of attorney, appointing Wendy as his agent or attorney-in-fact with respect to UBS Account number XXX-4378.

2013 Gifts

45. In January of 2013, Keith made gifts of $10 million to each of his three children and to Wendy.

46. It was Keith's idea to make these gifts to the children. None of the children proposed the idea of the gifts to Keith or pressured Keith to make the gifts.

Keith's Decline in Health, Institution of Litigation, and Reversal of Prior Planning

47. In 2008, at the age of 82, Keith was diagnosed with cancer, and his physical health began to decline. Despite his declining physical health, Keith remained mentally sharp and able to clearly communicate regarding his finances and affairs.

48. In 2011, Keith suffered a stroke, and his physical health continued to decline. After his stroke, Keith suffered from a persistent dysarthria that limited his ability to talk, difficulty swallowing that interfered with his ability to eat and drink, and right-sided weakness that limited his ability to walk and stand without assistance. These physical limitations, among others, increased Keith's dependence on Wendy, and caregivers controlled by Wendy, to provide for his health and safety.

49. In the spring of 2013, Keith's mental capacity declined and, upon information and belief, continued to decline between the spring of 2013 and his death in September 2014.

50. In the spring of 2013, Keith suddenly and without explanation terminated Farace and certain other professionals who had advised him for a long time and retained new attorneys and advisors, including certain attorneys selected, upon information and belief, by Wendy.

51. In the spring of 2013, Keith's new attorneys requested that the children prepay the promissory note held by the Revocable Trust that came due in 2021 so that Keith could go ahead

and transfer the $25 million bequest to Wendy, as set forth in the Revocable Trust, prior to Keith's death.

52. In the spring or summer of 2013, Keith transferred $4.5 million to Wendy, and Wendy used this money to purchase a house on the front beach of Sullivan's Island.

53. In the spring or summer of 2013, Keith transferred $25 million to Wendy, resulting in total transfers of approximately $40 million to Wendy during 2013.

54. Upon information and belief, the transfers of $4.5 million and $25 million by Keith to Wendy were the product of Wendy manipulating, coercing or unduly influencing Keith, who would not otherwise have made these transfers.

55. In the spring or summer of 2013, Keith, without clear explanation, failed to consummate a sale of a property in Friendship, Maine—a property that had sentimental value to Keith, the children, and the grandchildren—to Plaintiff Marjorie Wellin King, even though Keith had previously expressed his excitement about the sale.

56. In July of 2013, Keith, acting through his new lawyers and without explanation to his children, filed a lawsuit in federal court against the children alleging that they defrauded him into entering into the 2009 transaction, asking the court to undo the 2009 transaction and the January 2013 gifts to the children (but not the January 2013 gift to Wendy or any other transfers to Wendy), and seeking to recover actual and punitive damages from all three of his children.

57. Around the time Keith filed this lawsuit through his new lawyers, Keith executed documents revoking the powers of attorney granted to Peter Wellin and Cynthia Plum, removing Peter as successor Trustee of the Revocable Trust, and removing Cynthia Plum as backup successor Trustee of the Revocable Trust, and installing Wendy in these positions of trust.

58. Around the same time, Keith executed documents changing the beneficiaries of his IRA from certain charities and his children to Wendy and her children.

59. In 2013, Keith stopped providing financial support to the grandchildren, after having done so throughout their lives, and commenced or increased his financial support for certain members of Wendy's family.

60. Upon information and belief, in the months following the initiation of the litigation, Keith's new lawyers drafted one or more revised versions of the Revocable Trust, including a version dated June 27, 2014, that eliminate or significantly reduce Keith's bequests to his three children, increase Keith's bequests to Wendy and her children, and replace Peter Wellin with Wendy as successor trustee, and Keith executed such revised versions of the Revocable Trust.

61. In November 2013, Keith, acting through his new attorneys, attempted to "turn off" grantor status on the Irrevocable Trust, which, if effective, would cause the Irrevocable Trust to incur over $40 million in tax liability that it otherwise would not incur, and also attempted to execute a "swap" transaction that, if effective, would significantly reduce the assets of the Irrevocable Trust. If these actions were effective, they would, upon information and belief, result in a shift of tens of millions of dollars that would otherwise have been received by Keith's children and grandchildren to Wendy and her children.

62. In November of 2013, Keith, acting through his new attorneys, purported to hire a new "trust protector" of the Irrevocable Trust to bring a separate lawsuit against the children in their capacity as trustees of the Irrevocable Trust. The purported new trust protector brought such a lawsuit against the children and asserted that he was acting as Keith's "agent" in bringing the lawsuit.

63. In February of 2014, counsel for the children took Keith's deposition in the lawsuit he initiated, and it was clear that Keith's capacity was severely diminished and that he did not understand fundamental aspects of the litigation he had initiated and was pursuing.

64. In or around February and April of 2014, Dr. Linda Austin, an independent psychiatrist appointed by the Probate Court after being suggested by Keith's counsel, conducted examinations of Keith, reviewed Keith's medical records, and interviewed Keith's family members, all in an effort to assess Keith's mental capacity. In April of 2014, Dr. Austin issued a report opining that Keith was an incapacitated person and that he did not have the capacity to, *inter alia*, dispose of property, execute instruments, or even marry or divorce. Dr. Austin's report details the extent to which Keith's mental capacity was diminished and noted that Keith was uncritically dependent and submissive to Wendy and his attorneys.

65. In or around February of 2014, Dr. Larry Tune, a neurospsychiatrist who specializes in geriatric psychiatry, examined Keith upon order of the District Court and, based on his examination, review of Keith's medical records, and interviews with Keith's family members, opined that Keith was an incapacitated person whose cognitive ability was severely diminished and issued a report summarizing his findings.

66. In the summer of 2014, after multiple doctors had certified in writing that Keith was incapacitated, Keith's new lawyers drafted another revised version of the Revocable Trust that, upon information and belief, continues to provide that most of Keith's assets are left to Wendy and her family and continues to eliminate or severely limit the assets received by Keith's children and grandchildren, and Keith executed such revised version of the Revocable Trust.

67. In sum, through the various pleadings and estate planning documents drafted by Keith's new lawyers in the final year and a half before Keith's death—a time period in which

Keith was deemed incapacitated by multiple doctors—Keith attempted to recover all assets previously transferred to his children and to recover punitive damages from his children, to remove his children from all positions of trust, to disinherit or virtually disinherit his children, and to leave almost all of his assets to Wendy, notwithstanding the fact that Keith had a carefully designed estate plan in place for over a decade that left the bulk of his estate to his children and left only $7.6 million to $25 million to Wendy.

68. In the summer of 2014, Keith defaulted on certain notes he had created for the benefit of the grandchildren.

69. The only explanation given to the children for Keith's sudden, dramatic, and uncharacteristic conduct beginning in the spring of 2013 was the explanation given by his new lawyers—namely, that Keith's children orchestrated and defrauded Keith into entering into the 2009 transaction and that Keith discovered this fraud in the spring of 2013. The documents surrounding the 2003 and 2009 transactions—and common sense—demonstrate that no such fraud occurred or could have occurred and that the explanation provided was a pretense.

Wendy's Course of Conduct

70. In fact, Keith's uncharacteristic and bizarre behavior beginning in the spring of 2013 and continuing through his death is the result of certain lies, fraudulent misrepresentations, undue influence, coercion, and isolation directed at Keith by Wendy.

71. Over the past several years, Wendy has engaged in a deliberate course of conduct designed to interfere with the inheritance of Keith's children and enrich herself by, among other things, defaming the children to Keith and others, isolating Keith from the children, and unduly influencing Keith.

72. By way of example, Wendy has taken numerous steps to interfere with and destroy the relationship between Keith and the children and to deny the children reasonable access to Keith. Such conduct includes, but is not limited to, the following:

(a) Preventing the children from visiting Keith;

(b) Limiting the length of visits and the number of times the children may visit Keith;

(c) Ignoring the children's requests to visit Keith;

(d) Refusing to answer calls from the children and instructing employees in the Wellin house not to answer calls from the children;

(e) Failing to inform Keith when his children call him;

(f) Removing the children's numbers from Keith's phone;

(g) Turning Keith's phone's ringer off so that he cannot hear when the children call;

(h) Limiting the time the children are allowed to talk to Keith on the phone;

(i) Insisting that Wendy be present for all visits between the children and Keith;

(j) Installing video cameras throughout Keith's house so that Wendy can watch Keith at all times and monitor any in person or phone conversations between Keith and his children;

(k) Failing to keep the children informed about, and misinforming the children about, Keith's medical status;

(l) Refusing to deliver letters or gifts to Keith from the children;

(m) Telling Keith and others lies about the children, making derogatory comments about the children and their families to Keith, or in the presence of Keith, and calling the children names to Keith, or in the presence of Keith; and

(n) Instigating and controlling the litigation brought by Keith, meeting with Keith's lawyers and other advisors outside the presence of Keith and instructing them on Keith's intentions with respect to the litigation, and otherwise communicating directly with Keith's lawyers about the litigation.

73. Further, upon information and belief, in or around May 2013, Wendy made false, defamatory statements about the children to Keith, Keith's caregivers, Keith's treating physicians and other medical providers, Keith's and Wendy's friends, and Keith's attorneys, including Edward Bennett, Robert H. Hood, Sr., and James H. Hood. Such false and defamatory statements include, but are not limited to, the following:

(a) that the children stole money from Keith;

(b) that the children lied to and defrauded Keith in order to steal money from him;

(c) that the children were trying to bankrupt Keith by lying to him and stealing his money;

(d) that the children were going to sell certain stock in an effort to bankrupt Keith;

(e) that what the children have done to Keith is "criminal"; and

(f) that the children do not care about Keith and only care about his money.

74. Moreover, Wendy has taken additional steps to unduly influence Keith with respect to his finances and estate planning, including, but not limited to, the following:

(a) "Coaching" Keith regarding what he should say to lawyers, health care providers, friends, and others regarding the facts alleged in the lawsuits, the steps Keith wants to take in the lawsuits, and his views toward his children, Wendy, and others;

(b) "Coaching" Keith regarding what he should say in his deposition in this lawsuit and what he should say to his children regarding this lawsuit;

(c) Instigating and controlling the litigation brought by Keith, meeting with Keith's lawyers outside the presence of Keith and instructing them on Keith's intentions with respect to the litigation, and otherwise communicating directly with Keith's lawyers about the litigation;

(d) Being verbally abusive and coercive toward Keith;

(e) Carefully monitoring and controlling the information and communications received by Keith;

(f) Disseminating communications on behalf of Keith that were not consistent with Keith's actual or expressed intentions;

(g) Pressuring, manipulating, or coercing Keith to terminate Farace and other long-time advisors and to hire new lawyers and advisors approved by Wendy;

(h) Demanding, manipulating, or coercing Keith to initiate and pursue litigation against the children;

(i) Demanding, manipulating, or coercing Keith to change his Will, Revocable Trust, and other estate planning documents to remove his children from positions of trust, replace them with Wendy, and to provide more for Wendy and her family and less for the children and the grandchildren;

(j) Demanding, manipulating, or coercing Keith to sign certain legal documents or to authorize her to sign certain legal documents on his behalf;

(k) Signing documents on Keith's behalf without his informed consent;

(l) Communicating directly with Keith's stockbroker and other legal and financial advisors and instructing them with respect to Keith's finances and estate planning for her benefit;

(m) Calling Keith's stockbroker, handing the phone to Keith, and then instructing Keith to tell his stockbroker to grant Wendy authorization over certain assets owned by Keith; and

(n) Distributing assets from Keith's accounts over which Wendy served as Keith's power of attorney, including distributions inconsistent with Keith's best interests and for the benefit of Wendy and her family.

75. Wendy, who was Keith's wife and his fiduciary prior to his death, engaged in much or all of the above conduct at a time when Keith's mental capacity was diminished, when he was dependent on Wendy for medical care, when he was isolated from his children and others, and when he was susceptible to Wendy's undue influence and lies.

76. As a result of Wendy's conduct, the previously loving relationship between the children and Keith ended approximately a year and a half before Keith's death, Keith and the children spent the final year and a half of Keith's life embroiled in stressful and expensive litigation, and Keith died hating his children and under the wholly false belief that his children stole from him, were greedy, and did not love him.

77. After Keith's death on September 14, 2014, Wendy failed to timely notify the children, grandchildren, and Keith's extended family of his passing and ran obituaries in numerous newspapers, none of which even mentioned the fact that Keith had children or grandchildren.

78. As a result of Wendy's conduct, Keith, through his attorneys, purportedly removed Peter Wellin as his power of attorney and as his successor Trustee and appointed Wendy in these positions in place of Peter.

79. As a result of Wendy's conduct, Keith, through his attorneys, filed several lawsuits against the children seeking actual and punitive damages and seeking to rescind various estate planning transactions that benefitted the children and the grandchildren. This lawsuit caused and continues to cause the children to incur significant legal fees and costs.

80. As a result of Wendy's conduct, Keith, through his attorneys, attempted to "turn off" grantor status on the Irrevocable Trust, which, if effective, would cause the Irrevocable Trust to incur over $40 million in tax liability that it otherwise would not incur, and also

attempted to execute a "swap" transaction that, if effective, would significantly reduce the assets of the Irrevocable Trust.

81. As a result of Wendy's conduct, Keith, through his attorneys, hired a new "trust protector" to bring a separate lawsuit against the children. This lawsuit caused and continues to cause the children to incur significant legal fees and costs.

82. As a result of Wendy's conduct, Keith, through his attorneys, purported to eliminate or severely limit the inheritance the children will receive through the probate of Keith's Will and other estate planning documents.

83. As a result of Wendy's conduct, Keith refused to consummate the transaction to sell the property in Friendship, Maine to Plaintiff Marjorie Wellin King.

84. As a result of Wendy's conduct, Keith transferred tens of millions of dollars to Wendy during Keith's lifetime that he otherwise would have bequeathed to the children.

FOR A FIRST CAUSE OF ACTION
(Defamation)

85. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

86. Upon information and belief, Wendy made the following false and defamatory statements about the children to Keith, Keith's caregivers, Keith's treating physicians and other medical providers, Keith's and Wendy's friends, and Keith's attorneys, including Edward Bennett, Robert H. Hood, Sr., and James H. Hood, in or around May 2013:

(a) that the children stole money from Keith;

(b) that the children lied to and defrauded Keith in order to steal money from him;

(c) that the children were trying to bankrupt Keith by lying to him and stealing his money;

(d) that the children were going to sell certain stock in an effort to bankrupt Keith;

(e) that what the children have done to Keith is "criminal"; and

(f) that the children do not care about Keith and only care about his money.

87. Upon information and belief, Wendy continued to make these false and defamatory statements between May 2013 and the time of this Complaint.

88. Wendy's false and defamatory statements about the children impeached the children's honesty, integrity, and reputation.

89. Upon information and belief, Wendy made these false and defamatory statements about the children to Keith, Keith's caregivers, Keith's treating physicians and other medical providers, Keith's and Wendy's friends, and Keith's attorneys, including Edward Bennett, Robert H. Hood, Sr., and James H. Hood, intentionally, willfully, wantonly, or, at least, with gross and reckless disregard for the children's rights and the truth of the matters asserted.

90. Upon information and belief, Wendy acted with actual malice in publishing the false and defamatory statements about the children to Keith, Keith's caregivers, Keith's treating physicians and other medical providers, Keith's and Wendy's friends, and Keith's attorneys, including Edward Bennett, Robert H. Hood, Sr., and James H. Hood.

91. Upon information and belief, Wendy took advantage of Keith's weakened health and diminished mental capacity by communicating false and defamatory statements about the children to him at a time when he was particularly susceptible to believing her false and defamatory statements, and in an intentional effort to destroy Keith's relationship with the children and to obtain and control Keith's wealth during his lifetime and Keith's estate upon his death.

92. As a direct and proximate result of Wendy's defamation of the children, each of the children's reputation has been tarnished.

93. As a direct and proximate result of Wendy's defamation of the children, each of the children—who once enjoyed a close and loving relationship with their father—have been exposed to hatred and contempt from their father from the spring of 2013 until his death.

94. As a direct and proximate result of Wendy's defamation of the children, Keith engaged in an unprecedented course of conduct to the financial detriment of the children, including, but not limited to, eliminating or reducing the assets the children would receive upon Keith's death, transferring to Wendy certain assets that otherwise would have been bequeathed to the children, and filing a lawsuit against the children on or about July 3, 2013, seeking to undo Keith's prior estate planning and gifts to the extent they benefited the children and seeking to recover actual and punitive damages from the children.

95. In addition to the lawsuit filed on or about July 3, 2013, Keith has filed at least three additional lawsuits against the children in various jurisdictions and has caused at least one additional lawsuit to be filed against the children by a "trust protector," who purports to be Keith's "agent."

96. Upon information and belief, the lawsuits filed or caused to be filed by Keith are predicated entirely on and arise from Wendy's false and defamatory statements about the children.

97. As a direct and proximate result of Wendy's defamation of the children, the children have suffered material damages, including

(a) Emotional distress;

(b) Loss of their father's love, respect, and company; and

(c) Loss to their reputation and integrity.

98. As a direct and proximate result of Wendy's defamation of the children, the children also have suffered economic damages, including the expenditure of attorneys' fees and costs to defend the multiple lawsuits brought or caused to be brought by Keith that are predicated entirely on and arise from Wendy's false and defamatory statements about the children.

99. As a direct and proximate result of Wendy's defamation of the children, Keith has purported to "turn off" grantor trust status for the Irrevocable Trust and execute a swap of assets that, if effective, would cause the children significant damages.

100. As a direct and proximate result of Wendy's defamation of the children, Keith refused to consummate the transaction to sell the property in Friendship, Maine to Plaintiff Marjorie Wellin King.

101. Wendy is liable to the children for all damages proximately caused by her defamation of the children.

FOR A SECOND CAUSE OF ACTION
(Intentional Interference with Inheritance)

102. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

103. During his lifetime until the spring of 2013, Keith desired and intended to leave the bulk of his estate to the children upon his death, and took affirmative steps with well-qualified legal and accounting professionals to ensure that his intentions were effectuated in a tax efficient manner. The Revocable Trust, at all times prior to 2013, provided for the residuary of Keith's estate—after providing certain bequests to Wendy and others—to be divided equally between the children.

104. Under Keith's Will, Revocable Trust, IRA Designation form, and other estate planning documents, at all times prior to 2013, the children would receive, upon Keith's death, the bulk of the

real and personal property of Keith—including, but not limited to, stock, cash, real estate, and various tangible and intangible property—as set forth more specifically in those documents.

105. Because of Keith's expressed wishes, both written and oral, prior to the spring of 2013, the children reasonably expected to inherit the vast majority of Keith's estate upon his death, consistent with all versions of the Will, Revocable Trust, IRA Designation form, and other estate planning documents prior to 2013.

106. Wendy knew of the children's expectancy interest in Keith's estate, which was based on Keith's long-standing plan, expressed both orally and in writing, and intentionally interfered with such expectancy.

107. A confidential relationship existed between Keith and Wendy, and at the time of the acts alleged herein, there was a great disparity of position and influence in their relationship.

108. Upon information and belief, Wendy intentionally and deliberately took steps to interfere with the children's inheritance and expectations of inheritance by engaging in the tortious and intentional course of conduct alleged herein, including, but not limited to, defaming the children, making fraudulent misrepresentations to Keith, exerting fraud, duress, undue influence, and/or coercion on Keith with respect to his estate planning, finances, and otherwise, interfering with the relationship between the children and Keith, denying the children access to Keith in breach of contract, and isolating Keith.

109. Through her tortious and intentional course of conduct, Wendy induced Keith to purport to revoke or amend his Will, Revocable Trust, IRA Designation form, and other estate planning instruments that previously left the bulk of his estate to the children and, through such purported revocation and amendment, eliminate or severely diminish the bequests and devises to the children.

110. As a direct and proximate result of the intentional acts of Wendy, the children have lost the devises and bequests that otherwise would have been made to them under Keith's previous will, Revocable Trust, IRA Designation form, and other estate planning instruments, and that the children reasonably expected to be made.

111. But for Wendy's intentional acts of interference, Keith would not have made the changes to his Will, Revocable Trust, IRA Designation form, and other estate planning documents that reduced or eliminated the children's inheritance.

112. Wendy engaged in the tortious and intentional course of conduct alleged herein for the improper purpose of interfering with Keith's long-standing testamentary intent to enrich herself and her family at the expense of Keith's children and other lineal descendants.

113. As a direct and proximate result of the tortious and intentional acts of Wendy, Keith transferred tens of millions of dollars to Wendy in 2013, which were assets that would otherwise have remained in Keith's estate at the time of this death and passed to the children, as reasonably expected by the children.

114. As a direct and proximate result of the intentional acts of Wendy, Keith engaged in an unprecedented and bizarre course of conduct to the financial detriment of the children, including, but not limited to, filing several lawsuits against the children in multiple fora seeking to undo his prior estate planning, recover gifts made to the children, and recover punitive damages from the children.

115. Upon information and belief, the lawsuits filed or caused to be filed by Keith against the children are predicated entirely on and arise from Wendy's tortious and intentional acts.

116. As a direct and proximate result of Wendy's tortious and intentional acts, the children have suffered economic damages, including, but not limited to, the expenditure of attorneys' fees and costs to defend multiple lawsuits brought by or caused to be brought by Keith and the diminishment of

the assets that, but for Wendy's intentional acts, the children would have inherited from Keith upon his death and reasonably expected to inherit upon his death.

117. As a direct and proximate result of the intentional acts of Wendy, the children – who each once enjoyed a close and loving relationship with their father – were exposed to unprecedented and baseless hatred and contempt from their father from the spring of 2013 until his death, and the children suffered from emotional distress and actual harm to their reputation.

118. Wendy is liable to the children for all damages proximately caused by her tortious and intentional acts of interference with the children's inheritance.

FOR A THIRD CAUSE OF ACTION
(Intentional Interference with Prospective
Contractual Relations/Prospective Economic Advantage)

119. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

120. At all times prior to 2013, the children had a reasonable expectation that they would receive, upon Keith's death, the bulk of the real and personal property of Keith—including, but not limited to, stock, cash, real estate, and various tangible and intangible property.

121. The children's expectation was based on oral and written statements made by Keith, Keith's Will, the Revocable Trust, Keith's IRA Designation form, and other estate planning documents, agreements, and contracts that provided for certain bequests to the children after Keith's death.

122. Plaintiff Marjorie Wellin King had the reasonable expectation that she and Keith would consummate the transaction for the purchase of the Friendship, Maine property.

123. Wendy, in a deliberate effort to achieve the improper purpose of interfering with Keith's intentions and the children's reasonable expectations of inheritance to enrich herself and

her family at the expense of the children and their families, engaged in the course of conduct alleged herein, including committing certain torts and breaches of contract.

124. Wendy's course of conduct designed to interfere with the children's prospective contractual and economic relations with Keith included, but was not limited to, defaming the children, making fraudulent misrepresentations to Keith, exerting fraud, duress, undue influence, and/or coercion on Keith with respect to his estate planning, finances, and otherwise, interfering with the relationship between the children and Keith, denying the children access to Keith in breach of contract, and isolating Keith.

125. Through her tortious and intentional course of conduct, Wendy induced Keith to purport to revoke or amend his Will, Revocable Trust, IRA Designation form, and other estate planning instruments that previously left the bulk of his estate to the children and, through such purported revocation and amendment, eliminate or severely diminish the bequests and devises to the children.

126. As a direct and proximate result of the intentional acts of Wendy, the children have lost the devises and bequests that otherwise would have been made to them under Keith's previous will, Revocable Trust, IRA Designation form, and other estate planning instruments, and that the children reasonably expected to be made.

127. As a direct and proximate result of the intentional acts of Wendy, Keith refused to consummate the transaction to sell the property in Friendship, Maine to Plaintiff Marjorie Wellin King.

128. But for Wendy's intentional acts of interference, Keith would not have made the changes to his Will, Revocable Trust, IRA Designation form, and other estate planning

documents that reduced or eliminated the children's inheritance and would not have refused to consummate the sale of the Friendship, Maine property to Plaintiff Marjorie Wellin King.

129. Wendy engaged in the tortious and intentional course of conduct alleged herein for the improper purpose of interfering with Keith's long-standing testamentary intent to enrich herself and her family at the expense of Keith's children and other lineal descendants.

130. As a direct and proximate result of the intentional acts of Wendy, Keith transferred tens of millions of dollars to Wendy in 2013, which were assets that would otherwise have remained in Keith's estate at the time of this death and passed to the children, as reasonably expected by the children.

131. As a direct and proximate result of the intentional acts of Wendy, Keith engaged in an unprecedented and bizarre course of conduct to the financial detriment of the children, including, but not limited to, filing several lawsuits against the children in multiple fora seeking to undo his prior estate planning, recover gifts made to the children, and recover punitive damages from the children.

132. Upon information and belief, the lawsuits filed or caused to be filed by Keith against the children are predicated entirely on and arise from Wendy's intentional acts.

133. As a direct and proximate result of Wendy's intentional acts, the children have suffered economic damages, including, but not limited to, the expenditure of attorneys' fees and costs to defend multiple lawsuits brought by or caused to be brought by Keith and the diminishment of the assets that, but for Wendy's intentional acts, the children would have inherited from Keith upon his death and reasonably expected to inherit upon his death.

134. As a direct and proximate result of the intentional acts of Wendy, the children – who each once enjoyed a close and loving relationship with their father – were exposed to unprecedented

and baseless hatred and contempt from their father from the spring of 2013 until his death, and the children suffered from emotional distress and actual harm to their reputation.

135. Wendy is liable to the children for all damages proximately caused by Wendy's intentional and tortious acts of interference with the children's contractual and economic expectations.

FOR A FOURTH CAUSE OF ACTION
(Breach of Fiduciary Duty)

136. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

137. Under the power of attorney appointing Wendy attorney-in fact of Keith as the Trustee of the Revocable Trust with respect to UBS Account number XXX-4378, Wendy had a fiduciary duty to the beneficiary of the Trust, Keith, to exercise her authority to use or distribute assets of the Revocable Trust in strict conformity with the restrictions contained in the Revocable Trust.

138. Under the power of attorney appointing Wendy attorney-in-fact of Keith as the Trustee of the Revocable Trust with respect to UBS Account number XXX-4378, Wendy had a fiduciary duty to the beneficiary of the Trust, Keith, to keep the Revocable Trust property separate and distinct from any other property owned or controlled by Wendy.

139. Upon information and belief, Wendy breached the fiduciary duty she owed to the beneficiary of the Revocable Trust in several ways, including, but not limited to, the following:

(a) Transferring or wrongfully causing Keith to transfer approximately $4.5 million to Wendy, which she then used to purchase a beach house on Sullivan's Island, South Carolina, in or around June of 2013;

(b) Transferring or wrongfully causing Keith to transfer at least $25 million to Wendy in or around June of 2013;

(c) Giving, or wrongfully causing Keith to give, substantial gifts to charities she supported;

(d) Distributing assets from Keith's accounts over which Wendy served as Keith's power of attorney, including distributions inconsistent with Keith's best interests and for the benefit of Wendy and her family; and

(e) Spending funds in excess of the amount customarily and historically spent by the Trustee to protect and maintain the lifestyle of Keith and Wendy.

140. Upon the death of Keith, Wendy's breach of her fiduciary duty to the beneficiary of the Revocable Trust damaged the children, as her acts caused the value of the Revocable Trust, of which they are now vested beneficiaries, to be diminished substantially in value.

141. The children are entitled to recover damages from Wendy and, as vested beneficiaries of the Revocable Trust upon his death, are entitled to an accounting of UBS Account XXX-4378.

FOR A FIFTH CAUSE OF ACTION
(Breach of Prenuptial Agreement – The Children's Access to Keith)

142. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

143. Keith and Wendy entered into the Prenuptial Agreement on November 12, 2002, four days before they were married.

144. The Prenuptial Agreement is a valid and binding contract between Keith and Wendy.

145. The Prenuptial Agreement states that it was entered into because Keith "seeks to protect [the children's] interests in his estate by having this Agreement in full force and effect."

146. The Prenuptial Agreement could not be modified without the unanimous consent of the children and Heather Lane, Wendy's daughter from a prior marriage.

147. The children were intended, direct third party beneficiaries of the Prenuptial Agreement.

148. Paragraph 23 of the Prenuptial Agreement provides:

> In the event KEITH becomes infirm or mentally incapacitated, WENDY shall not take any action to prohibit PETER J. WELLIN, MARJORIE W. KING, and/or CYNTHIA W. PLUM reasonable rights of access to KEITH, but will encourage and guarantee their reasonable right of access to KEITH.

149. As Keith's health declined in the final years of his life and he became infirm, and as Keith's mental capacity declined beginning in the spring of 2013, Wendy breached her obligations under Paragraph 23 of the Prenuptial Agreement by taking actions, as alleged herein, to prohibit or interfere with the Plaintiffs, individually and collectively, from exercising reasonable rights of access to Keith.

150. Wendy breached her obligations under Paragraph 23 of the Prenuptial Agreement by failing to encourage and guarantee the children's reasonable right of access, individually and collectively, to Keith.

151. Wendy's breach of Paragraph 23 of the Prenuptial Agreement had the effect of estranging Keith from his children and damaging the relationship between Keith and the children.

152. As a direct and proximate result of Wendy's breaches of Paragraph 23 of the Prenuptial Agreement, Wendy was able to exercise undue influence and coercion over Keith and to convince Keith of the truth of certain lies she told Keith about the children, resulting in Keith bringing litigation against the children, reducing or eliminating the children's inheritance, transferring assets to Wendy that he otherwise would have bequeathed to the children, and otherwise causing the children to suffer

damages in the form of emotional distress and loss of their father's love, respect, and company as well as significant monetary damages.

153. Wendy is liable to the children for all damages proximately caused by her breaches of the Prenuptial Agreement.

FOR A SIXTH CAUSE OF ACTION
(Breach of Prenuptial Agreement – Control of Keith Wellin's Separate Property)

154. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

155. Pursuant to the Prenuptial Agreement, all of Keith's assets upon entering into his marriage to Wendy on or around November 16, 2002, including but not limited to the assets of the Keith S. Wellin Florida Revocable Living Trust and the BRK Shares, were defined as Keith's "Separate Property."

156. Paragraph 8 of the Prenuptial Agreement provides:

> Subject only to the terms of this Agreement, each party shall, during his or her lifetime, be the sole and exclusive owner of all of his or her respective Separate Property and shall have the sole and exclusive right to dispose of any and all such Separate Property during his or her remaining lifetime in any manner including inter vivos or testamentary transfer, gift, or any other dispositions, and shall have the sole and exclusive right to encumber, pledge, or hypothecate his or her Separate Property without any interference by or joinder of the other, in such manner as shall be deemed in the sole discretion of such owner thereof, as if their forthcoming marriage had not taken place.

157. The children were intended, direct third party beneficiaries of the Prenuptial Agreement and of Paragraph 8 of the Prenuptial Agreement.

158. Wendy breached Paragraph 8 of the Prenuptial Agreement by exercising control, both directly and indirectly, over Keith's Separate Property by, including but not limited to:

(a) Transferring, or through undue influence, fraud, coercion, or other tortious acts causing Keith Wellin to transfer approximately $4.5 million to Wendy, which she used to purchase a beach house on Sullivan's Island, South Carolina in or around the spring or summer of 2013;

(b) Transferring, or through undue influence, fraud, coercion, or other tortious acts causing Keith Wellin to transfer, at least an additional $25 million to Wendy in or around the summer of 2013;

(c) Giving, or through undue influence, fraud, coercion, or other tortious acts causing Keith Wellin to give, substantial gifts to charities she supported; and

(d) Spending, or through undue influence, fraud, coercion, or other tortious acts causing Keith Wellin to spend, excessive amounts of Keith's money, including funds in excess of the amount customarily and historically spent to protect and maintain the lifestyle of Keith and Wendy.

159. As a direct and proximate result of Wendy's breaches of Paragraph 8 of the Prenuptial Agreement, the children incurred significant damages, including, but not limited to, a reduction or elimination of their inheritance.

160. As the direct, intended third party beneficiaries of the Prenuptial Agreement and Paragraph 8 thereof, the children are entitled to recover damages and to an accounting of Keith's "Separate Property."

FOR A SEVENTH CAUSE OF ACTION
(Breach of Contract Accompanied by a Fraudulent Act)

161. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

162. Upon information and belief, Wendy breached Paragraphs 23 and 8 of the Prenuptial Agreement with fraudulent intent.

163. Wendy's breaches of the Prenuptial Agreement were accompanied by separate acts of intentional dishonesty and misrepresentation, including but not limited to:

(a) Intentionally lying about and defaming the children to Keith in furtherance of her efforts to keep the children away from Keith and to keep Keith isolated from the children;

(b) Exercising coercion and undue influence over Keith in furtherance of her efforts to control Keith's separate property.

164. Wendy is liable to the children for actual and punitive damages.

FOR AN EIGHTH CAUSE OF ACTION
(Constructive Trust)

165. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

166. A confidential relationship existed between Wendy and Keith at all relevant times, as Wendy was Keith's wife and served as the agent or attorney-in-fact of Keith as the Trustee of the Revocable Trust with respect to UBS Account number XXX-4378.

167. Wendy abused her confidential and fiduciary relationship with Keith through the course of improper conduct alleged herein, including the fraudulent and defamatory statements

made by Wendy to Keith or to third parties in the presence of Keith, and the isolation of Keith from the children.

168. Wendy obtained significant assets through *inter vivos* transfers and testamentary bequests that she would not have received—and that would have been conveyed to the children—but for her course of improper conduct.

169. Wendy obtained and retained significant assets from Keith through fraud, bad faith, abuse of confidence, and/or violation of a fiduciary duty, which give rise to an obligation in equity to make restitution to the children.

170. Wendy obtained and retained significant assets that do not equitably belong to her and which she cannot in good conscience retain or withhold from the children.

171. Wendy has been unjustly enriched through her improper course of conduct, including her fraud, bad faith, abuse of confidence, and/or violation of fiduciary duties to Keith.

172. Based upon the foregoing, the children are informed and believe that they are entitled to the imposition of the equitable remedy of a constructive trust.

FOR A NINTH CAUSE OF ACTION
(Barratry)

173. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

174. Upon information and belief, Wendy incited, solicited, excited, and enticed Keith and Keith's attorneys, Edward Bennett and Robert H. Hood, Sr., to file multiple lawsuits against the children.

175. Wendy's motives for inciting, soliciting, exciting, and enticing Keith's lawsuits against the children included destroying the children's relationship with their father and her own financial gain.

176. Acting as a common barrater, Wendy has caused the children to suffer injuries, including, but not limited to actual and consequential damages and emotional distress.

FOR A TENTH CAUSE OF ACTION
(Negligence Per Se)

177. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

178. S.C. Code Ann. § 16-17-10 prohibits barratry.

179. Wendy owes the children a duty not to violate S.C. Code Ann. § 16-17-10.

180. Upon information and belief, Wendy committed barratry in violation of S.C. Code Ann. § 16-17-10 by inciting, soliciting, exciting, and enticing Keith and Keith's attorneys, Edward Bennett and Robert H. Hood, Sr., to bring and maintain multiple lawsuits against the children with intent to distress or harass the children.

181. Upon information and belief, Wendy's foregoing violations of S.C. Code Ann. § 16-17-10 were willful, wanton, or, at least, in reckless disregard of the children's rights.

182. In violating S.C. Code Ann. § 16-17-10, Wendy breached a duty of care owed to the children.

183. As a direct and proximate result of Wendy's violations of S.C. Code Ann. § 16-17-10, the children have suffered injuries including being named defendants in and bearing the costs of defending the multiple lawsuits stirred up by Wendy.

FOR AN ELEVENTH CAUSE OF ACTION
(Declaratory Judgment against Wendy in Her Capacity as Trustee of the Revocable Trust)

184. The preceding paragraphs are incorporated by reference as if stated herein verbatim.

185. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, district courts have the power to make declaratory judgments regarding the rights and legal relations of parties under an agreement, including trust agreements.

186. The purported amendments to the Revocable Trust after the Tenth Amendment to and Restatement of the Revocable Trust, dated August 30, 2011, including the purported amendment dated June 27, 2014, were the product of undue influence, coercion, duress, mistake, incapacity, and/or were not made knowingly and voluntarily by Keith.

187. The purported amendments to the Revocable Trust after the Tenth Amendment to and Restatement of the Revocable Trust, dated August 30, 2011, including the purported amendment dated June 27, 2014, did not comply with the terms of the Revocable Trust, including Article XVI of the Revocable Trust.

188. The purported amendments to the Revocable Trust after the Tenth Amendment to and Restatement of the Revocable Trust, dated August 30, 2011, including the purported amendment dated June 27, 2014, were and are ineffective, invalid, *ultra vires*, and void under applicable law and the controlling legal instruments.

189. The facts as set forth herein create an actual controversy between the parties involving their various rights, liabilities, and legal relations relative to the Revocable Trust.

190. Accordingly, pursuant to 28 U.S.C. §§ 2201 and 2202, the children seek a declaration that all purported amendments to the Revocable Trust after the Tenth Amendment to and Restatement of the Revocable Trust, dated August 30, 2011, including the purported amendment dated June 27, 2014, were and are ineffective, invalid, *ultra vires*, and void.

WHEREFORE, Plaintiffs pray for judgment in their favor and against Defendant and for the following relief:

1) Actual and special damages with pre-judgment and post-judgment interest thereon and attorney fees and expenses for having to bring this lawsuit;

2) Punitive damages in an amount to be determined at trial;

3) Declaratory judgment that all purported amendments to the Revocable Trust after the Tenth Amendment to and Restatement of the Revocable Trust, dated August 30, 2011, including the purported amendment dated June 27, 2014, were and are ineffective, invalid, *ultra vires*, and void;

4) Imposition of a Constructive Trust; and

5) All other relief as this Court deems just and proper.

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October 20, 2014

STATE OF SOUTH CAROLINA 2013 DEC 17 PM 3:56 COUNTY OF CHARLESTON	IN THE PROBATE COURT CASE NO.
Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff vs. Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).	**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION**

Pursuant to S.C. R. Civ. Pro. 65, S.D. Codified Laws § 55-3-20.1, S.C. CODE ANN. § 62-7-706(c), and/or S.C. CODE ANN. § 62-7-1001(b)(2), Plaintiff Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, hereby moves the Court to issue a temporary restraining order against the above-named Defendants to immediately restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, or otherwise dispose of the proceeds of the sale of the 896 Class A Berkshire Hathaway common shares transferred to Friendship Partners, LP by Keith S. Wellin in 2003 or from participating in, authorizing, or allowing any such transactions without the express, written, and notarized consent of the Plaintiff or further order of this Court. Plaintiff also seeks to restrain, enjoin, and prevent Defendants

from being able to sell, trade, negotiate, gift, transfer, or otherwise dispose of the 98.90% limited partnership interest in Friendship Partners, LP, which Keith S. Wellin sold to the Wellin Family 2009 Irrevocable Trust in 2009, without the express, written, and notarized consent of the Plaintiff. Plaintiff further moves the Court to issue an order to show cause why a subsequent preliminary injunction should not be entered to restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, or otherwise dispose of the proceeds received from the sale of the 896 Class A Berkshire Hathaway common shares and/or the 98.90% limited partnership interest in Friendship Partners, LP pending the resolution of the merits of this action, without the express, written, and notarized consent of the Plaintiff or further Order of this Court.

Unless a temporary restraining order is immediately granted, the sale, trade, negotiation, gift, transfer, or disposition of the sales proceeds and partnership interests referenced herein-above, the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm and the proceeds and assets will be squandered, dissipated, and wasted by Defendants. As demonstrated in the attached Complaint and Memorandum of Law in Support of Motion for Temporary Restraining Order, the Plaintiff's likelihood of success on the merits of his claims is high. Plaintiff has no adequate remedy at law for the harm or damage done or threatened to be done by Defendants. Plaintiff has made a prima facie showing entitling him to injunctive relief.

BACKGROUND

Plaintiff Lester S. Schwartz was duly appointed the Trust Protector of the Wellin Family 2009 Irrevocable Trust. Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King are children of Keith S. Wellin, the Grantor, and were named as Co-Trustees under the Wellin Family 2009 Irrevocable Trust document. Article III of the Trust provides that it shall be governed by South Dakota law. Previously a Corporate Trustee, first South Dakota Trust Company, LLC and

subsequently Brown Brothers Harriman Trust Company of Delaware, N.A. ("Brown Brothers"), acted as a corporate Co-Trustee.

South Dakota Trust Company was replaced by Brown Brothers, which subsequently attempted to resign as Corporate Trustee. During this interim period when there was no Corporate Trustee acting and protecting the trust, Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King embarked on a scheme to siphon all of the assets of the Wellin Family 2009 Irrevocable Trust, constituting approximately $150,000,000.00. The Wellin children accomplished this scheme by selling all of the assets of a Limited Partnership known as the Friendship Partners, LP ("Friendship Partners"), a company created by the Grantor Keith S. Wellin, and to which Keith S. Wellin placed approximately 896 shares of Berkshire Hathaway stock. That stock grew in value over a period of time to be worth in excess of $150,000,000.00.

Feeling that his children might do exactly as they did, that is, to liquidate Friendship Partners and take all the cash or proceeds for themselves, Keith S. Wellin previously brought a lawsuit in the United States District Court, cause of action No. 2013-CV-01813. In that action, the Honorable David Norton initially issued a Temporary Restraining Order enjoining or blocking any disposition of the shares of Berkshire Hathaway stock, but he subsequently dissolved the TRO based on his belief that Keith S. Wellin's inability to control the shares did not constitute an irreparable harm for which preliminary injunctive relief was appropriate and because Keith S. Wellin's wife, Wendy Wellin, had such resources to pay Keith S. Wellin's annual health care costs. *See* Order of Judge Norton, filed November 22, 2013.

Plaintiff Lester S. Schwartz, as Trust Protector, stands on a different ground than the Grantor, Keith S. Wellin. Mr. Schwartz as Trust Protector is charged with a responsibility to effectuate the purposes of the Trust, the intentions of the Grantor, and to protect all the

beneficiaries. The Defendants, Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, who are Keith S. Wellin's children, are not the only beneficiaries of the Trust. In fact, Article IV of the Trust describes the Grantor's intentions and provides that the Trustees should pay such amounts from the Trust income as the Trustee in its sole and absolute discretion "shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study), or any other reasonable purpose, such payments of income, if any, shall be made according to respective needs and without regard to equality of distribution." The Grantor provided the same standard for payments from Trust principal. The Trustee in the Wellin Family 2009 Irrevocable Trust is defined as Mr. Wellin's children (Peter J. Wellin, Marjorie W. King, Cynthia W. Plum) and the corporate trustee, South Dakota Trust Company, LLC of Sioux Falls, South Dakota.

Keith S. Wellin has been very generous with the wealth he accumulated and has made substantial gifts to his children and his current wife, Wendy Wellin. Keith S. Wellin made gifts of $10,000,000.00 each to his children and his wife within the last year. Documentation provided by counsel for the children shows that, within mere days of Judge Norton's Order recently lifting the TRO in the federal court action, the children not only sold the Berkshire Hathaway stock, but they also liquidated Friendship Partners and further have bypassed the Trust completely and distributed the proceeds of the stock sale equally amongst themselves. This conduct is in contravention of the Wellin Family 2009 Irrevocable Trust and the Grantor's stated intentions.

LAW AND ANALYSIS

"Actions seeking relief by injunction are equitable in nature." City of Myrtle Beach v. Juel P. Corp., 344 S.C. 43, 522 S.E.2d 153 (Ct. App. 1999), rev'd other grounds, 543 S.E.2d 538

(2001). Whether a temporary injunction should be granted rests in the sound discretion of the judge to whom the application is addressed. Seabrook v. Carolina Power & Light Co., 159 S.C. 1, 156 S.E. 1 (1930); Brandt v. Gooding, 630 S.E.2d 259 (S.C. 2006).

Applicable trust law also gives this Court a wide arsenal of legal and equitable powers to remedy a breach of trust. The South Dakota Trust Code provides that "[p]ending a final decision on a request to remove a trustee, the court may order such appropriate relief as may be necessary to protect the trust property or the interests of the beneficiaries." S.D. Codified Laws § 55-3-20.1. Similarly, § 62-7-706(c) of the South Carolina Trust Code provides that "pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under Section 62-7-1001(b) as may be necessary to protect the trust property or the interests of the beneficiaries." Id. § 62-7-706(c) (emphasis added). Pending a final decision on the merits, this Court may suspend or remove a trustee, appoint a special fiduciary to possess and administer the trust property, reduce or deny compensation to the trustee, set aside wrongful acts of the trustee, and "order any other appropriate relief." Id. § 62-7-1001(b)(5)-(10).

Under South Carolina law, a party seeking to obtain injunctive relief generally must demonstrate that (1) it would suffer irreparable harm if the injunction is not granted; (2) it will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. FOC Lawshe Ltd. Partnership v. International Paper Co., 352 S.C. 408, 574 S.E.2d 228 (Ct. App. 2002). Our Supreme Court has clarified that there is no additional requirement that the trial judge must "balance the equities" before issuing an injunction. Poynter Investments, Inc. v. Century Builders of Piedmont, Inc., 387 S.C. 583, 694 S.E.2d 15, 17 (2010).

The purpose of an injunction is to preserve the status quo during litigation in order to prevent irreparable injury to the requesting party and to preserve the ability of the court to render complete relief. County Council of Charleston v. Felkel, 244 S.C. 480, 137 S.E.2d 577, 578 (1964) ("The sole object of a temporary injunction is to preserve the subject of controversy in the condition which it is at the time of the Order until opportunity is offered for full and deliberate investigation and to preserve the existing status during litigation."); see also JAMES F. FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE 511 (2nd ed., 1996) ("A temporary injunction preserves the status quo pending the completion of the case."). An injunction is appropriate to preserve the status quo so that a party can enforce a disputed legal right. Seaboard Air Line Ry. v. Atlantic Coast Line R., 71 S.E. 39 (S.C. 1911).

"Irreparable injury means that the injunction is reasonably necessary to protect the rights of the plaintiff pending the litigation." FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE at 508; Multi-Channel TV Cable Co. v. Charlottesville Quality Cable Operating Co., 22 F.3d 546, 551 (4th Cir. 1994) ("Generally, 'irreparable injury is suffered when monetary damages are difficult to ascertain or are inadequate.'" (citation omitted)). The element of irreparable harm is satisfied when it is difficult to calculate the amount of damages, such that an equitable remedy is necessary to make the aggrieved party whole. Bethel Methodist Episcopal Church v. City of Greenville, 211 S.C. 442, 45 S.E.2d 841 (1947) ("Irreparable injury, as used in the law of injunction, does not necessarily mean that the injury is beyond the possibility of compensation in damages.").

South Carolina law has long recognized that an injunction is the appropriate remedy to abate an alleged waste of property or assets while ownership of the same property or assets is being litigated. Kinsler v. Clarke, 1837 WL 1551 (S.C. Ct. App. 1837); Grosshuesch v. Cramer,

367 S.C. 1, 623 S.E.2d 833 (2005); Felkel, 137 S.E.2d at 578. In Grosshuesch, our Supreme Court observed that "the quintessential hallmark of an injunction" is the "preservation of the property at issue until the matter has been adjudicated." 623 S.E.2d at 833. The Court in that case granted a preliminary injunction against a trustee which prevented the trustee from exercising any control over the trust assets (including funds in a Merrill Lynch investment account) pending the outcome of the litigation and which ordered a full accounting.

A party seeking an injunction is "not required to prove an absolute legal right when seeking a preliminary injunction, but [she] must present a reasonable question as to the existence of such a right." AJG Holdings, LLC v. Dunn, 382 S.C. 43, 674 S.E.2d 505, 509 (Ct. App. 2009); see also Williams v. Jones & Amerman, 92 S.C. 342, 75 S.E. 705 (1912) ("This does not mean an absolute legal right or certainty of success but rather that he has a fair question to raise as to the existence of such a right."). Courts have broadly construed this element and a litigant is required to do little more than state a cause of action or make a prima facie showing. County of Richland v. Simpkins, 348 S.C. 664, 560 S.E.2d 902 (Ct. App. 2002); Childs v. Columbia, 87 S.C. 566, 70 S.E. 296 (1911).

"The determination of whether to grant an injunction should not be based on the merits of the underlying case except insofar as the merits may assist the trial court in determining whether a prima facie showing has been made." MailSource, L.L.C. v. M.A. Bailey & Assocs., 356 S.C. 363, 588 S.E.2d 635, 638 (Ct. App. 2003). "Once a prima facie showing has been made entitling the plaintiff to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits." Helsel v. City of N. Myrtle Beach, 307 S.C. 29, 413 S.E.2d 824, 826 (1992).

"[W]hether there is an adequate remedy at law for a wrong, [is a] question[] that [is] not decided by narrow and artificial rules." Kirk v. Clark, 191 S.C. 205, 4 S.E.2d 13, 15 (1939). "The adequacy of a legal remedy is a pragmatic determination based upon the certainty of fixing damages, the practicality of obtaining relief, and the efficiency of the legal remedy in the particular circumstances." FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE at 508. "[I]f the available legal remedy in a given case reduces itself to a matter of words, rather than to a matter of efficacy, because of its impracticability, or because the threatened acts may continue during the progress of an action at law, or because successive actions at law would be necessary to protect the plaintiff's rights, equity will hold that the existence of the legal remedy is not an obstacle to the exertion of the equitable power." Columbia Broadcasting Sys., Inc. v. Custom Recording Co., 258 S.C. 465, 189 S.E.2d 305, 312 (1972).

In this case, Plaintiff has demonstrated that (1) the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm if an injunction is not granted; (2) he will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law.

Unless a temporary restraining order is immediately granted to enjoin, restrain, and prevent the sale, trade, negotiation, gift, transfer, or other disposition of the sales proceeds and partnership interests referenced herein-above, the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm because the proceeds and assets belonging to the trust will be squandered, dissipated, and wasted by Defendants. Although the law provides that Defendants will be liable for damages, it will be difficult calculating the amount of damages because Defendants' actions in selling the shares have deprived the trust the benefit of the profits, gain, or appreciation that would have resulted if the stock was still held or owned by the trust. Moreover, it will also be difficult to trace the funds that Defendants improperly received after they have

been spent. Because the assets are liquid, they are easily disposed of. A money judgment against Defendants will do Plaintiff little good if Defendants are allowed to waste, spend, or dispose of the liquid assets before the Court can adjudicate the claims and enter an Order granting relief.

Moreover, Plaintiff's verified Complaint raises a "reasonable question" about Defendants' liability as co-trustees of the trust and makes a prima facie showing entitling Plaintiff to injunctive relief. A prima facie showing has been made that Defendants, as co-trustees, participated in and committed serious breaches of trust and are not serving solely the bests interests of all of the beneficiaries. A prima facie showing has been made that Defendants, as co-trustees, participated in or allowed self-serving transfers of trust assets to be made to the detriment of other beneficiaries of the trust (including Keith S. Wellin's grandchildren and other heirs). Those transfers involve in excess of $150,000,000.00. The record shows that Defendants engaged in the sale, liquidation, and transfer of trust assets in disregard of the grantor's intent and their fiduciary obligations without any consideration for the interests of the other trust beneficiaries. These transactions suggest prohibited self-dealing. See S.D. Codified Laws § 55-2-1 ("In all matters connected with his trust a trustee is bound to act in the highest good faith toward his beneficiary and may not obtain any advantage therein over the latter by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind."); Bonney v. Granger, 292 S.C. 308, 356 S.E.2d 138 (1987) ("A trustee must exclude all selfish interest in his dealings on behalf of the beneficiaries of the trust."). A prima facie showing has been made that Defendants, as co-trustees, improperly sold, liquidated, and transferred the trust's assets, which depleted the assets of the trust and defeats or frustrates the grantor's intent, because all of the

trust assets have been transferred to Defendants to the detriment of Keith S. Wellin's grandchildren and other intended beneficiaries.

In short, a prima facie showing has been made that Defendants, as co-trustees, breached their duties of loyalty, impartiality, and good faith as trustees by pursuing actions that benefited themselves to the detriment of other beneficiaries. Such conduct warrants the issuance of a temporary restraining order restraining further such breaches of trust and protecting the trust property and the interests of the other beneficiaries.

Finally, Plaintiff has no adequate remedy at law for the harm or damage done or threatened to be done by Defendants. As in Grosshuesch v. Cramer, 367 S.C. 1, 623 S.E.2d 833 (2005), the purpose of Plaintiff's motion is to preserve the assets of the trust until the merits of this litigation have been adjudicated. In this case, a showing has been made that Defendants, as co-trustees, have repeatedly participated in and allowed distributions of all of the trust assets to themselves in violation of the grantor's intent and the governing law. Unless an injunction is issued, this conduct will continue to occur during the pendency of this action. The proceeds from the sale of trust assets will be depleted unless an injunction is granted. Even if Plaintiff obtains a money judgment against Defendants at the end of this case, it is doubtful that he would be able to fully recover it if Defendants are allowed to dispose of the proceeds from the sale of the stock and to use the money.

CONCLUSION

For the above reasons, the Trust Protector, Lester S. Schwartz, requests the Court to issue its immediate *ex parte* Order retraining, enjoining, and preventing the Wellin children from selling, trading, negotiating, gifting, alienating, hiding, disposing, or converting the proceeds of the sale of the Berkshire Hathaway stock or from participating in, authorizing, or allowing any

such transactions without the express, written, and notarized consent of the Plaintiff or further order of this Court. Plaintiff also seeks to restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, transfer, or otherwise dispose of the 98.90% limited partnership interest in Friendship Partners, LP, which Keith S. Wellin sold to the Wellin Family 2009 Irrevocable Trust in 2009, without the express, written, and notarized consent of the Plaintiff.

Finally, Plaintiff further moves the Court to issue an order to show cause why a subsequent preliminary injunction should not be entered to restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, or otherwise dispose of the proceeds received from the sale of the 896 Class A Berkshire Hathaway common shares and/or the 98.90% limited partnership interest in Friendship Partners, LP pending the resolution of the merits of this action, without the express, written, and notarized consent of the Plaintiff or further Order of this Court.

Respectfully submitted,

ROSEN, ROSEN & HAGOOD, LLC

By: _____

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ATTORNEY FOR PLAINTIFF

Charleston, South Carolina
December 20, 2013.

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
13 DEC 27 PM 12:19
COUNTY OF CHARLESTON) CASE NO. 2013-GC-10-0129

Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff

vs.

Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).

NOTICE AND MOTION FOR SEGRATION OF TRUST ASSETS TO PAY FEES OF TRUST PROTECTOR AND HIS ATTORNEYS

Plaintiff, Lester S. Schwartz, Trust Protector of Wellin Family 2009 Irrevocable Trust ("Trust"), hereby moves the Court for an Order segregating $200,000 in Trust assets to fund fees and costs for the Plaintiff as Trust Protector, and attorneys fees and costs for counsel to represent him in this matter, other related matters, and any other litigation, or controversies involving the Wellin Family 2009 Irrevocable Trust.

1. In support of this Motion, Plaintiff would respectfully crave a reference to the Trust instruments involved in this case, namely, the Wellin Family 2009 Irrevocable Trust and the Amendments thereto which include the following provisions:

(a) Original Trust Agreement, Article VI, Paragraph 7 provides that the Trust Protector has the authority to use Trust assets to hire legal counsel to advise and defend the Trust Protector in connection with any matter concerning the Trust, subject to the Trust Protectors responsibility to repay those assets if the Trust Protector is found liable of bad faith, fraud, or willful misconduct.

(b) By Amendment dated November 20, 2013, Article XII, was amended to add paragraph (I):

> Notwithstanding any other provision of this Agreement with respect to any litigation brought by or against any Trust created under this Agreement, if any Trustee of such is a party to such litigation in both an individual or corporate capacity, and his or her capacity as a Trustee, then the Trust Protector shall represent such Trust with respect to such litigation, and shall have the power to pay, compromise, contest, submit to all arbitration, or otherwise settle such litigation in favor of or against the Trust, and may prosecute or defend such litigation for the protection of Trust assets. The provisions of this paragraph (H) shall apply notwithstanding the fact that there may be one or more co-Trustees then serving who are not parties to the litigation in individual or corporate capacity.

2. The Wellin Family 2009 Irrevocable Trust is currently the subject of this litigation as well as other litigation pending in the United States District Court for the

District of South Carolina and the Chancery Court for the State of Delaware and the Second Judicial Circuit Court, County of Minnehaha, South Dakota.

3. Plaintiff craves reference to and incorporates herein the allegations contained in his Complaint filed December 20, 2013, as well as his Affidavit dated December 20, 2013 and the attachments thereto.

4. The Trust Protector's hourly rate is $400.00 per hour. The hourly rates for his counsel are as follows: Richard S. Rosen - $450.00; H. Brewton Hagood - $400.00; Daniel F. Blanchard - $300.00; and other attorneys bill at a rate of $225.00 to $300.00 per hour.

5. Fees of the Trust Protector and his counsel already exceed $100,000.00 as of December 27, 2013.

6. Plaintiff respectfully requests that the Court shorten the term for Notice of a hearing on this Motion and hear this Motion at the hearing scheduled for Monday, December 30, 2013 at 2:00 p.m.

For the foregoing reasons the Plaintiff requests this Court issue an Order requiring that Trust assets of the Trust in the amount of $200,000.00 be set aside and preserved to fund payment of current and future fees of the Trust Protector and his counsel as approved by this Court.

ROSEN, ROSEN & HAGOOD, LLC

By: _____

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ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina
December 27, 2013.

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
) CASE NO. 2013-GC-10-0129
COUNTY OF CHARLESTON)

Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff

vs.

Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).

CERTIFICATE OF SERVICE

13 DEC 27 PM 2:49

The undersigned states that on **December 27, 2013**, a copy of Plaintiff's Notice and Motion for Segregation of Trust Assets to Pay Fees of Trust Protector and His Attorneys was served via electronic mail and hand delivery one copy to the following address(s):

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Nelson Mullins Riley & Scarborough, LLP
151 Meeting Street, Sixth Floor
Charleston, SC 29401-2239

Robert H. Hood, Esquire
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PO Box 1508
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Jamie Hood, Esquire
Hood Law Firm, LLC
PO Box 1508
Charleston, SC 29402

Deborah Wooten, Legal Assistant

IN THE DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff vs. Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).	Civil Action No: 2:13-cv-03595-DCN **PLAINTIFF'S MOTION FOR EXTENSION OF TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. Pro. 65, Plaintiff Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust (the "Trust"), hereby moves the Court to extend the temporary restraining order ("Order") issued in this matter by the Charleston County Probate Court on December 20, 2013, prior to the Defendants' removal of the action to this Court on December 27, 2013. A copy of the Order is attached hereto as Exhibit 1. The Order, which is set to expire on Monday, December 30, 2013, at 4 p.m., restrains, enjoins, and prevents Defendants from being able to sell, trade, negotiate, gift, or otherwise dispose of the proceeds of the sale of the 896 Class A Berkshire Hathaway common shares transferred to Friendship Partners, LP by Keith S. Wellin in 2003 or from

participating in, authorizing, or allowing any such transactions without the express, written, and notarized consent of the Plaintiff or further order of the Court. The Order also restrains, enjoins, and prevents Defendants from being able to sell, trade, negotiate, gift, transfer, or otherwise dispose of the 98.90% limited partnership interest in Friendship Partners, LP, which Keith S. Wellin sold to the Trust in 2009, without the express, written, and notarized consent of the Plaintiff. The Order does, however, permit the investing by the Trustees of the restrained assets consistent with their duties as prudent trustees but requires the funds to be traceable and accountable to the Trust Protector and the Court.

A full recitation of the facts and law supporting Plaintiff's Motion is set forth in the Memorandum of Law filed in the Probate Court and attached hereto as Exhibit 2. A copy of Plaintiff's Complaint is attached as Exhibit 3.

The grounds for this Motion are that the Trust will suffer irreparable harm and the proceeds and assets rightfully belonging to the Trust will be squandered, dissipated, and wasted by Defendants if the Order is not extended. As demonstrated in the attached Complaint and Memorandum of Law in Support of Motion for Temporary Restraining Order, and as found by the Probate Court, the Plaintiff's likelihood of success on the merits of his claims is high. The Probate Court further found:

- That (1) the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm if an injunction is not granted; (2) Plaintiff will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law.

- A temporary restraining order is needed to preserve the Court's ability to render complete relief and to protect the trust property and the interests of all of the beneficiaries.

- That Plaintiff will suffer irreparable harm if a temporary restraining order is not granted because the proceeds and assets belonging to the trust will be squandered, dissipated, and wasted by Defendants.

- That, although the law provides that Defendants will be liable for damages, it will be difficult calculating the amount of damages because Defendants' actions in selling the shares have deprived the trust of the benefit of the profits, gain, or appreciation that would have resulted if the stock and assets were still held or owned by the trust; it will be difficult to trace the funds that Defendants improperly received after they have been spent, the assets are easily disposed of because they are liquid, and a money judgment against Defendants will do Plaintiff little good if Defendants are allowed to waste, spend, or dispose of the liquid assets before the Court can adjudicate the claims and enter an Order granting relief.

- That Plaintiff's verified Complaint raises a "reasonable question" about Defendants' liability as co-trustees of the trust and makes a prima facie showing entitling Plaintiff to injunctive relief.

- That a prima facie showing had been made that:

    - Defendants, as co-trustees, participated in and committed serious breaches of trust and are not serving solely the bests interests of all of the beneficiaries.

    - Defendants, as co-trustees, participated in or allowed self-serving transfers of trust assets to be made to the detriment of the other beneficiaries of the Trust.

    - Defendants engaged in the sale, liquidation, and transfer of trust assets in disregard of the grantor's intent, the terms of the trust, and their fiduciary obligations without any consideration for the interests of the other trust beneficiaries.

    - The transactions made by Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King suggest improper self-dealing.

    - Defendants, as co-trustees, improperly sold, liquidated, and transferred the trust's assets, which depleted the assets of the trust and defeats or frustrates the grantor's intent.

    - Defendants, as co-trustees, breached their duties of loyalty, impartiality, and good faith as co-trustees by pursuing actions that benefited themselves to the detriment of other beneficiaries.

Such conduct warrants the extension of the temporary restraining order restraining further such breaches of trust and protecting the trust property and the interests of the other beneficiaries. Plaintiff has no adequate remedy at law for the harm or damage done or threatened to be done by Defendants. Plaintiff has made a prima facie showing entitling him to injunctive relief. A temporary restraining order is needed to preserve this Court's ability to render complete relief and to protect the trust property and the interests of all of the beneficiaries.

The grounds for this Motion are stated more fully in the attached Complaint, Memorandum of Law in Support of Motion for Temporary Restraining Order, and the Affidavit of Lester S. Schwartz, Esquire, dated December 20, 2013, and attached hereto as Exhibit 4.

ROSEN, ROSEN & HAGOOD, LLC

/s/ Richard S. Rosen
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ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE PROBATE COURT CASE NO. 2013 GC 10 129
Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff vs. Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).	**ORDER GRANTING *EX PARTE* TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION**

This matter came before this Court for an emergency hearing on December 20, 2013, involving upon the Motion for Temporary Restraining Order and Order to Show Cause for Preliminary Injunction filed by Plaintiff Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust. The Defendants to this action are Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust; Friendship Management, LLC; Cynthia W. Plum as Manager of Friendship Partners, LP; and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified

Grantor Retained Annuity Trust, and as Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012.

Plaintiff moves the Court to issue a temporary restraining order against the Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust; Friendship Management, LLC; and Cynthia W. Plum as Manager of Friendship Partners, LP to immediately restrain, enjoin, and prevent said Defendants from being able to sell, trade, negotiate, gift, alienate, hide, convert, or otherwise dispose of the proceeds of the sale of the 896 Class A Berkshire Hathaway common shares transferred to Friendship Partners, LP by Keith S. Wellin in 2003 or from participating in, authorizing, or allowing any such transactions without the express, written, and notarized consent of the Plaintiff or further order of this Court. Plaintiff also seeks to restrain, enjoin, and prevent said Defendants from being able to sell, trade, negotiate, gift, alienate, hide, convert, or otherwise dispose of the 98.90% limited partnership interest in Friendship Partners, LP, which Keith S. Wellin sold to the Wellin Family 2009 Irrevocable Trust in 2009, without the express, written, and notarized consent of the Plaintiff. Finally, Plaintiff further moves the Court to issue an order to said Defendants requiring them to show cause why a subsequent preliminary injunction should not be entered to restrain, enjoin, and prevent said Defendants from being able to sell, trade, negotiate, gift, alienate, hide, convert, or otherwise dispose of the proceeds received from the sale of the 896 Class A Berkshire Hathaway common shares and/or the 98.90% limited partnership interest in Friendship Partners, LP pending the resolution of the merits of this action, without the express, written, and notarized consent of the Plaintiff or further Order of this Court.

Keith S. Wellin is an 86 year old entrepreneur and Wall Street investor who amassed a sizable net worth of over the years by making prudent investments, one of which was the purchase of many Class A Berkshire Hathaway common shares (hereinafter "BRKa"). In his later years, Keith S. Wellin, as Grantor, created the Wellin Family 2009 Irrevocable Trust as part of this estate planning and in which he made provision for his children, grandchildren, and future generations of the Wellin family.

Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King are adult children of Keith S. Wellin, the Grantor, and were named as Co-Trustees under the Wellin Family 2009 Irrevocable Trust document. Article III of the Trust provides that it shall be governed by South Dakota law. The Trustee of the Trust is defined as Keith S. Wellin's children (Peter J. Wellin, Marjorie W. King, Cynthia W. Plum) and a Corporate Trustee, South Dakota Trust Company, LLC of Sioux Falls, South Dakota. South Dakota Trust Company, LLC previously served as Corporate Trustee and was subsequently replaced by Brown Brothers Harriman Trust Company of Delaware, N.A. ("Brown Brothers"). After Brown Brothers was substituted as Corporate Trustee in place of South Dakota Trust Company, Brown Brothers later subsequently attempted to resign as Corporate Trustee.

Keith S. Wellin also formed a company known as Friendship Partners, LP and transferred substantial amounts of BRKa stock into that partnership. Keith S. Wellin owned 98.90% of Friendship Partners, LP and Friendship Management, LLC, which is a limited liability company whose members are Keith S. Wellin's three adult children and the Wellin Family 2009 Irrevocable Trust.

Without approval of a Corporate Trustee, and during the period after Brown Brothers had attempted to resign as Corporate Trustee, Defendants Peter J. Wellin, Cynthia W. Plum and

Marjorie W. King, who are remaining Trustees and the children of Keith S. Wellin, unilaterally took it upon themselves to sell all the shares of Berkshire Hathaway and to liquidate Friendship Partners, LLC, a company created by the Grantor Keith S. Wellin, without consideration of the interests of future beneficiaries of the Trust and without regard to the express language of the Trust which directs that distributions are to be made on need and for only certain purposes.

Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King are not the only beneficiaries of the Trust. Instead, the Trust clearly was intended to benefit Keith S. Wellin's grandchildren and future generations of the Wellin family. Article IV of the Wellin Family 2009 Irrevocable Trust describes Keith S. Wellin's (the Grantor's) intentions and expressly provides that the Trustee shall first pay to the beneficiary, or his or her living descendents, such amounts from the Trust income that the Trustee in its sole and absolute discretion shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study) or any other reasonable purpose. The Trust further provides that such payments of income, if any, shall be made according to the beneficiaries' respective needs and without regard to equality of distribution. Likewise, in addition to payments of income, the Wellin Family 2009 Irrevocable Trust provides that the Trustees may pay to any beneficiary or to his or her living descendents, so much of the Trust principal as the Trustee in its sole discretion shall deem necessary or advisable for their health, support, maintenance, or education (including a college education and professional or post-graduate study), or any other reasonable purpose. Such principal payments are to be made on the basis of need and without regard to equality of distribution.

Plaintiff Lester S. Schwartz was duly appointed the Trust Protector of the Wellin Family 2009 Irrevocable Trust. As Trust Protector, Plaintiff is charged with responsibility to effectuate

the purposes of the Trust, the intentions of the Grantor, and to protect all the beneficiaries. In his capacity as Trust Protector, Plaintiff's Verified Complaint raises a number of claims against Defendants, including claims for breach of fiduciary duty, conversion, removal of Trustees, restitution, recovery of attorneys' fees, and a cause of action for Temporary Restraining Order and Preliminary Injunction.

After reviewing the pleadings, exhibits, and documents on record and carefully considering the arguments of counsel, I find that the motion should be granted and hereby make the following findings of fact and/or conclusions of law:

FINDINGS OF FACT AND/OR CONCLUSIONS OF LAW

1. "Actions seeking relief by injunction are equitable in nature." City of Myrtle Beach v. Juel P. Corp., 344 S.C. 43, 522 S.E.2d 153 (Ct. App. 1999), rev'd other grounds, 543 S.E.2d 538 (2001). Whether a temporary injunction should be granted rests in the sound discretion of the judge to whom the application is addressed. Seabrook v. Carolina Power & Light Co., 159 S.C. 1, 156 S.E. 1 (1930); Brandt v. Gooding, 630 S.E.2d 259 (S.C. 2006).

2. Applicable trust law also gives this Court a wide arsenal of legal and equitable powers to remedy a breach of trust. The South Dakota Trust Code provides that "[p]ending a final decision on a request to remove a trustee, the court may order such appropriate relief as may be necessary to protect the trust property or the interests of the beneficiaries." S.D. Codified Laws § 55-3-20.1. Similarly, § 62-7-706(c) of the South Carolina Trust Code provides that "pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under Section 62-7-1001(b) as may be necessary to protect the trust property or the interests of the beneficiaries." Id. § 62-7-706(c) (emphasis added). Pending a final decision on the merits, this Court may suspend or remove a

trustee, appoint a special fiduciary to possess and administer the trust property, reduce or deny compensation to the trustee, set aside wrongful acts of the trustee, and "order any other appropriate relief." Id. § 62-7-1001(b)(5)-(10).

3. Under South Carolina law, a party seeking to obtain injunctive relief generally must demonstrate that (1) it would suffer irreparable harm if the injunction is not granted: (2) it will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. FOC Lawshe Ltd. Partnership v. International Paper Co., 352 S.C. 408, 574 S.E.2d 228 (Ct. App. 2002). Our Supreme Court has clarified that there is no additional requirement that the trial judge must "balance the equities" before issuing an injunction. Poynter Investments, Inc. v. Century Builders of Piedmont, Inc., 387 S.C. 583, 694 S.E.2d 15, 17 (2010).

4. The purpose of an injunction is to preserve the status quo during litigation in order to prevent irreparable injury to the requesting party and to preserve the ability of the court to render complete relief. County Council of Charleston v. Felkel, 244 S.C. 480, 137 S.E.2d 577, 578 (1964) ("The sole object of a temporary injunction is to preserve the subject of controversy in the condition which it is at the time of the Order until opportunity is offered for full and deliberate investigation and to preserve the existing status during litigation."); see also JAMES F. FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE 511 (2nd ed., 1996) ("A temporary injunction preserves the status quo pending the completion of the case."). An injunction is appropriate to preserve the status quo so that a party can enforce a disputed legal right. Seaboard Air Line Ry. v. Atlantic Coast Line R., 71 S.E. 39 (S.C. 1911).

5. "Irreparable injury means that the injunction is reasonably necessary to protect the rights of the plaintiff pending the litigation." FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE at 508; Multi-Channel TV Cable Co. v. Charlottesville Quality Cable Operating Co., 22 F.3d 546,

551 (4th Cir. 1994) ("Generally, 'irreparable injury is suffered when monetary damages are difficult to ascertain or are inadequate.'" (citation omitted)). The element of irreparable harm is satisfied when it is difficult to calculate the amount of damages, such that an equitable remedy is necessary to make the aggrieved party whole. Bethel Methodist Episcopal Church v. City of Greenville, 211 S.C. 442, 45 S.E.2d 841 (1947) ("Irreparable injury, as used in the law of injunction, does not necessarily mean that the injury is beyond the possibility of compensation in damages.").

6. South Carolina law has long recognized that an injunction is the appropriate remedy to abate an alleged waste of property or assets while ownership of the same property or assets is being litigated. Kinsler v. Clarke, 1837 WL 1551 (S.C. Ct. App. 1837); Grosshuesch v. Cramer, 367 S.C. 1, 623 S.E.2d 833 (2005); Felkel, 137 S.E.2d at 578. In Grosshuesch, our Supreme Court observed that "the quintessential hallmark of an injunction" is the "preservation of the property at issue until the matter has been adjudicated." 623 S.E.2d at 833. The Court in that case granted a preliminary injunction against a trustee which prevented the trustee from exercising any control over the trust assets (including funds in a Merrill Lynch investment account) pending the outcome of the litigation and which ordered a full accounting.

7. A party seeking an injunction is "not required to prove an absolute legal right when seeking a preliminary injunction, but [she] must present a reasonable question as to the existence of such a right." AJG Holdings, LLC v. Dunn, 382 S.C. 43, 674 S.E.2d 505, 509 (Ct. App. 2009); see also Williams v. Jones & Amerman, 92 S.C. 342, 75 S.E. 705 (1912) ("This does not mean an absolute legal right or certainty of success but rather that he has a fair question to raise as to the existence of such a right."). Courts have broadly construed this element and a litigant is required to do little more than state a cause of action or make a prima facie showing.

County of Richland v. Simpkins, 348 S.C. 664, 560 S.E.2d 902 (Ct. App. 2002); Childs v. Columbia, 87 S.C. 566, 70 S.E. 296 (1911).

8. "The determination of whether to grant an injunction should not be based on the merits of the underlying case except insofar as the merits may assist the trial court in determining whether a prima facie showing has been made." MailSource, L.L.C. v. M.A. Bailey & Assocs., 356 S.C. 363, 588 S.E.2d 635, 638 (Ct. App. 2003). "Once a prima facie showing has been made entitling the plaintiff to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits." Helsel v. City of N. Myrtle Beach, 307 S.C. 29, 413 S.E.2d 824, 826 (1992).

9. "[W]hether there is an adequate remedy at law for a wrong, [is a] question[] that [is] not decided by narrow and artificial rules." Kirk v. Clark, 191 S.C. 205, 4 S.E.2d 13, 15 (1939). "The adequacy of a legal remedy is a pragmatic determination based upon the certainty of fixing damages, the practicality of obtaining relief, and the efficiency of the legal remedy in the particular circumstances." FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE at 508. "[I]f the available legal remedy in a given case reduces itself to a matter of words, rather than to a matter of efficacy, because of its impracticability, or because the threatened acts may continue during the progress of an action at law, or because successive actions at law would be necessary to protect the plaintiff's rights, equity will hold that the existence of the legal remedy is not an obstacle to the exertion of the equitable power." Columbia Broadcasting Sys., Inc. v. Custom Recording Co., 258 S.C. 465, 189 S.E.2d 305, 312 (1972).

10. This Court finds that Plaintiff has demonstrated that (1) the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm if an injunction is not granted; (2) he will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. This Court

further finds that a temporary restraining order is needed to preserve this Court's ability to render complete relief and to protect the trust property and the interests of all of the beneficiaries.

11. In view of the record in this case, this Court finds that Plaintiff will suffer irreparable harm if a temporary restraining order is not granted. Unless a temporary restraining order is immediately granted to enjoin, restrain, and prevent the sale, trade, negotiation, gift, transfer, alienation, secreting, conversion, or other disposition of the sales proceeds from the stock and the partnership interests referenced herein-above, the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm because the proceeds and assets belonging to the trust will be squandered, dissipated, and wasted by Defendants. Although the law provides that Defendants will be liable for damages, it will be difficult calculating the amount of damages because Defendants' actions in selling the shares have deprived the trust the benefit of the profits, gain, or appreciation that would have resulted if the stock and assets were still held or owned by the trust. Moreover, it will also be difficult to trace the funds that Defendants improperly received after they have been spent. Because the assets are liquid, they are easily disposed of. A money judgment against Defendants will do Plaintiff little good if Defendants are allowed to waste, spend, or dispose of the liquid assets before the Court can adjudicate the claims and enter an Order granting relief.

12. This Court also finds that Plaintiff will likely succeed on the merits of this litigation. Plaintiff's verified Complaint raises a "reasonable question" about Defendants' liability as co-trustees of the trust and makes a prima facie showing entitling Plaintiff to injunctive relief. A prima facie showing has been made that Defendants, as co-trustees, participated in and committed serious breaches of trust and are not serving solely the bests interests of all of the beneficiaries. A prima facie showing has been made that Defendants, as

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co-trustees, participated in or allowed self-serving transfers of trust assets to be made to the detriment of the other beneficiaries of the trust (including Keith S. Wellin's grandchildren and future generations of the Wellin family and other heirs). Those transfers involve in excess of $150,000,000.00. The record shows that Defendants engaged in the sale, liquidation, and transfer of trust assets in disregard of the grantor's intent, the terms of the trust, and their fiduciary obligations without any consideration for the interests of the other trust beneficiaries. It is unlikely that the complete liquidation and sale of all of the Berkshire Hathaway stock and the liquidation of Friendship Partners, LLC was necessary for the "health, support, maintenance or education (including a college education and professional or post-graduate study)" of Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King or that these transactions were for "any other reasonable purpose," which are the standards for the payment of trust income and the invasion of principal established by the terms of the Trust.

13. Instead, the transactions made by Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King suggest improper self-dealing. See S.D. Codified Laws § 55-2-1 ("In all matters connected with his trust a trustee is bound to act in the highest good faith toward his beneficiary and may not obtain any advantage therein over the latter by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind."); Bonney v. Granger, 292 S.C. 308, 356 S.E.2d 138 (1987) ("A trustee must exclude all selfish interest in his dealings on behalf of the beneficiaries of the trust."). Accordingly, this Court finds that a prima facie showing has been made that Defendants, as co-trustees, improperly sold, liquidated, and transferred the trust's assets, which depleted the assets of the trust and defeats or frustrates the grantor's intent, because all of the trust assets have been transferred to Defendants to the detriment of Keith S. Wellin's grandchildren and other intended beneficiaries.

14. This Court further finds that a prima facie showing has been made that Defendants, as co-trustees, breached their duties of loyalty, impartiality, and good faith as co-trustees by pursuing actions that benefited themselves to the detriment of other beneficiaries. Such conduct warrants the issuance of a temporary restraining order restraining further such breaches of trust and protecting the trust property and the interests of the other beneficiaries.

15. Finally, this Court finds that Plaintiff has no adequate remedy at law for the harm or damage done or threatened to be done by Defendants. As in Grosshuesch v. Cramer, 367 S.C. 1, 623 S.E.2d 833 (2005), the purpose of Plaintiff's motion is to preserve the assets of the trust until the merits of this litigation have been adjudicated. In this case, a showing has been made that Defendants, as co-trustees, have participated in and allowed distributions of all of the trust assets to themselves in violation of the grantor's intent, the terms of the trust, and the governing law. Unless an injunction is issued, this conduct will continue to occur during the pendency of this action. The proceeds from the sale of trust assets will be depleted unless an injunction is granted. Even if Plaintiff obtains a money judgment against Defendants at the end of this case, it is doubtful that he would be able to fully recover it if Defendants are allowed to dispose of the proceeds from the sale of the stock and to use the money.

16. For the reasons set forth above, a temporary restraining order is warranted. According to S.C. R. Civ. Pro. 65(c), a restraining order generally shall not issue without the posting of a bond. In this case, Plaintiff is acting as the Trust Protector to protect the trust property, thus any bond should be paid by the trust. Based on its review of the record, this Court finds that a bond or security in the amount of $10,000.00 is sufficient.

CONCLUSION

For all of the above reasons, it is hereby

ORDERED that Plaintiff's Motion for Temporary Restraining Order and Order to Show Cause for Preliminary Injunction is hereby GRANTED; and

FURTHER ORDERED that, until further Order of this Court, Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust; Friendship Management, LLC; and Cynthia W. Plum as Manager of Friendship Partners, LP are hereby immediately restrained, enjoined, and prevented from transferring, selling, trading, spending, reducing, negotiating, gifting, alienating, hiding, secreting, converting, pledging, encumbering, distributing, sharing, or otherwise disposing of or exercising any control over any of the cash, funds, or proceeds realized by the sale of the 896 Class A Berkshire Hathaway common shares transferred to Friendship Partners, LP by Keith S. Wellin in 2003 and from participating in, authorizing, or allowing any such transactions without the express, written, and notarized consent of the Plaintiff or further order of this Court; and

FURTHER ORDERED that, until further Order of this Court, Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust; Friendship Management, LLC; and Cynthia W. Plum as Manager of Friendship Partners, LP are hereby immediately restrained, enjoined, and prevented transferring, selling, trading, spending, reducing, negotiating, gifting, alienating, hiding, secreting, converting, pledging, encumbering, distributing, sharing, or otherwise disposing of the 98.90% limited partnership interest in Friendship Partners, LP, which Keith S. Wellin sold to the Wellin Family 2009 Irrevocable Trust in 2009, and from participating in,

authorizing, or allowing any such transactions, without the express, written, and notarized consent of the Plaintiff or further order of this Court; and

FURTHER ORDERED that this temporary restraining order applies to and binds Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust; Friendship Management, LLC; and Cynthia W. Plum as Manager of Friendship Partners, LP as well as their agents, servants, employees, attorneys, members, officers, and those persons in active concert or participation with them who receive actual notice of the Order by personal service or otherwise; and

FURTHER ORDERED that a hearing shall be conducted by this Court on Monday, December 30, 2013, at 2 pm, at which Defendants Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust; Friendship Management, LLC; and Cynthia W. Plum as Manager of Friendship Partners, LP or their legal counsel shall be given the opportunity to appear and respond to Plaintiff's motion for temporary restraining order and preliminary injunction and to show cause why a preliminary injunction should not be entered against said Defendants to restrain, enjoin, and prevent Defendants from transferring, selling, trading, spending, reducing, negotiating, gifting, alienating, hiding, secreting, converting, pledging, encumbering, distributing, sharing, or otherwise disposing of the cash, funds, or proceeds realized by the sale of the 896 Class A Berkshire Hathaway common shares and/or the 98.90% limited partnership interest in Friendship Partners, LP pending the resolution of the merits of this action, without the express, written, and notarized consent of the Plaintiff or further Order of this Court; and

FURTHER ORDERED that Plaintiff shall ~~post with this Court a bond or security in the amount of $10,000.00 within ten (10) business days after notice of entry of this Order, to be paid using the funds or assets of the Wellin Family 2009 Irrevocable Trust; and~~ post security in the amount of $1 million dollars by having the Trustees set aside such funds as security for

FURTHER ORDERED that Plaintiff shall promptly provide Defendants with a copy of this Order as well as Plaintiff's Verified Complaint, motion, memorandum, and supporting affidavit; and

AND IT IS SO ORDERED!

Irvin G. Condon
Judge of Probate of and for the County
of Charleston, State of South Carolina

ATTEST A TRUE COPY
DEPUTY CLERK OF THE COURT
CHARLESTON COUNTY, SOUTH CAROLINA

Charleston, South Carolina.

This 20th day of December 2013 @ 4pm.

This Order does not preclude the investing by the Trustees of the restrained assets consistent with their duties as prudent Trustees. The trust funds need to be traceable and accountable to the Trust Protector and this Court.

PROBATE COURT
13 DEC 17 PM 3:56

STATE OF SOUTH CAROLINA)	IN THE PROBATE COURT
)	CASE NO.
COUNTY OF CHARLESTON)	
Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff	
vs.	**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION**
Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).	

Pursuant to S.C. R. Civ. Pro. 65, S.D. Codified Laws § 55-3-20.1, S.C. CODE ANN. § 62-7-706(c), and/or S.C. CODE ANN. § 62-7-1001(b)(2), Plaintiff Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, hereby moves the Court to issue a temporary restraining order against the above-named Defendants to immediately restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, or otherwise dispose of the proceeds of the sale of the 896 Class A Berkshire Hathaway common shares transferred to Friendship Partners, LP by Keith S. Wellin in 2003 or from participating in, authorizing, or allowing any such transactions without the express, written, and notarized consent of the Plaintiff or further order of this Court. Plaintiff also seeks to restrain, enjoin, and prevent Defendants

from being able to sell, trade, negotiate, gift, transfer, or otherwise dispose of the 98.90% limited partnership interest in Friendship Partners, LP, which Keith S. Wellin sold to the Wellin Family 2009 Irrevocable Trust in 2009, without the express, written, and notarized consent of the Plaintiff. Plaintiff further moves the Court to issue an order to show cause why a subsequent preliminary injunction should not be entered to restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, or otherwise dispose of the proceeds received from the sale of the 896 Class A Berkshire Hathaway common shares and/or the 98.90% limited partnership interest in Friendship Partners, LP pending the resolution of the merits of this action, without the express, written, and notarized consent of the Plaintiff or further Order of this Court.

Unless a temporary restraining order is immediately granted, the sale, trade, negotiation, gift, transfer, or disposition of the sales proceeds and partnership interests referenced herein-above, the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm and the proceeds and assets will be squandered, dissipated, and wasted by Defendants. As demonstrated in the attached Complaint and Memorandum of Law in Support of Motion for Temporary Restraining Order, the Plaintiff's likelihood of success on the merits of his claims is high. Plaintiff has no adequate remedy at law for the harm or damage done or threatened to be done by Defendants. Plaintiff has made a prima facie showing entitling him to injunctive relief.

BACKGROUND

Plaintiff Lester S. Schwartz was duly appointed the Trust Protector of the Wellin Family 2009 Irrevocable Trust. Peter J. Wellin, Cynthia W. Plum, and Marjorie W. King are children of Keith S. Wellin, the Grantor, and were named as Co-Trustees under the Wellin Family 2009 Irrevocable Trust document. Article III of the Trust provides that it shall be governed by South Dakota law. Previously a Corporate Trustee, first South Dakota Trust Company, LLC and

subsequently Brown Brothers Harriman Trust Company of Delaware, N.A. ("Brown Brothers"), acted as a corporate Co-Trustee.

South Dakota Trust Company was replaced by Brown Brothers, which subsequently attempted to resign as Corporate Trustee. During this interim period when there was no Corporate Trustee acting and protecting the trust, Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King embarked on a scheme to siphon all of the assets of the Wellin Family 2009 Irrevocable Trust, constituting approximately $150,000,000.00. The Wellin children accomplished this scheme by selling all of the assets of a Limited Partnership known as the Friendship Partners, LP ("Friendship Partners"), a company created by the Grantor Keith S. Wellin, and to which Keith S. Wellin placed approximately 896 shares of Berkshire Hathaway stock. That stock grew in value over a period of time to be worth in excess of $150,000,000.00.

Feeling that his children might do exactly as they did, that is, to liquidate Friendship Partners and take all the cash or proceeds for themselves, Keith S. Wellin previously brought a lawsuit in the United States District Court, cause of action No. 2013-CV-01813. In that action, the Honorable David Norton initially issued a Temporary Restraining Order enjoining or blocking any disposition of the shares of Berkshire Hathaway stock, but he subsequently dissolved the TRO based on his belief that Keith S. Wellin's inability to control the shares did not constitute an irreparable harm for which preliminary injunctive relief was appropriate and because Keith S. Wellin's wife, Wendy Wellin, had such resources to pay Keith S. Wellin's annual health care costs. *See* Order of Judge Norton, filed November 22, 2013.

Plaintiff Lester S. Schwartz, as Trust Protector, stands on a different ground than the Grantor, Keith S. Wellin. Mr. Schwartz as Trust Protector is charged with a responsibility to effectuate the purposes of the Trust, the intentions of the Grantor, and to protect all the

beneficiaries. The Defendants, Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, who are Keith S. Wellin's children, are not the only beneficiaries of the Trust. In fact, Article IV of the Trust describes the Grantor's intentions and provides that the Trustees should pay such amounts from the Trust income as the Trustee in its sole and absolute discretion "shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study), or any other reasonable purpose, such payments of income, if any, shall be made according to respective needs and without regard to equality of distribution." The Grantor provided the same standard for payments from Trust principal. The Trustee in the Wellin Family 2009 Irrevocable Trust is defined as Mr. Wellin's children (Peter J. Wellin, Marjorie W. King, Cynthia W. Plum) and the corporate trustee, South Dakota Trust Company, LLC of Sioux Falls, South Dakota.

Keith S. Wellin has been very generous with the wealth he accumulated and has made substantial gifts to his children and his current wife, Wendy Wellin. Keith S. Wellin made gifts of $10,000,000.00 each to his children and his wife within the last year. Documentation provided by counsel for the children shows that, within mere days of Judge Norton's Order recently lifting the TRO in the federal court action, the children not only sold the Berkshire Hathaway stock, but they also liquidated Friendship Partners and further have bypassed the Trust completely and distributed the proceeds of the stock sale equally amongst themselves. This conduct is in contravention of the Wellin Family 2009 Irrevocable Trust and the Grantor's stated intentions.

LAW AND ANALYSIS

"Actions seeking relief by injunction are equitable in nature." City of Myrtle Beach v. Juel P. Corp., 344 S.C. 43, 522 S.E.2d 153 (Ct. App. 1999), rev'd other grounds, 543 S.E.2d 538

(2001). Whether a temporary injunction should be granted rests in the sound discretion of the judge to whom the application is addressed. Seabrook v. Carolina Power & Light Co., 159 S.C. 1, 156 S.E. 1 (1930); Brandt v. Gooding, 630 S.E.2d 259 (S.C. 2006).

Applicable trust law also gives this Court a wide arsenal of legal and equitable powers to remedy a breach of trust. The South Dakota Trust Code provides that "[p]ending a final decision on a request to remove a trustee, the court may order such appropriate relief as may be necessary to protect the trust property or the interests of the beneficiaries." S.D. Codified Laws § 55-3-20.1. Similarly, § 62-7-706(c) of the South Carolina Trust Code provides that "pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under Section 62-7-1001(b) as may be necessary to protect the trust property or the interests of the beneficiaries." Id. § 62-7-706(c) (emphasis added). Pending a final decision on the merits, this Court may suspend or remove a trustee, appoint a special fiduciary to possess and administer the trust property, reduce or deny compensation to the trustee, set aside wrongful acts of the trustee, and "order any other appropriate relief." Id. § 62-7-1001(b)(5)-(10).

Under South Carolina law, a party seeking to obtain injunctive relief generally must demonstrate that (1) it would suffer irreparable harm if the injunction is not granted: (2) it will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. FOC Lawshe Ltd. Partnership v. International Paper Co., 352 S.C. 408, 574 S.E.2d 228 (Ct. App. 2002). Our Supreme Court has clarified that there is no additional requirement that the trial judge must "balance the equities" before issuing an injunction. Poynter Investments, Inc. v. Century Builders of Piedmont, Inc., 387 S.C. 583, 694 S.E.2d 15, 17 (2010).

The purpose of an injunction is to preserve the status quo during litigation in order to prevent irreparable injury to the requesting party and to preserve the ability of the court to render complete relief. County Council of Charleston v. Felkel, 244 S.C. 480, 137 S.E.2d 577, 578 (1964) ("The sole object of a temporary injunction is to preserve the subject of controversy in the condition which it is at the time of the Order until opportunity is offered for full and deliberate investigation and to preserve the existing status during litigation."); see also JAMES F. FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE 511 (2nd ed., 1996) ("A temporary injunction preserves the status quo pending the completion of the case."). An injunction is appropriate to preserve the status quo so that a party can enforce a disputed legal right. Seaboard Air Line Ry. v. Atlantic Coast Line R., 71 S.E. 39 (S.C. 1911).

"Irreparable injury means that the injunction is reasonably necessary to protect the rights of the plaintiff pending the litigation." FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE at 508; Multi-Channel TV Cable Co. v. Charlottesville Quality Cable Operating Co., 22 F.3d 546, 551 (4th Cir. 1994) ("Generally, 'irreparable injury is suffered when monetary damages are difficult to ascertain or are inadequate.'" (citation omitted)). The element of irreparable harm is satisfied when it is difficult to calculate the amount of damages, such that an equitable remedy is necessary to make the aggrieved party whole. Bethel Methodist Episcopal Church v. City of Greenville, 211 S.C. 442, 45 S.E.2d 841 (1947) ("Irreparable injury, as used in the law of injunction, does not necessarily mean that the injury is beyond the possibility of compensation in damages.").

South Carolina law has long recognized that an injunction is the appropriate remedy to abate an alleged waste of property or assets while ownership of the same property or assets is being litigated. Kinsler v. Clarke, 1837 WL 1551 (S.C. Ct. App. 1837); Grosshuesch v. Cramer,

367 S.C. 1, 623 S.E.2d 833 (2005); Felkel, 137 S.E.2d at 578. In Grosshuesch, our Supreme Court observed that "the quintessential hallmark of an injunction" is the "preservation of the property at issue until the matter has been adjudicated." 623 S.E.2d at 833. The Court in that case granted a preliminary injunction against a trustee which prevented the trustee from exercising any control over the trust assets (including funds in a Merrill Lynch investment account) pending the outcome of the litigation and which ordered a full accounting.

A party seeking an injunction is "not required to prove an absolute legal right when seeking a preliminary injunction, but [she] must present a reasonable question as to the existence of such a right." AJG Holdings, LLC v. Dunn, 382 S.C. 43, 674 S.E.2d 505, 509 (Ct. App. 2009); see also Williams v. Jones & Amerman, 92 S.C. 342, 75 S.E. 705 (1912) ("This does not mean an absolute legal right or certainty of success but rather that he has a fair question to raise as to the existence of such a right."). Courts have broadly construed this element and a litigant is required to do little more than state a cause of action or make a prima facie showing. County of Richland v. Simpkins, 348 S.C. 664, 560 S.E.2d 902 (Ct. App. 2002); Childs v. Columbia, 87 S.C. 566, 70 S.E. 296 (1911).

"The determination of whether to grant an injunction should not be based on the merits of the underlying case except insofar as the merits may assist the trial court in determining whether a prima facie showing has been made." MailSource, L.L.C. v. M.A. Bailey & Assocs., 356 S.C. 363, 588 S.E.2d 635, 638 (Ct. App. 2003). "Once a prima facie showing has been made entitling the plaintiff to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits." Helsel v. City of N. Myrtle Beach, 307 S.C. 29, 413 S.E.2d 824, 826 (1992).

"[W]hether there is an adequate remedy at law for a wrong, [is a] question[] that [is] not decided by narrow and artificial rules." Kirk v. Clark, 191 S.C. 205, 4 S.E.2d 13, 15 (1939). "The adequacy of a legal remedy is a pragmatic determination based upon the certainty of fixing damages, the practicality of obtaining relief, and the efficiency of the legal remedy in the particular circumstances." FLANAGAN, SOUTH CAROLINA CIVIL PROCEDURE at 508. "[I]f the available legal remedy in a given case reduces itself to a matter of words, rather than to a matter of efficacy, because of its impracticability, or because the threatened acts may continue during the progress of an action at law, or because successive actions at law would be necessary to protect the plaintiff's rights, equity will hold that the existence of the legal remedy is not an obstacle to the exertion of the equitable power." Columbia Broadcasting Sys., Inc. v. Custom Recording Co., 258 S.C. 465, 189 S.E.2d 305, 312 (1972).

In this case, Plaintiff has demonstrated that (1) the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm if an injunction is not granted; (2) he will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law.

Unless a temporary restraining order is immediately granted to enjoin, restrain, and prevent the sale, trade, negotiation, gift, transfer, or other disposition of the sales proceeds and partnership interests referenced herein-above, the Wellin Family 2009 Irrevocable Trust will suffer irreparable harm because the proceeds and assets belonging to the trust will be squandered, dissipated, and wasted by Defendants. Although the law provides that Defendants will be liable for damages, it will be difficult calculating the amount of damages because Defendants' actions in selling the shares have deprived the trust the benefit of the profits, gain, or appreciation that would have resulted if the stock was still held or owned by the trust. Moreover, it will also be difficult to trace the funds that Defendants improperly received after they have

been spent. Because the assets are liquid, they are easily disposed of. A money judgment against Defendants will do Plaintiff little good if Defendants are allowed to waste, spend, or dispose of the liquid assets before the Court can adjudicate the claims and enter an Order granting relief.

Moreover, Plaintiff's verified Complaint raises a "reasonable question" about Defendants' liability as co-trustees of the trust and makes a prima facie showing entitling Plaintiff to injunctive relief. A prima facie showing has been made that Defendants, as co-trustees, participated in and committed serious breaches of trust and are not serving solely the bests interests of all of the beneficiaries. A prima facie showing has been made that Defendants, as co-trustees, participated in or allowed self-serving transfers of trust assets to be made to the detriment of other beneficiaries of the trust (including Keith S. Wellin's grandchildren and other heirs). Those transfers involve in excess of $150,000,000.00. The record shows that Defendants engaged in the sale, liquidation, and transfer of trust assets in disregard of the grantor's intent and their fiduciary obligations without any consideration for the interests of the other trust beneficiaries. These transactions suggest prohibited self-dealing. See S.D. Codified Laws § 55-2-1 ("In all matters connected with his trust a trustee is bound to act in the highest good faith toward his beneficiary and may not obtain any advantage therein over the latter by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind."); Bonney v. Granger, 292 S.C. 308, 356 S.E.2d 138 (1987) ("A trustee must exclude all selfish interest in his dealings on behalf of the beneficiaries of the trust."). A prima facie showing has been made that Defendants, as co-trustees, improperly sold, liquidated, and transferred the trust's assets, which depleted the assets of the trust and defeats or frustrates the grantor's intent, because all of the

trust assets have been transferred to Defendants to the detriment of Keith S. Wellin's grandchildren and other intended beneficiaries.

In short, a prima facie showing has been made that Defendants, as co-trustees, breached their duties of loyalty, impartiality, and good faith as trustees by pursuing actions that benefited themselves to the detriment of other beneficiaries. Such conduct warrants the issuance of a temporary restraining order restraining further such breaches of trust and protecting the trust property and the interests of the other beneficiaries.

Finally, Plaintiff has no adequate remedy at law for the harm or damage done or threatened to be done by Defendants. As in Grosshuesch v. Cramer, 367 S.C. 1, 623 S.E.2d 833 (2005), the purpose of Plaintiff's motion is to preserve the assets of the trust until the merits of this litigation have been adjudicated. In this case, a showing has been made that Defendants, as co-trustees, have repeatedly participated in and allowed distributions of all of the trust assets to themselves in violation of the grantor's intent and the governing law. Unless an injunction is issued, this conduct will continue to occur during the pendency of this action. The proceeds from the sale of trust assets will be depleted unless an injunction is granted. Even if Plaintiff obtains a money judgment against Defendants at the end of this case, it is doubtful that he would be able to fully recover it if Defendants are allowed to dispose of the proceeds from the sale of the stock and to use the money.

CONCLUSION

For the above reasons, the Trust Protector, Lester S. Schwartz, requests the Court to issue its immediate *ex parte* Order retraining, enjoining, and preventing the Wellin children from selling, trading, negotiating, gifting, alienating, hiding, disposing, or converting the proceeds of the sale of the Berkshire Hathaway stock or from participating in, authorizing, or allowing any

such transactions without the express, written, and notarized consent of the Plaintiff or further order of this Court. Plaintiff also seeks to restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, transfer, or otherwise dispose of the 98.90% limited partnership interest in Friendship Partners, LP, which Keith S. Wellin sold to the Wellin Family 2009 Irrevocable Trust in 2009, without the express, written, and notarized consent of the Plaintiff.

Finally, Plaintiff further moves the Court to issue an order to show cause why a subsequent preliminary injunction should not be entered to restrain, enjoin, and prevent Defendants from being able to sell, trade, negotiate, gift, or otherwise dispose of the proceeds received from the sale of the 896 Class A Berkshire Hathaway common shares and/or the 98.90% limited partnership interest in Friendship Partners, LP pending the resolution of the merits of this action, without the express, written, and notarized consent of the Plaintiff or further Order of this Court.

Respectfully submitted,

ROSEN, ROSEN & HAGOOD, LLC

By: _____

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ATTORNEY FOR PLAINTIFF

Charleston, South Carolina
December 20, 2013.

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	CASE NO.
COUNTY OF CHARLESTON	)	
Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff	)	
vs.	)	**COMPLAINT**
Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).	)	

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Petitioner, Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, alleges and states as follows:

1. Plaintiff is a resident of South Carolina and is the duly appointed Trust Protector of the Wellin Family 2009 Irrevocable Trust having been appointed pursuant to the Trust Agreement by the Grantor Keith S. Wellin by document dated November 20, 2013.

2. The Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King are the children of Keith S. Wellin.

3. Keith S. Wellin is the Grantor of the Wellin Family 2009 Irrevocable Trust residing in Charleston, South Carolina.

4. Pursuant to the Wellin Family 2009 Irrevocable Trust the Trust Protector has the authority to remove the Trustee and to appoint a different Trustee or additional Co-Trustees. The Trust Protector also has the authority to appoint Successor Trustees.

5. The Trust Protector does not have the authority to remove a child of the Grantor, Keith S. Wellin.

6. Pursuant to the Wellin Family 2009 Irrevocable Trust the Trust Protector has the power during the lifetime of the Grantor, Keith S. Wellin, to amend the provisions of the Trust with regard to how the beneficiaries will benefit from the Trust and to amend the Trust administrative provisions.

7. The Trust Protector has the authority to use Trust assets to hire legal counsel to advise him to defend the Trust Protector in connection with any matter concerning the Trust.

8. The Defendants herein, Peter J. Wellin, Marjorie W. King and Cynthia W. Plum serve and have served as Co-Trustees of the Wellin Family 2009 Irrevocable Trust.

9. On November 20, 2013, the Trust Protector removed South Dakota Trust Company, N.A., as the corporate Trustee of the Wellin Family 2009 Irrevocable Trust and appointed Brown Brothers Harriman Trust Company of Delaware, N.A. ("Brown Brothers") as the corporate Trustee, and Brown Brothers accepted the appointment in writing on November 20, 2013.

10. The Trust Protector amended the provisions of the Wellin Family 2009 Irrevocable Trust requiring that actions of the Trustees required the unanimous vote of the Trustees, excepting the vote of any Trustee who is also a beneficiary who is ineligible to participate in the exercise of the power or discretion because, as a beneficiary, such party may be affected by the exercise of such power or discretion.

11. On December 5, 2013, Brown Brothers submitted is notice of resignation as Trustee to the Trust Protector, and such resignation has not yet been accepted and Brown Brothers has not been discharged from its duties as Trustee.

12. Peter J. Wellin, Cynthia W. Plum and Marjorie W. King are Members of Friendship Management, LLC a Delaware Limited Liability Company (the "Company" owning in the aggregate Sixty Percent (60%) of the Membership Interest in said Company), and Cynthia W. Plum is the Company's sole Manager.

13. Friendship Company, LLC is the general partner of Friendship Partners, LP, a Delaware Limited Partnership (the "Friendship Partners"), and the Wellin Family 2009 Irrevocable Trust is a Limited Partner owning a Limited Partnership interest of more than Ninety Percent (90%).

14. On or about December 1, 2013, Cynthia W. Plum, as Manager of Friendship Management, LLC, the general partner of Friendship Partners, LP, directed the liquidation of Friendship Partners, LP.

15. On or about December 6, 2013, Cynthia W. Plum, as the Manager of Friendship Management, LLC, while serving as Trustee of the Wellin Family 2009 Irrevocable Trust, acting solely in her own interest and in complete and utter disregard for her duties as a fiduciary with respect to Friendship Partners LP and the Wellin Family 2009 Irrevocable Trust, sold substantially all of the assets of the Partnership consisting of Berkshire Hathaway stock held in Friendship Partners LP a Delaware Limited Partnership. The sale of these assets was a violation of Defendants' fiduciary duties with respect to the Partnership and as Trustees as Defendants acted solely in their own financial interest in complete and utter disregard for the interest of the

Partnership, its Partners, and the Trust, for the intentions of the Grantor and the other beneficiaries of the Wellin Family 2009 Irrevocable Trust.

16. One or about December 1, 2013, the Defendants, Cynthia W. Plum, Peter J. Wellin, by Cynthia J. Plum, his attorney in fact, and Marjorie W. King, as the members of the Distribution Committee of the Wellin Family 2009 Irrevocable Trust, and as individual Trustees of the Wellin Family 2009 Irrevocable Trust, adopted by written consent without a meeting, a plan to distribute to themselves individually from the Wellin Family 2009 Irrevocable Trust, all of the proceeds from the liquidation of Friendship Partners, LP, exceeding the sum of $52,000,000.00 (referred to in their written consent as the "Trust Retained Amount"), in equal shares to each of the three (3) individual Trustees/Defendants, directly from Friendship Partners, LP, as a deemed distribution first to the Wellin Family 2009 Irrevocable Trust, and then to themselves, individually, without actually making any distribution to the Wellin Family 2009 Irrevocable Trust.

17. That the Trust Retained Amount, reflects an amount that the Defendants allege is the sum due the Grantor, Keith S. Wellin, to satisfy a certain Promissory Note by and between the Grantor, Keith S. Wellin and the Defendants, Peter J. Wellin, Cynthia J. Plum and Marjorie W. King, as Trustees of the Wellin Family 2009 Irrevocable Trust, and presently in litigation.

18. That the actions of the Defendants, Peter J. Wellin, Cynthia J. Plum and Marjorie W. King, as Trustees of the Wellin Family 2009 Irrevocable Trust, have frustrated the intent and purposes of the Trust by distributing to themselves all of the Trust Estate except for that sum they have determined necessary to satisfy the debt owed to the Grantor, Keith S. Wellin, pursuant to his promissory note, leaving no Trust Estate available to make distributions to the qualified beneficiaries as intended.

19. These actions by Defendants, Peter J. Wellin, Cynthia J. Plum and Marjorie W. King were done without participation or consent of a Corporate Trustee.

20. There is currently pending in this Court a Petition filed by the Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King against Defendant Keith Wellin alleging the need for appointment of a Conservator for Keith Wellin, and alleging, among other things that the "central tenet" of Keith Wellin's estate planning was to protect his estate "for his lineal descendants ...."

21. There is currently pending other litigation involving the Wellin Family 2009 Irrevocable Trust including a Complaint for Injunctive and Declaratory Relief filed by Keith S. Wellin individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001, Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust u/a/d November 20, 2011 and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 v. Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, individually, and as Co-Trustees and beneficiaries of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, South Dakota Trust Company, LLC as Co-Trustee of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, Friendship Management, LLC, Cynthia W. Plum, as Manager of Friendship Management, LLC and Friendship Partners, LP.

22. There is also pending in the United States District Court for the District of South Carolina a civil action entitled Keith Wellin, individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2001 v. Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, individually, and as Co-Trustees and beneficiaries of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, South Dakota Trust Company, LLC as Co-

Trustee of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, Friendship Management, LLC, Friendship Partners, LP.

23. The Wellin Family 2009 Irrevocable Trust is the subject matter of both lawsuits. Among other relief requested in the United States District Court for the District of South Carolina by Keith Wellin is imposition of a Constructive Trust; appointment of a Receiver to take control of the Wellin Family 2009 Irrevocable Trust, Friendship Partners, LP and Friendship Management, LLC and rescission of the entire transaction creating the Wellin Family 2009 Irrevocable Trust.

24. By Order dated the3d day of July, 2013 the Honorable David Norton, United States District Judge ordered that the individual Defendants, except Keith Wellin, be temporarily restrained and enjoined from selling, trading, gifting, transferring , negotiating or other disposing of any and all of the 896 BRKA shares owned by Friendship Partners, LP or the 98.9% interest in Friendship Partners, LP owned by the Wellin Family 2009 Irrevocable Trust, without the express, written, and notarized consent of Keith Wellin or his current attorney-in-fact. .

25. The Temporary Restraining Order issued by the United States District Court was dissolved on the 22nd day of November, 2013 and Keith Wellin's motion for preliminary injunction was denied.

26. Subsequently Defendants in violation of their fiduciary duties to the partners of the Partnership and as Trustees, in violation of their fiduciary and confidential relationship with their father, Keith S. Wellin, as well as their children and further descendants, embarked on a course of self-dealing and utter disregard of their fiduciary duties by selling all of the Berkshire Hathaway stock being held by Friendship Partners, LP.

27. The result of the sale of the Berkshire Hathaway stock is that more than $155,000,000.00 were realized on the sale of the stock resulting in a tax consequence to the owners of the Partnership interests of more than $40,000,000.00.

28. The Wellin Family 2009 Irrevocable Trust in Article IV, provides that the Trustee shall first pay to the beneficiary, or his or her living descendents, such amounts from the Trust income that the Trustee in its sole and absolute discretion shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study) or any other reasonable purpose. Such payments of income, if any, shall be made according to their respective needs and without regard to equality of distribution. Likewise, in addition to payments of income, the Wellin Family 2009 Irrevocable Trust provided that the Trustees may pay to beneficiary or to his or her living descendents, so much of the Trust principal as the Trustee in its sole discretion shall deem necessary or advisable for their health, support, maintenance, or education (including a college education and professional or post-graduate study), or any other reasonable purpose. Such principal payments are to be made on the basis of need and without regard to equality of distribution.

29. In utter disregard for the Trust provisions and in violation of their fiduciary duties, and duties of good faith, the Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King conspired to sell the assets held by Friendship Partners, LP, which partnership was an asset of the Wellin Family 2009 Irrevocable Trust. On or before December 5, 2013 sold all of the stock for cash, after which Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King acting solely in their own selfish interests, and in utter disregard for their duties as Trustees, partners and fiduciaries and in disregard of the rights of other beneficiaries, as well as the intentions of the Grantor, divided the net proceeds of their illegal transaction among themselves.

30. The sale of the Berkshire Hathaway stock the distributions from the Trust were unlawful and without legal affect.

31. Defendants left cash in the Partnership of approximately Fifty Two Million Two Hundred Twenty Eight Thousand ($50,228,000) dollars in the Partnership which they improperly allege is due on a promissory note from the Trust to Keith S. Wellin, which note was satisfied on November 20, 2013 by a substitution of assets into the Trust by Mr. Wellin.

32. The sale of stock of Friendship Partners, LP and distributions from the Trust was done by Peter J. Wellin, Cynthia W. Plum and Marjorie W. King without requisite authorization or authority.

FIRST CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY

33. Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King by accepting their appointment as Trustees under the Wellin Family 2009 Irrevocable Trust thereby assumed fiduciary duties and duties of the utmost trust and confidence to the Grantor, Keith Wellin as well to all the beneficiaries of the Trust including the children of Defendants and unborn children of Defendants. It was the intention of the Grantor Keith Wellin to benefit his grandchildren.

34. Furthermore, Defendant Cynthia Plum as Manager of the General Partner, Friendship Manager, LLC owed fiduciary duties to the Friendship Partners, LP of which the Wellin Trust was a partner. Defendant Plum breached these duties as set forth herein.

35. Defendants owed to the Trust and the beneficiaries and potential beneficiaries the utmost duty of care, loyalty and good faith.

36. Defendants breached their fiduciary duties by, among other things, failing to act in the best interests of the beneficiaries and intended beneficiaries of the Wellin Family 2009 Irrevocable Trust; by breaching their duty of loyalty to the Grantor and to the other intended

beneficiaries; by violating the terms of the Wellin Family 2009 Irrevocable Trust and by misappropriating funds which were not rightfully belonging to them.

37. As a result, and pursuant to S.C. Code § 62-7-1001, Plaintiff is entitled to an order of this Court requiring Defendants to immediately restore the proceeds of the sale of the Berkshire Hathaway stock to the Trust; or in the alternative for damages as well as punitive damages in amounts to be determined by the trier of fact.

FOR A SECOND CAUSE OF ACTION
FOR CONVERSION

38. Plaintiffs hereby allege and re-allege as if fully set forth herein the proceeding allegations of this Complaint.

39. Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King were heretofore appointed duly acting individual Trustees of the Wellin Family 2009 Irrevocable Trust. Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King have converted the Trust assets of the Wellin Family 2009 Irrevocable Trust to their own use and benefit and sold the Berkshire Hathaway stock which they controlled via the Partnership and as Trustees and fiduciaries.

40. Plaintiff is the duly appointed Trust Protector of the Wellin Family 2009 Irrevocable Trust and the assets converted by Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King are rightfully assets of the Wellin Family 2009 Irrevocable Trust which Defendants wrongfully have detained, diverted and converted for their own use and benefit.

41. Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King have wrongfully and illegally transferred cash received from the sale of the Berkshire Hathaway stock and the dissolution of Friendship Partners, LP for their own use and benefit.

42. Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King have acted jointly and severally in converting the Trust assets and are each duly liable for all damages suffered by the Trust.

43. As a result Plaintiff is entitled to a judgment against each of these Defendants in an amount to be determined by the trier of fact, as well as an award of attorneys' fees and punitive damages.

FOR A THIRD CAUSE OF ACTION
REMOVAL OF TRUSTEES

44. Plaintiffs hereby re-allege as if fully set forth herein the proceeding allegations of this Complaint.

45. Based on the gross misconduct of the Defendants, their self-dealing, misappropriation of Trust assets and serious breaches of duty, and pursuant to S.C. Code §62-7-706, and 62-7-1001, Trust Protector requests that this Court issue an Order removing Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King as Trustees of the Wellin Family 2009 Irrevocable Trust.

FOR A FOURTH CAUSE OF ACTION
RESTITUTION

46. Plaintiffs hereby re-allege as if fully set forth herein the proceeding allegations of this Complaint.

47. Because Defendants have illegally and in violation of their fiduciary duties misappropriated funds belonging to the Trust, Plaintiff requests an Order of this Court requiring Defendants to immediately restore those funds improperly taken to the Trust.

FOR A FIFTH CAUSE OF ACTION
RECOVERY OF ATTORNEYS FEES

48. Plaintiffs hereby allege and re-allege as if fully set forth herein the proceeding allegations of this Complaint.

49. The Wellin Family 2009 Irrevocable Trust provides in paragraph 7 of Article VI that the Trust Protector is authorized to hire legal counsel to advise and defend the Trust Protector in any matter concerning the Trust.

50. Pursuant to the provisions of Article IV, paragraph B.1(a) distributions are to be made for beneficiaries health, support, maintenance or education (including college and post graduate study), or any other reasonable purpose. Such payments of income shall be made according to the respective needs of the beneficiaries. Distributions of principal may only be made based on similar ascertainable standards, again "on the basis of need".

51. The distribution of $31,876,714.15 to each of the three children, to the exclusion of all other beneficiaries, leaving the Trust with less than 2% of its original asset value far exceeds the above standards which must only be made on the basis of need.

52. In addition, the alleged distribution direction by the children as Distribution Advisors and as Trustees violated their fiduciary distribution authority by the reciprocal nature of their attempted distributions and attempted to circumvent the Trust, and its other serving fiduciaries via directed distributions from the Partnership.

53. Plaintiff pursuant to S.C. Code §62-7-1004 hereby requests an award of attorneys fees, costs and expenses from Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King individually.

FOR A SIXTH CAUSE OF ACTION
TEMPORARY RESTRAINING ORDER, TEMPORARY AND PERMANENT INJUNCTION

54. Plaintiffs hereby re-allege as if fully set forth herein the proceeding allegations of this Complaint.

55. That unless the Defendants are restrained by this Court, there is, based on their past conduct, including the attempted conversion of over $95,000,000 in assets, a substantial likelihood that the assets of the Trust will be dissipated or lost.

56. The loss of assets of the Trust would result in irreparable harm to the Trust and the intended beneficiaries.

57. Plaintiff, as Trust Protector and pursuant to S.C. Code §62-7-706 hereby seeks an Order of this Court restraining and enjoining the Defendants from spending, reducing, pledging, distributing, sharing, or otherwise exercising any control or dominion over the cash assets of the Trust which defendants have misappropriated.

WHEREFORE, Plaintiffs pray for the following relief:

(a) an Order removing Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King as Trustees of the Wellin Family 2009 Irrevocable Trust;

(b) an Order pursuant to S.C. Code §62-7-706(c) requiring Defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King to immediately restore to Plaintiff as Trust Protector of the Wellin Family 2009 Irrevocable Trust, or to such Trustee as Plaintiff shall in his discretion appoint for the Trust, all distribution proceeds from the liquidation of Friendship Partners LP, other than the proceeds applicable to the 11,037 units owned by the general partner to which the general partner is entitled;

(c) an award of actual damages, punitive damages and an award of attorneys' fees and costs incurred in this matter from individual defendants Peter J. Wellin, Cynthia W. Plum and Marjorie W. King; and

(d) an Order approving the authority of the Trust Protector to pay himself appropriate compensation for his services from the Trust and to pay appropriate fees and cost to counsel for the Trust Protector as permitted in paragraph 7 of Article VI of the Trust document;

(e) such other and further relief as this Court deems appropriate

ROSEN, ROSEN & HAGOOD, LLC

By: _____

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ATTORNEY FOR PLAINTIFF

Charleston, South Carolina
December ____, 2013.

STATE OF SOUTH CAROLINA	) IN THE PROBATE COURT
	) CASE NO. 2013-ES-10-129
COUNTY OF CHARLESTON	)
Lester S. Schwartz, as Trust Protector of the Wellin Family 2009 Irrevocable Trust, Plaintiff	)
vs.	) AFFIDAVIT OF LESTER S. SCHWARTZ
Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, Individually and as Co-Trustees and Beneficiaries of the Wellin Family 2009 Irrevocable Trust, Friendship Management, LLC, Cynthia W. Plum as Manager of Friendship Management, LLC, Friendship Partners, LP and Keith S. Wellin, Individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, as Trustee of the KSW 2011 Qualified Grantor Retained Annuity Trust, and Trustee of the KSW 2012 Qualified Grantor Retained Annuity Trust u/a/d November 28, 2012 Defendant(s).	)

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PERSONALLY APPEARED before me, Lester S. Schwartz, who being duly sworn, deposes and states as follows:

1. I am a citizen and resident of the County of Charleston, State of South Carolina, have been licensed to practice law in South Carolina since 1986 and am certified by the Supreme Court of South Carolina Commission on Continuing Education and Specialization as a specialist in Estate Planning and Probate Law and Taxation Law.

2. On November 20, 2013, I was appointed by Keith S. Wellin, Grantor, as the Trust Protector of the Wellin Family 2009 Irrevocable Trust ("Wellin 2009 Trust"), which appointment I accepted. A copy of my appointment and acceptance is attached as Exhibit 1 to this affidavit.

3. Prior to my appointment as Trust Protector of the Wellin 2009 Trust, I met with

Keith S. Wellin at his residence to satisfy myself that Mr. Wellin had the requisite capacity to make the appointment.

4. I have attached a copy of the Wellin 2009 Trust as Exhibit 2 to this affidavit. The provisions of the Wellin 2009 Trust which sets forth the duty and authority of the Trust Protector are located in Article VI of Exhibit 2.

5. Following my appointment and acceptance as Trust Protector, I executed a Trust Amendment on November 20, 2013, a copy of which is attached as Exhibit 3 to this affidavit.

6. I also executed an instrument on November 20, 2013, removing South Dakota Trust Company, LLC as Trustee of the Wellin 2009 Trust and appointing Brown Brothers Harriman Trust Company of Delaware, N.A. ("Brown Brothers") as successor Trustee, which appointment was accepted by Brown Brothers. A copy of this instrument is attached as Exhibit 4 to this affidavit.

7. It is my understanding that copies of my appointment, the amendment and other documents were provided to Keith Wellin's children, Peter J. Wellin, Cynthia W. Plum and Marjorie W. King by letter dated November 2013, from Keith Wellin's personal counsel, Edward G. R. Bennett, as I was provided with a copy of Mr. Bennett's letter which is attached hereto as Exhibit 5 to this affidavit.

8. In view of the fact that litigation is pending between Keith Wellin and his children in the United States District Court for the District of South Carolina, the Probate Court for Charleston County, the Chancery Court for Delaware and the Court of the Second Judicial Circuit in South Dakota, I determined that it would be prudent to hire counsel to represent me in my capacity as Trust Protector which is expressly authorized in Paragraph 7 of Article VI of the Wellin 2009 Trust so I retained Richard S. Rosen, H. Brewton Hagood and Daniel F. Blanchard of the firm of Rosen, Rosen & Hagood, LLC in Charleston to advise and represent me.

9. I view my role as Trust Protector to see that the Grantor's intention as expressed in the Trust document are followed and to preserve the assets of the Wellin 2009 Trust, particularly when there is litigation pending between the Grantor and his children. I sent a letter to Brian McLoughlin of UBS (where I believed the underlying assets were being held) on December 10, 2013, requesting that no distributions be made from the UBS account without notice and approval by me. A copy of this letter is attached as Exhibit 6 to this affidavit.

10. On or about December 13, 2013, I received copies of the following documents:

(a) Wellin Family 2009 Irrevocable Trust accounting for the period November 13 to December 13, 2013, a copy of which is attached as Exhibit 7 to this affidavit;

(b) Written Consent In Lieu of a Meeting of the General Partner of Friendship Partner, LP, Effective December 1, 2013, which is attached as Exhibit 8 to this affidavit;

(c) Plan of Dissolution and Liquidation of Friendship Partners, LP, with an effective date of December 1, 2013, which is attached as Exhibit 9 to this affidavit;

(d) Written Consent In Lieu Of A Meeting Of The Distribution Committee and the Individual Trustees of Wellin Family 2009 Irrevocable Trust Effecitve December 1, 2013, which is attached as Exhibit 10; and

(e) Written Consent In Lieu Of A Meeting Of The Individual Trustees Of Wellin 2009 Irrevocable Trust Effective December 5, 2013, which is attached as Exhibit 11 to this Affidavit;

11. The documents which I received on December 13, 2013 were very concerning to me as Trust Protector of the Wellin 2009 Trust in that Brown Brothers was still the corporate Trustee for the Wellin 2009 Trust on December 1, 2013 and the children of Keith Wellin had apparently caused all of the underlying assets of the Trust consisting of 896 shares of Berkshire

Hathaway Stock held by Friendship Partners, LP to be sold and for $31,876,714.15 to be distributed to each of the children of Keith Wellin for a total distribution of $95,630,142.45, without notice to me and without notice to or a vote by Brown Brothers.

12. Brown Brothers did fax a document entitled Trust Resignation to me late on December 5, 2013, a copy of which is attached as Exhibit 12 to this affidavit, but I have not accepted the resignation.

13. On December 19, 2013, I received a response from Kenneth Crowley, counsel for UBS, in response to my letter dated December 10, 2013. A copy of this letter is attached as Exhibit 13 to this affidavit.

14. My counsel, Richard S. Rosen, sent a letter to Mr. Crowley on December 19, 2013, a copy of which is attached as Exhibit 14 to this affidavit.

15. Mr. Crowley responded to Mr. Rosen's letter, by letter dated December 19, 2013, a copy of which is attached as Exhibit 15.

16. The Motion For Temporary Restraining Order which I have filed with the Probate Court seeks to maintain the status quo and to preserve the proceeds received from the sale of the underlying assets of the Trust until the appropriate Court rules on the validity of the parties' position in the litigation. No injury should occur to the Wellin children as the assets will be maintained and can be invested in a conservative manner as directed by the Court.

FURTHER AFFIANT SAYETH NOT.

Lester S. Schwartz

SWORN to before me this
20th Day of December, 2013.

Notary Public for South Carolina
My commission expires: My Commission Expires March 6, 2017

TRUST PROTECTOR REMOVAL AND SUCCESSOR TRUST PROTECTOR APPOINTMENT

WELLIN FAMILY 2009 IRREVOCABLE TRUST

The Wellin Family 2009 Irrevocable Trust was created by agreement dated November 2, 2009 between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees.

Article VI, Section A, thereof, named Thomas M. Farace as the Trust Protector.

Article VI, Section A, Subsection 9 provides that "I [Keith S. Wellin] have the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to me within the meaning of Internal Revenue Code section 672(c)."

Pursuant to the authority cited above, Thomas M. Farace is hereby removed as Trust Protector, effective the date hereof. Lester S. Schwartz, Esq., who is neither related or subordinate to the Grantor, is hereby appointed as successor Trust Protector, such appointment to be effective upon his execution of this instrument.

In witness whereof the undersigned has set his hand and seal this 20th day of November, 2013.

Keith S. Wellin, Grantor

Appointment Accepted:

Lester S. Schwartz

State of South Carolina
County of Charleston

PERSONALLY APPEARED before me on this 20th day of November, 2013, Keith S. Wellin, to me known and known to me to the individual described in and who acknowledged the foregoing instrument and acknowledged to me that he executed the same.

(SEAL)
Notary Public for South Carolina
My Commission Expires: April 25, 2022

EXHIBIT
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WELLIN FAMILY
2009 IRREVOCABLE TRUST

I, KEITH S. WELLIN, of Vero Beach, Indian River County, Florida, as Grantor, hereby transfer to PETER J. WELLIN, of Portland, Cumberland County, Maine, MARJORIE W. KING, of Bainbridge Island, Kitsap County, Washington, CYNTHIA W. PLUM, of Philadelphia, Philadelphia County, Pennsylvania, and SOUTH DAKOTA TRUST COMPANY LLC, of Sioux Falls, Minnehaha County, South Dakota, as the Trustees (hereinafter collectively referred to as the "Trustee") of the "WELLIN FAMILY 2009 IRREVOCABLE TRUST," the property identified on the attached Schedule of Property, which property and all additions, investments, and accretions shall be administered pursuant to the following terms:

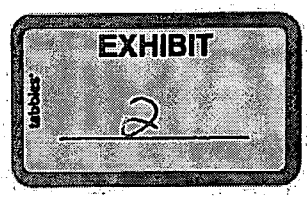
ARTICLE I

Irrevocable trust

I waive irrevocably all rights, power and authority to amend or revoke this instrument or any trust hereby evidenced.

ARTICLE II

A. **Additions.** I (and any other person with the Trustee's written consent) shall have the right at any time and from time to time, by deed, assignment or other conveyance executed during my lifetime, and/or by devise or bequest by Will, to contribute property acceptable to the Trustee to any trust created under this Agreement. After my death, any other person may, with the Trustee's written consent, at any time and from time to time, by deed, assignment or other conveyance and/or by devise or bequest by Will, contribute property



acceptable to the Trustee to any trust created under this Agreement. The addition to the trust of any such property may be indicated by attaching to this trust Agreement a schedule of property. Any additional contributions shall be held by the Trustee subject to the terms of this Agreement. The Trustee is exonerated from liability for acting in good faith in accepting any additions to the trust.

B. **Acceptance by Trustee.** The Trustee has agreed to accept said Trusteeship and all interest in property that may come to the Trustee by reason of this trust Agreement for the benefit and use of the beneficiaries, all in accordance with the provisions hereinafter set forth, and hereby acknowledges receipt of certain assets that are described on the receipt to be delivered by the Trustee to me, which receipt is attached to this Agreement as part of the attached schedule of property.

C. **Trust Estate.** All property that is from time to time held by the Trustee subject to the terms of this Agreement and contained in the attached schedule of property may be sometimes referred to herein as "the Trust Estate."

D. **Grantor Relinquishes All Rights In Assets of Trust Estate.** The Trustee is hereby vested with all right, title and interest in and to the property described in the attached schedule of property (and any property at any time added to this trust or purchased by the Trustee) and is authorized and empowered to exercise and enjoy for the purposes of the trusts herein created and as absolute owner of those assets, all the options, benefits, rights and privileges that attend such assets. I hereby absolutely and irrevocably relinquish and divest myself of all rights, powers and incidents of ownership in and to such property. Without limiting the generality of the foregoing provisions of this paragraph, notwithstanding any other provision of this trust Agreement or any instrument pursuant to which I transfer assets to this trust, I hereby

relinquish any right directly or indirectly (a) to manage such property; (b) to defer or accelerate the enjoyment of such property or the income from it; (c) to designate the persons who possess or enjoy such property and the income from it or to affect the beneficial interests in such property; (d) to vote shares of stock held as part of the Trust Estate; (e) to direct or control the trust's investments or otherwise control actions of the Trustee; or (f) to hold any power of appointment with respect to such property.

E. **Covenant of Grantor to Provide Further Instruments.** I covenant and agree to make, execute and deliver to the Trustee such other and further assignments, covenants or instruments as the Trustee may deem necessary or appropriate to effectuate the purposes of this Agreement (including without limitation, the relinquishment of all rights in the property of the Trust Estate as set forth in paragraph D).

F. **Reliance.** The Trustee may rely on, without liability, (a) the accuracy of an item reported on a tax return, (b) a copy of a tax return provided by the taxpayer filing the return or the tax return preparer, (c) the representation of another fiduciary or family tax advisor who filed or prepared a tax return as to the amount of any item reported on that return or, (d) the representation by the family whether or not a gift or generation skipping tax form has ever been filed as well as how much of the respective exemptions have been utilized.

ARTICLE III

Governing Law

Unless changed by the Trustee, the situs of this trust is the State of South Dakota and its laws shall govern the interpretation and validity of the provisions of this instrument and all questions related to the management, administration and investment of the trusts hereby created. The situs of any trust created hereunder may be maintained in any jurisdiction

(including outside the United States), as the Trustee, in the exercise of sole and absolute discretion, may determine, and thereafter transferred at any time or times to any jurisdiction selected by the Trustee. Upon any such transfer of situs, the Trust Estate may thereafter, at the election of the Trustee, be administered exclusively under the laws of and subject, as required, to the exclusive supervision of the courts of the jurisdiction to which it has been transferred. Accordingly, if the Trustee of any trust created hereunder elects to change the situs of any such trust, the Trustee of said trust is hereby relieved of any requirement of having to qualify in any other jurisdiction and of any requirement of having to account in any court of such other jurisdiction.

ARTICLE IV

Administration of Trust Estate

Commencing on the date of this Agreement and until termination (as defined later in this Article), the Trustee shall hold, manage, invest and reinvest the Trust Estate, and shall collect the income thereof and, shall dispose of the net income and principal as follows:

A. I direct the Trustee to divide the trust property into two parts, one to be known and designated as the "Exempt Trust" and the second to be known and designated as the "Non-Exempt Trust."

1. The Exempt Trust shall consist of a fractional amount of all of the property transferred to the trust by me or any other transferor at a particular time. The denominator shall be an amount equal to the value of all of the property transferred to the trust by me or any other transferor at such time, and the numerator shall be equal to the generation skipping tax federal exemption remaining on the date of such transfer, after taking into

consideration all prior and contemporaneous allocations of such exemption by me or by any other transferor.

The Trustee of the Exempt Trust may refuse to accept any property allocated, transferred, devised or bequeathed to the Exempt Trust if the Trustee, in its discretion, believes that the acceptance of such property would cause the Exempt Trust to have an inclusion ratio, as defined in Internal Revenue Code Section 2642(a), greater than zero.

2. The Non-Exempt Trust shall consist of the remainder of the trust property not allocated to the Exempt Trust, and property that the Trustee refuses to accept as provided for in paragraph 1, above, if any.

B. With regard to the Exempt Trust, I direct the Trustee to hold and administer the property of the Exempt Trust as follows:

1. I currently have three (3) children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM (each hereinafter referred to as the "beneficiary"). I direct the Trustee at the time of the making of the first discretionary distribution as provided for below to divide the trust property into as many equal shares as shall be necessary to provide one such equal share as a separate trust with respect to each beneficiary who is then living and one such equal share for the lineal descendants (collectively) who are then living of each beneficiary who is not then living but of whom there are lineal descendants then living. After making such division the Trustee shall hold, manage, and invest each share as a separate trust for each beneficiary and his or her lineal descendants, or the lineal descendants of a predeceased beneficiary, as the case may be, and shall administer each such share as follows:

a. The Trustee shall first pay to the beneficiary, or his or her lineal descendants, such amounts from the trust income as the Trustee in its sole and absolute

discretion shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study), or any other reasonable purpose. Such payments of income, if any, shall be made according to their respective needs and without regard to equality of distribution. The Trustee's decision as to whether any such income shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust. Any remaining income shall be accumulated. The Trustee may add such accumulated income to the principal from time to time in its discretion.

b. In addition to the payments of income, as provided above, I authorize the Trustee to pay to the beneficiary, or to his or her lineal descendants, so much of the trust principal as the Trustee in its sole discretion shall deem necessary or advisable for their health, support, maintenance, or education (including a college education and professional or post-graduate study), or any other reasonable purpose. Such principal payments shall be made on the basis of need and without regard to equality of distribution. The Trustee's decision as to whether any such principal shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust.

c. Upon the last to die of the beneficiary and all of his or her lineal descendants, such trust shall terminate and the remaining assets of such trust shall be added equally to the principal of any other trusts then in existence under this paragraph B, to be held and administered pursuant to the terms thereof, but if there be none then as provided in Article V hereof, subject to the provisions of paragraph D, below.

C. With regard to the Non-Exempt Trust, I direct the Trustee to hold and administer the Non-Exempt Trust as follows:

1. I direct the Trustee at the time of the making of the first discretionary distribution as provided for below to divide the trust property into as many equal shares as shall be necessary to provide one such equal share as a separate trust with respect to each child of mine who is then living and one such equal share for the lineal descendants (collectively) who are then living of each child of mine who is not then living but of whom there are lineal descendants then living. After making such division the Trustee shall hold, manage, and invest each share as a separate trust for each such child (each hereinafter referred to as the "beneficiary") and his or her lineal descendants, or the lineal descendants of a predeceased beneficiary, as the case may be, and shall administer each such share as follows:

a. The Trustee shall first pay to the beneficiary, or his or her lineal descendants, such amounts from the trust income as the Trustee in its sole and absolute discretion shall deem needed for their health, support, maintenance or education (including a college education and professional or post-graduate study), or for any other reasonable purpose. Such payments of income, if any, shall be made according to their respective needs and without regard to equality of distribution. The Trustee's decision as to whether any such income shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust. Any remaining income shall be accumulated. The Trustee may add such accumulated income to the principal from time to time in its discretion.

b. In addition to the payments of income, as provided above, I authorize the Trustee to pay to the beneficiary, or to his or her lineal descendants, so much of the

trust principal as the Trustee in its sole discretion shall deem necessary or advisable for their health, support, maintenance, or education (including a college education and professional or post-graduate study), or for any other reasonable purpose. Such principal payments shall be made on the basis of need and without regard to equality of distribution. The Trustee's decision as to whether any such principal shall be paid to the beneficiary or to his or her lineal descendants, and the amounts to be paid to each, shall be conclusive and binding upon all parties interested in the trust.

c. Upon the last to die of the beneficiary and all of his or her lineal descendants, such trust shall terminate and the remaining assets of such trust shall be added equally to the principal of any other trusts then in existence under this paragraph C, to be held and administered pursuant to the terms thereof, but if there be none then as provided in Article V hereof, subject to the provisions of paragraph D, below.

D. Notwithstanding the foregoing, all trusts created under this Article IV shall continue and terminate on (the "termination date"): (i) the day the term of the trust ends as required by applicable law, or (ii) the death of the last to die of my lineal descendants, whichever shall first occur. On the termination date, the Trustee shall distribute the remaining trust principal as provided in Article V hereof.

ARTICLE V

Ultimate Disposition; Holdback Provisions

A. Upon termination of a trust at the end of its stated term under this instrument, the Trustee shall distribute any trust principal not otherwise effectively disposed of by the foregoing provisions of this instrument to the WELLIN FAMILY FOUNDATION, INC. incorporated on October 21, 2002, but if the WELLIN FAMILY FOUNDATION, INC. is no

longer in existence or does not qualify as an organization described in Sections 170(c), 2055(a) and 2522(a) of the Internal Revenue Code of 1986, then to HAMILTON COLLEGE of Clinton, New York, without restriction or condition of any kind, but if for any reason HAMILTON COLLEGE cannot accept this gift, then the Trustee shall distribute any trust principal not otherwise effectively disposed of to such one or more organizations selected by the Trustee, each of which is, at the time of payment, a charitable organization, and in such proportions among such organizations as the Trustee shall decide and the Trustee shall be exonerated from liability for acting in good faith.

B. Despite the preceding provisions of this instrument, upon the termination of any trust at the end of its stated term under this instrument the Trustee may elect to withhold any principal which is not effectively appointed and is otherwise required to be distributed to a beneficiary who has not reached the age of twenty-five (25) years or is disabled. The Trustee shall retain any principal so withheld in a separate trust named for that beneficiary, to be distributed to the beneficiary when he or she reaches the age of twenty-five (25) years, or if later, upon the termination of the disability. Until then, the Trustee shall apply as much of the net income and principal of the trust as the Trustee determines from time to time to be required for the health, education, maintenance and support of that beneficiary, adding any undistributed net income to principal from time to time, as the Trustee determines. If the beneficiary for whom the trust is named dies before complete distribution of the trust, the Trustee shall distribute the remaining principal of the trust to that beneficiary's estate.

ARTICLE VI

Trust Protector

A. The Trust Protector shall initially be THOMAS M. FARACE of Perinton, New York. The last Trust Protector still serving and still able and willing to serve has the authority to appoint additional successor Trust Protectors. The last of them still serving and still able and willing to serve has the authority to appoint additional successor Trust Protectors, and so forth, down through the generations. The Trust Protector may also appoint different successor Trust Protectors for different separate trusts, who in turn will have the authority to appoint successor Trust Protectors for those trusts and different successor Trust Protectors for additional different separate trusts, down through the generations. A successor Trust Protector shall not be me or any beneficiary of this trust or any subtrust of this trust, or any person who is related or subordinate to us within the meaning of Internal Revenue Code section 672(c). A successor Trust Protector may be any other person. The powers of the Trust Protector shall be exercised or exercised in the sole and absolute discretion of the Trust Protector and shall be binding on all other persons. There shall always be a Trust Protector for each separate trust. If no successor Trust Protector is available to serve when the then serving Trust Protector dies, becomes incapacitated or resigns, I may appoint a successor Trust Protector other than myself or any beneficiary of this trust or any subtrust of this trust, or any person who is related or subordinate to us within the meaning of Internal Revenue Code section 672(c). If I am not living or do not have capacity and thus cannot act to appoint a successor Trust Protector, then my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, may appoint a new Trust Protector other than me or any beneficiary of this trust or any subtrust of this trust, or any person who is related or subordinate to us within the meaning of Internal Revenue Code section

672(c). This authority to appoint a new Trust Protector shall pass from PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. Each named designee shall have the right to pass this authority to appoint a new Trust Protector to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. The last acting designee shall have the right to pass this authority appoint a new Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above, and so forth, down through the generations. If at any time there is no designee appointed or acting and thus there is a vacancy in this position to appoint a new Trust Protector, then the Distribution Committee shall have the right to pass this authority to appoint a new Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above.

1. The Trust Protector has the authority to remove the Trustee, and to appoint a different Trustee or additional Co-Trustees. The Trust Protector also has the authority to appoint successor Trustees. When appointing successor Trustees, preference shall be given to my lineal descendants. Notwithstanding the foregoing, the Trust Protector has no authority to remove a child of mine who is then acting as a Trustee nor to appoint me.

2. The Trust Protector has the authority to amend the trust to achieve favorable tax status, or to take account of changes in the Internal Revenue Code, state law, or the cases, rulings and regulations thereunder.

3. During my lifetime, the Trust Protector has the authority to amend the provisions of the trust with regard to how the beneficiaries will benefit from the trust, and to amend the trust administrative provisions. The Trust Protector has no authority, however to amend the trust with regard to the identities of the beneficiaries.

4. The Trust Protector has the authority to appoint Distribution Committee members and to remove Distribution Committee members. The Trust Protector has the authority to appoint Investment Committee members and to remove Investment Committee members.

5. Notwithstanding the foregoing, the Trust Protector has no authority to remove a child of mine who is then serving as a member of the Distribution Committee or the Investment Committee nor to appoint me to serve as a Distribution Committee member or an Investment Committee member.

6. The Trust Protector, in that capacity, shall have no duty to monitor any trust created hereunder in order to determine whether any of the powers and discretions conferred under this instrument should be exercised. Further, the Trust Protector, in that capacity, 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 instrument. Absent bad faith, fraud or willful misconduct, the Trust Protector, in that capacity, is hereby exonerated from any and all liability for the acts or omissions of any fiduciary or any beneficiary hereunder or arising from any

exercise or non-exercise by the Trust Protector of the powers and discretions conferred under this instrument.

7. The Trust Protector has the authority to use trust assets to hire legal counsel to advise and defend the Trust Protector in connection with any matter concerning the trust, subject to the Trust Protector's responsibility to repay those assets if the Trust Protector is found liable of bad faith, fraud or willful misconduct.

8. The Trust Protector acting from time to time, if any, on his or her own behalf and on behalf of all successor Trust Protectors, may at any time irrevocably release, renounce, suspend, or modify to a lesser extent any or all powers and discretions conferred under this instrument by a written instrument delivered to the Trustee.

9. I have the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to me within the meaning of Internal Revenue Code section 672(c). If due to death or disability I am unable to exercise this authority, I grant to my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with the successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to my children or me within the meaning of Internal Revenue Code section 672(c). This authority to remove and replace the Trust Protector shall pass from PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the

same fashion and in the same manner as provided above. Each named designee shall have the right to pass this authority to remove and replace the Trust Protector to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. The last acting designee shall have the right to pass this authority to remove and replace the Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above, and so forth, down through the generations. If at any time there is no designee appointed or acting and thus there is a vacancy in this position to remove and replace the Trust Protector, then the Distribution Committee shall have the right to pass this authority to remove and replace the Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above.

ARTICLE VII

Distribution Committee and Investment Committee

A. The following provisions shall apply to supersede or modify the general powers of the Trustee as set forth in other Articles of this instrument, where the context admits, any period in which a Distribution Committee or an Investment Committee shall be acting.

B. I appoint my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, as the initial members of the Distribution Committee. Successor members shall be appointed as provided in paragraph C of this Article. If at any time there is no Distribution Committee acting hereunder, then the Trustee shall exercise all rights and powers of the Distribution Committee. The Distribution Committee shall make decisions by majority vote

of its members; provided, however, any member who is also a beneficiary hereunder shall be precluded from participating in decisions involving discretionary distributions to that member personally, except to the extent governed by and made pursuant to a standard under this instrument which constitutes an ascertainable standard within the meaning of Sections 2041 and 2514 of the Code, and no member may participate in decisions involving discretionary distributions to a beneficiary to whom such member holds a legal obligation of support. Where one member is not qualified to vote on a particular decision, then the decision shall be made by a majority of the other members. A member who does not vote or does not concur in any vote shall not be liable for any act or failure to act of the others.

1. The Distribution Committee shall direct the Trustee with regard to all discretionary distributions of trust property to beneficiaries hereunder, and the Trustee is required to follow the written directions of the Distribution Committee with respect thereto (provided, however, that the Distribution Committee shall not be authorized to direct the Trustee to make any distributions that would violate the provisions of this Agreement). The Trustee shall not be accountable for (i) any action taken pursuant to direction of the Distribution Committee or (ii) inaction of the Distribution Committee. The rights and powers conferred on the Distribution Committee shall be exercisable only in a fiduciary capacity. By accepting an appointment to serve or act hereunder such Distribution Committee members shall be deemed to have consented to submit to the jurisdiction of any courts in which jurisdiction and venue are proper to review the administration of the trust and to be made parties to any proceedings in such courts that place in issue the decisions or actions of such Distribution Committee.

2. Absent bad faith, fraud or willful misconduct, the Trustee is hereby exonerated from any and all liability for its acts or omissions that are directed by the Distribution Committee.

C. The current members of the Distribution Committee may appoint successor (other than me) Distribution Committee members to any of them. Should there not exist a Distribution Committee member, then the Trust Protector may appoint successor (other than me) Distribution Committee members. Should there not exist a Trust Protector, a successor or successors shall be appointed by instrument and delivered to the Trustee indicating the new Distribution Committee member or members by a majority in number of the beneficiaries of the trust age 18 or older. If a beneficiary lacks legal capacity, then a guardian (other than me) of such beneficiary shall make the determination. When appointing a successor, preference shall be given to my lineal descendants.

D. I appoint my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, as the initial members of the Investment Committee. Successor members shall be appointed as provided in paragraph E of this Article. If at any time there is no Investment Committee acting hereunder, then the Trustee shall exercise all rights and powers of the Investment Committee. The Investment Committee shall make decisions by majority vote of its members. Where one member is not qualified to vote on a particular decision, then the decision shall be made by a majority of the other members. A member who does not vote or does not concur in any vote shall not be liable for any act or failure to act of the others. Despite the general powers of the Trustee the following provisions shall apply, where the context admits, during any period in which the Investment Committee shall be acting:

1. The Trustee shall follow the written directions of the Investment Committee with respect to the retention, purchase, sale or encumbrance of trust property and the investment and reinvestment of principal and income held hereunder, the sole authority and discretion for which shall belong to the Investment Committee (provided, however, that the Investment Committee shall not be authorized to direct the Trustee to purchase any asset that would violate federal, state or local law, or the provisions of this Agreement), and accordingly the Trustee shall have no duty to review or monitor trust investments while the Investment Committee is acting. The Investment Committee shall have full authority to direct the Trustee to take any action with respect to the trust assets that the Trustee is authorized to take under Article X of this instrument. The Trustee shall be exonerated for acting in good faith in following any such direction.

2. The Trustee shall issue proxies to vote all securities held by the trust to or on the written order of the Investment Committee. The Trustee shall not thereafter be liable for the manner in which those securities are voted, for any direct or indirect result of the voting, or for any failure to vote those securities.

3. The Investment Committee, at any time and from time to time, shall have the power and authority (i) to select one or more investment advisers, managers or counselors (hereinafter "Investment Advisers"), including the Trustee or any of its affiliates, and to delegate to them any or all of its powers, whether discretionary or nondiscretionary, as set forth in this Article with respect to all or any portion of the trust assets; (ii) to negotiate the terms of, and execute management agreements with, such Investment Advisers; and (iii) to direct the Trustee to pay the compensation and costs of such Investment Advisers from the trust assets. It is understood and agreed that if the Trustee or any of its affiliates is appointed as an Investment

Adviser hereunder, fees in addition to the compensation the Trustee is entitled to receive while an Investment Committee is acting may be charged.

4. The Investment Committee, at any time and from time to time, shall have the power and authority to direct brokerage instructions for any security transactions executed with respect to the trust, provided that the broker selected is acceptable to the Trustee as a counter party. In connection therewith, the Investment Committee may (i) enter into such contracts, agreements or other arrangements as the Investment Committee deems appropriate with such brokers as it selects and (ii) direct the Trustee to pay the compensation and costs of brokers from the trust assets. I recognize that pursuant to such brokerage instructions as the Investment Committee may direct, the trust may pay more in commissions for the purchase or sale of a particular security than might have been obtained elsewhere. Neither the Trustee nor the Investment Committee shall have any liability for any such differences in brokerage commissions.

5. The Trustee shall not be accountable for any loss or depreciation in value sustained by reason of action (i) taken pursuant to direction of the Investment Committee or any Investment Adviser or (ii) not taken by reason of disapproval or inaction by the Investment Committee or any Investment Adviser pursuant to the preceding provisions of this Article. The foregoing sentence shall not be construed as placing any affirmative obligation on the Trustee to seek advice and directions from the Investment Committee or any Investment Adviser under any circumstances, it being my specific intention to relieve and exclude the Trustee of all responsibility for investment performance of the trust assets while the Investment Committee is acting. No person dealing with the Trustee shall be required or privileged to inquire whether there has been compliance with these provisions.

6. Despite the foregoing provisions of this Article if, in any case of emergency, it is impossible or impracticable for the Trustee, as determined solely by the Trustee, to obtain the direction of the Investment Committee with respect to trust investments by reasons of vacancies in such Investment Committee or the absence of members thereof, or an incapacity, disability or other condition preventing such members from acting, then all the rights, powers and discretion conferred upon the Investment Committee under this paragraph shall, until the passing of such emergency, vest in and may be exercised by the Trustee as fully and effectively as if such rights, powers and discretion had originally been conferred upon the Trustee solely. The Trustee shall incur no liability for actions taken in good faith pursuant to the powers granted by this paragraph 6.

7. The rights and powers herein conferred on the Investment Committee shall be exercisable only in a fiduciary capacity, and any Investment Adviser accepting the delegation of a discretionary function of the Investment Committee pursuant to subparagraph D. 3. of this Article also shall be considered to be acting in a fiduciary capacity. By accepting an appointment to serve or act hereunder such Investment Committee members and Investment Advisers shall be deemed to have consented to submit to the jurisdiction of any courts in which jurisdiction and venue are proper to review the administration of the trust and to be made parties to any proceedings in such courts that place in issue the decisions or actions of such Investment Committee or Investment Advisers, notwithstanding, with respect to an Investment Adviser, the terms of any investment management agreement or contract.

8. The Trustee shall have the entire care and/or custody of all of the assets comprising the trust and shall have sole responsibility for (i) making all payment of liabilities and administration expenses, and (ii) effecting all distributions pursuant to the

instruction of the Distribution Committee, whether of principal or of income, to the beneficiaries under this Agreement. The Trustee shall maintain full and accurate books of account and records of all financial transactions relative to the trust, which shall be available at all reasonable times for inspection by the Distribution Committee members, the Investment Committee members, the Trust Protector, each presently vested income, principal and remainder beneficiary of this trust, and their respective representatives, and me.

9. Absent bad faith, fraud or willful misconduct, the Trustee is hereby exonerated from any and all liability for its acts or omissions that are directed by the Distribution Committee and/or Investment Committee.

E. The current members of the Investment Committee may appoint successor (other than me) Investment Committee members to any of them. Should there not exist an Investment Committee member, then the Trust Protector may appoint successor (other than me) Investment Committee members. Should there not exist a Trust Protector, then a successor or successors shall be appointed by instrument and delivered to the Trustee indicating the new Investment Committee member or members by a majority in number of the beneficiaries of the trust age 18 or older. If a beneficiary lacks legal capacity, then a guardian (other than me) of such beneficiary shall make the determination. When appointing a successor, preference shall be given to my lineal descendants.

F. The Distribution Committee and the Investment Committee may be divided into three (3) separate committees by the majority vote of the then acting members of each Committee. In the event of such division, one (1) Distribution Committee and one (1) Investment Committee shall have all the duties and responsibilities for the trusts herein created for the benefit of my son, PETER J. WELLIN, and his lineal descendants, one (1) Distribution

Committee and one (1) Investment Committee shall have all the duties and responsibilities for the trusts herein created for the benefit of my daughter MARJORIE W. KING and her lineal descendants, and one (1) Distribution Committee and one (1) Investment Committee shall have all the duties and responsibilities for the trusts herein created for the benefit of my daughter CYNTHIA W. PLUM and her lineal descendants. Said Committees shall have the same authority and powers and be subject to the same administrative provisions as are herein set forth or provided for under the terms of this Agreement.

G. In the event that the members of either the Distribution Committee or the Investment Committee are unable to act so as to fulfill any of the Committee duties or responsibilities due to the inability to obtain the agreement of a majority of the Committee members, then the acting Trust Protector shall have the authority to break any tie decisions.

ARTICLE VIII

S Corporation Stock

Notwithstanding any provision of this Agreement to the contrary, in the event that any tru hereunder receives stock in an S corporation (as defined in Section 1361(a) of the Internal Revenue Code), the Trustee shall segregate said stock into a separate trust. Such separate trust shall be held, administered and distributed upon the same terms and conditions as the original trust except that said trust shall meet all of the requirements of either a "qualified subchapter S trust" (as set forth in Section 1361(d) of the Internal Revenue Code) or an "electing small business trust" (as set forth in Section 1361(c)(2)(A)(v) of the Internal Revenue Code), as the Trustee may determine to be in the best interests of the trust or its beneficiaries, or both; it being my express intention that any such trust shall be a permissible shareholder of an S corporation for federal income tax purposes. To effectuate the foregoing provisions of this Article, I hereby

grant to the Trustee the power, acting alone, to amend the provisions of this Agreement in any manner necessary for the sole purpose of ensuring that any such trust qualifies as a permissible shareholder of an S corporation. Further, I hereby grant to the Trustee the authority, acting alone, to file any elections necessary to qualify any such trust as a permissible shareholder of an S corporation on behalf of the trust and/or its beneficiaries. Moreover, if at any time after the execution of this Agreement, all or any portion of a trust established under this Agreement is funded with shares of stock or any other interest in a corporation, limited liability company, partnership (either general or limited), limited liability partnership, joint venture or any other business entity which wishes to become an S corporation for federal income tax purposes, I hereby grant to the Trustee the power, acting alone, to consent to any such S corporation election if the Trustee deems it to be in the best interests of the trust and/or its beneficiaries and, in connection therewith, to segregate said stock into a separate trust upon the same terms and conditions more particularly set forth in the foregoing provisions of this Article. To effectuate the provisions of the immediately preceding sentence, I hereby grant to the Trustee all of the powers and discretions otherwise set forth in this Article.

ARTICLE IX

Miscellaneous Provisions

A. **Power of Asset Substitution.** I hereby retain the power, exercisable during my lifetime, at any time and from time to time, without the consent of or approval by the Trustee, to reacquire the trust corpus or a portion thereof by substituting other property of an equivalent value.

B. **Contingent Power to Add Beneficiaries.** I grant to the corporate Trustee acting from time to time the power to add the spouse of a child of mine and the spouses of the

children of a child of mine to the class of discretionary income and principal beneficiaries of the trust during the lifetime of a child.

C. **Release of Powers.** I hereby retain the power to release the power described in paragraph A of this Article by delivering to the Trustee a written statement to that effect. This power may be exercised by my agent acting under a duly executed Power of Attorney or by my duly appointed guardian, in the event of my disability or incapacity. I authorize the Trustee acting at any point in time to give up the power described in paragraph B of this Article by delivering to the current income beneficiaries of the trust a written statement to that effect, which shall then permanently remove such power from such Trustee and all subsequent Trustees.

ARTICLE X

Trustee Provisions

A. During my lifetime or judicial determination of my incapacity, the Trustee shall not be required to inform any beneficiary who is not entitled to a mandatory distribution of income or principal from the trust on an annual or more frequent basis of the trust or the court in which the trust is registered and the Trustee's name and address. In addition, during the shorter of my lifetime or judicial determination of my incapacity, the Trustee shall not be required to provide any beneficiary who is not entitled to a mandatory distribution of income or principal from the trust on an annual or more frequent basis with a copy of the terms of the trust and shall not be required to provide a statement of accounts of the trust. The Trustee and the Trustee's officers, agents, and employees, if any, shall be indemnified out of and held harmless by the Trust Estate from any and all liability to any beneficiary for any loss of any kind that may result

by reason of any action or non-action taken by the Trustee and the Trustee's officers, agents, and employees in accordance with the directions in this subdivision.

B. Any Trustee may resign at any time by giving prior written notice to the Trust Protector or if none a majority of the adult competent income beneficiaries, and if a successor Trustee is not appointed within 30 days after the Trustee's resignation, the resigning Trustee may deposit the trust property with the court having jurisdiction over the administration of the trust. All trusts created under this instrument need not have or continue to have the same Trustee. The provisions of this instrument that relate to the Trustee shall be separately applicable to each trust held hereunder. While two or more Trustees are acting, the following provisions shall apply where the context admits:

1. The corporate Trustee, if any, shall have the entire care and/or custody of the trust property and of the books and records of the Trustees;

2. With respect to any matter as to which two or more Trustees have joint authority, a Trustee, by written notice, may temporarily delegate any or all of that Trustee's rights, powers, duties, and discretion as Trustee to any other Trustee sharing that authority, with the consent of the latter and the non-responsible Trustee will be exonerated for the acts or failure to act of the responsible Trustee;

3. The Trustees may establish bank and brokerage accounts and may authorize that checks or drafts may be drawn on, or withdrawal made from, any such account on the individual signature of any Trustee;

4. Any Trustee alone may perform on behalf of the Trustees all acts necessary for the acquisition, sale and transfer of personal and real property, including the giving of directions and the signing and endorsing of checks and other negotiable instruments, stock and

bond certificates and powers, deeds of real estate and related transfer documents, applications, tax forms and other forms or documents; and no person dealing with the Trustees need inquire into the propriety of any such act if such Trustee certifies in writing to that person that the Trustees have approved that act; and

5. The Trustees may execute documents by jointly signing one document or separately signing concurrent counterpart documents.

C. In the event of a difference of opinion between my individual and corporate Trustees, the decision of my individual Trustee shall be binding, but there shall be no responsibility on my corporate Trustee for the action taken pursuant to any such decision.

D. Unless specifically provided otherwise, at any time when more than one Trustee is acting, the action or decision of a majority in number shall control, and a Trustee who does not vote or does not concur in any vote shall not be liable for any act or failure to act of the others.

E. If any individual entitled to act under the preceding provisions of this Article is then disabled and such disability does not otherwise disqualify the individual from acting, the lawful guardian of that individual may sign the instrument of appointment or approval on his or her behalf.

F. If any corporate Trustee designated to act or at any time acting hereunder is merged with or transfers substantially all of its assets to another corporation, or is in any other manner reorganized or reincorporated, the resulting or transferee corporation shall become Trustee in place of its predecessor.

G. Any person designated to act in a fiduciary capacity may release or renounce any or all powers granted hereunder at any time by written instrument filed with the

trust records, and, if so specified, that release or renunciation shall bind all successors acting in that fiduciary capacity. Except as otherwise provided in the preceding sentence, the incumbent Trustee shall have all of the title, powers, and discretion granted to the original Trustee, without court order or act of transfer. No successor Trustee shall be personally liable for any act or failure to act of a predecessor Trustee.

ARTICLE XI

GST Provisions

A. **Perpetuity Clauses.** The "termination date" shall be whichever of the following events occurs first, (i) the day the term of the trust ends as required by applicable law, or (ii) the death of the last to die of my lineal descendants. On the termination date, the Trustee shall distribute the remaining trust principal as provided in Article V hereof.

B. **GST Administrative Provisions.** Notwithstanding any other provision of this instrument:

1. If a trust created under this instrument (the "original trust") would otherwise be partially exempt from federal generation-skipping tax after the intended allocation of a GST exemption to it, then, before such intended allocation and as of the relevant valuation date under Section 2642 of the Code with respect to such allocation, the Trustee may (but need not) create instead two separate trusts of equal or unequal value which shall be funded fractionally out of the available property, and which shall be identical in all other respects to the original trust, so that the allocation of GST exemption can be made to one trust which will be entirely exempt from federal generation-skipping tax. The two trusts created under this subparagraph (i) shall have the same name as the original trust except that the trust to which the GST exemption is allocated shall have the phrase "GST exempt" added to its name, and (ii) are

sometimes referred to herein as "related." As used in this instrument, the "GST exemption" means the exemption from federal generation-skipping tax allowed under Section 2631 of the Code.

2. If property which is held in, or is to be added or allocated to, a trust pursuant to this instrument is subject to different treatment for any reason for purposes of the federal generation-skipping tax than other property being added or allocated to, or also held in, that trust, then the Trustee may (but need not) hold such property instead as a separate trust that is appropriately designated to distinguish it from the trust to which the property otherwise would have been allocated, but that is identical in all other respects to that trust. The identical trusts resulting from application of this subparagraph are also sometimes referred to herein as "related."

3. It is my intent that the Trustee shall not be required to create or administer a trust hereunder that is only partially exempt from federal generation-skipping tax, or to commingle property subject to different treatment for federal generation-skipping tax purposes whether because the transferors with respect to the property are assigned to different generations or otherwise. The provisions of paragraph B are intended to enable the Trustee to avoid such situations by empowering the Trustee to segregate trust property (i) that is entirely exempt from federal generation-skipping tax from trust property that is not exempt, or (ii) that is otherwise treated differently from other trust property for purposes of the federal generation-skipping tax, and the provisions of this paragraph B should be applied in a manner consistent with this intention.

C. To the extent it is consistent with the Trustee's fiduciary obligations, the Trustee, in making discretionary distributions of net income and principal from the related trusts

referred to earlier in this Article, shall take advantage of the opportunities provided by the creation of such related trusts to avoid or delay federal generation-skipping tax when making discretionary distributions, to pursue different investment strategies for those trusts, if appropriate, and to maximize the amount of trust property that eventually may be distributed to my grandchildren or more remote descendants without transfer tax of any kind at the termination of all trusts created under this instrument.

D. The Trustee may at any time merge and consolidate any related trusts under this instrument and thereafter administer them as a single trust hereunder, if the Trustee determines that maintaining the trusts as separate entities will not serve to minimize federal generation-skipping taxes.

E. If any portion of a trust named for a beneficiary hereunder, in the absence of any testamentary power of appointment granted under this instrument to that beneficiary, would immediately incur a federal generation-skipping tax upon the beneficiary's death as a result of a taxable termination, then in addition to any other power of appointment granted to that beneficiary under this instrument, the beneficiary may appoint that portion to the creditors of his or her estate. To the extent that the foregoing general power of appointment is in existence on the beneficiary's death, then unless the beneficiary directs otherwise by Will, the Trustee shall pay to the personal representative of the beneficiary's estate, from the portion of the trust to which the power pertains, the amount, if any, by which the estate and inheritance taxes payable in any jurisdiction by reason of the beneficiary's death shall be increased as a result of the inclusion of that portion in the beneficiary's estate for such tax purposes, as certified in writing by that personal representative.

F. No Trustee who is also a beneficiary hereunder shall participate in exercising discretion under this Article to create separate trusts, to merge and consolidate trusts, or to allocate GST exempt and non-exempt property among trusts, and if no Trustee who would qualify to exercise those discretions is then acting, then the Trust Protector shall appoint an individual or corporation who is not such a beneficiary as a special Trustee, whose authority shall be limited to exercising those discretions.

ARTICLE XII

Financial Powers

A. The Trustee shall have the power and authority to do any act or thing necessary or advisable for the proper administration and distribution of each trust created by this Agreement. I grant to the Trustee as to all properties and without the necessity of approval of any court or person, full power and authority during the terms of the trusts and for the purposes of division and distribution after their termination in the Trustee's continuing sole discretion the powers granted to such Trustee by the South Dakota Trust Powers Act.

B. In addition to all powers granted by law, the Trustee shall have the following powers with respect to each trust held under this instrument, exercisable in the discretion of the Trustee:

1. To retain for any period, without liability for loss or depreciation in value, any property transferred to the Trustee, including partnership interests of any kind, even though the Trustee could not properly purchase the property as a trust investment and though its retention might violate principles of investment diversification;

2. To sell at public or private sale, wholly or partly for cash or on credit, contract to sell, grant or exercise options to buy, convey, transfer, exchange, or lease (for

a term within or extending beyond the term of the trust) any trust property, and to partition, dedicate, grant easements in or over, subdivide, improve, and remodel, repair, or raise improvements on any real property of the trust, and in general to deal otherwise with the trust property in such manner, for such prices, and on such terms and conditions as any individual might do as outright owner of the property;

3. To borrow money at interest rates then prevailing from any individual, bank, or other source, whether or not the lender is then acting as a Trustee, and to create security interests in the trust property;

4. To make loans, secured or unsecured, for adequate consideration to such individuals upon such terms and conditions as the Trustee, in its discretion, shall determine;

5. To invest in interest bearing deposit accounts, bonds, common or preferred stocks, notes, real estate mortgages, common trust funds, shares of regulated investment companies, real estate (including residential real estate to be occupied by one or more of the beneficiaries hereunder), registered mutual funds (including funds for which the Trustee, or an affiliate of the Trustee, provides investment advisory, custodial or other compensated services), interests in limited liability companies, partnership interests of any kind, currencies, or other securities or property, including partial interests therein, such as life estate, term or remainder interests, and to hold funds in non-interest bearing deposit accounts pending investment or disbursement thereof, in each case without being limited by any statute or rule of law governing trust investments; and any such deposit accounts may be held at any bank, including the Trustee or any bank affiliated with the Trustee;

6. To allocate, divide, and distribute trust property in cash or in kind, or partly in each, and to value any such property for those purposes; to allocate different kinds or

disproportionate shares of property or undivided interests in property among the beneficiaries or separate trusts, without liability for, or obligation to make compensating adjustments by reason of, disproportionate allocations of unrealized gain for federal income tax purposes; and, in funding any fractional shares created hereunder in kind, to allocate that property in entire or disproportionate shares, as the Trustee determines to be in the best interests of the beneficiaries, without compensating adjustments;

7. To make such elections and allocations under the tax laws permitted to be made by the Trustee as the Trustee considers advisable (whether or not the election or allocation relates to the trust property), without regard to, or adjustments between, principal and income or the relative interests of the beneficiaries;

8. To exercise in person or by general or limited proxy all voting and other rights, powers, and privileges and to take all steps to realize all benefits with respect to stocks or other securities; and to enter into or oppose, alone or with others, voting trusts, mergers, consolidations, foreclosures, liquidations, reorganizations, or other changes in the financial structure of any business entity;

9. To cause any trust property to be held, without disclosure of any fiduciary relationship, in the name of the Trustee, in the name of a nominee, or in unregistered form;

10. To pay all expenses incurred in the administration of the trust, including reasonable compensation to any Trustee for actual services rendered, and to employ or appoint and pay reasonable compensation to accountants, depositaries, investment counsel, attorneys, attorneys-in-fact, and agents (in each case with or without discretionary powers);

11. To deal with the fiduciary or fiduciaries of any other trust or estate, even though a Trustee is also a fiduciary of the other trust or estate;

12. To compromise or abandon any claim in favor of or against the

13. To purchase assets from, make loans to, or otherwise deal without restriction with the representative of my estate or the Trustee of any trust created by me, and to retain any assets purchased for any period, without liability for loss or depreciation in value, and notwithstanding any risk, unproductivity, or lack of diversification; and the determination of the Trustee with respect to the desirability of any such purchase, loan or other transaction shall be conclusive on all persons, absent bad faith;

14. To commingle for investment purposes the trust property with the property of any other trust held hereunder, allocating to each trust an undivided interest in the commingled property;

15. To merge at any time all the trust property with the property of any other trust created by me during life or by Will, and held by the same Trustee for the benefit of the same beneficiaries and upon substantially the same terms and conditions as those set forth herein, and, at the Trustee's discretion, either administer the merged assets as a single trust hereunder or transfer the trust property to that other trust, to be administered under the instrument governing that other trust, and thereafter terminate the trust hereunder as a separate entity;

16. To receive additional property from me in any event (and, if the Trustee consents in writing, from any other person) by lifetime or testamentary transfer or

otherwise, except that no gift property over which withdrawal rights are to be granted shall be transferred to the trust, or accepted by the Trustee, in December of any year;

17. To execute instruments of any kind, including instruments containing covenants and warranties binding upon and creating a charge against the trust property and containing provisions excluding personal liability;

18. 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, including power:

a. To inspect and monitor any such property periodically, as it necessary, to determine compliance with any environmental law affecting such property;

b. 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 and to any potential contamination of trust property, whether or not required by law;

c. 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, to require as a prerequisite to accepting property as a trust asset that the donor warrant that such property has not been contaminated by any hazardous substance and is not and has not 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, and to refuse to accept such property as a trust asset until receiving from the donor an indemnification agreement in which the donor agrees to indemnify the Trustee against any claims filed against the Trustee as an "owner" or "operator" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as from time to time amended, or any regulation thereunder, or any other environmental law;

d. To settle or compromise at any time any claim against the trust related to any such matter asserted by any governmental body or private party;

e. 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 instrument, incorporated by reference herein, or granted or implied by any statute or rule of law;

f. 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 the trust because of the type or condition of trust assets;

g. To carry at the expense of the trust estate insurance of such kinds and in such amounts as the Trustee deems advisable to protect the trust assets and the Trustee against any claims filed against the trust or against the Trustee personally under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as from time to time amended, or any regulation thereunder, or any other environmental law;

h. To waive or forbear to sue on any default in the performance of any covenant or condition of or payment due under any mortgage, deed of trust, or lease or in the performance of any guarantee or to enforce any such default in such manner

and to such extent as the Trustee determines to be advisable; to exercise and enforce and to forbear to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies, including foreclosure, in respect of any mortgage, deed of trust, lease or guarantee held hereunder, and at any foreclosure to purchase the real property covered by any mortgage or deed of trust; and to retain any real property received on any foreclosure; and

i. To charge all expenses and costs incurred by the Trustee pursuant to the authority granted under this subparagraph against income or principal as the Trustee shall determine.

19. To perform all other acts necessary for the proper management, investment, and distribution of the trust property.

20. In addition to any other powers granted to the Trustee in this trust, the Trustee shall have the following additional powers with respect to real property:

a. to make ordinary or extraordinary repairs, alterations and improvements to any building or other structure, to demolish any buildings or other structures, to construct new buildings and structures, and to make any other improvements, all as the Trustee shall determine;

b. to insure against any casualty or loss whatever, including fire, explosion and hurricane; and

c. to subdivide and plot any real property, to lay out and dedicate streets, ways and public places, to square lines, make partition or enter into any agreement or partition of any real property, and to give or receive money or other property for partition under arrangement with adjoining or neighboring owners or otherwise.

In the event I transfer any real property to the Trustee, I hereby certify to the Trustee that (i) such real property does not and will not contain dangerous, toxic or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of any applicable statutes, regulations, rules, ordinances and similar requirements of any governmental authority, agency or unit relating to the environment or Hazardous Substances (as defined below) ("Legal Requirements") and including without limitation, urea-formaldehyde, polychlorinated biphenyls, materials containing or contaminated with polychlorinated biphenyls, asbestos, asbestos containing materials, radon gas, radioactive materials and petroleum, including without limitation, crude oil and fractions thereof ("Hazardous Substances") and (ii) such real property and all operations thereon are in material compliance with applicable Legal Requirements and do not give rise to any obligation to Remediate (as defined below) any Hazardous Substances on such property or elsewhere. If the real property does contain Hazardous Substances or if the real property or operations thereon are not in material compliance with applicable Legal Requirements or give rise to an obligation to Remediate Hazardous Substances, prior to any transfer to the Trustee, I shall, in accordance with all applicable Legal Requirements, with such assurances as shall be required by the Trustee, and at my sole cost and expense, remove, contain, remediate or abate ("Remediate") all Hazardous Substances to the extent required by all applicable Legal Requirements, and otherwise bring the real property and operations thereon into compliance with all applicable Legal Requirements.

If at any time after the real property has been transferred to the Trustee, any Hazardous Substances are required to be Remediated by any applicable Legal Requirements or to otherwise preserve the value of the real property, as the Trustee in its sole discretion shall determine, all costs and expenses, including any penalties, damages and attorneys' and

consultants fees ("Damages") resulting from the existence or alleged existence or exposure to Hazardous Substances, shall be charged against the Trust Estate. Notwithstanding the above, the Trustee need not remediate any Hazardous Substances which may tend to involve it in any expense or liability, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it by the security afforded to it by the terms of this Agreement.

The Trustee shall not have individual liability for any loss, depreciation in the value of any real property, or any Damages resulting from the actual or alleged presence or release of Hazardous Substances on or under such property, or generated by operations thereon. I (on behalf of myself, and after my death, my personal representatives) agree to defend, indemnify and hold harmless the Trustee from and against all such Damages or depreciation in value to the extent such cannot be satisfied by the assets of the trust estate.

The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith with respect to Hazardous Substances and shall not be liable for any error of judgment made in good faith unless it shall be proved the Trustee was grossly negligent beyond a reasonable doubt in ascertaining the pertinent facts. The Trustee may consult with counsel and the advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered hereunder in good faith in accordance with such advice or opinion.

21. To maintain, improve, operate, drill, mine, develop, utilize, lease, or sublease, alone or with others, coal, oil, gas, or other mineral property or interest therein, real or personal, in any jurisdiction within or without the United States, or any other property or interest therein relating directly or indirectly to the exploration, drilling, mining, developing, producing, processing, treatment, storage, transportation, or marketing of such coal, oil, gas, or

other mineral property, including all products and constituents thereof; and, in general, to deal with any such property in like manner and with the same full power, authority and discretion, alone or with others, as an individual owner would possess with respect to such property.

To exercise discretion with respect to allocations between income and principal by crediting to principal only that part (and crediting to income the balance) of amounts received as the result of the severance of natural resources from lands constituting a part of the trust principal and of other rents, royalties, and returns from property subject to depletion, such as leaseholds, patents, copyrights, and royalty rights, as may be equal to whichever is less, the deduction for amortization or depletion from time to time allowable for federal income tax purposes, or a reasonable provision for amortization or depletion, based upon such estimate of the probable productive or remaining life of the resources or other property as the Trustee considers reasonable, and upon the cost thereof to the Trustee, if purchased by the Trustee, or such other estimate of original cost or subsequent value as the Trustee from time to time considers reasonable, which discretion shall be exercised as the Trustee, in the Trustee's sole judgment, determines to be in the best interests of the beneficiaries.

22. To (a) become a limited or general partner in any partnership, (b) extend the term of any partnership and/or otherwise amend and/or modify any partnership agreement relating thereto and/or enter into new partnership agreements relating thereto, (c) contribute or invest all or any part of the principal of such trust to or in, and enter into such contracts in such forms and on such terms as it shall determine with, any business enterprise, including as a partner, sole proprietor or shareholder, (d) lend such funds or other property of such trust to any such business enterprise for such period (whether or not in excess of the period authorized by the law of any jurisdiction) and upon such other terms, including on credit, as it

shall determine, (e) continue the business of any business enterprise in the form in which it shall exist at the time the Trustee shall acquire the same or in any other form, including to incorporate any such business which shall not be carried on in corporate form, and as such partner, sole proprietor, shareholder or otherwise, join in, consent to and/or participate in (and/or dissent from and/or oppose) any decision, agreement (including any loan agreement and/or note and/or deed of trust or mortgage or guarantee relating thereto and/or extension or other modification thereof), merger, consolidation, reorganization or exchange which, in its discretion, it shall be necessary or desirable for the partners of any such partnership of which it shall be a partner or such sole proprietor or the shareholders of any corporation of which it shall be a shareholder to join in, consent to and/or participate in and, in general, in the administration of such partnership, proprietorship or corporation, to exercise all the powers it could exercise in the administration of such trust if the property owned by such partnership, proprietorship or corporation was held by it as such Trustee.

23. Other Business Interests.

a. To retain any business interest transferred to the Trustee from any source, including any other corporation or corporations succeeding to the business of that corporation by consolidation, merger, purchase of assets, or otherwise, as shareholder, security holder, creditor, partner or otherwise, for any period of time whatsoever, even though the interest may constitute all or a large portion of the trust principal and without regard to risk or productivity; to comply with the provisions of any agreement restricting transfer of the interest; to participate in the conduct of the related business or rely upon others to do so, and to take or delegate to others discretionary power to take any action with respect to its management and affairs which an individual could take as outright owner of the business or the business interest,

including the voting of stock (by separate trust or otherwise regardless of whether that separate trust will extend for a term within or beyond the term of the trust) and the determination of all questions of policy; to execute and amend partnership agreements; to participate in any incorporation, reorganization, merger, consolidation, sale of assets, recapitalization, liquidation, or dissolution of the business, or any change in its nature, or in any buy-sell, stock restriction, or stock redemption agreements; to invest in additional stock or securities of, or make secured, unsecured, or subordinated loans to, the business with trust funds; to elect or employ with compensation, as directors, officers, employees, or agents of the business, any persons, including a Trustee of any trust held under this instrument, or any director, officer, employee, or agent of a corporate Trustee of the trust or any other trust held under this instrument without adversely affecting the compensation to which that Trustee would otherwise be entitled; to rely upon reports of certified public accountants as to the operations and financial condition of the business, without independent investigation; to deal with and act for the business in any capacity, including in the case of a corporate Trustee any banking or trust capacity and the loaning of money out of the Trustee's own funds, and to be compensated therefore; and to sell or liquidate the business or any interest in the business.

b. Any family enterprise shall be deemed a suitable investment of trust property, even though such investment may not be marketable, may involve a high degree of investment risk, may never yield a dividend or other income, and may constitute a substantial portion or all of the trust property. Notwithstanding any rule of law with respect to the suitability of investments by a fiduciary or requirements of diversification of investments, the Trustee is expressly authorized to invest and reinvest trust funds in any family enterprise and to hold any family enterprise for any indefinite period and the Trustee shall be held harmless and

indemnified for any and all actions either taken or not taken in the exercise of its discretion under this sub-section.

c. To make or terminate elections with respect to S corporation stock and to make adjustments between income and principal to compensate for the effects of the consequences resulting from the ownership by the trust of S corporation stock, as the Trustee may deem just and equitable; except that if the trust holds S corporation stock, the Trustee shall not make adjustments which could have the effect of denying to any income beneficiary the net income of the trust to which the beneficiary must be entitled in order for the trust to qualify as a Qualified Subchapter S trust under Section 1361(d) of the Code; and during the term of any trust under this instrument, (i) if the Trustee sells any interest in a corporation or if the assets of any entity constituting a corporation in which the trust has an ownership interest are sold, and (ii) if that corporation has made an election to be taxed under Subchapter S of the Code, then Trustee, may, in its absolute and sole discretion, distribute to the income beneficiary such amounts of principal as shall be necessary to pay any income tax caused by such sale, if the income or gain attributable to such sale is taxed directly to the income beneficiary under applicable federal tax law.

d. To make purchases and sales, outright or financed, by way of short sales, puts, calls, straddles, and sales against the box, on margin or otherwise, covered or uncovered, whether of commodities, precious metals, financial instruments, contracts for future delivery, or other investment media, however speculative, and for the purpose of enabling the Trustee to exercise the powers granted under this subparagraph, to maintain and operate margin accounts, discretionary accounts, or any other type of brokerage accounts, and to pledge or

mortgage the trust property as security for loans or advances made to the Trustee in conjunction with any transactions permitted under this subparagraph.

C. The powers granted in this Article may be exercised even after termination of all trusts hereunder until actual distribution of all trust principal, but not beyond the period permitted by any applicable rule of law relating to perpetuities.

D. To the extent that such requirements can legally be waived, no Trustee hereunder shall ever be required to give bond or security as Trustee, or to qualify before, be appointed by, or account to any court, or to obtain the order or approval of any court respecting the exercise of any power or discretion granted in this instrument.

E. The Trustee's exercise or nonexercise of powers and discretions in good faith shall be conclusive on all persons. No person paying money or delivering property to any Trustee hereunder shall be required or privileged to see to its application. The certificate of the Trustee that the Trustee is acting in compliance with this instrument shall fully protect all persons dealing with the Trustee.

F. The corporate Trustee acting hereunder from time to time shall have the power, exercisable in its sole and absolute discretion without court order or approval, to retain an "affiliate" (as defined in this paragraph) to act as agent or broker in the purchase of life insurance policies, investment management, or to perform other services. Any affiliate so retained may accept its normal compensation for its services and neither the Trustee nor an affiliate shall be required to reduce or waive its compensation for its services because of the compensation received by the other. In no event shall the Trustee's retention of an affiliate be treated as a conflict of interest or similar prohibited act unless it is proved that the Trustee was clearly motivated by and acted in its own self-interest, knowing that such action was not in the interests

of the trust. For purposes of this paragraph, an "affiliate" means any individual, corporation, firm or partnership that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Trustee.

G. The Trustee, the Trust Protector, and members of both Investment and Distribution Committees, shall not be personally liable to any beneficiary or other party interested in the trust, or to any third parties, for any claim against the trust for the diminution in value of trust property resulting from matters involving hazardous substances, including any reporting of or response to (1) the contamination of trust property by hazardous substances, or (2) violations of any environmental laws related to the trust; provided that the Trustee shall not be excused from liability for its own negligence in administration of the trust property or wrongful or willful acts.

H. Notwithstanding any contrary provision of this instrument, the Trustee y withhold a distribution to a beneficiary from a trust hereunder until receiving from the eficiary an indemnification agreement in which the beneficiary agrees to indemnify the Trustee against any claims filed against the Trustee as an "owner" or "operator" under the C mprehensive Environmental Response, Compensation and Liability Act of 1980, as from time to time amended, or any regulation thereunder, or any other environmental law.

ARTICLE XIII

Administrative Powers and Rules

The provisions of this Article shall apply to each trust held under this instrument:

A. If a beneficiary eligible to receive income or principal distributions is disabled at the time of distribution, then the Trustee may, without further responsibility, either (i) make those distributions to the beneficiary directly, to a lawful guardian of the beneficiary, or to

a qualified individual or trust company designated by the Trustee as custodian for that beneficiary under an applicable Uniform Transfers to Minors Act or similar law, or (ii) expend that distributable property for the benefit of the beneficiary in such manner as the Trustee considers advisable. Determinations made by the Trustee under this paragraph in good faith shall be conclusive on all persons.

B. All net income accrued or undistributed at the termination of any interest shall be treated as if it had accrued or been received immediately after that termination.

C. In determining whether to make discretionary distributions of net income or principal to a beneficiary, the Trustee may consider such circumstances and factors as the Trustee believes are relevant, including the other income and assets known to the Trustee to be available to that beneficiary and the advisability of supplementing such income or assets, and shall be exonerated for acting in good faith. As used throughout this instrument:

1. The term "support" means support in reasonable comfort;

2. The term "education" includes, but is not limited to, the expenses of private schooling at the elementary and secondary school level, college, graduate and professional schools, and specialized or vocational training; and

3. The term "health" shall be construed liberally to include all forms of mental or physical health care, including, but not limited to, nursing home or other extended care.

D. Notwithstanding any other provision of this instrument, I hereby limit the general discretionary powers of the Trustee so that (i) no Trustee shall participate in any decision regarding a discretionary distribution to that Trustee personally, except to the extent governed by and made pursuant to a standard under this instrument which constitutes an ascertainable

standard within the meaning of Sections 2041 and 2514 of the Code, and (ii) no Trustee may use trust income or principal to discharge the legal obligation of the Trustee individually to support or educate a beneficiary hereunder.

E. To the fullest extent permitted by law, (i) no power of appointment or power of withdrawal shall be subject to involuntary exercise, and (ii) no interest of any beneficiary shall be subject to anticipation, to claims for alimony, maintenance, or support, to voluntary transfer without the written consent of the Trustee, or to involuntary transfer in any event.

F. The Trustee shall distribute any trust principal or net income as to which a power of appointment is exercised to the designated appointee or appointees (whether living at the time of exercise or thereafter born) upon such conditions and estates, in such manner (in trust or otherwise), with such powers, in such amounts or proportions, and at such time or times (but not beyond the period permitted by any applicable rule of law relating to perpetuities) as the holder of the power may specify in the instrument exercising the power. To be effective, the exercise of any power of appointment granted hereunder shall make specific reference to the provision creating the power. In determining whether a testamentary power of appointment has been exercised, the Trustee, without liability, may rely on a Will admitted to probate in any jurisdiction as the Will of the holder of the power or may assume the holder left no Will in the absence of actual knowledge of one within three months after the holder's death.

G. Notwithstanding any other provision of this instrument, the term of any trust hereunder shall cease as provided by applicable law, and the Trustee, subject to the holdback provisions of a previous Article of this instrument, shall then distribute the trust principal to the beneficiary for whom the trust is named.

H. The Trustee reserves the right to terminate any trust hereunder without necessity of court approval if the Trustee believes such trust to be too small to administer economically or practically. In the event of such termination the Trustee shall transfer the assets of such trust to those individuals under the trust entitled to net income from the trust at the time of such distribution and shall have no liability to any other beneficiary of such trust.

ARTICLE XIV

Life Insurance Provisions

A. I consider life insurance policies as proper investments of trust income and principal. In addition to the other powers granted to the Trustee, the Trustee at all times and in all events, and acting alone in the sole discretion of the Trustee, is specifically authorized, but not obligated, to receive or acquire, and to retain, any one or more policies of insurance, including policies on my life, the life of any other person, or the joint lives of any two or more persons, directly or indirectly in any arrangement deemed appropriate by the Trustee; to pay such premiums as are required or permitted to be paid thereby out of trust principal; to enter into split-dollar or premium sharing arrangements with any appropriate corporation or other entity; to split any policy into two or more policies; to convert any policy of term life insurance to whole life insurance; and to exercise any and all rights, powers, discretions, elections, options, privileges, and other incidents of ownership with respect to any such policy available to the Trustee as owner, including without limitation the rights to change the beneficiary, to borrow money for any purpose (from the issuing company, the banking department of any corporate Trustee acting hereunder, or others) using the policy as security, to select optional modes of settlement, to allow dividends to remain with the insurance company or to use them to reduce premiums or to purchase additional insurance, to allow cash values to be used to pay premiums, to surrender any

such policy for its cash value, to convert any such policy to a paid-up policy, or to settle or sell any insurance policy. The Trustee is hereby exonerated from any and all liability for the results of any exercise or non-exercise of any incident of ownership with respect to any such policies. On behalf of myself and my successors, heirs and assigns, I hereby indemnify and hold harmless the Trustee from and against any and all claims, liabilities, penalties and costs, including attorneys' fees, arising from any claim, demand, order or other action related in any way to investing in and retaining any such insurance policies and exercising or failing to exercise any incident of ownership therein. Notwithstanding any contrary provision of this instrument, the Trustee may also at any time require any beneficiary hereunder to indemnify and hold harmless the Trustee from and against any and all claims, liabilities, penalties and costs, including attorneys' fees, arising from any claim, demand, order, or other action related in any way to investing in and retaining any such insurance policies and exercising or failing to exercise any incident of ownership therein and the Trustee may withhold a distribution to or for the benefit of that beneficiary until receiving from that beneficiary such indemnification.

B. With respect to any life insurance policies payable to the Trustee hereunder (whether or not owned by the Trustee), I direct that:

1. The Trustee shall have no responsibility for payment of premiums or assessments on the policies, and the companies issuing them shall have no responsibility to see to the fulfillment of any trust hereunder or to the application of any proceeds;

2. The Trustee's receipt and release shall release and discharge any obligor for any payment made and shall bind every trust beneficiary hereunder; and

3. The Trustee shall have no duty to bring suit for payment of any of the policies or plan benefits, unless the Trustee holds funds out of which the Trustee may be indemnified against all expenses of suit, including legal fees.

ARTICLE XV

Spendthrift Provisions

No interest in the principal or income of any trust shall vest in any beneficiary and neither the principal nor the income shall be liable for the debts of any beneficiary nor subject to assignment or anticipation by the beneficiary, to garnishment, attachment, execution or bankruptcy proceedings, to claims for alimony or support or any other claims of any other creditor nor shall any beneficiary have the power to sell, assign, encumber or in any manner anticipate or dispose of any interest in the trust or the income prior to actual distribution to such beneficiary.

ARTICLE XVI

Interpretive Rules

For all purposes of this instrument:

A. In determining who is a descendant of mine or of any other person:

1. Legal adoption before the adopted person reached the age of twenty-one years, but not thereafter, shall be equivalent to blood relationship; and

2. A person born out of lawful wedlock and those claiming through that person shall be considered to be descendants of (i) the natural mother and her ancestors, and (ii) if the natural father acknowledges paternity, the natural father and his ancestors, in each case unless a decree of adoption terminates such natural parent's parental rights.

B. Whenever reference is made to the descendants, "per stirpes," of a person, representation shall be calculated from the generation of that person's children, whether or not a child of that person in fact is living at the time of calculation.

C. For purposes of this trust I and/or any beneficiaries shall be considered disabled, incapacitated or incompetent only if so declared by a court of competent jurisdiction or if so certified in writing by two licensed physicians familiar with me and/or the beneficiaries. The Trustee shall not be considered to be on notice of any such disability, incapacity or incompetency unless and until Trustee has received a copy of such court order or written certifications.

D. The term "Trustee" and any pronoun referring to that term designate the Trustee or Trustees at any time acting hereunder, regardless of number.

E. The term "lawful guardian" means successively in the order named, (i) the court-appointed conservator, (ii) either parent (other than me), or (iii) the individual having personal custody (whether or not court-appointed) where no conservator has been appointed.

F. The term "charitable organization" means any organization which is described in Sections 170(c) and 2055(a) of the Code.

G. The term "Code" means the Internal Revenue Code of 1986, as from time to time amended.

H. The term "hazardous substance(s)" shall mean any substance defined as hazardous or toxic or otherwise regulated by any federal, state or local law(s), rule(s) or regulation(s) relating to the protection of the environment or human health ("environmental law(s)").

I. The corporate Trustee may rely on any notice, certificate, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine, or upon any evidence reasonably deemed by it to be sufficient, in making any payment or distribution. The Trustee shall incur no liability for any payment or distribution reasonably made in good faith and without actual notice of knowledge of a changed condition or statute affecting any person's interest in the trust.

J. The "spouse" of any person means the person, if any, who is married to and not living separate and apart from that person (other than for medical reasons), or who satisfied these requirements at that person's death and has not remarried.

K. If any beneficiary under this trust instrument in any manner, directly or indirectly, contests or attacks the validity of this instrument, or any disposition under this instrument, my Will, or any other trust created by me by filing suit against the Trustee under this instrument, my executor, or the Trustee or Trustees under any other trust created by me, or otherwise, any share or interest given to such beneficiary under the provisions of this instrument is hereby revoked and shall be disposed of in the same manner provided hereunder as if that contesting beneficiary and all descendants of that beneficiary had predeceased me.

L. Notwithstanding any other provisions of this instrument, I hereby limit the general discretionary powers of the Trustee so that (i) no Trustee shall participate in any decision regarding a discretionary distribution to that Trustee personally, except to the extent governed by and made pursuant to a standard under this instrument which constitutes an ascertainable standard within the meaning of Section 2041 and 2514 of the Code, and (ii) no Trustee (other than me) may use trust income or principal to discharge the legal obligation to the Trustee individually to support or educate a beneficiary hereunder.

ARTICLE XVII

Trustee Compensation

A. **Corporate Trustee.** South Dakota Trust Company shall be entitled to receive compensation for its services as Trustee hereunder in accordance with its schedule of rates, including the applicable minimum fee, as published from time to time, even though such rates may exceed the commissions customarily allowed in the jurisdiction in which the appointment of South Dakota Trust Company, as Trustee is made or as specified in a separate letter agreement. In addition to such fees, the Corporate Trustee, or its affiliates shall also be entitled to receive any payments under Rule 12 b-1 of the Investment Company Act of 1940 from any registered investment company.

B. **Individual Trustee.** The Individual Trustees, and any Successor Individual Trustees, shall be entitled to compensation as provided for under the laws of the state where the trust is being administered, as may be amended by such state from time to time. Any Individual Trustee shall have the right at any time from time to time, if so desired, to waive such compensation by a written notification delivered to the Corporate Trustee, the Distribution Committee and the Investment Committee.

ARTICLE XVIII

Execution In Counterpart

This trust Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. In addition, this trust Agreement may contain more than one counterpart signature page and this trust Agreement may be executed by the affixing of the signatures of each of the signers to one of such counterpart signature pages. All of those counterpart signature pages shall be read as

though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

I now sign this trust agreement on NOV. 2. 2009, 2009.

KEITH S. WELLIN, Grantor

The trusts created by the foregoing instrument are accepted as of the day and year last above written.

PETER J. WELLIN, Trustee

MARJORIE W. KING, Trustee

CYNTHIA W. PLUM, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

By:
As its:

though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

I now sign this trust agreement on _____, 2009.

_____
KEITH S. WELLIN, Grantor

The trusts created by the foregoing instrument are accepted as of the day and year last above written.

_____
PETER J. WELLIN, Trustee

_____
MARJORIE W. KING, Trustee

_____
CYNTHIA W. PLUM, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

_____
By:
As its:

though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

I now sign this trust agreement on _____, 2009.

_____
KEITH S. WELLIN, Grantor

The trusts created by the foregoing instrument are accepted as of the day and year last above written.

_____
PETER J. WELLIN, Trustee

_____
MARJORIE W. KING, Trustee

_____
CYNTHIA W. PLUM, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

_____
By:
As its:

though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

I now sign this trust agreement on _____, 2009.

_____
KEITH S. WELLIN, Grantor

The trusts created by the foregoing instrument are accepted as of the day and year last above written.

_____
PETER J. WELLIN, Trustee

_____
MARJORIE W. KING, Trustee

_____
CYNTHIA W. PLUM, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

_____
By:
As its:

though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

I now sign this trust agreement on _____, 2009.

_____
KEITH S. WELLIN, Grantor

The trusts created by the foregoing instrument are accepted as of the day and year last above written.

_____
PETER J. WELLIN, Trustee

_____
MARJORIE W. KING, Trustee

_____
CYNTHIA W. PLUM, Trustee

SOUTH DAKOTA TRUST COMPANY LLC, Trustee

Patti Graumann
By: Patti Graumann
As its: Trust Officer

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) ss:

On this 2 day of Nov, 2009, before me the subscriber, personally appeared KEITH S. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

Notary Public
My commission expires:

David O. Soutter
Notary Public - South Carolina
My Commission Expires Nov. 18, 2015

STATE OF MAINE)
COUNTY OF CUMBERLAND) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared PETER J. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

Notary Public
My commission expires:

STATE OF WASHINGTON)
COUNTY OF KITSAP) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared MARJORIE W. KING to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

Notary Public
My commission expires:

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared KEITH S. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

_____
Notary Public
My commission expires:

STATE OF MAINE)
COUNTY OF CUMBERLAND) ss:

On this 2nd day of Nov., 2009, before me the subscriber, personally appeared PETER J. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

Marie Booth
Notary Public
My commission expires:
Oct. 16, 2010

STATE OF WASHINGTON)
COUNTY OF KITSAP) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared MARJORIE W. KING to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

_____
Notary Public
My commission expires:

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared KEITH S. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

_____
Notary Public
My commission expires:

STATE OF MAINE)
COUNTY OF CUMBERLAND) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared PETER J. WELLIN to me personally known to be the same person described in and who executed the foregoing Instrument, and he duly acknowledged to me that he executed the same.

_____
Notary Public
My commission expires:

STATE OF WASHINGTON)
COUNTY OF KITSAP) ss:

On this 2nd day of November, 2009, before me the subscriber, personally appeared MARJORIE W. KING to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

R. SMALLWOOD NOTARY PUBLIC STATE OF WASHINGTON COMM. EXP. AUGUST 19, 2010

_____
Notary Public
My commission expires: 8/19/2010

12738491.1

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA) ss:

On this 2nd day of Nov, 2009, before me the subscriber, personally appeared CYNTHIA W. PLUM to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Alexandra S. Jones, Notary Public
City of Philadelphia, Philadelphia County
My Commission Expires Sept. 18, 2012
Member, Pennsylvania Association of Notaries

Alexandra S. Jones
Notary Public
My commission expires: 9/18/12

STATE OF SOUTH DAKOTA)
COUNTY OF _____) ss:

On this _____ day of _____, 2009, before me, the subscriber, personally appeared _____ to me known, who being by me duly sworn, did depose and say that he/she resides at _____; that he/she is _____ of South Dakota Trust Company LLC, the corporation described in and which executed the above Instrument; that he/she knows the seal of said corporation and that the seal affixed to said Instrument is such corporate seal; that it was so affixed to said Instrument by order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

_____
Notary Public
My commission expires:

12738491.1

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA) ss:

On this _____ day of _____, 2009, before me the subscriber, personally appeared CYNTHIA W. PLUM to me personally known to be the same person described in and who executed the foregoing Instrument, and she duly acknowledged to me that she executed the same.

_____
Notary Public
My commission expires:

STATE OF SOUTH DAKOTA)
COUNTY OF Minnehaha) ss:

On this 4th day of November, 2009, before me, the subscriber, personally appeared Patti Graumann to me known, who being by me duly sworn, did depose and say that he/she resides at Sioux Falls SD ; that he/(she) is a trust officer of South Dakota Trust Company LLC, the corporation described in and which executed the above Instrument; that he/(she) knows the seal of said corporation and that the seal affixed to said Instrument is such corporate seal; that it was so affixed to said Instrument by order of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

Mary L Meadors
Notary Public
My commission expires: 10/11/2012

MARY L. MEADORS NOTARY SEAL PUBLIC SOUTH DAKOTA

12738491.1

SCHEDULE OF PROPERTY

This schedule is attached to and forms a part of the WELLIN FAMILY 2009 IRREVOCABLE TRUST, executed by KEITH S. WELLIN and identifies the initial property held subject to that trust.

$35,000

TRUST AMENDMENT

The Wellin Family 2009 Irrevocable Trust

On November 30, 2009, a Trust was created between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees, such Trust being known as The Wellin Family 2009 Irrevocable Trust (the "Trust"). This Amendment, when coupled with the original Trust agreement, shall constitute the entire Trust agreement and may be relied upon by any person as constituting the entire Trust Agreement as of the date hereof without reference to any prior Amendment.

Under §A(3) of Article VI of that instrument, the Trust Protector is given the power:

> "...to amend the provisions of the trust with regard to how the beneficiaries will benefit from the trust, and to amend the trust administrative provision. The Trust Protector has no authority, however to amend the trust with regard to the identities of the beneficiaries."

By instrument dated November 20, 2013, Lester S. Schwartz, Esq. was appointed as the Trust Protector of the Trust. He has determined to amend the Trust as follows:

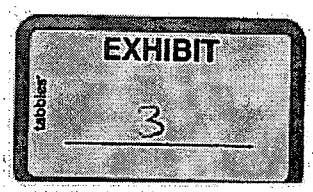
1. The Trust shall have a situs in the State of Delaware; provided, however, that the Trust shall continue to be administered pursuant to the laws of the State of South Dakota until such time as the governing law is changed pursuant to the provisions of Article III of the Trust.

2. Article IV shall be amended by adding a new Section (E), which shall read as follows:

> E. Notwithstanding the foregoing, each beneficiary shall have the right at his or her death to appoint by Will such portion or all of the accumulated income and principal of any trust held under this Article for his or her benefit; provided, however, that (i) such appointment may only be made in favor of a trust for the benefit of his or her spouse; (ii) such trust may grant to such spouse no greater than an income interest for life in the appointed assets, and (iii) such appointment may only be made with the consent of the corporate Trustee (which consent may be granted or withheld in its sole and absolute discretion).

3. Article VI(A)(9) is hereby amended by deleting the first paragraph therefrom and substituting the following in lieu thereof:

> 9. I have the authority to remove a Trust Protector, to replace him or her with a different Trust Protector, and to do the same with successor Trust Protectors who are not yet serving and are just in line as successor Trust Protectors, as long as any new Trust Protector is not related or subordinate to me within the meaning of Internal Revenue Code section 672(c).
>
> Upon the later of my death or November 20, 2018, my children, PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM, acting by majority vote (or should there be separate Trust Protectors for each subtrust, as provided in Paragraph (A),



above, my child who is the beneficiary of each particular subtrust), may, not more frequently than once every five (5) years, by written notice to the then serving Trust Protector, have the right to request appointment of a committee of three individuals to consider whether a Trust Protector should be removed and replaced. The majority vote of such committee shall be sufficient to remove and replace any Trust Protector with such other Trust Protector as the committee may determine. The individuals who may be appointed to such committee (i) may not be beneficiaries of the Trust, (ii) may not be related or subordinate to either the Trust Protector or any of my children (or child, as the case may be) (within the meaning of §672(c) of the Internal Revenue Code), (iii) must each be Fellows of the American College of Trust and Estate Counsel (ACTEC), and (iv) much each be members of different law firms. Within thirty (30) days of the delivery to the Trust Protector of a written request by my children (or child, as the case may be), my children, by majority vote (or child, as the case may be), and the Trust Protector shall each appoint a committee member. A third committee member shall be chosen by the first two committee members, acting jointly; provided, however, that if a third committee member is not appointed within sixty (60) days of the written notice requesting the appointment of a committee, either my children (or child, as the case may be) or the Trust Protector may petition the Probate Court having jurisdiction over the Trust to appoint such third committee member. The appropriate compensation (at their customary hourly rates) shall be paid to any such committee (if nominated) from the Trust assets.

The committee shall consider information provided by the Trust Protector and my children (or child, as the case may be) (as well as information from such other person(s) as the committee may determine) and, within 30 days of the date of appointment of the last committee member, shall determine whether to remove and replace the Trust Protector. In making its determination, the committee shall consider all issues it considers relevant. As the role of Trust Protector is a limited role (unlike the role of Trustee), the committee is encouraged to consider the duties assigned to the Trust Protector under this Agreement and which, if any, of those duties are being actively undertaken by the Trust Protector, and the Trust Protector's experience with respect to the nature of the duties. Any such consideration shall consider whether any attempted change in Trust Protector may have been initiated for the purpose of seeking a Trust Protector who may not be as likely to honor the Settlor's intent or whether there are genuine personality, performance, and/or expense issues involved in seeking such change of Trust Protector.

Upon completion of the decision for which the committee is appointed, the committee shall have no further responsibility and its powers shall terminate.

This ability to request a committee to remove and replace the Trust Protector shall pass from PETER J. WELLIN, MARJORIE W. KING and CYNTHIA W. PLUM to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. Each named designee shall have the right to pass this authority to request a committee to remove and replace the Trust Protector to whomever they designate either by an instrument in writing or by their Last Will and Testament admitted to probate and such designee shall exercise the authority in the same fashion and in the same manner as provided above. The last acting designee shall have the right to pass this authority to request a committee to remove and replace the Trust Protector

to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above, and so forth, down through the generations. If at any time there is no designee appointed or acting and thus there is a vacancy in this position to request a committee to remove and replace the Trust Protector, then the Distribution Committee shall have the right to pass this authority to request a committee to remove and replace the Trust Protector to whomever they designate and such designee shall exercise the authority in the same fashion and in the same manner as provided above.

4. Article IX shall be amended by deleting Section (B) therefrom.

5. Article IX shall be amended by deleting Section (C) therefrom and substituting the following in lieu thereof, which shall be re-labeled as (B):

B. Release of Powers. I hereby retain the power to release the power described in paragraph A of this Article by delivering to the Trustee a written statement to that effect. This power may be exercised by my agent acting under a duly executed Power of Attorney or by my duly appointed guardian, in the event of my disability or incapacity.

A corporate Trustee, with the prior written consent of the Trust Protector, may restore the released power at any time.

6. Article X(D) shall be amended by deleting Section (D) therefrom and substituting the following in lieu thereof:

D. Unless specifically provided otherwise, all powers and discretions conferred by law of this Agreement upon the Trustees must be exercised by the unanimous vote of the Trustees in office from time to time (excepting the vote of any Trustee who is also a beneficiary who is ineligible to participate in the exercise of the power or discretion because he, as a beneficiary, may be affected by the exercise of such power or discretion).

7. Article XII shall be amended by adding the following, which shall be Paragraph (I) thereof:

I. Notwithstanding any other provision of this Agreement, with respect to any litigation brought by or against any Trust created under this Agreement, if any Trustee of such is a party to such litigation in both an individual or corporate capacity and his or her capacity as a Trustee, then the Trust Protector shall represent such Trust with respect to such litigation, and shall have the power to pay, compromise, contest, submit to arbitration, or otherwise settle such litigation in favor of or against the trust, and may prosecute or defend such litigation for the protection of trust assets. The provisions of this Paragraph (H) shall apply notwithstanding the fact that there may be one or more co-Trustees then serving who are not parties to the litigation in an individual or corporate capacity.

In all other respects the Trust instrument shall remain as originally written, this amendment shall be effective this 20th day of November, 2013.

Lester S. Schwartz

State of South Carolina)
)
County of Charleston)

PERSONALLY APPEARED before me on this 20th day of November, 2013, **Lester S. Schwartz**, to me known and known to me to the individual described in and who acknowledged the foregoing instrument and acknowledged to me that he executed the same.

_____ (SEAL)
Notary Public for South Carolina
My Commission Expires: 4/23/2022

TRUSTEE REMOVAL AND SUCCESSOR TRUSTEE APPOINTMENT

By instrument dated November 2, 2009, South Dakota Trust Company LLC was appointed as a Trustee of that certain Trust originally executed on November 2, 2009 between Keith S. Wellin, as Grantor, and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees and known as the Wellin Family 2009 Irrevocable Trust.

By instrument dated as of the date hereof, Lester S. Schwartz, Esq. was appointed as Trust Protector of the Wellin Family 2009 Irrevocable Trust.

Article VI(A)(1) thereof grants the Trust Protector "the authority to remove the Trustee, and to appoint a different trustee or additional Co-Trustees. The Trust Protector also has the authority to appoint successor Trustees." Pursuant to such authority, South Dakota trust Company LLC is hereby removed as Trustee, effective the date hereof. Furthermore, pursuant to such authority, Brown Brothers Harriman Trust Company of Delaware, N.A. is appointed as Trustee in place of South Dakota Trust Company LLC, such appointment to be effective upon execution of this instrument by a representative of Brown Brothers Harriman Trust Company of Delaware, N.A.

In witness whereof the undersigned has set his hand and seal this 20th day of November, 2013.

Lester S. Schwartz, Esq.

Appointment Accepted:

Brown Brothers Harriman Trust Company of Delaware, N.A.

By: Lynn Welch Watson
Vice President

Its: _____

State of South Carolina

County of Charleston

PERSONALLY APPEARED before me on this 20th day of November, 2013, Lester S. Schwartz, to me known and known to me to the individual described in and who acknowledged the foregoing instrument and acknowledged to me that he executed the same.

_____ (SEAL)
Notary Public for South Carolina
My Commission Expires: 4/25/2022

EXHIBIT 4

EVANS, CARTER, KUNES & BENNETT, P. A.
ATTORNEYS AT LAW
115 CHURCH STREET
CHARLESTON, SOUTH CAROLINA 29401

T. HEYWARD CARTER, JR.†
ROBERT M. KUNES†
EDWARD G. R. BENNETT**
ANDREW W. CHANDLER*†
M. JEAN LEE
F. PATRICIA SCARBOROUGH**
DAVID H. KUNES**

†CERTIFIED SPECIALIST IN ESTATE PLANNING AND PROBATE LAW
**LICENSED IN SC AND NY
*LICENSED IN SC AND GA
**LICENSED IN SC AND NC

MAILING ADDRESS:
P. O. BOX 369
CHARLESTON, SC 29402-0369

TELEPHONE (843) 577-2300
TELECOPIER (843) 577-2055
WWW.ECKB.COM

November 20, 2013

Mr. Peter J. Wellin
2 Ship Channel Road
S. Portland, ME 04106-5135

Mrs. Cynthia W. Plum
10 Waterman Avenue
Philadelphia, PA 19118

Mrs. Marjorie W. King
1884 Beans Bight Road NE
Bainbridge Island, WA 98110

Re: The Wellin 2009 Family Irrevocable Trust

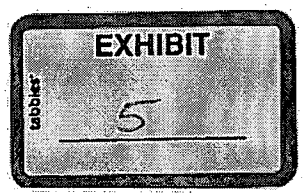
Dear Mr. Wellin, Mrs. Plum and Mrs. King,

Please find enclosed the following:

1. An instrument signed by Keith S. Wellin removing Thomas Farace as Trust Protector of the above referenced Trust, and appointing Lester S. Schwartz, Esq., as the successor Trust Protector.

2. An instrument signed by Lester S. Schwartz, Esq., as Trust Protector of the above referenced Trust, removing South Dakota Trust Company LLC as Trustee and appointing in its place Brown Brothers Harriman Trust Company of Delaware, N.A. as successor Trustee.

3. An instrument signed by Lester S. Schwartz, Esq., as Trust Protector of the above referenced Trust, making certain amendments to the Trust pursuant to the authority granted to him in Article VI thereof.



4. An instrument signed by Keith S. Wellin on November 20, 2013 exercising the right granted to him under Article IX of the Trust to reacquire Trust assets, whereby he has substituted the note issued by the Trust to him with a face value of $49,802,115 for interests in Friendship Partners, L.P. with an equivalent value. The original of the promissory note has been transmitted to Brown Brothers Harriman Trust Company of Delaware, N.A. marked "paid in full". Also enclosed is a calculation of the outstanding balance of the promissory note.

5. An instrument signed by Keith S. Wellin, which will be effective as of 11:59pm tonight, releasing his right to substitute Trust assets. With this release, the status of this Trust as a "grantor trust" is terminated.

Copies of the documents referenced in #1 and #2 above have been forwarded to South Dakota Trust Company. Copies of all documents referenced above have been forwarded to Brown Brothers Harriman Trust Company of Delaware, N.A.

For your records and information, the Trust's contact at Brown Brothers is Lynn W. Watson, 919 N. Market Street, Suite 420, Wilmington, DE 19801.

Best Regards,

Edward G. R. Bennett

cc: Mr. Robert H. Brunson
Mrs. Bryson M. Geer
Mr. John B. Hagerty
Mr. Patrick C. Wooten
Mrs. Lynn W. Watson
Mr. Robert B. Hood
Mr. James B. Hood
Mr. Lester S. Schwartz
Mr. Brett D. Sovine

LESTER S. SCHWARTZ

ATTORNEY AT LAW

708 SAINT ANDREWS BOULEVARD
POST OFFICE BOX 30356
CHARLESTON, SOUTH CAROLINA 29417-0356

LLM. IN TAXATION

CERTIFIED SPECIALIST:
TAXATION LAW, ESTATE
PLANNING & PROBATE

Lester.Schwartz@sctaxlawyer.com

TELEPHONE
(843) 571-7919

FACSIMILE
(843) 571-0881

December 10, 2013

VIA E-MAIL AND UPS EXPRESS

Mr. Brian McLoughlin
McLoughlin & duPont
UBS Financial Services, Inc.
590 Madison Avenue, 23rd Floor
New York, NY 10022

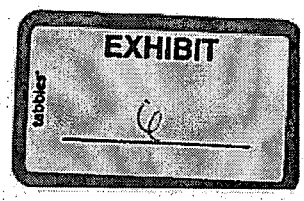
Re: Wellin Family 2009 Irrevocable Trust, as Amended

Dear Mr. McLoughlin:

I am the current Trust Protector of the Wellin Family 2009 Irrevocable Trust, having been appointed on November 20, 2013. I have attached a copy of my appointment. I have also attached a copy of the Wellin Family 2009 Irrevocable Trust and the Amendment to the Wellin Family 2009 Irrevocable Trust which I executed on November 20, 2013 following my appointment.

I have been informed that Friendship Partners, L.P., the primary asset of the Trust, has been liquidated and the proceeds of such liquidation have been distributed to the Trust. For your information, litigation is currently pending in the U.S District Court for the District of South Carolina between Keith Wellin individually and as Trustee of the Keith S. Wellin Florida Revocable Living Trust u/a/d December 11, 2011, Plaintiff versus Peter J. Wellin, Cynthia W. Plum and Marjorie W. King, individually, and as Co-Trustees and beneficiaries of the Wellin Family 2009 Irrevocable Trust u/a/d November 2, 2009, et. al. (C/A No. 2:2013-cv-0183-DCN). A similar action is also pending in the Chancery Court for Delaware. Both cases involve allegations of breach of fiduciary duty. The assets of the Trust, which I understand to be in an account with UBS Financial Services, are the subject matter of this litigation. Under paragraph 7 of the Amendment to the Trust which I am providing to you, Article VII of the Trust was amended to add Paragraph I. I, as Trust Protector have the duty and authority to represent the Trust with respect to such litigation and have the power to pay, compromise, contest, submit to arbitration, or otherwise settle such litigation in favor or against the trust, and may prosecute or defend such litigation for the protection of trust assets.

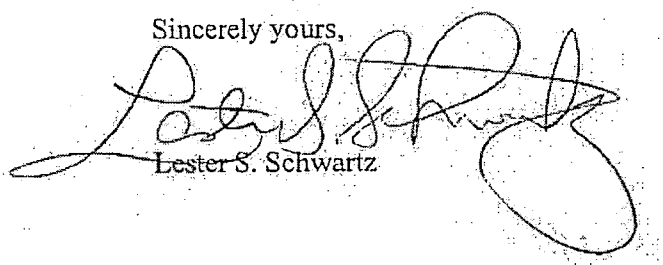
As Trust Protector, I hereby place you on notice that because these assets are subject to this litigation, it is my position that no distributions should be made from the UBS account containing the underlying assets of Trust without notice and approval by me. I also request that



you provide me with copies of all statements related to this account for the last 6 months and that you provide me with all correspondence or e-mails which directed you to sell the Berkshire Hathaway stock.

Please feel free to contact me or my attorneys, Richard S. Rosen and H. Brewton Hagood, if you would like to discuss this matter.

Sincerely yours,



Lester S. Schwartz

LSS/see

cc: Edward G. R. Bennett, Esquire (via e-mail)
F. Patricia Scarborough , Esquire (via e-mail)
Robert H. Brunson, Esquire (via e-mail)
Bryson M. Geer, Esquire (via e-mail)
John B. Hagerty, Esquire (via e-mail)
Robert B. Hood, Esquire (via e-mail)
James B. Hood, Esquire (via e-mail)
Richard S. Rosen, Esquire (via e-mail)
H. Brewton Hagood, Esquire (via e-mail)

Wellin Family 2009 Irrevocable Trust (the "Trust")
For the Period November 13 to December 13, 2013

Receipts:

Liquidation Distribution received from Friendship Partners LP (the "Partnership")	12/5/2013	$ 147,630,142.45
Return of check tendered in payment of Note	12/9/2013	$ 50,228,000.00
Total Receipts:		$ 197,858,142.45

Disbursements:

Payment of Promissory Note dtd Sept. 4, 2012 (the "Note") (Note 1)	12/6/2013	$ 50,228,000.00
Distribution to Cynthia Plum (Note 2)	12/6/2013	$ 31,876,714.15
Distribution to Peter Wellin (Note 2)	12/6/2013	$ 31,876,714.15
Distribution to Marjorie King (Note 2)	12/6/2013	$ 31,876,714.15
Total Disbursements:		$ 145,858,142.45
Net Receipts (Note 3)		$ 52,000,000.00

Note 1 - The Individual Trustees of the Trust directed the Partnership to pay a portion of the Trust's liquidation distribution directly to the Payee of the Note
Note 2 - The Distribution Committee of the Trust directed the Partnership to pay a portion of the Trust's liquidation distribution directly to the Trust beneficiary
Note 3 - The Net Receipts of the Trust are currently being held by the Partnership on behalf of the Trust due to the fact that the Partnership's account is currently frozen and unable to transfer money to the Trust account.

DEFS_00001

WRITTEN CONSENT IN LIEU OF A MEETING OF THE GENERAL PARTNER OF FRIENDSHIP PARTNERS, LP

Effective December 1, 2013

The undersigned, being the sole general partner (the "***General Partner***") of Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***"), by execution of this document hereby (i) consents to and adopts the following resolutions as of the date of this document, which resolutions shall have the same force and effect as if adopted by an affirmative vote of a meeting of the General Partner duly called and held and (ii) direct that this Written Consent be filed with the minutes of the proceedings of the Partnership.

WHEREAS, pursuant to Section 10.2(a)(i) of the Agreement of Limited Partnership of the Partnership (the "***Partnership Agreement***"), the General Partner has the authority to dissolve the Partnership; and

WHEREAS, the General Partner has determined that the Partnership is no longer serving its original purpose and it is in the best interest of the partners of the Partnership for the Partnership to dissolve and liquidate as described in that certain Plan of Dissolution and Liquidation, a copy of which is attached hereto as **Exhibit A** (the "***Plan of Dissolution and Liquidation***").

NOW, THEREFORE, upon consideration of the above matters, among other things, and having regard for the interests of the Partnership and its partners, **BE IT RESOLVED**, that the General Partner hereby consents to the dissolution, winding up and liquidation of the Partnership and in conjunction with such dissolution, winding up and liquidation hereby approves and adopts the Plan of Dissolution and Liquidation; and

FURTHER RESOLVED; that the General Partner is authorized and directed to do or cause to be done all acts and things the General Partner may deem necessary or proper in order to fully effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, the undersigned has executed this Written Consent in Lieu of a Meeting.

FRIENDSHIP MANAGEMENT, LLC

By: _____
Cynthia W. Plum, Manager

EXHIBIT 8

DEFS_000002

PLAN OF DISSOLUTION
AND LIQUIDATION OF
FRIENDSHIP PARTNERS, LP

This Plan of Dissolution and Liquidation (the "***Plan***") is intended to accomplish the dissolution and liquidation of Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***"), in accordance with the Delaware Revised Uniform Limited Partnership Act (the "***Act***").

1. ***Approval and Adoption of Plan.*** Friendship Management, LLC, a Delaware limited liability company, the sole general partner of the Partnership (the "***General Partner***"), pursuant to Section 10.2(a)(i) of the limited partnership agreement of the Partnership (the "***Partnership Agreement***") by written consent has adopted and approved this Plan, effective as of December 1, 2013 (the "***Effective Date***").

2. ***Cessation of Business and Investment Activities.*** After the Effective Date, the Partnership shall not engage in any business or investment activities except to the extent necessary to preserve the value of its assets, wind up its business and investment affairs, and distribute its assets in accordance with this Plan.

3. ***Hiring Consultants and Advisors.*** For the purpose of effecting the dissolution of the Partnership, the Partnership may hire or retain, at the discretion of the General Partner, such consultants and advisors as the General Partner deems necessary or desirable to supervise or facilitate the dissolution and winding up of the Partnership.

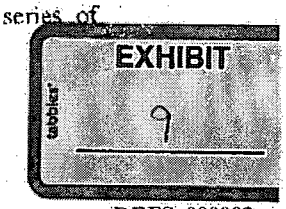
4. ***Plan of Distribution.***

From and after the Effective Date, the Partnership shall complete the following actions:

(i) The Partnership shall pay its known creditors in satisfaction of known liabilities of the Partnership or make reasonable provision for payment thereof.

(ii) The Partnership shall establish reserves reasonably adequate to meet any and all contingent or unforeseen liabilities or obligations of the Partnership as determined by the General Partner in the General Partner's absolute discretion, provided that at the expiration of one year from the Effective Date, the balance of such reserves remaining after payment of such contingencies or liabilities shall be distributed to the partners of the Partnership in accordance with Section 5.1 of the Partnership Agreement.

(iii) The Partnership shall distribute to its partners, in accordance with Section 10.3(c) and Section 5.1 of the Partnership Agreement, all remaining assets, if any, including all available cash, including the cash proceeds of any sale, exchange or disposition, except such cash, property or assets as are reserved for paying or making reasonable provision for the claims and obligations of the Partnership. Such distributions may occur all at once or in a series of



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distributions and shall be in cash or assets, in such amounts, and at the time or times as the General Partner may determine in its absolute discretion.

5. ***Cancellation of Limited Partner Interests.*** The distributions to the Partnership's limited partners pursuant to Section 4 hereof shall be in complete cancellation of the outstanding limited partner interests of the Partnership. From and after the Effective Date, and subject to applicable law, each limited partner of the Partnership shall cease to have any rights in respect thereof, except the right to receive distributions pursuant to and in accordance with Section 4(ii) and (iii) hereof.

6. ***Expenses of Dissolution.*** In connection with and for the purposes of implementing and assuring completion of this Plan, the Partnership may, in the absolute discretion of the General Partner, pay any brokerage, agency, professional and other fees and expenses of persons rendering services to the Partnership in connection with the collection, sale, exchange or other disposition of the Partnership's property and assets and the implementation of this Plan.

7. ***Indemnification.*** The Partnership shall continue to indemnify the General Partner, its members and managers, and its officers, agents and employees in accordance with the Partnership Agreement and contractual arrangements as therein or elsewhere provided, and such indemnification shall apply to acts or omissions of such persons in connection with the implementation of this Plan and the winding up of the affairs of the Partnership.

8. ***Authorization.*** The General Partner is hereby authorized, without further action by any of the other partners of the Partnership, to do and perform, any and all acts, and to make, execute, deliver or adopt any and all agreements, resolutions, conveyances, certificates and other documents of every kind which are deemed necessary, appropriate or desirable, in the absolute discretion of the General Partner, to implement this Plan and the transactions contemplated hereby, including, without limiting the foregoing, all filings or acts required by any state or federal law or regulation to wind up its affairs.

IN WITNESS WHEREOF, the undersigned has caused this Plan of Dissolution and Liquidation to be duly executed as of the Effective Date.

FRIENDSHIP MANAGEMENT, LLC

By: Cynthia W. Plum, Manager

Cynthia W. Plum, Manager

WRITTEN CONSENT IN LIEU OF A MEETING OF THE DISTRIBUTION COMMITTEE AND THE INDIVIDUAL TRUSTEES OF WELLIN FAMILY 2009 IRREVOCABLE TRUST

Effective December 1, 2013

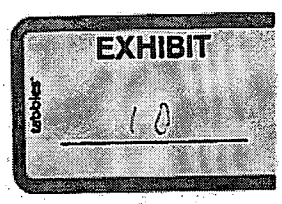
The undersigned, being all of the members of the Distribution Committee (the "***Distribution Committee***") and the individual Trustees (the "***Individual Trustees***") of the Wellin Family 2009 Irrevocable Trust (any reference herein to the "***Trust***" shall refer to the Wellin Family 2009 Irrevocable Trust and any trust created thereunder), by execution of this document hereby (i) consent to and adopt the following resolutions as of the date of this document, which resolutions shall have the same force and effect as if adopted by an affirmative vote of a meeting of the Distribution Committee duly called and held and (ii) direct that this Written Consent be filed with the records of the Trust.

WHEREAS, pursuant to Article VII of the Trust, the Distribution Committee is empowered to direct discretionary distributions of Trust property to the beneficiaries of the Trust;

WHEREAS, the Distribution Committee has become aware of a liquidating distribution (the "***Partnership Distribution***") to be received by the Trust from Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***") with respect to the Trust's limited partner interest in the Partnership; and

WHEREAS, the Distribution Committee has decided to exercise its discretion to authorize and cause a distribution from the Trust in an amount equal to the excess of the Partnership Distribution over $52,000,000 (the $52,000,000 hereinafter referred to as the "***Trust Retained Amount***") to Cynthia W. Plum, Peter J. Wellin, and Marjorie W. King, as beneficiaries of the Trust, outright and free of trust and in equal shares (each such distribution share hereinafter referred to as the "***One-Third Share of the Excess Partnership Distribution***").

NOW, THEREFORE, upon consideration of the above matters, among other things, and having regard for the interests of the beneficiaries of the Trust, **BE IT RESOLVED**, that Peter J. Wellin and Marjorie W. King, in their capacity as members of the Distribution Committee, hereby vote in favor of and authorize the distribution of a One-Third Share of the Excess Partnership Distribution to Cynthia W. Plum; that Marjorie W. King and Cynthia W. Plum, in their capacity as members of the Distribution Committee, hereby vote in favor of and authorize the distribution of a One-Third Share of the Excess Partnership Distribution to Peter J. Wellin; and that Peter J. Wellin and Cynthia W. Plum, in their capacity as members of the Distribution Committee, hereby vote in favor of and authorize the distribution of a One-Third Share of the Excess Partnership Distribution to Marjorie W. King; and for the avoidance of doubt, if the Partnership Distribution is distributed to the Trust in more than one distribution, then the Trust may distribute the One-Third Share of the Excess Partnership Distribution to each of the before named beneficiaries as soon as the Trust has sufficient cash to do so and before the funding of the Trust with the Trust Retained Amount; and



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FURTHER RESOLVED, that Peter J. Wellin and Marjorie W. King hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Cynthia W. Plum on behalf of the Trust; that Marjorie W. King and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Peter J. Wellin on behalf of the Trust; that Peter J. Wellin and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Marjorie W. King on behalf of the Trust; and that each member of the Distribution Committee and Individual Trustee hereby acknowledges that each such distribution directly from the Partnership to the before mentioned beneficiaries shall be deemed to be a distribution from the Partnership to the Trust followed by a distribution from the Trust to the beneficiaries for Trust accounting purposes;

FURTHER RESOLVED, that each of the members of the Distribution Committee and each of the Individual Trustees is authorized and directed to do or cause to be done all acts and things he or she deems necessary or proper in order to carry out the distributions described above and to fully effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin by Cynthia W. Plum his attorney in fact
Peter J. Wellin

Marjorie W. King

FURTHER RESOLVED, that Peter J. Wellin and Marjorie W. King hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Cynthia W. Plum on behalf of the Trust; that Marjorie W. King and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Peter J. Wellin on behalf of the Trust; that Peter J. Wellin and Cynthia W. Plum hereby agree to authorize the Partnership to directly distribute an amount equal to the One-Third Share of the Excess Partnership Distribution to Marjorie W. King on behalf of the Trust, and that each member of the Distribution Committee and Individual Trustee hereby acknowledges that each such distribution directly from the Partnership to the before mentioned beneficiaries shall be deemed to be a distribution from the Partnership to the Trust followed by a distribution from the Trust to the beneficiaries for Trust accounting purposes;

FURTHER RESOLVED, that each of the members of the Distribution Committee and each of the Individual Trustees is authorized and directed to do or cause to be done all acts and things he or she deems necessary or proper in order to carry out the distributions described above and to fully effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin

Marjorie W. King

Marjorie W. King

WRITTEN CONSENT IN LIEU OF A MEETING OF THE INDIVIDUAL TRUSTEES OF WELLIN FAMILY 2009 IRREVOCABLE TRUST

Effective December 5, 2013

The undersigned, being all of the individual Trustees (the "***Individual Trustees***") of the Wellin Family 2009 Irrevocable Trust (any reference herein to the "***Trust***" shall refer to the Wellin Family 2009 Irrevocable Trust and any trust created thereunder), by execution of this document hereby (i) consent to and adopt the following resolutions as of the date of this document, which resolutions shall have the same force and effect as if adopted by an affirmative vote of a meeting of the Individual Trustees duly called and held and (ii) direct that this Written Consent be filed with the records of the Trust.

WHEREAS, On Sept. 4, 2012, the trustees of the Trust in their capacities as trustee of the Trust issued a promissory note (the "***Note***") to the Keith S. Wellin Florida Revocable Living Trust (the "***Payee***") in the original principal amount of $49,802,115.00;

WHEREAS, the outstanding balance of the Note consisting of unpaid principal and accrued interest as of Dec. 6, 2013 is or will be $50,228,000.00 (the "***Outstanding Balance of the Note***");

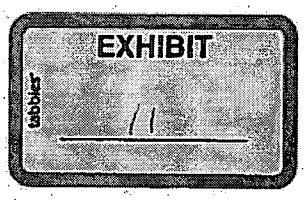
WHEREAS, the Trust is anticipating the receipt of a liquidating distribution (the "***Partnership Distribution***") from Friendship Partners, LP, a Delaware limited partnership (the "***Partnership***") with respect to the Trust's limited partner interest in the Partnership; and

WHEREAS, the Individual Trustees desire to use a portion of such Partnership Distribution to pay off the Note.

NOW, THEREFORE, upon consideration of the above matters, among other things, and having regard for the interests of the beneficiaries of the Trust, **BE IT RESOLVED,** that the Individual Trustees hereby approve and authorize a payment to the Payee in an amount equal to the Outstanding Balance of the Note in satisfaction of the Note; and

FURTHER RESOLVED, that the Individual Trustees hereby agree to authorize the Partnership to pay a portion of the Trust's share of the Partnership Distribution in an amount equal to the Outstanding Balance of the Note directly to the Payee in satisfaction of the Note and that the Individual Trustees hereby acknowledge that such payment directly from the Partnership to the Payee shall be deemed to be a distribution from the Partnership to the Trust followed by a payment from the Trust to the Payee for Trust accounting purposes;

FURTHER RESOLVED, that each of the Individual Trustees is authorized and directed to do or cause to be done all acts and things he or she deems necessary or proper in order to carry out the distributions described above and to fully effectuate the purposes of these resolutions.



IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin by Cynthia W. Plum his Attorney in FACT

Marjorie W. King

DEFS_000009

IN WITNESS WHEREOF, the undersigned have executed this Written Consent in Lieu of a Meeting. This consent may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Cynthia W. Plum

Peter J. Wellin

Marjorie W. King

Marjorie W. King

BROWN
BROTHERS
HARRIMAN

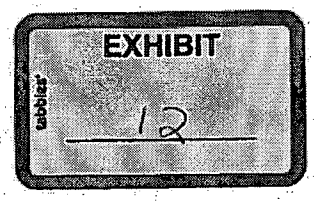
FACSIMILIE TRANSMISSION

TO:	Mr. Lester Samuel Schwartz	FROM:	Lynn Welch Watson
FAX:	843-571-0881	PHONE:	1-302-552-4042
DATE:	12/05/2013	RETURN FAX:	1-302-552-4045
CC:		PAGES:	2 (including cover)
RE:	Wellin Family 2009 Irrevocable Trust		

☑ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

Please see attached written notice of our resignation as co-trustee of the above trust. We regret that we have to take this step and will be following up with a letter of explanation tomorrow.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE.



Wellin Family 2009 Irrevocable Trust

Trustee Resignation

By instrument dated November 20, 2013, Lester S. Schwartz, as Trust Protector of that certain Trust originally executed on November 2, 2009 between Keith S. Wellin, as Grantor and Peter J. Wellin, Marjorie W. King, Cynthia W. Plum and South Dakota Trust Company LLC, as Trustees, and known as the Wellin Family 2009 Irrevocable Trust (the "Trust"), appointed Brown Brothers Harriman Trust Company of Delaware, N.A. as trustee of the Trust in place of South Dakota Trust Company LLC.

Brown Brothers Harriman Trust Company of Delaware, N.A. accepted its appointment as such Trustee on November 20, 2013.

Paragraph B of Article X of the Trust provides that "[a]ny Trustee may resign at any time by giving prior written notice to the Trust Protector." Pursuant to such authority, the Trustee hereby gives notice to the Trust Protector and resigns as Trustee, effective immediately.

In witness whereof the undersigned has executed this document this 5th day of December, 2013.

Brown Brothers Harriman Trust Company of Delaware, N.A.

By: Lynn Welch Watson
Name: Lynn Welch Watson
Title: Vice President

STATE OF DELAWARE

County of New Castle

On this 5th day of December, 2013, before me personally came Lynn Welch Watson, to me known and known to me to be an authorized officer of BROWN BROTHERS HARRIMAN TRUST COMPANY OF DELAWARE, N.A., the trust company described in and which executed the foregoing trust instrument.

GLENN JOSEPH MORLEY
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires August 6, 2015

Notary Public
My commission expires:

UBS

UBS Financial Services Inc.
1000 Harbor Boulevard, 8th FL
Weehawken, NJ 07086

Legal Department

Kenneth Crowley
Executive Director
Deputy General Counsel
Tel. 201-352-4995
Fax. 201-617-0987
kenneth.crowley@ubs.com

www.ubs.com

December 19, 2013

Via UPS and Electronic Mail (Lester.Schwartz@sctaxlawyer.com)

Lester S. Schwartz
Attorney at Law
708 Saint Andrews Boulevard
Post Office Box 30356
Charleston, SC 29417-0356

Re: Wellin Family 2009 Irrevocable Trust, as Amended

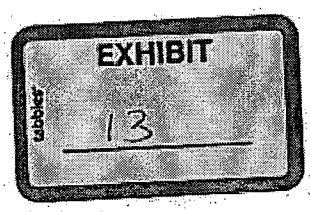
Dear Mr. Schwartz,

I am responding on behalf of UBS Financial Services Inc. to your December 10, 2013 letter to Brian McLoughlin. In that letter you reference litigation currently pending in the U.S. District Court for the District of South Carolina. I am aware of the Motion for Preliminary Injunction filed in that case asking the Court to "prevent any of the defendants from selling, trading, negotiating, gifting, or otherwise disposing of" any of certain Berkshire Hathaway Shares or a 98.90% limited partnership interest in Friendship Partners, LP. I have reviewed Judge Norton's Order dated November 22, 2013 in which he denied that motion. UBS, therefore, is not aware of any court order which restricts UBS, or any of our clients, in any way relating to the dispute referenced in your letter.

Your letter also references assets of the Wellin Family 2009 Irrevocable Trust, which you say you "understand to be in an account with UBS Financial Services." In fact, there is no account at UBS in the name of the Wellin Family 2009 Irrevocable Trust, and no assets have ever been deposited into an account at UBS in the name of the Wellin Family 2009 Irrevocable Trust.

In light of the above, please be advised that UBS is not taking any action in connection with your "position that no distributions should be made from the UBS account containing the underlying assets of Trust without notice and approval by me." Of course, UBS will comply with any valid court order upon proper service. If one exists regarding this matter please send it to me immediately.

UBS Financial Services Inc. is a subsidiary of UBS AG



UBS

UBS Financial Services Inc.

In your letter you also request that UBS provide you "with copies of all statements related to this account for the last 6 months." Please be advised that there are no statements for any account at UBS in the name of the Wellin Family 2009 Irrevocable Trust. For reasons of confidentiality, UBS is unable to provide you with any information concerning any of its other clients or their accounts absent a lawful subpoena or court order.

You also request "all correspondence or e-mails which directed you to sell the Berkshire Hathaway stock." UBS is unable to provide these documents, to the extent they may exist, absent a lawful subpoena or court order.

Please feel free to contact me with any questions or concerns.

Sincerely,

Kenneth Crowley

cc: Richard S. Rosen (via e-mail)
H.Brewton Hagood (via e-mail)
John Hagerty (via email)

ROSEN | HAGOOD

Richard S. Rosen
rsrosen@rrhlawfirm.com

December 19, 2013

VIA EMAIL @ KENNETH.CROWLEY@UBS.COM
Kenneth Crowley, Executive Director
Deputy General Counsel
UBS Financial Services, Inc.
1000 Harbor Blvd, 84
Weehawken, NJ 07086

Re: Lester S. Schwartz as Trust Protector for the Wellin Family 2009 Irrevocable Trust

Dear Mr. Crowley:

I am in receipt of your letter dated December 19, 2013 transmitted electronically to our client, Lester S. Schwartz, Trust Protector of the Wellin Family 2009 Irrevocable Trust, as Amended. Your letter states that you are not aware of any account which the Wellin Family 2009 Irrevocable Trust had with UBS Financial Services. You also reference the Federal Court litigation in Charleston and the Order of Judge Norton dated November 22, 2013 denying a preliminary injunction. Please be advised that as far as we know that Order does not end the case and there is also litigation pending amongst these parties in the Chancery Court of Delaware, the Probate Court for Charleston County, South Carolina and the Circuit Court in South Dakota.

We are aware that Friendship Partners LP, has an account with UBS which originally held 906 shares of Berkshire Class A stock. According to the attached accounting for the Wellin Family 2009 Irrevocable Trust provided to us by counsel for the Wellin children, this stock has been sold and $31,876,714.15 has been distributed to each of the Wellin children, Peter Wellin, Cynthia Plum and Marjorie King. It is our understanding that an additional $58,000,000 resulting from the sale of the Berkshire Hathaway stock remains in the Friendship Partners LP account at UBS.

For your information, roughly 95% of the interest in Friendship Partners LP is, or was, an asset of the Wellin Family 2009 Irrevocable Trust and as such, all proceeds of any Friendship Partners distributions rightfully belong to the Trust.

Our client, the Trust Protector of the Wellin Family 2009 Irrevocable Trust, is charged with the responsibility to protect the Trust for the benefit of all of the intended beneficiaries and

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EXHIBIT
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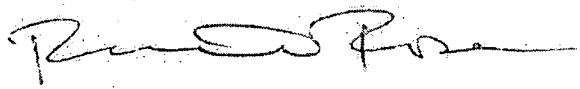
is currently investigating this matter. The Trust Protector has grave concerns that funds rightfully belonging to the Trust may have been improperly distributed. In light of the above, on behalf of the Trust Protector, Mr. Schwartz, we request that UBS take no action which would diminish the ability of the Trust to preserve and recover its assets.

Sincerely yours,



Richard S. Rosen

RSR/dlw
cc: Lester S. Schwartz (via e-mail)
Edward G. R. Bennett, Esquire (via e-mail)
F. Patricia Scarborough , Esquire (via e-mail)
Robert H. Brunson, Esquire (via e-mail)
Bryson M. Geer, Esquire (via e-mail)
John B. Hagerty, Esquire (via e-mail)
Robert B. Hood, Esquire (via e-mail)
James B. Hood, Esquire (via e-mail)
H. Brewton Hagood, Esquire (via e-mail)