

AND WHEN RECORDED MAIL TO:

2008071000027800 1/4 \$22.00
Shelby Cnty Judge of Probate,AL
07/10/2008 10:49:45AM FILED/CERT

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(Abstract)

BY THIS TRUST DECLARATION, made May 1, 2008, **BRICE DAVID BYRD** and **CAROL S. BYRD** (aka Carol Faye Byrd, Carol F. Byrd), herein called the Settlers, and sometimes referred to as husband and wife, whose address is 921 Cove Circle, in the City of Hoover, County of Shelby, State of Alabama, assign, set over, and transfer to themselves, as Trustees, all that property now or hereafter held in the Trust Estate, (hereinafter defined) to provide for the orderly use and management of their estate during their lifetimes, and for the orderly transfer and management of their estate without probate upon the death of either and both of them.

1. DECLARATION AND TERMS OF THE TRUST

- 1.1 Trust Name. **THE BRICE DAVID BYRD FAMILY TRUST**, dated May 1, 2008.
- 1.2 Trust Date. This Trust shall be effective immediately upon its execution by the Settlers and Trustees.
- 1.3 Settlers. The Settlers are **BRICE DAVID BYRD** and **CAROL S. BYRD**.
- 1.4 Trustees and Successors. **BRICE DAVID BYRD** and **CAROL S. BYRD** are the initial Trustees of this Trust.

Upon the death of either **BRICE DAVID BYRD** or **CAROL S. BYRD**, or if a living Settlor-Trustee becomes incapacitated or for any other reason is unwilling or unable to act as a Trustee, the remaining living or non-incapacitated Settlor-Trustee shall serve as sole Trustee of this Trust. Upon the death of the Surviving Settlor-Trustee, or if the Surviving Settlor-Trustee becomes incapacitated or for any other reason is unwilling or unable to act as a Trustee, Settlers' Daughter, **CAMILLE DANIELLE**

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BYRD WILLISTON and Settlor's Daughter, **CANDICE MICHELLE BYRD McKELVEY** shall serve as Trustee, one at a time in the order listed.

All named Successor Trustees shall serve without the necessity of either posting a bond or obtaining the approval of any court. All references herein to "Trustee" or "Trustees" shall refer to the Trustee or Co-Trustees acting at the pertinent time.

- 1.5 Beneficiaries. **BRICE DAVID BYRD** and **CAROL S. BYRD** are the Beneficiaries of this Trust during their lifetimes.
- 1.6 Trustee's Authority to Divide the Trust. On the death of the first Settlor, (hereafter referred to as the "Deceased Settlor"), the Trustee shall, consistent with the stated desire of the Settlor's to refrain from the payment of any avoidable state and federal estate and other taxes, have the discretion to divide the assets in the Trust Estate, including any additions made to this Trust by reason of the Deceased Settlor's death, such as additions from the Deceased Settlor's will or from life insurance policies on the Deceased Settlor's life, into as many as three separate sub-trusts, designated hereinafter as the Survivor's Trust, the Bypass Trust, and the Marital Trust.
- 1.7 During the Settlor's lifetimes, this Trust may be amended or revoked in whole or in part by the Settlor's. On the Deceased Spouse's death, the Surviving Spouse may amend, revoke, or terminate the Survivor's Trust; but the Bypass Trust may not be amended, revoked, or terminated. On the Surviving Spouse's death, neither of the Trusts may be amended, revoked, or terminated.
- 1.8 While the Settlor's are both living, they have unlimited access to income and principal of the Trust. Upon the death of one Spouse, the Surviving Spouse has unlimited right to income and principal of the Survivor's Trust, income from the Bypass Trust and may invade principal of the Bypass Trust to the extent of the IRS Ascertainable Standard plus 5% or \$5,000, whichever is greater.
- 1.9 Community Property or Commonly Owned Property transferred to the Trust retains its character as Community Property or Commonly Owned Property, and Separate Property retains its character as Separate Property; if the Trust is revoked, each type of property reverts back to the same form of ownership as it held before the Trust was executed.
- 1.10 The Surviving Spouse has unlimited power of appointment over the Survivor's Trust, and limited power of appointment over the Bypass Trust.

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- 1.11 Trustees may delegate to one or more remaining Trustees any powers, duties or discretions. Delegation must be in writing, and remains in effect until specified or revoked.

2. TRUSTEES' POWERS

To carry out the provisions of the Trusts created by this instrument, the Trustees shall have the following powers, besides those now or later conferred by law:

- 2.1 Broad Investment Powers.
- 2.2 Banking Powers.
- 2.3 Powers Over Stock Funds.
- 2.4 Power to Opt out of Uniform Prudent Investor Act.
- 2.5 Power to Retain Property or Operate Business.
- 2.6 Power to Retain Unproductive Property.
- 2.7 Power to Manage Securities.
- 2.8 Power to Appoint a Signer.
- 2.9 Powers over Real or Personal Property.
- 2.10 Powers Regarding Environmental Law.
- 2.11 Powers Regarding Contracts.
- 2.12 Power to Wind up Trust.
- 2.13 Power to Hold Back.
- 2.14 Power to Pay Estate Taxes.
- 2.15 Power to Pay State Inheritance Taxes.
- 2.16 Power to Adjust for Federal Estate and State Inheritance Taxes.
- 2.17 Power to Exercise Elections.
- 2.18 Power to Plan for Medicaid Eligibility and Settlor's Incapacity.
- 2.19 Power to Plan for Medicaid Eligibility and Beneficiary's Incapacity.
- 2.20 Power to Accept Instructions from Attorney in Fact.
- 2.21 Power to Plan for Generation Skipping Transfer Taxes.

The trust contains a Spendthrift Clause and a No-Contest Clause.

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EXECUTED in the City of Hoover, County of Jefferson, State of Alabama, on
May 1, 2008.

TRUSTEES:

SETTLORS:

Brice David Byrd
BRICE DAVID BYRD

Brice David Byrd
BRICE DAVID BYRD

Carol S. Byrd
CAROL S. BYRD

Carol S. Byrd
CAROL S. BYRD

ACKNOWLEDGMENT

State of Alabama)
County of Jefferson) ss

I, the undersigned authority, a notary public in and for said County, in said State (or for said State at Large), hereby certify that **BRICE DAVID BYRD** and **CAROL S. BYRD**, whose name(s) is/are signed to the foregoing Declaration of Trust (Abstract), and who is/are known to me, acknowledged before me on this day that, being informed of the contents of the document, (s)he/they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this day of May 1, 2008.

Chastity Shull
Signature of Notary Public

My commission expires: 11-10-2010

(SEAL)