

## INSTRUCTIONS TO SUCCESSOR TRUSTEES

The Grantor(s) have established a Living Trust. Under the terms of that Trust you have been designated as Successor Trustee(s). The Successor Trustee(s) is the person or persons who take over the control of the Trust assets upon the death or incapacity of the Grantor(s). If the Grantor(s) have become incapacitated, then you will need letters from two duly licensed physicians which indicate that the Grantor(s) are sufficiently incapacitated so as to be unable to manage their own affairs. These two letters will be sufficient evidence to establish you as the Successor Trustee(s), in accordance with terms of the Trust. If the Grantor(s) are deceased, then you will need a certified copy of the Grantor(s) death certificate(s) which will constitute proof of your assumption of the role of Successor Trustee(s), these can be obtained from the Funeral Director, or from the Office of Vital Statistics in the county in which the Grantor(s) died, which may or may not be the county where the Grantor(s) resided.

The Successor Trustee(s) is the person(s) who administers the Trust in the place of the Grantor(s). If the Grantor(s) are living but incapacitated, then you will manage the Trust, exercising the powers granted to you, in order to provide for the continued care of the Grantor(s). If the Grantor(s) are deceased, then it will be your job to proceed with the distributions as set forth in the Trust. In either event, it will be necessary for you to assemble information concerning the various properties and assets held by the Trust. Typically, this will include one or more bank accounts, stocks, brokerage accounts, possibly a safe deposit box, insurance policies, vehicle titles, etc. The names on the various accounts and titles should be transferred either to your name, as Successor Trustee(s) or directly to the beneficiaries who are to receive them under the terms of the Trust. You may also be named the Personal Representative under the Grantor(s) Will(s). The Personal Representative is responsible for filing the final tax return for the Grantor(s) through the date of death. The Successor Trustee(s) will then be responsible for filing a tax return for the Trust (Form 1041) for any income of the Trust from the date of death until final distribution. The Trust is required to obtain its own taxpayer identification number, following the death of the Grantor(s). This number may be obtained by filing Form SS-4, Application for Employer Identification Number, with the Internal Revenue Service. This number will then be used for the reporting of any income of the Trust until final distribution, and will replace the Grantor's Social Security Number.

If any assets are discovered which have not been transferred into the Trust, it may be necessary to probate that Grantor's Will in order to bring these assets under the control of the Trust, for later distribution to the Grantor(s) beneficiaries. If non-Trust assets are discovered, please contact the *Millhorn & Shanawany Law Firm (352-205-4995)* as soon as possible.

In managing the Trust assets you will be able to apply Trust assets, if it is sufficient, to cover the last bills and expenses of the Grantor(s) and/or to provide for the preservation of Trust assets until distribution. This may include making mortgage payments, maintaining insurance coverage, making repairs, etc., on the Grantors' home, vehicles or other Trust property. You will also be responsible for gathering together all of the Trust property for appropriate distribution to the beneficiaries. This may include contacting various insurance companies in order to determine what, if any, benefits are payable by reason of the Grantor(s)' death, determining if there are any amounts still payable under the terms of any annuities belonging to the Grantor(s) and checking whether or not there are any medical or hospital insurance policies that may be available to pay final medical expenses of the Grantor(s).

The Successor Trustee(s) should contact the local Social Security and/or Veterans Administration offices in order to determine what, if any, governmental death benefits may be available. If the Grantor(s) were receiving Government benefits, such as Social Security payments, these agencies should be notified to stop future payments. Any payments received after the date of death of the Grantor(s) may have to be returned.

Florida Law requires the Successor Trustee(s) sign and record, in the Probate Court in the County where the Grantor(s) resided, a “**Notice of Trust**”. Please contact the *Millhorn & Shanawany Law Firm* for preparation and filing of these documents.

Depending on the size of the Trust Estate, it may be necessary to file Federal and/or State estate tax returns. Please contact the *Millhorn & Shanawany Law Firm* for assistance. If the Grantor(s) also owned property or resided in another state, you may also have to determine whether an estate tax return is required by that state as well. Federal estate tax is due nine (9) months after the dates of death, unless a six (6) month extension is obtained.

The Successor Trustee(s) should obtain legal advice regarding the following:

- a. Review and analysis of the governing documents (Trust and Trust Amendments; Will and Codicils and any Separate Writing);
- b. The filing of all required Notices and other related documents;
- c. The Successor Trustee(s) duty to protect, insure and manage assets, including considerations of the Prudent Investor Rule, Florida Statute 518.11;
- d. Interrelated obligations between the Probate and the Trust regarding the payment of creditor’s claims and expenses of administration;
- e. Obligations of the Successor Trustee(s) to provide information and accountings to the beneficiaries;
- f. Considerations in dealing with creditors and claims against the Trust or Estate;
- g. Advice to the Successor Trustee(s) regarding specific tax returns which must be prepared and filed, specific taxes which must be paid and the due dates for filing tax returns;
- h. Procedures for filing an “Affidavit of No Florida Estate Tax Due” form with the Florida Department of Revenue;
- i. Order and priority for payment of claims and abatement of bequests and legacies;
- j. Beneficiary distributions, income and principal allocations; or the funding of Trusts which will continue beyond the date of death of the Grantor(s);
- k. Preparation of legal documents required to effect distributions;
- l. Considerations regarding self-dealing, conflicts of interest, duty of impartiality and other obligations to the beneficiaries;
- m. Final discharge of liability of the Successor Trustee(s) at the conclusion of administration.

A Successor Trustee(s) is obligated to administer a Trust diligently for the benefit of the beneficiaries. As Successor Trustee(s), you are not personally liable on contracts entered into on behalf of the Trust, unless otherwise provided in the contract, or unless you fail to reveal your representative capacity and identify the Trust estate in the contract.

Please contact the *Millhorn & Shanawany Law Firm* upon your assumption of the duties of Successor Trustee(s).