

GLOSSARY OF TERMS

The following terms are commonly used in a Declaration of Trust. They may have special meanings under the law. The most often applicable definition is here given to assist you in understanding and interpreting the provisions of the Trust.

ADMINISTRATOR: A person (not nominated in the Decedent's will) appointed by the Court to administer the affairs of the estate of a deceased individual.

AMENDMENT: An addition which alters the original terms of a trust, the power to accomplish which may be reserved by the settlor in the original trust instrument.

BENEFICIARY: A person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

CHILD/CHILDREN: Offspring of parentage. Unborn or recently born human being. May include or apply to: adopted, after-born, or illegitimate child; step-child; child by second or former marriage. Also legally referred to as "issue".

COMMUNITY PROPERTY: Property acquired by a couple while married and while living in a "community property state," such as California, which is not separate property. It includes income from work and assets purchased with that income.

DESCENDANT: A child of the Settlor or that child's issue.

EXECUTOR: A person named by a Will (and appointed by a court) to administer the affairs of the estate of a deceased individual.

FIDUCIARY: A person who holds and controls assets for the benefit of another.

FIRST DEATH: As used in the Declaration of Trust, this refers to the death of the first settlor (often referred to as the "Deceased Settlor").

GUARDIAN: This is a court appointed individual who has responsibility for the person and/or estate of the minor child of a deceased individual.

HEIR: A Beneficiary or person who, under the laws of a state, would be entitled to share in the estate of a deceased individual.

INCAPACITY: This term is defined in Section 4.02 of the Declaration of Trust.

INCOME: This refers to return on investment as calculated by generally accepted accounting procedures as applied by the Trustees.

INCOME BENEFICIARY: This individual receives income from the Trust assets until some event which terminates the income-right. He may or may not thereafter be entitled to additional principal sums.

INITIAL TRUSTEE(S): This term as used in the Declaration of Trust refers to the first individual(s) or entity appointed to control the assets of the Trust. The Settlor(s) will appoint this Trustee. Most often it will be the Settlor(s) of the Trust.

ISSUE: Children (direct lineal descendants) of the person referred to. Also includes legally adopted children.

PASSIVE INVESTMENT: As used in this instrument, a passive investment refers to an investment concerning which the Trustee has no initial, on-going or future management responsibilities. Passive investments include such items as Bank savings accounts, limited partner interests, stocks and bonds, etc.

PECUNIARY: A pecuniary bequest is a bequest of money to a beneficiary by a testator. Also known as a monetary bequest.

PERSONAL PROPERTY: Property which is not real estate. It includes cash, cars, stocks, household furnishings, clothing, etc.

POUR-OVER WILL: This is a special Will which accompanies the creation of a Trust. It has two main purposes: (1) the passing into the Trust of property which is outside of the Trust, and (2) the nomination of a guardian of minor children if applicable. In some instances, the Will may be used to pass specific estate assets to specific individuals.

PRINCIPAL: This is the asset base of the Trust. It includes all assets of the Trust whether in cash or in kind.

PRINCIPAL OF REPRESENTATION: Under this principle, the issue of a deceased beneficiary share equally in the share of their deceased parent. They do not necessarily share equally with the other beneficiaries.

QUASI-COMMUNITY PROPERTY: Property acquired while living outside the State of California while married, which if it had been acquired while the couple was living in California, would have been Community Property.

REAL PROPERTY: Real estate. The land and anything permanently attached to it.

REMAINDERPERSON (aka: REMAINDERMAN): After the Income Beneficiary has received his income and the event terminating that income-right has occurred, the Remainderman receives the balance of the asset(s) in the Trust or Trust share.

REVOCABLE: This means the Trust can be changed and/or eliminated in whole or in part, and the assets returned to the individual(s) titled as they were before being transferred to the Trust.

RULE AGAINST PERPETUITIES: A rule that limits the length of time the Settlor of a Trust can control his property. Without a termination clause complying with this rule, the Trust could be ruled invalid.

SEPARATE PROPERTY: Property acquired before marriage, or after marriage by gift or bequest and designated as separate property.

SETTLOR: The Settlor is the Settlor or creator of the Trust and the individual(s) who has the power to amend or revoke the Declaration of Trust.

SPENDTHRIFT PROVISION: This prohibits using the anticipated Trust benefits as a basis for making a loan to the Income Beneficiaries or Remainderman. Thus, the heirs can not spend it before they receive it.

SUBSEQUENT TRUSTEE: Upon the death, incapacity, unwillingness, or inability of any acting Trustee, a new Trustee, named in the Declaration of Trust assumes immediate control. This new Trustee is the Subsequent Trustee.

SURVIVING SETTLOR: The surviving spouse after the death of the first spouse.

TESTATOR: A Testator is an individual who has written a specific Will. The individual who signs the Will and under whose direction it was written, is known as a Testator.

TRUST: The legal instrument including the Appendices which direct the Trustee as to his or her duties and powers.

TRUSTEE: The individual or individuals designated in the Declaration of Trust and charged with the fiduciary responsibility to carry out the terms and provisions of the Settlor's as stated in the Trust.

WILL: A valid witnessed or holographic (handwritten) instrument designating the deceased's intent as to the distribution of his or her assets not held by the Trust.