

82489

Vol. <sup>m</sup> 80 Page 5853

## CERTIFICATION OF WOODY CLARK TRUST

The undersigned hereby certify:

1. That W. W. CLARK and HOMER CLARK are Trustees of that certain Trust created by Trust Agreement dated the same date as this Certificate wherein W. W. CLARK is Trustor and W. W. CLARK and HOMER CLARK are Initial Trustees.
2. That, for the purposes of convenience, the trust created by the aforesaid Trust Agreement is named "WOODY CLARK TRUST".
3. That the aforesaid Trust Agreement contains, inter alia, the following provisions:
  - a. The powers of W. W. CLARK over assets subject to the Trust Agreement are set forth in Exhibit "A".
  - b. The powers of HOMER CLARK over assets subject to the Trust Agreement are set forth in Exhibit "B".
  - c. The successors to W. W. CLARK and/or HOMER CLARK as Trustees are set forth in Exhibit "C".

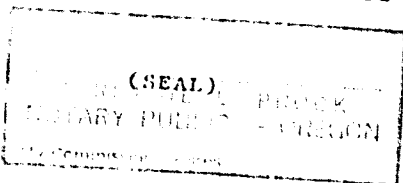
DATED: January 29, 1980.

W. W. Clark  
W. W. CLARK

Homer Clark  
HOMER CLARK

STATE OF OREGON )  
County of Klamath ) ss:

Before me, this 29th day of January, 1980, personally appeared W. W. CLARK and HOMER CLARK, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



Kirstine L. Prock  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 12/16/80

WHEN RECORDED MAIL TO:

GIACOMINI, JONES & ASSOCIATES  
ATTORNEYS AT LAW  
635 MAIN STREET  
KLAMATH FALLS, OREGON 97601

80 MAR 28 PM 1 24

CL  
14

## EXHIBIT "A"

Possession, Custody and Management of Woody's Assets:

- a. In General: Except as may be expressly provided otherwise, Woody shall have the exclusive possession, custody and all power of management, without payment of rental therefor, and without any accounting to Trustee thereof, of those assets transferred to Trustee by Woody \*\*\*. The power of management shall include, but not be limited to, the power to sell, convey, lease, encumber or hypothecate (for periods longer than the term of any trust created by this Instrument), give and vote proxies to others and vote stocks or securities declared to be Woody's Assets, regardless of whether said assets are held in the name of the Trustee or in the name of some other nominee of Trustee. The power of management shall also include the power to open and maintain, in Woody's name, or in the name of the Trustee, or in the name of the Trust, any account, street or otherwise, with any brokerage firm or company, and to conduct any and all stock trading activity, including, but not limited to, marginal trading, short selling, buying and selling options, whether or not such stocks are owned by Woody or Trustee.
- b. Corporate or Governmental Stocks and Securities: To the extent that any of Woody's Assets shall consist of corporate or governmental stocks and securities, the same may be registered in the name of the Trustee and held in the custody of the Trustee or may be registered in the name of Woody as a nominee of the Trustee as provided for in subparagraph c below. The trustee shall deliver to Woody, for action thereon, any and all requests for, or solicitations of, proxies and any and all other voting matters, unless instructed otherwise in writing by Woody.
- c. Trustor as Trustee's Nominee: Woody may act as nominee of the Trustee for any of Woody's Assets transferred and conveyed by Woody to the Trustee pursuant to this Instrument. Without limitation of the foregoing, Woody shall be deemed to hold a Woody's Asset as a nominee of the Trustee where Woody executes and delivers to the Trustee an Instrument transferring any of Woody's Assets to the Trustee, even though the Woody's Asset remains registered in the name of Woody, the registration in the name of the Trustee of such Woody's Asset is not completed, or Woody retains possession of the certificate, or other instrument, evidencing the title thereto. If Woody acts as a nominee for any Woody's Assets transferred to the Trustee, Woody may receive directly any dividends, interest, income or distributions from or upon such Woody's Asset and neither Woody, nor the Trustee, shall have any duty of accounting to the other or to any other person with regard thereto. If Woody, in possession of a Woody's Asset (as nominee of Trustee), should transfer title to a Woody's Asset to one other than the Trustee, such a transfer shall constitute a withdrawal of such an Asset from the Trust Estate and the Trustee shall have no further interest herein, nor duties with regard thereto.
- d. Co-Tenancies: If any co-tenancy account or co-tenancy title to real or personal property of any kind, should be established between Woody and Trustee, the instrument, document, or conveyance establishing or creating such co-tenancy shall be the equivalent of an instrument, document, or conveyance designating such co-tenancy account or property as part of Woody's Assets; and, as between Woody and Trustee, any such co-tenancy account or property shall be subject to the covenants, terms, and provisions of this Instrument. To the extent changes are made to any such co-tenancy account (either by addition or deletion) the same shall constitute an addition to or removal of, Woody's Assets. Where such a co-tenancy account is a joint account in the nature of a bank account, or a mutual fund of any kind involving investments, Woody may write checks thereon, or a withdrawal therefrom, without the co-signature of the Trustee, and such writing of checks or making of withdrawals by Woody shall constitute withdrawals from the Trust Estate and the Trustee shall have no further interest in any amount, or amounts, so withdrawn, or any further duty with regard thereto. The capacity of Woody under any Woody's Asset held between Woody and Trustee as co-tenant shall be that of nominee of the Trustee and not that of co-owner.
- e. Instructions by Trustor to Trustee and Indemnification of Trustee: In exercising authority over Woody's Assets as herein provided, Woody may direct the Trustee, from time to time to sell, convey, dispose of, lease or take any other action with respect to any Woody's Asset, and the consideration thereof, if any, shall be delivered to Woody, and shall be accounted for to Woody, in such manner as Woody may, from time to time, direct in writing. Woody shall protect and indemnify the Trustee against all losses, liabilities and expenses which may result from Woody's use, possession, management or control of a Woody's Asset, or from any action by the Trustee directed by Woody pursuant to this provision, and the Trustee is hereby given (in addition to all powers conferred by law) a lien upon the income and the principal of all real and personal property subject to this Instrument for the payment thereof, including, but not limited to, the right to take possession of a Woody's Asset and to reimburse Trustee from the principal of and income of the real and personal property subject to this Instrument.

## EXHIBIT "B"

Powers of Trustee Over Management Assets: The Trustee shall have, in addition to all powers conferred by law, the right and power over any asset subject to this Instrument which becomes a Management Asset to do all other acts which are, in the Trustee's judgment, needful or desirable for the proper and advantageous management of such Management Asset, subject to the limitations with reference to Management Assets \*\*\* as follows:

- a. In General: To invest any property forming part of the Trust Estate in such securities, including securities issued by, or insured by, the United States of America, State thereof, or political subdivision of such State, common or preferred stocks, notes or debentures, fractional shares, and shall have like authority to exercise or sell stock subscription or conversion rights and to purchase fractional shares needed to round out fractional share holdings that might arise concerning the said stock. To open an account, or accounts, with any brokerage firm or company, including, but not limited to, a street account. In addition, any corporate trustee shall have the right to either vote such stock (including its own stock), or give its proxy to vote such stock to Woody, during his lifetime.
- b. Borrow Money and Loan Trustee's Funds: To borrow money and to loan or advance the Trustee's own funds to any trust created by this Instrument for any trust purpose at prevailing rates of interest, and to mortgage, and hypothecate the property and securities to the Trust Estate in whole, or in part, as security for the repayment of such loans or advances.
- c. Make Repairs: To make such expenditures for the repairing, improving and rebuilding of any property of the Trust Estate as the Trustee may deem necessary.
- d. Use a Nominee of Title: To hold securities and other property in the name of the Trustee or in the name of the Trustee's nominee, but the Trustee shall be responsible for the acts of such nominee affecting such property unless such nominee is Trustor.
- e. Vote Stock: To vote, in any manner by the Trustee deemed proper, any stock or other securities held hereunder, either directly or by proxy.
- f. Pay Expenses: To pay all taxes, charges, commissions and other expenses of the Trust Estate, including reasonable compensation for the Trustee's own services. \*\*\* Nothing contained herein shall preclude any Trustee from being entitled to reimbursement for all outlays, advances, costs and expenses incurred by any such Trustee in the preservation, maintenance and protection of the Trust Estate, and any such Trustee shall be entitled to such reimbursement.
- g. Holding Trust Estate as Undivided Whole: Except as may be otherwise specifically provided herein, to hold the Trust Estate as an undivided whole, without separation into any separate trust estates for any trust created by this Instrument, for such period as the Trustee shall deem expedient, but no such undivided holding shall defer or postpone vesting or distribution under the trusts and powers herein declared.
- h. Determine Principal and Income: To determine, in all cases, what receipts are income and what are principal and what disbursements are chargeable to income and what are chargeable to principal, provided, however, if there shall be included in the Trust Estate any shares in a regulated investment company, all regular dividends or stock split-ups and all dividends designated by the issuer as capital gain dividends, shall be considered principal.
- i. Pay to Beneficiary: To pay income or principal to which an incapacitated or minor beneficiary is entitled directly to the beneficiary, to any person having custody of the incapacitated or minor beneficiary, to the legal guardian of the incapacitated or minor beneficiary, or to any person who, or corporation which, shall be furnishing maintenance, support, care and/or education to the incapacitated or minor beneficiary. The receipt of any person to whom payment is made as herein authorized shall be a sufficient voucher for the Trustee and, in the discretion of the Trustee, the recipient need not be required to account to the Trustee nor to any Court or any other person as to disposition thereof.

## EXHIBIT "C"

A. Initial Trustee: The Initial Trustee shall be Woody and Homer. Upon the death or incapacity of Woody or Homer, the Successor Trustee to either of them shall be as set forth in Subarticle C of this Article.

B. Right of Resignation: Neither Woody nor Homer shall have any right to resign. This provision shall not preclude revocation, in whole or in part, or any provisions of this Instrument, nor the amendment of the same, by Woody \*\*\*.

C. Designation of Successor Trustee: The following provisions shall govern who shall act as Successor Trustee in the event that either Woody or Homer should cease to be Trustee:

1. Wilma and Richard: In the event that either Woody or Homer should cease to be Trustee, Wilma and Richard shall be Successor Trustee to either Woody or Homer. In the event of the death, incapacity, or resignation of either Wilma or Richard, the other able and willing to act shall continue to act as Trustee.

2. Designation of Successor Trustee by Other Beneficiaries of Trust: If all individuals named herein as a Trustee should be unable to act as a Trustee and all successors designated herein shall be unable and unwilling to act as Successor Trustee, then, in such event, Woody's children shall have the power to select a Successor Trustee by majority agreement, and, if there is a deadlock, then the eldest of them shall resolve the deadlock and the resolution by such eldest shall be conclusively binding; on those interested in the Trust Estate. If there is only one child of Woody's living and competent, such child may select a Successor Trustee.

3. By Anyone Interested in the Trust Estate: If no one authorized in the preceding paragraph 2 of this Article \*\*\* selects a Successor Trustee within ninety (90) days from the date there should be no Trustee acting under the provisions of this Instrument, anyone interested in any portion of this Trust may, either in person, or through his guardian or conservator, secure the appointment of a Successor Trustee by a court of competent jurisdiction at expense of the Trust Estate.

4. Successor Trustee to be Limited: Any selection of a Successor Trustee as provided in the immediately preceding paragraph 3 of this Article \*\*\*, may include Woody's Children or a Corporate Trustee.

5. Corporate Trustee as Successor Trustee Subject to Certain Provisions: If any Successor Trustee should be a corporate trustee, it shall be subject to the following provisions:

a. Sale of Trust Business: In the event a corporate trustee should sell or transfer its business or its trust department, or should consolidate or merge with another banking institution, any such Successor Trustee of a corporate trustee shall act as a successor to a corporate trustee acting as trustee hereunder without further formality other than the instrument necessary to accomplish the succession itself.

b. Removal of Corporate Trustee: The majority of Woody's children, either individually or by and through their respective guardians, may remove any corporate trustee acting with respect to any trust established by this Instrument no longer revocable by Trustor and may designate a successor to any removed corporate trustee. Removal shall be affected as follows: By delivery of a written instrument personally, or by certified mail, to the then acting corporate trustee; by written acceptance of the office of trustee signed by the successor to the acting corporate trustee selected pursuant to this provision; and by delivery of notice of such change and acceptance to all beneficiaries of any trust, or trusts, created by this Instrument being then administered pursuant to this Instrument.

D. The definitions set opposite the following terms shall control:

1. Woody: The term "Woody" shall mean W. W. CLARK, also known as WOODY CLARK and whose full name is WOODROW WILSON CLARK.
2. Homer: The term "Homer" shall mean HOMER CLARK.
3. Wilma: The term "Wilma" shall mean WILMA KITE.
4. Richard: The term "Richard" shall mean RICHARD CLARK.

EXHIBIT "C"

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 28th day of March A.D., 19 80 at 1:24 o'clock P. M., and duly recorded in Vol. N80 of Deeds on Page 5353.

FEE \$14.00

WM. D. MILNE, County Clerk

By Dorothy H. H. H. Deputy