

K-48051

DECLARATION OF TRUST

RALPH C. SUNDERLAND, JR., and JUNE J. SUNDERLAND, Husband and Wife, of Santa Barbara County, California, declare that:

Article 1. Declarations.

1.01 - They have conveyed and transferred, without consideration, to the Trustee named in this Declaration all of the property described in an inventory hereto attached marked "Exhibit A."

1.02 - All property described in the inventory attached hereto and marked "Exhibit A" and any other property that may hereafter be transferred or conveyed to and received by the Trustee to be held pursuant to the terms of this instrument is herein called the "Trust Estate" and shall be held, administered and distributed by the Trustee as provided in this Declaration of Trust.

1.03 - As used in this Declaration of Trust, "Husband" shall mean RALPH C. SUNDERLAND, JR., "Wife" shall mean JUNE J. SUNDERLAND, and the term "Trustors" shall refer collectively to Husband and Wife.

1.04 - Husband and Wife are hereby designated as Co-Trustees of all trusts created by or to be created pursuant to this Declaration of Trust. Should either Husband or Wife become

When recorded return to:

Celeste Sunderland
1627 Anacapa St.

Santa Barbara, CA 93101

unable because of death, incapacity, incompetency, or other cause to serve as such Co-Trustee, or should either resign as Co-Trustee, before the natural termination of all trusts provided for in this Declaration, the remaining Co-Trustee, Husband or Wife, shall thereafter serve as sole Trustee of all the trusts provided for in this Declaration. In any event, while Husband and Wife act as such Co-Trustees, the signature of only one of them shall be necessary to accomplish any Trust transaction.

1.05 - The Trustors, or either of them, may from time to time add other property acceptable to the Trustee to the Trust Estate by conveyance, assignment, transfer, or Will. Such property when received and accepted by the Trustee shall become part of the Trust Estate and be subject to all the terms and provisions of this Declaration of Trust.

1.06 - All property now or hereafter conveyed or transferred to the Trustee to be held by the Trustee pursuant to this Declaration which was community property, quasi-community property, or separate property at the time of such conveyance or transfer, shall remain, respectively, community property, quasi-community property, or the separate property of the Trustor transferring such property to the Trustee.

1.07 - At any time and from time to time during the joint lives of the Trustors, the Trustors jointly as to community property and either Trustor as to his or her separate property may, by serving written notice on the Trustee, revoke the Trust cre-

ated by this Declaration in whole or in part. Any property withdrawn from the Trust Estate by reason of any such revocation shall be delivered by the Trustee to the Trustor or Trustors revoking the Trust.

1.08 - At any time and from time to time during the joint lives of the Trustors, the Trustors jointly as to community property and either Trustor as to his or her separate property may, by serving written notice on the Trustee, alter, modify, or amend the trusts created by this Declaration in any respect.

1.09 - Except as otherwise expressly provided in this Declaration, on the death of either Trustor, the trusts created by this Declaration shall become irrevocable and not subject to amendment or modification.

Article 2. Distributions During Joint Lives.

2.01 - During the joint lives of the Trustors, the Trustee shall at least annually, unless otherwise directed by both Trustors in writing, pay to or apply for the benefit of Husband and Wife all of the net income from the Trust Estate in the same proportion as each of the respective interests in the Trust Estate.

2.02 - During the joint lives of the Trustors, should the net income of the Trust Estate be insufficient to provide for the care, maintenance or support of the Trustors as herein defined, the Trustee may, in the Trustee's absolute discretion, pay to or apply for the benefit of the Trustors, or either of

them, or any of their dependents, such amounts from the principal of the Trust Estate as the Trustee may, in the Trustee's discretion, from time to time deem necessary or advisable for the care, maintenance, or support of the Trustors. As used in this section, the term "care, maintenance, or support of the Trustors" shall mean:

(a) The providing of proper care, maintenance and support for the Trustors, or either of them, during any period of illness, or other want or necessity;

(b) The maintenance of the Trustors, and each of them, in the manner of living to which they, and each of them, are accustomed on the date of this Declaration.

The Trustee shall exercise in a liberal manner the power to invade principal contained in this Article, and the rights of remaindermen in the trusts shall be considered of secondary importance.

2.03 - During the joint lives of the Trustors, should either Trustor be adjudged by a court of competent jurisdiction under the provisions of the California Probate Code relating to the appointment of conservators unable to manage his or her own affairs, or be subject to incapacity, as that term is defined in this Declaration of Trust, the Trustee may, in the Trustee's discretion:

(a) Pay the entire net income of the Trust Estate in monthly or other convenient installments to the remaining

competent Trustor; or

(b) Apply such portion of the net income, up to the whole thereof, of the Trust Estate as the Trustee may deem in his discretion reasonable and proper for the benefit of the Trustor so adjudged to be incompetent or unable to manage his or her own affairs or be subject to incapacity.

Article 3. Distributions After Death of the First Trustor To Die.

3.01 - On the death of either Trustor leaving the other Trustor surviving, the Trustee shall collect all insurance proceeds payable to the Trustee by reason of such death, all bequests and devises attributable to the Trust Estate under the terms of the Last Will of the deceased Trustor, and shall divide the entire Trust Estate into two separate trusts to be known and herein designated as "Trust A" and "Trust B."

3.02 - The principal or Trust Estate of Trust A shall consist of the Surviving Trustor's interest in each and every asset held by the Trustee pursuant to this Declaration.

3.03 - The principal or Trust Estate of Trust B shall consist of all of the interests in each and every asset held by the Trustee pursuant to this Declaration, including any assets received by the Trustee to be held pursuant to this Declaration on or by reason of the death of the Deceased Trustor, not allocated to the principal or Trust Estate of Trust A.

3.04 - On the death of the first of the Trustors to die, the Trustee shall pay either from the income or principal of

Trust B, or partly from the principal and partly from the income of Trust B, as the Trustee in the Trustee's discretion may determine, the expenses of the Deceased Trustor's last illness, funeral, and burial, and any federal estate tax and state death taxes that may be due by reason of the Deceased Trustor's death, unless the Trustee in his or her discretion determines that other adequate provisions have been made for the payment of expenses and taxes.

3.05 - After the death of the first of the Trustors to die, the Trustee shall pay to or apply for the benefit of the Surviving Trustor, monthly or at more frequent intervals, all of the net income from the principal of Trust A.

3.06 - After the death of the first of the Trustors to die, the Trustee shall pay to or for the benefit of the Surviving Trustor, monthly or at more frequent intervals, all of the net income of Trust B. If the Trustee shall deem such income payments to be insufficient, the Trustee shall from time or time pay to or apply for the benefit of the Surviving Trustor such sums out of principal of Trust B, up to the entire amount thereof, as the Trustee in the Trustee's discretion shall deem necessary for the Surviving Trustor's proper health, maintenance and support. The Trustee is authorized, whenever in the Trustee's discretion it is practicable, to make any principal distributions to or for the benefit of the Surviving Trustor from Trust A rather than from Trust B, even to the point of exhausting

Trust A.

3.07 - After the death of the first of the Trustors to die, the Trustee shall pay to the Surviving Trustor during the Surviving Trustor's lifetime from the principal of Trust B such amounts as the Surviving Trustor may from time to time request in writing, but not exceeding in any calendar year the greater of the following amounts: Five Thousand Dollars (\$5,000.00) or Five Percent (5%) of the value of the principal of Trust B determined as of the end of the calendar year. This right of withdrawal is noncumulative, so that if the Surviving Trustor does not withdraw during any calendar year the full amount to which such person is entitled under this provision, the right to withdraw the amount not withdrawn shall lapse at the end of that calendar year.

3.08 - In making any payment of principal to or for the Surviving Trustor, unless otherwise directed, the Trustee shall take into consideration, to the extent the Trustee shall deem advisable, any income or other resources of the Surviving Trustor, outside of the Trusts created by this Declaration known to the Trustee. In exercising these discretionary powers to invade principal, the Trustee shall be mindful of the fact that the primary concern of the Trustors in establishing these trusts is to provide for the support of the Surviving Trustor, and that the interests of others in the Trust are subordinate.

3.09 - After the death of the first of the Trustors to

die, the Surviving Trustor shall have the right to direct the Trustee, in writing, to pay to or apply for the Surviving Trustor's benefit such amount from the principal of Trust A, up to the whole thereof, as the Surviving Trustor shall designate at any time and from time to time. The Trustee shall have no responsibility to inquire into or determine for what purpose such withdrawals are made.

Article 4. Distributions on Death of Surviving Trustor.

4.01 - On the death of the last Trustor to die, herein called "Surviving Trustor," the principal of Trust A and any accrued or undistributed net income from the principal of Trust A shall be distributed by the Trustee in such manner and to such persons, including the estate, the creditors, or the creditors of the estate of the Surviving Trustor, as the Surviving Trustor shall appoint and direct by specific reference to this power of appointment in his or her Last Will admitted to probate by a court of competent jurisdiction. Any principal or undistributed net income of Trust A not effectively appointed by the Surviving Trustor shall be added to Trust B and be disposed of as part of Trust B in all respects.

4.02 - On the death of the Surviving Trustor, the Trustee shall pay either from the income or principal of Trust A, or partly from the income and partly from the principal of Trust A, as the Trustee in the Trustee's discretion may determine, the expenses of the Surviving Trustor's last illness, funeral, and

burial, and any federal estate tax and state death taxes that may be due by reason of the inclusion of any portion of the Trust Estate in the Surviving Trustor's estate for the purposes of any such tax, unless the Trustee in the Trustee's discretion determines that other adequate provisions have been made for the payment of expenses and taxes.

4.03 - On the death of the last Trustor to die, Trust B shall terminate, and all the Trust Estate of Trust B then in the possession of the Trustee shall be distributed in fee by the Trustee to the children of the Trustors, share and share alike, as individuals and not as a class gift, the issue of any child who does not survive termination of the Trust taking his or her parent's share.

Article 5. Powers of Trustee.

5.01 - The Trustee is authorized to retain in the Trust any property received by the Trustee from the Trustor and to operate at the risk of the Trust Estate any business or property received by the Trustee from the Trustor as long as the Trustee considers advisable, provided that the return from all investments is reasonable in light of the existing circumstances.

5.02 - The Trustee shall have the following powers in addition to those powers now or hereafter conferred by law:

- (a) To retain any part of the trust property for such length of time as he deems advisable;
- (b) To hold, manage, improve, repair, preserve,

lease without limit as to term and for any purpose, including exploration for and removal of oil, gas, other hydrocarbons and minerals, enter into pooling agreements or community leases, renew or extend pooling agreements or community leases, grant options, sell (at public or private sale and for cash or on credit), exchange and otherwise deal with the trust property;

(c) To invest and reinvest the trust property in whatever real or personal property the Trustee determines advisable, including, but not by way of limitation, corporate obligations of every kind, stocks, preferred or common, investment trusts, limited partnerships and common trust funds, without any requirement as to diversification and without being restricted by any statutory limitations on investments by a Trustee;

(d) To borrow money for any trust purpose and from any source, including himself, and to convey in trust, mortgage, pledge or otherwise encumber the trust property, or any part thereof, as security therefor;

(e) To participate in reorganizations, consolidations, mergers, liquidations or foreclosures, and to deposit or otherwise deal with securities constituting a part of the trust property in connection therewith, and to do any and all other things necessary or incidental thereto;

(f) To vote or consent with respect to securities constituting a part of the trust property, and to collect the

income therefrom, pay assessments thereon, exercise options, subscription and conversion rights with respect thereto, and otherwise deal with the same in such manner as the Trustee determines advisable;

(g) To incur and pay all taxes, assessments, costs, charges, fees and other expenses of every kind in connection with the administration of the trusts hereby created;

(h) To hold undivided interests in property, real or personal;

(i) To extend the time of payment of any obligation at any time owing by or to any trust created hereby and to compromise, settle or submit to arbitration upon such terms as he may deem advisable, or to release, with or without consideration, any claim in favor of or against any trust created hereby;

(j) To lend money to any person, including the probate estate of either Trustor, provided that any such loan shall be adequately secured and shall bear a reasonable rate of interest;

(k) To partition, allot, and distribute the Trust Estate, on any division or partial or final distribution of the Trust Estate, in undivided interests, or in kind, or partially in money and partially in kind, at valuations determined by the Trustees, and to sell such property as the Trustees may deem necessary to make division or distribution;

(l) To do and perform any and all other acts and things deemed by them necessary or advisable in the management

of the trust property.

5.03 - Except as otherwise specifically provided in this Agreement, the Trustee shall allocate all receipts and expenditures received or incurred by Trustee in administering this Trust in the manner provided by the Revised Uniform Principal and Income Act in effect on the date of this Agreement in the State of California.

5.04 - All property taxes, assessments, fees, charges and other expenses incurred by the Trustee in the administration or protection of this Trust shall be a charge against the Trust Estate and shall be paid by the Trustee prior to final distribution of the Trust Estate in full out of the principal or income of the Trust as allocated by the Trustee under general trust accounting principles.

5.05 - The Trustee may make any elections under the federal and state income and estate tax laws applicable to the Trust Estate that the Trustee determines should be made for the benefit of the trust beneficiaries. No compensating adjustments between principal and income shall be made even though the elections made under the tax laws by the executor of Trustor's estate or the Trustee may affect, beneficially or adversely, the interests of the beneficiaries. The actions of the Trustee shall be binding upon all beneficiaries.

Article 6. Administrative Provisions.

6.01 - Whenever the right of any beneficiary to payments

from the net income or principal of the Trust Estate shall terminate, either by reason of death or other cause, any accrued or undistributed net income from the Trust Estate undistributed by the Trustee on the date of such termination shall be held, administered, and distributed by the Trustee in the same manner as if such income had accrued and been received by the Trustee after the date such beneficiary's right to receive payments from the trust terminated.

6.02 - In exercising his discretionary authority under this Declaration to make payments to or for the benefit of any beneficiary from the net income or principal of the Trust Estate, the Trustee shall take into consideration any income or other means of care, maintenance, support, or education available to such beneficiary from sources outside the trust that may be known to the Trustee. The determination of the Trustee with respect to the necessity for and the amounts of any payments made to or for the benefit of any beneficiary pursuant to the terms of this Declaration conferring discretion on the Trustee shall be conclusive on all persons in any manner interested in any trust created by or pursuant to this Declaration.

6.03 - No beneficiary or remainderman of any trust shall have any right to alienate, encumber, or hypothecate his or her interest in the principal or income of the trust in any manner, nor shall any interest of any beneficiary or remainderman be subject to claims of his or her creditors or liable to attachment,

execution, or other process of law. If any creditor or other claimant attempts by any means to subject to the satisfaction of the claim of such creditor or claimant the interest of any beneficiary entitled by the provisions hereof to receive income or periodic payments from the principal or income, or both, then notwithstanding any other provisions herein, said beneficiary, during such time thereafter as the Trustee in his absolute discretion shall deem advisable, shall not be entitled to receive payments from the trust; provided, however, that during the time payments are so suspended, the Trustee in his absolute discretion may pay to or expend for the benefit of such beneficiary as much of the trust net income, not to exceed the income to which such beneficiary would otherwise be entitled, as the Trustee deems necessary for the support and education of such beneficiary in accordance with the latter's station in life. All income determined by the Trustee to be in excess of the amount thus necessary shall be accumulated and added to trust principal.

6.04 - If at any time any beneficiary entitled to receive income or principal from the trust estate is a minor, an incompetent, a person subject to incapacity, or a person whom the Trustee deems unable to handle funds properly or wisely if paid directly to the beneficiary, the Trustee, in his discretion, may make payments in any one or more of the following ways:

- (a) Directly to the beneficiary;

(b) To the natural guardian or legally appointed guardian or conservator of the person or estate of the beneficiary;

(c) By making expenditures directly for the care, support, maintenance, or education of the beneficiary; or

(d) To any person or organization furnishing care, support, maintenance, or education for the beneficiary.

The Trustee shall not be required to see to the application of any funds paid or applied in any of the aforementioned ways, and the receipt of the payee shall be full acquittance to the Trustee. The decision of the Trustee as to which of the aforementioned methods should be used in making payment shall be conclusive and binding on all parties concerned.

6.05 - The terms "issue" and "children" as used in this Declaration mean lawful issue and include legally adopted children.

6.06 - "Incapacity" is defined for purposes of this Declaration of Trust as existing whenever any Trustee or any beneficiary of any Trust created hereby comes into possession of any of the following:

(a) A court order which such Trustee or beneficiary deems to be jurisdictionally proper and still currently applicable holding a person to be legally incapacitated to act in his or her own behalf or appointing a guardian to act for him or her;

(b) Duly-executed, witnessed, and acknowledged writ-

ten certificates of two licensed physicians (each of whom represents that he or she is certified by a recognized medical board), each certifying that such physician has examined a person and has concluded that, by reason of accident, physical or mental illness, progressive or intermittent physical or mental deterioration, or other similar cause, such person had, at the date thereof, become incapacitated to act rationally and prudently in his or her own financial best interests; or

(c) Evidence, which such Trustee or beneficiary deems to be credible and still currently applicable, that a person has disappeared, is unaccountably absent, or is being detained under duress where he or she is unable effectively and prudently to look after his or her own financial best interests; then and in that event and under those circumstances:

(a) Such person shall be deemed to have thereupon become "incapacitated," as that term is used in and for all of the purposes of this instrument; and

(b) Such incapacity shall be deemed to continue until such court order, certificates and/or circumstances have become inapplicable or have been revoked.

Each person who signs this instrument or an acceptance of trusteeship hereunder does, by so signing, waive all provisions of law relating to disclosure of confidential medical information insofar as that disclosure would be pertinent to any inquiry made under this section and does thereby specifically authorize his

personal attending physician and any other attending physician to release all medical records and information pertaining to his state of health for and solely limited to the purposes set forth and described above in this paragraph.

6.07 - So long as either Husband or Wife is acting as Trustee hereunder, reserves for depreciation and appreciation shall be maintained, and any premiums paid on any bonds shall be amortized, it being the intent of the Trustors that such a Trustee shall not substantially increase income at the expense of principal.

Article 7. Resignation and Compensation of Trustee.

7.01 - The Trustee shall have the right to resign at any time, and on such resignation the Trustor shall appoint a successor Trustee. In the event of the failure, refusal, or inability of the Trustor to appoint such a successor Trustee, the Trustee or any beneficiary of any trust provided for in this Declaration may secure, at the joint expense of all trusts provided for in this Declaration and then in existence, the appointment of a successor Trustee by a court of competent jurisdiction.

7.02 - Any successor Trustee appointed as provided in Section 7.01 of this Declaration because of the death, resignation, or other act of the Trustee, shall, on such appointment being made, immediately succeed to all title of the Trustee to the Trust Estate and to all powers, rights, discretions, obliga-

tions, and immunities of the Trustee under this Declaration with the same effect as though such successor were originally named as Trustee in this Declaration.

7.03 - No Trustee under this Declaration of Trust shall be entitled to any amount as or for compensation for services under this Declaration. No bond shall be required of any person acting as a Trustee hereunder.

Article 8. Construction of Trust.

8.01 - The trusts created by this Declaration have been accepted by the Trustee in the State of California, will be administered by the Trustee in California, and the validity, construction, and all rights under this Declaration shall be governed by the laws of the State of California.

8.02 - Should any provision of this Declaration be or become invalid or unenforceable, the remaining provisions of this Declaration shall be and continue to be fully effective.

8.03 - The Trustee shall have the power, in his absolute discretion, to retain or invest in undivided interests and commingle assets of separate trusts hereunder and shall not be required to physically segregate or apportion undivided interests to the separate trusts hereunder.

8.04 - The trusts created in this instrument may be referred to collectively as the SUNDERLAND FAMILY TRUST, and each separate trust created in this instrument may be referred to by

adding the name of the beneficiary.

As the Trustees named in the above Declaration of Trust,
we approve and accept the trusts provided for in this instrument.

DATED: AUGUST 13, 1985.

Ralph C. Sunderland, Jr.
RALPH C. SUNDERLAND, JR.

June J. Sunderland
JUNE J. SUNDERLAND

We, and each of us, certify that:

(1) We, and each of us, have read the foregoing Declaration of Trust;

(2) The foregoing Declaration of Trust correctly states the terms and conditions under which the Trust Estate is to be held, managed, administered, and disposed of by the Trustee;

(3) We, and each of us, approve such Declaration of Trust in all particulars.

Executed on AUGUST 13, 1985, at Santa Barbara, California.

Ralph C. Sunderland, Jr.
RALPH C. SUNDERLAND, JR.
Trustor

June J. Sunderland
JUNE J. SUNDERLAND
Trustor

EXHIBIT "A"

1. That certain 1972 Datsun pickup truck, California License No. 361 35T.
2. That certain 1972 Datsun sedan, California License No. 415 GJB.
3. That certain 1969 Shasta Ford Econoline Motorhome, California License No. YZS 886.
4. That certain Promissory Note Secured by Deed of Trust in favor of the Trustors payable by Laurie Sunderland dated March 1985.
5. All of Husband's interest in Estado Income Plan II, a California Limited Partnership, consisting of six (6) units.
6. All of the Trustors' interest in that certain real property in the County of Klamath, State of Oregon, acquired January 12, 1976, from Bernard S. Selwyn.
7. All of the Trustors' interest in that certain real property in the County of Riverside, State of California, acquired April 19, 1979, from Arthur E. Lamel.
8. All of the Trustors' interest in that certain real property located in the County of Santa Barbara, State of California, acquired May 20, 1963, from Anton Kopec and Katherine Kopec.
9. That certain savings account No. 024-018071 at Glendale Federal Savings & Loan Association having an approximate balance of \$1,000.
10. Those certain checking accounts Nos. 247011632 and 0247014770 at Glendale Federal Savings & Loan having approximate balances of \$1,000 and \$750, respectively.
11. Those certain savings accounts Nos. 024-028864-8 and 024-028651-9 at Glendale Federal Savings & Loan Association having approximate balances of \$11,000 and \$4,000.
12. Any and all personal furniture, furnishings, supplies, art objects and other items of personal property now located at the residence of the Trustors at 3730 Calle Real, Santa Barbara, California.

APPOINTMENT OF SUCCESSOR TRUSTEE

RALPH C. SUNDERLAND, JR., and JUNE J. SUNDERLAND, Husband and Wife, Trustors of the SUNDERLAND FAMILY TRUST, hereby appoint LAURIE SUNDERLAND as Successor Trustee pursuant to Article 7, paragraph 7.01, of the SUNDERLAND FAMILY TRUST, in the event both of them shall resign or fail to act as Trustee.

DATED: AUGUST 13, 1985.

Ralph C. Sunderland, Jr.
RALPH C. SUNDERLAND, JR.
Trustor

June J. Sunderland
JUNE J. SUNDERLAND
Trustor

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12. Any and all personal furniture, furnishings, supplies, art objects and other items of personal property now located at the residence of the Trustors at 3730 Calle Real, Santa Barbara, California.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title the 11th day
of July A.D., 19 95 at 3:28 o'clock P M., and duly recorded in Vol. M95,
of Deeds on Page 17965.

FEE \$135.00

Bernetha G. Letsch County Clerk

By [Signature]