



FOUR PEAKS PLANNING, INC. REVOCABLE LIVING TRUST TERMINOLOGY

INDIVIDUALS NAMED IN THE TRUST

Trustor(s) - The Trustors (also known as Grantors), while living and competent, are the only individuals who may alter, amend or revoke their trust.

Trustee(s) - Assets placed in the trust are managed by the Trustees. The Trustees manage bank accounts, investments, the buying and selling of homes, automobiles, etc in the trust's name and distribute income as needed to the Trustors.

Most people name themselves as both the Trustors and the Trustees.

In some instances, the Trustor may appoint someone else as a Trustee but not a Trustor. A single person who relies on an adult child to help manage bank accounts may opt to list the child as a Co-Trustee. The child cannot change language (such as the distribution of the estate) but can make sure the parent's bills are paid on time.

Successor Trustee(s) - Successor Trustees manage the assets of the trust if the initial trustees are no longer able to act, similar to a Financial Power of Attorney. The Successor Trustees must follow the instructions of the trust for managing and distributing the estate.

Successor Trustees also have the power to distribute assets held in the trust for minors. Many Trustors set an age which must be attained (such as 25 yrs of age) for a beneficiary to receive his or her portion of the trust. The Successor Trustee may distribute part of his or her portion prior to the age requirement if the funds are for:

- Health**
- Education**
- Support**
- Maintenance**

Power of Attorney(s) (Health) - Power of Attorneys make medical and financial decisions in case of incapacitation. HIPAA forms are included with the Power of Attorney documents to allow a Trustor's medical records to be released to the Power of Attorney. If a living trust is properly funded, there are little or no financial assets to be managed by the Power of Attorney.

Guardians - These are people chosen to assume custody of your minor children in case of premature death of the parents.



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DOCUMENTS ACCOMPANYING THE LIVING TRUST

Revocable Living Trust - The trust is the most important document in your estate plan. It has been designed by you to accomplish several things, including:

The trust is designed to:

- Avoid probate on all assets transferred to the trust
- Reduce the risk of a Will contest by creating a plan that is less easily attacked
- Avoid or reduce death taxes (depending on the size of your estate)
- Protecting the privacy of your estate plan
- Passing what you have to whom you want, when you want, and how you want

Certificate of Trust - When you are called upon to act as Trustee, e.g., opening new accounts or acquiring new investments, you may be asked for a copy of your trust. Many times the institution will ask for the "first and last pages" of the trust. What the institution is doing is trying to verify that a legal trust has been established and that they are dealing with the Trustee.

Rather than producing a copy of the entire trust, a synopsis of the trust called the Certificate of Trust Existence and Authority outlines those portions of the trust that are of public interest. You should deliver this Certificate of Trust Existence and Authority to those who request it and let them make a copy of it for their records.

Pour Over Will - This document is called a pour-over will because it works in conjunction with your living trust, leaving all of the assets not owned by your trust to the trust when you die. As you know, your Will becomes operative only when you die, and assets in excess of the statutory small estate allowance must go through probate. **Since the assets in your trust will avoid probate, it is critical that you transfer your assets to your trust and not let them pass under this will.** It is in this section that guardianship of minors is established.

Living Will - This section contains the form required to give legal evidence to your family or physician of your decision that they should cease life support procedures if you have a terminal medical condition. **You should keep the signed original document available in your document folder since you may be unable to complete the form when it may be needed. You should also give a copy to your primary physician.**

Power of Attorney - The purpose of this document is to give full legal authority to another to manage those items of property that you may inadvertently or purposely leave out of your trust, such as your automobile or personal checking account. Should you become incapacitated, your attorney-in-fact will use this document to place all assets you may have neglected to place in the trust, to be managed and passed on under that plan.

This document also legally appoints the people you have chosen as those who will make medical, surgical or hospital decisions for you if you are not able to make or communicate such decisions for yourself. It is patterned after the standard hospital admitting form power of attorney, and will be necessary to anyone needing to have you admitted to a hospital.

PLEASE BE ADVISED THAT THERE HAVE BEEN RECENT CHANGES TO THE ARIZONA REVISED STATUTES REGARDING POWERS OF ATTORNEY. UNDER THE NEW LAWS, ALL ACTS PERFORMED BY AGENTS UNDER A POWER OF ATTORNEY MUST BE ONLY IN THE PRINCIPAL'S BEST INTEREST. THERE IS AN EXCEPTION TO THIS RULE IF OTHERWISE PROHIBITED ACTS ARE SPECIFICALLY IDENTIFIED IN DETAIL WITHIN A WRITTEN CONTRACT OR WITHIN THIS INSTRUMENT AND ARE SEPARATELY INITIALED BY BOTH THE PRINCIPAL AND WITNESS AT THE TIME OF EXECUTION (A.R.S. SECTION 46-5506). IF A VIOLATION OCCURS, AN AGENT MAY BE SUBJECT TO BOTH CRIMINAL AND CIVIL PENALTIES THAT MAY INCLUDE DISINHERITANCE, TRIPLE DAMAGES AND ATTORNEY'S FEES (A.R.S. SECTION 46-456). AN AGENT SHOULD REVIEW THE PERTINENT STATUTES BEFORE EXERCISING THE POWERS SET FORTH IN THIS POWER OF ATTORNEY.

Community Property Agreement - This document is actually a contract between spouses wherein you will declare all of your jointly held assets to be "community property." By doing so, you will receive 100% step-up in basis on all of your assets upon the death of the first spouse. This allows the surviving spouse to significantly reduce if not eliminate entirely "capital gains" on an asset that is sold after the death of one spouse.