

**THE HESS FAMILY LIVING TRUST**

**Article I. Creation of Our Trust**

Section 1. This living trust is established by Jack W. Hess and Autry C. Hess. This instrument is a revocable living trust that contains our instructions for our own well-being and that of our loved ones.

All references to "my trust" or "our trust" or "trust" shall unless otherwise stated refer to this Living Trust and the trusts created in it. All references to "Trustee" shall refer to our initial Trustees, or their successor or successors in interest. The term "Grantor" herein is used with the same legal intent and meaning as "settlor" or "trustor" or any other term referring to the maker of a trust.

Notwithstanding anything in our trust to the contrary, while we are serving as a Trustee under this Trust, either of us may act for and conduct business on behalf of this Trust without the consent of any other Trustee.

Section 2. This trust shall be known as the HESS FAMILY LIVING TRUST, dated August 14, 2006. For purposes of beneficiary designations and transfers directly to the Trust, our trust shall be referred to as: JACK W. HESS or AUTRY C. HESS or ELIZABETH A. HESS, Trustees, or their successors in trust, under the HESS FAMILY LIVING TRUST, dated August 14, 2006, and any amendments thereto. The initial trustees under our Trust are JACK W. HESS and AUTRY C. HESS and ELIZABETH A. HESS.

**Article II. Funding Our Trust**

**Section 1. Initial Funding**

We hereby transfer, assign, and convey all of our right, title and interest in and to all of our property that is permitted by law to be held in trust, wherever situated, whether personal or real, tangible or intangible, to our Trustees to hold and administer for our benefit and for the benefit of my beneficiaries.

We will also initially fund our trust with \$10 concurrent with its execution.

**a. Reliance by Third Parties**

Upon presentation by our Trustee of this Article of my Trust and a separate Affidavit of Trust stating the name and address of our Trustee, affirming that our Trust is in full force and effect, and containing any pertinent provisions of our Trust, all third parties shall rely on this transfer and follow all of our Trustee's instructions without risk of incurring any liability to us, our Trustee, or

*Jack W. Hess*

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our beneficiaries.

**b. Specific Transfers of Property**

It is our intent that, from time to time and when necessary, specific items of property will be individually transferred and titled either directly in the name of our Trust or in a nominee for the benefit of our Trust.

**Section 2. Additional Property**

Additional property interests of all kinds may be transferred to our trust by us or any other person in any manner. All property interests assigned, conveyed, or delivered to the Trustee must be acceptable to our Trustee.

**Article III. Administration of Our Trust During Our Lives**

**Section 1. Our Lifetime Powers**

During our lives, we shall have the express and total power to control and direct payments, add or remove trust property, and amend or revoke this Trust.

**a. Control and Direct Payments**

Our Trustee, during all periods of time when we are not disabled as defined in this Article, shall distribute or retain the principal and net income of the trust as either of us may direct, except that we shall have no power to direct our Trustee to make gifts of principal or income from the trust to a third party. Any gift made directly by our Trustee to a third party in violation of this provision shall be construed as a distribution made directly to us, and then a gift from us to such third party.

**b. Add or Remove Trust Property**

We shall have the absolute right to add to the trust property at any time and the absolute right to remove property, or any interest therein, from the trust at any time. Both of these rights shall be exercised in writing.

**c. Amend or Revoke the Trust**

Both of us together, by agreement, shall have the absolute right to amend or revoke the Trust, in whole or in part, at any time. Any amendment or revocation must be delivered to our Trustee in writing. This right to amend or revoke our trust is personal to us, and may not be exercised by any legal representative or agent acting on our behalf.

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## Section 2. Definition of Our Disability

Our disability, for the purposes of this Trust Agreement, shall be defined as follows:

### a. The Opinion of Two Licensed Physicians

Either of us shall be deemed disabled during any period when, in the opinion of two licensed physicians, we are incapacitated or disabled because of illness, age, or any other cause which results in inability to effectively manage our property or financial affairs.

### b. Court Determination

Either of us shall also be deemed to be disabled upon the determination of a court of competent jurisdiction that we are incompetent, incapacitated, or otherwise legally unable to effectively manage our property or financial affairs.

### c. Disappearance or Absence

Either of us shall be deemed to be disabled upon my unexplained disappearance or absence, or by being detained under duress where either of us are unable to effectively manage our property or financial affairs.

## Section 3. Procedural Guidelines for Our Disability

### a. Provide For Us

Our Trustee shall provide as much of the principal and net income of our Trust as necessary or advisable, in the sole and absolute discretion of the Trustee, for our health, support, maintenance, and general welfare.

### b. Provide for Our Obligations

Our Trustee shall provide as much of the principal and net income of our Trust as our Trustee in its sole and absolute discretion, deems advisable for the payment of any of our valid obligations as confirmed by our Trustee. Our Trustee shall provide as much of the principal and net income of our Trust as my Trustee deems advisable for the payment of insurance premiums on policies owned by us or either of us, either directly or beneficially, or our Trust.

## Section 4. Undistributed Net Income

Any net income which is not distributed under this Article shall be accumulated and added to the principal.

## Article IV. Insurance Policies and Retirement Plans

### Section 1. During Our Lives

During our joint lives, and during the life of the survivor of us, we shall have the following rights, and our Trustee shall have the following duties, with respect to insurance policies or retirement plans owned by us or payable to our trust.

#### a. Our Rights

We reserve, and may exercise without the approval of our Trustee or any beneficiary, all of the rights, powers, options, and privileges with respect to any insurance policy, retirement plan, annuity, or any other third-party beneficiary contract made payable to our Trust or deposited with our Trustee.

#### b. Our Trustee's Obligations

Our Trustee shall deliver to us or our designee, upon our written request, any and all insurance policies, retirement plan documents, annuity contracts, and all other third-party beneficiary contracts, as well as all related documents, which are owned by or deposited with any Trustee pursuant to our Trust. Our Trustee shall not be under any obligation to have any or all of such documents returned. Our Trustee shall have no obligation to see that premiums or other sums that may be due and payable under any insurance policy, retirement plan, annuity contract, or any other third-party beneficiary contract are paid. Further, our Trustee shall have no obligation with respect to any insurance policy, retirement plan, annuity contract, or other third-party beneficiary contract, as well as any documents related thereon, deposited with our Trustee, other than to provide for their safekeeping.

No provision of this Agreement shall be construed to impose any obligation on us to maintain any insurance policy, retirement plan, annuity contract or any other third-party beneficiary contract in force.

### Section 2. Upon Both of Our Deaths

Upon the death of the survivor of us, our Trustee shall make all appropriate elections with respect to insurance policies, retirement plans, and other death benefits which are owned by or payable to our Trust.

#### a. Collection of Insurance Proceeds and Other Nonretirement Death Proceeds

Our Trustee shall make every reasonable effort to collect all sums made payable to our trust or our Trustee under all life insurance policies, or other nonretirement death benefit plans, which provide

for death proceeds made payable to or owned by the Trust.

In collecting policy or death benefits proceeds, our Trustee may in its sole and absolute discretion, exercise any of the settlement options that may be available under the terms of a policy or any other third-party beneficiary contract.

Our Trustee shall not be liable to any beneficiary for the settlement option ultimately selected.

**b. Retirement Plan Elections**

Our Trustee shall have the right, in its sole and absolute discretion, to elect to receive any retirement plane death proceeds, whether under a qualified pension, profit sharing, Keogh, individual retirement account, or any other retirement plan, either in a lump sum or in any other manner permitted by the terms of the particular retirement plan.

Our Trustee shall not be liable to any beneficiary for the death benefit election ultimately selected.

**c. Collection Proceedings**

Our Trustee may institute proceedings, whether in law or equity, administrative or otherwise, to enforce payment of such proceeds. Our Trustee need not, except at its option, enter into or maintain any litigation or take action to enforce any payment until it has been indemnified to its satisfaction for all expenses and liability to which, in its sole judgement, it may be subjected.

Our Trustee is expressly authorized, in its sole and absolute discretion, to adjust, settle and compromise any and all claims that may arise from the collection of any death proceeds. The decisions of our Trustee shall be binding and conclusive on all beneficiaries.

**d. Liability of Payor**

No person or entity which pays insurance proceeds or other death proceeds to our Trustee as beneficiary shall be required to inquire into any of the provisions of this Trust or to see to the application of any such proceeds by our Trustee.

The receipt of the proceeds by our Trustee shall relieve the payor of any further liability as a result of making such payment.

**Article V. Administration of Our Trust Upon Our Deaths**

**Section 1. Payment of Expenses, Claims and Taxes**

On our deaths, our Trustee is authorized, but not directed, to pay the following: Expenses of the our last illness, funeral, and burial, including memorials of all types and memorial services of such kind as our Trustee in its sole discretion shall approve; legally enforceable claims against us or our estates; expenses with regard to the administration of our estates; federal estate tax, applicable state

inheritance or estate taxes, or any other taxes occasioned by our deaths; statutory or court-ordered allowances for qualifying family members.

The payments authorized under this Section are discretionary, and no claims or right to payment by third parties may be enforced against our Trust by virtue of such discretionary authority.

Our Trustee shall be indemnified from the trust property for any damages sustained by our Trustee as a result of its exercising, in good faith, the authority granted under this Section.

The payments authorized under this Section shall be paid only to the extent that the property in our probate estates, if any (other than real estate, tangible personal property, or property that, in our Trustee's judgement, is not readily marketable), is insufficient to make these payments.

#### Section 2. Redemption of Treasury Bonds

If any trust holds United States Treasury Bonds which are eligible for redemption at par in payment of the federal estate tax, our Trustee shall redeem such bonds to the extent necessary to pay federal estate tax as a result of our deaths.

#### Section 3. Coordination with Our Personal Representative

This Section shall be utilized to help facilitate the coordination between the personal representatives of our probate estates and our Trustee with respect to any of our property owned outside of our Trust at our deaths.

##### a. Authorized Payments

Our Trustee, in its sole and absolute discretion, may elect to pay the payments authorized under this Article either directly to the appropriate persons or institution or to the personal representatives of our probate estates.

Our Trustee may rely upon the written statements of our personal representatives as to all material facts related to these payments; our Trustee shall not have any duty to see to the application of such payments.

##### b. Purchase of Assets and Loans

Our Trustee is authorized to purchase and retain in the form received, as an addition to our Trust, any property which is a part of our probate estates. In addition, our Trustee may make loans, with or without security, to our probate estates. Our Trustee shall not be liable for any loss suffered by our trust as a result of the exercise of the powers granted by this paragraph.

##### c. Distributions from Our Personal Estates

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Our Trustee is authorized to accept distributions from the personal representatives of our probate estates without audit and our Trustee shall be under no obligation to examine the records or accounts of our personal representatives.

#### Section 4. Treatment of Exempt Property

In making any payments pursuant to this Article, our Trustee shall not use any property to the extent it is not included in our gross estate for federal estate tax purposes.

However, if our Trustee makes the determination, in its sole and absolute discretion, that nonexempt property is not available for payments pursuant to this Article, or that it is not economically prudent to use nonexempt property for the payment of such expenses, it may then use such exempt property.

#### Section 5. Apportionment

All expenses and claims and all estate, inheritance, and death taxes, excluding any generation-skipping transfer tax, resulting from our deaths shall be paid without apportionment and without reimbursement from any person, exempt as otherwise specifically provided in this trust.

Notwithstanding anything to the contrary in our Trust, estate, inheritance, and death taxes assessed with regard to property passing outside of our Trust or outside of our probate estates, but included in our gross estates for federal estate tax purposes, shall be chargeable against the persons receiving such property.

#### Section 6. Our Trustee's Authority to Make Tax Elections

Our Trustee may exercise any available elections with regard to state or federal income, inheritance, estate, succession or gift tax law.

##### a. Alternate Valuation Date

The authority granted our Trustee in this Section includes the right to elect any alternate valuation date for real estate or state estate or inheritance tax purposes.

##### b. Deduction of Administration Expenses

The authority granted our Trustee in this Section shall include the right to elect whether all or any parts of the administration expenses of our estates are to be used as estate tax deductions or income tax deductions.

No compensating adjustments need be made between income and principal as a result of such elections unless our Trustee, in its sole and absolute discretion, shall determine otherwise, or unless required by law.

c. Taxes and Returns

Our Trustee may also sign joint tax returns; pay any taxes, interest, or penalties with regard to taxes; apply for and collect tax refunds and interest thereon.

**Article VI. Distribution of Our Trust Property**

Section 1. Division Into Separate Shares

All trust property not previously distributed under the terms of our Trust during our lives shall on the death of the last Grantor be divided as follows:

To ELIZABETH A. HESS, our daughter and beneficiary, a 60% share of all property remaining in our Trust at the time of the death of the survivor of us;

To STEPHEN W. HESS, our son and beneficiary, a 40% share of all property remaining in our Trust at the time of the death of the survivor of us.

Section 2. Distribution of Trust Shares for Our Beneficiaries

The share of each beneficiary shall on the death of the last Grantor be distributed as follows:

a. Distribution of Trust Share for ELIZABETH A. HESS

The trust share set aside for ELIZABETH A. HESS shall forthwith terminate, and our Trustee shall distribute all undistributed net income and principal to ELIZABETH A. HESS, free of the Trust.

b. Distribution of Trust Share for STEPHEN W. HESS

The trust share set aside for STEPHEN W. HESS shall remain in our Trust and be administered as set out hereinabove. The trust share set aside for STEPHEN W. HESS shall terminate on his reaching 66 years of age, and at that time our Trustee shall distribute to him all undistributed net income and principal, free of the Trust.

Section 3. Retention of Distributions in Trust

Any distributions which are directed by this Article to remain in trust after the death of the survivor of us shall be administered as follows:

a. Restraint on Transfer

Any shares remaining in trust after the death of the last Grantor shall not be subject to voluntary or involuntary transfer.

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b. Beneficiary's Right to Income

Our Trustee, during the lifetime of the beneficiary, shall pay to or apply for the benefit of the beneficiary from time to time, but no less often than yearly, all of the net income from the Trust. The beneficiary may direct our Trustee in writing to distribute said income more frequently than yearly.

c. Principal Distributions in Exigent Circumstances

Should the beneficiary find himself in exigent circumstances, our Trustee may also distribute to or for the benefit of the beneficiary as much of the principal of the Trust as our Trustee, in its sole and absolute discretion, shall consider necessary for the health, maintenance and support of the beneficiary.

d. Methods of Distribution

Our Trustee may make the distributions called for in this Article in any one or more of the following ways:

Directly to a beneficiary;

To persons, corporations, or other entities for the use and benefit of the beneficiary;

To an account in a commercial bank or savings institution in the name of the beneficiary;

In any prudent form of annuity purchased for the use and benefit of the beneficiary.

e. Incomplete Distribution of Trust Share

Should a beneficiary die before the complete distribution of his or her trust share, the trust shall terminate as to that beneficiary's share, and all of the trust property to be distributed to that beneficiary shall be distributed to such persons, corporation or other entities, including the beneficiary's own estate, in the manner in which the beneficiary shall elect.

**Article VII. Ultimate Distribution Pattern**

If at any time there is no person, corporation, or other entity entitled to receive all or any part of our Trust property, then all of the trust property shall be distributed to those persons who would be our heirs at law had we died intestate owning such property.

The distribution of Trust property, for purposes of this Article, shall be determined by the laws of intestate succession of the State of Mississippi, as such laws are in effect at the time of any distribution under this Article.

**Article VIII. Resignation, Replacement and Succession of Our Trustees**

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#### Section 1. Resignation of a Trustee

Any trustee may resign by giving thirty days' written notice to us, or to all trustees and beneficiaries.

#### Section 2 Removal of a Trustee

We reserve the right to remove a trustee by agreement at any time.

After the death or disability of either Grantor, the other Grantor may remove a Trustee at any time. Neither of us need give any Trustee being removed any cause, reason or ground for such removal.

#### Section 3. Unfilled Trusteeship

In the event no named Trustees are available, any beneficiary can petition a court of competent jurisdiction to designate a corporate fiduciary as Trustee.

#### Section 4. Powers and Liabilities of Successor Trustee

Any successor Trustee, whether corporate or individual, shall have all of the rights, powers and privileges and be subject to all of the obligations and duties, both discretionary and ministerial, as given to the original Trustees.

Any successor Trustee shall be subject to any restrictions imposed on the original Trustees. No successor Trustee shall be required to examine the accounts, records and acts of any previous Trustee.

No successor Trustee shall in any way be responsible for any act or omission on the part of any previous Trustee.

### **Article IX. General Matters with Regard to the Trust**

#### Section 1. No Requirement to Furnish Bond

Our Trustee shall not be required to furnish any bond for the performance of its duties. If a bond is required by any law or court of competent jurisdiction, it is my desire that no surety be required on such bond.

#### Section 2. Court Supervision Not Required

All trusts created under this agreement shall be administered free from the active supervision of any court.

#### Section 3. Trustee's Report to Beneficiaries

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Our Trustee shall report, at least annually, to the beneficiaries then eligible to receive mandatory or discretionary distributions of the net income from the trusts created in this agreement all of the receipts, disbursements, and distributions occurring during the previous year along with a complete statement of the trust property. The trust's books and records along with all trust documentation shall be available and open at all reasonable time to the inspection of the trust beneficiaries.

#### Section 4. Trustee's Powers

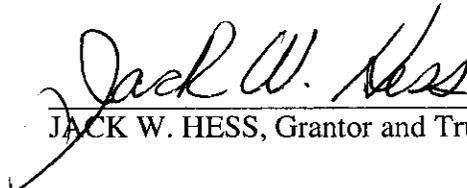
Except as other wise provided herein, our Trustee shall have all the powers granted to trustees under Mississippi State law with respect to the trusts created by this agreement.

Our Trustee shall exercise all powers granted to it as it determines in its sole and absolute discretion for the best interest of our beneficiaries.

Our Trustee may perform every act reasonable necessary to administer each and every share or trust created under this Agreement.

We have executed the Agreement this the 14th Day of August, 2006.

We certify that we have read our foregoing revocable living trust agreement, and that correctly states the terms and conditions under which our trust property is to be held, managed and disposed of by our Trustee. We approve this living trust in all particulars, and request all initial Trustees to execute it.

  
 JACK W. HESS, Grantor and Trustee

  
 AUTRY C. HESS, Grantor and Trustee

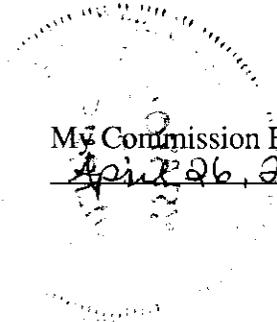
  
 ELIZABETH A. HESS, Trustee

STATE OF MISSISSIPPI

COUNTY OF DESOTO

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the State and County aforesaid, JACK W. HESS, who acknowledged that he signed and executed the foregoing Trust Agreement on the day and year therein mentioned as his voluntary act and deed, and for the purposes expressed therein.

GIVEN UNDER MY HAND and official seal of office, this the 14<sup>th</sup> day of August, 2006.



My Commission Expires:  
April 26, 2007

*[Handwritten Signature]*  
NOTARY PUBLIC

STATE OF MISSISSIPPI

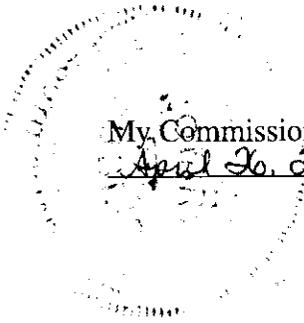
COUNTY OF DESOTO

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the State and County aforesaid, AUTRY C. HESS, who acknowledged that she signed and executed the foregoing Trust Agreement on the day and year therein mentioned as her voluntary act and deed, and for the purposes expressed therein.

GIVEN UNDER MY HAND and official seal of office, this the 14<sup>th</sup> day of August, 2006.

  
NOTARY PUBLIC

My Commission Expires:  
April 26, 2007



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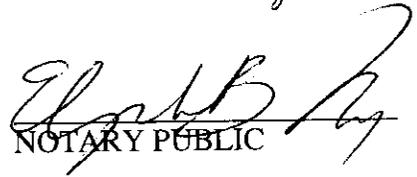
STATE OF MISSISSIPPI

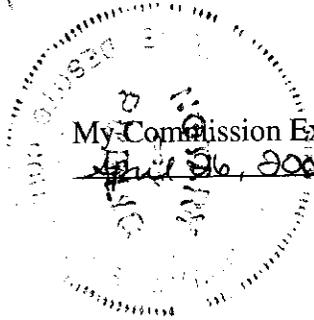
COUNTY OF DESOTO

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the State and County aforesaid, ELIZABETH A. HESS, who acknowledged that she signed and executed the foregoing Trust Agreement on the day and year therein mentioned as her voluntary act and deed, and for the purposes expressed therein.

GIVEN UNDER MY HAND and official seal of office, this the 14<sup>th</sup> day of August,

2006.

  
NOTARY PUBLIC



My Commission Expires:  
April 30, 2007

Prepared By and Return To:  
Elizabeth B. Treadway  
P.O. Box 613  
Olive Branch, MS 38654  
662-895-8170

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