

Table of Contents

Introduction to Testamentary Trust Agreement	3
Purpose of a Testamentary Trust	3
Testamentary vs. Inter Vivos Trusts	3
Importance in Estate Planning	3
Parties to the Agreement	3
The Testator	4
The Trustee	4
The Beneficiaries	4
Creation and Funding of the Trust	4
Trust Creation	4
Funding of the Trust	5
Trustee Powers and Duties	5
Fiduciary Responsibilities	5
Administrative Duties	5
Conflict of Interest	6
Distributions	6
Beneficiary Rights and Distributions	6
Beneficiaries	6
Rights of Beneficiaries	6
Distribution Guidelines	6
Trust Duration and Termination	7
Duration	7
Termination	7
Final Distribution	7
Successor Trustees and Trustee Removal	8
Successor Trustee Appointment	8
Trustee Removal	8
Trustee Resignation	8
Tax Provisions and Accounting	8
Trust Accounting and Reporting	8
Annual Reports to Beneficiaries	9
Dispute Resolution and Governing Law	9
Dispute Resolution	9



Governing Law 9

Miscellaneous Provisions **9**

Amendments 9

Severability 10

Notices 10

Definitions 10



Introduction to Testamentary Trust Agreement

This Testamentary Trust Agreement (the "Agreement") outlines the terms and conditions governing a trust established through the will of John Smith. This trust will become effective upon John Smith's death.

Purpose of a Testamentary Trust

A testamentary trust is created through a will and only comes into existence after the testator's death. Its primary purpose is to manage and distribute assets according to the instructions outlined in the deceased's will.

Testamentary vs. Inter Vivos Trusts

Unlike an *inter vivos* trust (also known as a living trust), which is established and funded during the grantor's lifetime, a testamentary trust is a component of an estate plan that is activated upon death.

Importance in Estate Planning

Testamentary trusts play a vital role in estate planning by providing control over how assets are distributed, protecting assets for beneficiaries (especially minors or those with special needs), and potentially minimizing estate taxes. This Agreement details the specifics of how this testamentary trust will be administered, the trustee's responsibilities, and the beneficiaries' rights.

Parties to the Agreement

This Testamentary Trust Agreement is made and entered into as of August 9, 2025, by and among the following parties:



The Testator

John Smith, as the Testator, is the individual establishing this testamentary trust through their will. John Smith's will directs that upon their death, the assets designated for the trust will be transferred to the trustee, to be managed and distributed according to the terms outlined in this agreement.

The Trustee

Acme, Inc (ACME-1), a business entity with its principal address at 3751 Illinois Avenue, Wilsonville, Oregon – 97070, USA, serves as the Trustee. As Trustee, Acme, Inc is responsible for managing the trust assets prudently, investing them wisely, and distributing funds to the beneficiaries as specified in this agreement. The Trustee must maintain accurate records, file necessary tax returns, and always act in the best interests of the beneficiaries.

The Beneficiaries

The beneficiaries of this trust are Jane Smith (spouse), Robert Smith (son), and Alice Smith (daughter). As beneficiaries, they are entitled to receive distributions from the trust as outlined in this agreement. They also have the right to be informed about the activities of the trust and to hold the Trustee accountable for their management of the trust assets.

Creation and Funding of the Trust

Trust Creation

This Testamentary Trust is created under the will of John Smith. It becomes effective upon John Smith's death. The trust will be administered according to the terms outlined in this agreement and in compliance with applicable state laws.

Funding of the Trust

Asset Identification and Transfer

Following John Smith's death, the personal representative of the estate will identify the assets designated to fund this trust. These assets include:



- Real estate located at 123 Main Street (primary residence).
- Brokerage account with account number Acct# 456789.
- Life insurance policy with policy number L12345.

The personal representative will transfer these assets to the Trustee. This transfer will occur through the probate court process. The transfer will adhere to the instructions provided in John Smith's will and relevant state laws.

Conditions for Funding

Before the trust can be fully funded, all outstanding debts and taxes of John Smith's estate must be settled. The transfer of assets to the trust is contingent upon the resolution of these financial obligations.

Trustee Powers and Duties

The Trustee shall have the power to manage and administer the trust assets. This includes the power to invest and reinvest assets prudently. The Trustee can sell or lease trust property. They are also empowered to manage any real estate held within the trust.

Fiduciary Responsibilities

The Trustee must act with utmost loyalty to the beneficiaries. Impartiality is required when dealing with multiple beneficiaries, ensuring equitable treatment. The Trustee must exercise prudence in all financial and administrative decisions.

Administrative Duties

Maintaining accurate records of all transactions is a key responsibility. The Trustee is responsible for ensuring all tax obligations of the trust are met in a timely manner. The Trustee will also actively manage the trust's assets to maximize their value and benefit to the beneficiaries.



Conflict of Interest

The Trustee must disclose any potential conflicts of interest. In situations where a conflict exists, the Trustee must abstain from making decisions. The beneficiaries' interests must always take precedence over any personal interests of the Trustee.

Distributions

The trustee is responsible for making distributions to beneficiaries according to the terms outlined in this agreement. The trustee must ensure that all distributions are properly documented and comply with any applicable tax laws or regulations.

Beneficiary Rights and Distributions

Beneficiaries

The beneficiaries of this Testamentary Trust are John Smith's spouse, Jane Smith, his son, Robert Smith, and his daughter, Alice Smith. Each beneficiary has specific rights and entitlements as defined below.

Rights of Beneficiaries

Each beneficiary has the right to be informed about the trust's activities. This includes receiving regular updates on trust management and financial performance. Beneficiaries also have the right to hold the Trustee accountable for their actions in managing the trust.

Distribution Guidelines

Jane Smith

Jane Smith will receive income from the trust. Income disbursements will occur quarterly. The amount of income distributed is at the Trustee's discretion.

Robert and Alice Smith



Upon reaching the age of 30, both Robert Smith and Alice Smith will each receive 25% of the trust's principal. These principal distributions are fixed and non-discretionary, meaning the Trustee must distribute the specified amount when each beneficiary reaches the designated age. The principal will be disbursed in a single lump sum payment.

Trust Duration and Termination

Duration

This testamentary trust, established under the will of John Smith, will commence upon the grantor's death and remain in effect until the earlier of the following events: Robert and Alice Smith both reach the age of 30 and have received their final distributions, or all trust assets are fully exhausted through permitted distributions and expenses.

Termination

This trust shall terminate upon the occurrence of any of the following: The complete distribution of all trust assets to the beneficiaries as outlined in this agreement; or if the trust's original purpose becomes illegal, impossible, or impractical to fulfill due to unforeseen circumstances or changes in applicable laws.

Final Distribution

Upon termination of this trust, any assets remaining in the trust estate will be distributed in equal shares to Robert Smith and Alice Smith. If either Robert or Alice Smith predeceases the termination of the trust, that beneficiary's share shall be distributed to their respective heirs at law.

Successor Trustees and Trustee Removal

Successor Trustee Appointment

If the initial trustee is unable or unwilling to continue serving, successor trustees will be appointed. The probate court will appoint successor trustees. Nominations made in John Smith's will will be considered. Agreement among the adult



beneficiaries regarding a successor trustee will also be taken into account by the court.

Trustee Removal

A trustee may be removed from their position for certain reasons. These reasons include: breach of fiduciary duty, mismanagement of trust assets, or conflicts of interest. To remove a trustee, a petition must be submitted to the probate court. The court will review the petition and make a determination based on the evidence presented.

Trustee Resignation

A trustee may resign by providing written notice. This notice must be given to the beneficiaries of the trust and to the probate court. The resignation is subject to approval by the court.

Tax Provisions and Accounting

The Trustee is responsible for fulfilling all tax obligations related to the Trust. This includes preparing and filing Form 1041 (U.S. Income Tax Return for Estates and Trusts) with the IRS, as well as any required state tax returns. The Trustee must obtain a Taxpayer Identification Number (TIN) for the Trust and use it for all tax filings and transactions.

Trust Accounting and Reporting

The Trustee must maintain accurate and detailed records of all Trust transactions. This includes income, expenses, distributions to beneficiaries, and asset valuations. All transactions should be clearly documented and organized for review.

Annual Reports to Beneficiaries

The Trustee will provide annual reports to all beneficiaries of the Trust. These reports will detail all Trust activities, including asset values at the beginning and end of the reporting period. The reports will also show all income received, expenses paid, and distributions made to beneficiaries. This will allow beneficiaries to stay informed about the Trust's financial status.



Dispute Resolution and Governing Law

Dispute Resolution

Any dispute arising from this Testamentary Trust Agreement will first be addressed through mediation. If mediation fails to resolve the dispute, the matter will then be settled by binding arbitration. The location for mediation and arbitration will be Anytown, CA unless otherwise agreed upon by all parties involved. The decision reached through arbitration will be final and legally binding.

Governing Law

The laws of the State of Delaware govern the interpretation, validity, and enforcement of this Testamentary Trust Agreement. Any legal action or proceeding relating to this Agreement will be instituted in the courts of the State of Delaware. All parties consent to the jurisdiction of Delaware courts for resolving any legal conflicts.

Miscellaneous Provisions

Amendments

This Testamentary Trust Agreement may be amended. Any amendment must be in writing. The testator, if living, must sign the written amendment. Otherwise, a court order is required for any amendment to be valid.

Severability

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect. The validity and enforceability of the remaining provisions will not be affected.

Notices

All notices relating to this Agreement must be in writing. Notices should be sent by certified mail. Notices are effective when received.



Definitions

For the purposes of this Testamentary Trust Agreement, the following definitions apply:

- "Trustee" means the person or entity appointed to manage and administer the trust assets.
- "Beneficiary" means any person or entity entitled to receive benefits from this trust.
- "Principal" means the assets originally placed in the trust by the testator.
- "Income" means the earnings and profits generated by the principal assets of the trust.

