

## **NONJUDICIAL TRUST TERMINATION AGREEMENT**

This Nonjudicial Trust Termination Agreement (hereinafter the “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, between ADAM COHEN, ESQUIRE Trustee (hereinafter referred to as “Trustee”) of The BETTY SMITH IRREVOCABLE TRUST dated August 1, 2001 (hereinafter referred to as “the Trust”), BETTY SMITH, Settlor of the Trust (hereinafter referred to as “Settlor”), and THOMAS SMITH, the Beneficiary of the Trust (hereinafter referred to as “Beneficiary”).

In consideration of the mutual covenants herein contained the parties hereto agree as follows:

### **SECTION 1**

#### **PURPOSE OF TRUST INVALID**

The parties hereto recognize and agree that the Trust was established on August 1, 2001 by the Settlor. The Settlor’s intent and purpose in creating the Trust was to take advantage of the then-favorable tax laws. At the time of the creation of the Trust, the Internal Revenue Code (the “IRC” or “Tax Code”) of the United States, specifically the provisions relating to Estate and Gift Taxes and the Unified Credit, were of such a nature that warranted the creation of this Trust. The Trust was created as a “Crummey Trust” which under the prior Tax Code would enable Settlor to maximize the tax advantages allowable to him while preserving assets for the Beneficiary.

The parties further recognize that numerous revisions to the Tax Code, especially revisions in 2010 (specifically the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act signed into law by President Obama on December 17, 2010), 2013 (the American Taxpayer Relief Act (ATRA) was signed it into law on January 2, 2013), and 2017 (the Tax Cuts and Jobs Act signed into law on December 22, 2017) effectively raised the Unified Credit amount to levels unfathomable to Settlor at the time of the creation of the Trust. As such, the tax advantages gained by the Trust at its execution are no longer necessary to serve Settlor’s original purpose in creating the Trust.

**SECTION 2**  
**TERMINATION OF TRUST**

The parties to the this Agreement recognize that pursuant to 20 Pa. C.S. § 7740 and Uniform Trust Code § 410, “A trust terminates to the extent it is revoked...[or to the extent] no purpose of the trust remains to be achieved.”

The parties to this Agreement further recognize that the pursuant to 20 Pa. C.S. § 7740.1 and Uniform Trust Code § 411, “A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination of the trust is inconsistent with the material purpose of the trust.” In such an event of termination, § 7740.1 and § 411 of the Uniform Trust Code provides that the trust property shall be divided as agreed by the beneficiaries.

In recognition of the applicable law, and the changes in the law, as set forth in Sections 1 and 2 herein, the parties to this Agreement recognize and agree that the Settlor’s purpose in creating the Trust is no longer achieved by the Trust, and the Trust, as constituted, no longer serves a purposes which cannot be achieved without the Trust.

The parties to this Agreement therefore agree that the Trust shall be terminated, pursuant to this Agreement, and in a manner consistent with 20 Pa. C.S. § 7710.1 and Uniform Trust code § 111.

**SECTION 3**  
**EFFECTIVE DATE OF TERMINATION OF TRUST**

The effective date of the termination of the Trust shall be the date of the execution of this Agreement, which shall be the date of the signature of the last-signing party to this Agreement.

**SECTION 4**  
**RELEASE OF ORIGINAL TRUSTEE**

The Settlor and the Beneficiary, in recognition of this Agreement, hereby release and hold harmless ADAM COHEN, ESQUIRE, the Trustee of the Trust from all liability in connection with any actions taken by him or not taken by him in connection with the administration of the Trust from its inception date through the date of this Agreement, excluding, however, actions of fraud or willful misconduct.

## **SECTION 5**

### **DISTRIBUTION UPON TERMINATION**

The Beneficiary recognizes that 20 Pa. C.S. § 7740.1 and Uniform Trust Code § 414 dictates that upon the termination of a trust, the trust property is distributed as agreed upon by the beneficiaries. Pursuant to this Agreement, upon the termination of the Trust, the Beneficiary disclaims her beneficial interest in the Trust in favor of the Settlor.

The parties recognize and agree that upon termination of the Trust, the Trustee shall distribute the Trust property back to the Settlor, and not to the Beneficiary. Upon receipt of the Trust property, the Settlor shall have the authority to use and control the property personally, and shall not be constrained by the dictates of the Trust, even if his use or disposition of the former Trust property is inconsistent with the dictates of the Trust.

Upon the termination of the Trust and the return of the Trust property to the Settlor, the Settlor shall have the power to change, amend, or revoke any beneficiary designations associated with any former trust property, including life insurance policies.

## **SECTION 6**

### **WAIVER OF COURT ACCOUNTING**

The Settlor and Beneficiary, desiring to effectuate the Trust termination pursuant to this Agreement in a timely and efficient manner, waive their right to be presented with a formal or informal accounting prepared by the Trustee as to the Trustee's administration of the Trust. The Settlor and Beneficiary recognize that they have had and/or will have the opportunity to review any periodic statements or financial records of the Trustee property administered. The Settlor and Beneficiary, based on their review of these documents, or upon their individual decisions not to make such an examination, the Settlor and Beneficiary are each satisfied that he or she has sufficient information to make an informed waiver of his or her right to an accounting, formal or informal, and the filing of such an accounting with the court and to object to any matter relating to the administration of the Trust.

The Settlor or Beneficiary shall have the right to request the aforesaid financial statements from the Trustee and the Trustee shall provide them such available documents in a reasonable and timely manner for their review.

## **SECTION 7**

### **NOTICE**

All parties to this Agreement recognize and agree that, by signing this Agreement, they have been given sufficient notice of the termination of the Trust, and have been afforded a reasonable amount of time to review this Agreement, the Trust, and any requested financial statements relating to trust property.

The Trustee and the Beneficiary recognize that pursuant to Pennsylvania Law and the Uniform Trust Code that the each have a right to petition a competent court to review this Agreement, and by signing this Agreement they each waive the right to have this Agreement reviewed and approved by a court.

## **SECTION 8**

### **GOVERNING LAW AND SITUS**

The parties agree that this Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

## **SECTION 9**

### **BINDING EFFECT**

This Agreement shall be binding upon the parties hereto, their employees, agents, heirs, licensees, personal representatives, successors, and assigns. Further, the Beneficiary agrees to represent and bind any future or contingent beneficiaries, including her descendants, by way of virtual representation under 20 Pa. C.S. § 7723.

This Agreement shall be binding only upon execution of the same by all of the parties to this Agreement.

## **SECTION 10**

### **MISCELLANEOUS PROVISIONS**

This Agreement may be executed in multiple counterparts or facsimiles, and copies so executed shall be binding as if they were the original signature of the signer.

IN WITNESS WHEREOF the parties, intending to be bound by this Agreement, have hereunto set their hands and seals the day and year first above written:

Dated \_\_\_\_\_, 2022

\_\_\_\_\_  
BETTY SMITH  
Settlor

Dated \_\_\_\_\_, 2022

\_\_\_\_\_  
ADAM COHEN, ESQUIRE,  
Trustee

Dated \_\_\_\_\_, 2022

\_\_\_\_\_  
THOMAS SMITH  
Beneficiary

COMMONWEALTH OF :  
 : ss.  
COUNTY OF :

BEFORE ME, the undersigned authority, personally appeared BETTY SMITH, personally known to me or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same as his free act and deed.

WITNESS my hand and official seal.

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Notary

COMMONWEALTH OF :  
 : ss.  
COUNTY OF :

BEFORE ME, the undersigned authority, personally appeared ADAM COHEN, ESQUIRE, personally known to me or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as his free act and deed.

WITNESS my hand and official seal.

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Notary

COMMONWEALTH OF :  
 : ss.  
COUNTY OF :

BEFORE ME, the undersigned authority, personally appeared THOMAS SMITH, personally known to me or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as her free act and deed.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary