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TRUSTEE DECISION MAKING AND OBLIGATIONS

When a Trust is established, we will always discuss with you the possibility or desirability of appointing an independent Trustee.

That independent Trustee plays an important role in the ongoing administration of the Trust. The independent Trustee is as important as the other Trustees and has the same powers and obligations.

One of the obligations of all of the Trustees is to act unanimously when making Trustee decisions.

A Trustee decision will only be valid if it is carried out as a joint exercise of the power by all Trustees.

This means that an independent Trustee must take a full part in the management and administration of the Trust. An independent Trustee cannot “rubber-stamp” a decision of the other Trustees.

The obligation to act unanimously applies to all matters including:

- (a) Distribution of Trust income;
- (b) Distribution of Trust assets;

(c) Sale or purchase of Trust assets;

(d) Winding up and final distribution of the Trust.

This means that if you are selling or buying a property, then all Trustees should sign the sale or purchase contract for it to be valid.

It also means that all Trustees must control the Trust fund. In other words, if the Trust earns income and that money is sitting in a bank account, then all Trustees should be consulted as to how that money is distributed to beneficiaries.

One Trustee cannot use the Trust bank account as his or her own personal property.

Once again this is just another example of how a Trust must be properly managed for it to remain valid.

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