

## **SUMMARY OF INCLUDED DOCUMENTS**

The following documents are included in this NFA Firearms Trust Package:

1. THE JOE SAMPLE FIREARM'S TRUST (with Schedule "A");
2. Certification of Trust;
3. Bank instruction letter;
4. Appointment of Co-Trustee;
5. Resignation of Co-Trustee;
6. Bill of Sale;
7. Transfer Instructions.

### **TRUST:**

This is the main document and it (along with the Certificate) must be signed by you and then acknowledged by a Notary Public. Any firearms not specifically left to a designated person (assuming they are not a "prohibited person") can be held in the trust and/or sold by the successor Trustee (the proceeds of any sales are added to the remainder of the Trust); when the trust no longer owns any restricted firearms the trust is distributed to the remainder beneficiaries as set out in Paragraph 6.C.

This trust is "revocable" which means that you can change ("amend") any provision in the trust (except those provisions affecting the trust's qualification as a NFA Firearms Trust) at any time in the future; any amendment must be in writing and must also be acknowledged by a Notary. The completed trust should be kept with your important papers. It is not necessary to file or record the trust with any governmental entity; however, a copy of the trust must be submitted to the NFA with any application for the purchase of a restricted firearm (see the transfer instructions provided at the end of this package).

### **SCHEDULE "A" TO THE TRUST:**

To exist, a trust must have a "corpus" (i.e., the "body"), so it is necessary to initially fund the trust and then additional assets (e.g., the firearms) can be transferred to an existing trust. You should indicate the amount being used to initially open the trust checking account (this can be as small as \$10); if you have existing firearms which will be initially transferred to the trust with the Bill of Sale (see below), you should list these items as well. You should sign the Schedule "A" concurrently with the signing of the trust.

You will note that there are also included two blank REVISED SCHEDULE "A" TO THE JOE SAMPLE FIREARM'S TRUST (you may want to make extra copies before using the second one). The revised schedule should be completed as you acquire assets owned by the trust; at a minimum, the revised schedule should show the trust's checking account (which can be entered as "1. Checking Account #: \_\_\_\_\_ located at [Bank's Name], [Bank's Address].") and the restricted firearm(s) purchased for the trust (which should include a description of the item, the manufacturer and any identifying numbers). Again, you should sign the Revised Schedule "A" each time there are changes (i.e., additions and/or deletions); only the latest revision needs to be kept with the trust (Note: this is not an "amendment" as discussed in the previous paragraph).

### CERTIFICATION OF TRUST:

The Certification sets forth the existence of your Trust and your unlimited right as Trustee to deal with any account or asset held in the Trust. The Certification acts as a short version of the Trust Agreement and gives any third party (e.g., the bank) all the information required from the Trust without getting into the dispositive provisions, which are (and should remain) confidential. Please note, for BAFTE registration, you will have to provide a complete copy of the executed trust.

### BANK INSTRUCTION LETTER:

This Letter should be given to your bank to create a new checking account for the trust; this account should be used for all payments and fees relating to the purchase of any firearms to be owned by the trust. Please note, as long as you are alive and acting as the Trustee, your trust is characterized (for income tax purposes) as a “Grantor-type Trust”; accordingly, there is no separate tax identification number required for the trust (you will use your Social Security Number) and all income attributable to the trust (e.g., interest and/or gain from the sale of a trust asset) should be shown on your income tax return. FYI, the term “U/A” stands for “under agreement”.

### APPOINTMENT OF CO-TRUSTEE:

Pursuant to federal law, only a current Trustee is permitted to use or even possess a restricted firearm owned by the trust; an unauthorized person in possession of a restricted firearm can be subject to serious felony criminal charges. This Appointment can be used to make any other person or persons a current co-Trustee and, as a result, give such co-Trustee(s) the right to the immediate use of a trust asset. This form is not to be completed until needed.

### RESIGNATION OF CO-TRUSTEE:

If it is no longer necessary or appropriate for a person appointed as a co-Trustee to continue to act as such, this form can be used for the resignation of the co-Trustee. Again, this form is not to be completed until needed.

### BILL OF SALE:

This is an optional form which can be used to transfer any existing firearms into the trust, whether restricted or not.

# THE JOE SAMPLE FIREARM'S TRUST

THIS TRUST AGREEMENT is entered into by **JOE SAMPLE**, as Trustor, and **JOE SAMPLE**, as Trustee.

## ARTICLE I

### RECITALS AND CONVEYANCE

WHEREAS, Trustor, **JOE SAMPLE**, desires to establish a trust for the ownership and possession of firearms which are, or may be regulated by any federal and/or state law. The persons holding an interest in this trust are Trustor and the beneficiaries hereinafter set forth in Article VI;

WHEREAS, this trust shall be initially funded with the assets described in the attached Schedule "A" entitled "INITIAL TRUST FUNDING"; these assets and any assets later added to the trust (as may be listed on a revised Schedule "A") shall be known as the "trust fund" and shall be held, administered and distributed as provided in this document and any subsequent amendments to this document;

NOW, THEREFORE, the Trustee acknowledges receipt of the trust fund and shall hold the same in trust under the following terms, conditions and provisions:

## ARTICLE II

### DECLARATIONS

2.A. **Trust Name.** This trust shall be known as THE JOE SAMPLE FIREARM'S TRUST.

2.B. **Successor Trustee.** If the undersigned should cease to act as the Trustee for any reason, the other then-acting co-Trustee(s) (if any) shall continue to act. If no co-Trustee is then-acting, my wife JANE SAMPLE shall act as the successor Trustee.

While co-Trustees are acting, only one signature shall be required to conduct business with respect to property and/or assets held or owned by the trust. Any third party dealing with the trust may rely upon this singular authority without any further evidence.

2.C. **Trust Fund.** Trustor, and/or any other person, may add to the principal of the trust by deed, will, or otherwise.

2.D. **Definitions.** For any interpretation of this Trust Agreement, the following definitions shall apply:

- **BATFE.** The term "BATFE" shall refer to the "Bureau of Alcohol, Tobacco, Firearms and Explosives".

- *Beneficiary.* The term “beneficiary” or “beneficiaries” shall mean any person whose right to receive assets from the trust is currently vested;
- *Cease to Act.* The phrase "cease to act" shall mean the resignation, death, incapacity or disappearance of a Trustee;
- *Code.* Any reference to the “Code” shall refer to the Internal Revenue Code of 1986, as amended, and to any regulations pertaining to the referenced sections;
- *Descendants.* The term “descendants” shall include a person's lineal descendants of all generations;
- *Disappearance.* The term “disappearance” shall mean the individual's whereabouts remain unknown for a period of sixty (60) days. If any beneficiary (including Trustor) is not seen or heard of for a period of one year and no physical remains or body has been recovered, it shall be presumed that such beneficiary is not alive;
- *Firearm.* The term “firearm” shall mean a device from which a shot is discharged by gunpowder or the energy of another explosive and shall include rifles, guns, handguns and any accessory which may become part of the device.
- *Incapacity.*
  - (a) In the case of a question or dispute, incapacitation of a Trustee (whether such Trustee shall be the Trustor or a successor) shall be evidenced by written certification of two (2) physicians that the individual is unable to effectively manage his or her own property or financial affairs, whether as a result of age, illness, use of prescription medications, drugs or other substances, or any other cause;
  - (b) If there is no question or dispute, incapacitation of a Trustee shall be established by the written declaration of only one doctor;
  - (c) An individual shall be deemed restored to capacity whenever the individual's personal or attending physician provides a written opinion that the individual is able to effectively manage his or her own property and financial affairs; and,
  - (d) An individual shall be deemed incapacitated if a court of competent jurisdiction has declared the individual to be incompetent or legally incapacitated. If an individual fails to grant the court making such determination valid authorization to disclose the person's protected health information under any applicable federal and/or state statute, or if the person

subsequently revokes such authority, the individual shall be deemed incapacitated;

- *Issue.* The term “issue” shall refer to lineal descendants of all degrees and shall include adopted persons; provided however, that such term shall refer only to the issue of lawful marriages and illegitimate children only if a parent/child relationship existed between such child and his or her parent, living or deceased, as determined under Oregon law. A child in gestation which is later born alive and survives for thirty (30) days shall be considered as issue in being throughout the period of gestation;
- *Licensed Dealer.* The phrase “licensed dealer” shall mean an individual or a company engaged in the business of the interstate and/or intrastate sale of firearms and who holds an appropriate Federal Firearms License issued pursuant to the “Gun Control Act of 1968” (44 U.S.C. ch. 18) for the type of firearm being sold (i.e., Class I or Class

III).

- *NFA.* The term “NFA” shall refer to the “National Firearms Act”, as defined in 26 U.S.C. ch. 53.
- *Per Stirpes.* Whenever a distribution is to be made “per stirpes”, the assets are to be divided into as many shares as there are then-living children and deceased children who left living descendants. Each living child shall receive one share and each deceased child's share shall be divided among such deceased child's then-living descendants in the same manner;
- *Prohibited Person.* The phrase “prohibited person” means any person who is prohibited from owning or possessing a firearm by any state and/or federal law, statute or regulation; specifically including the Gun Control Act of 1968 (44 U.S.C. ch. 18).
- *Pronouns and Gender.* In this Trust Agreement, the feminine, masculine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates;
- *Restricted Firearms.* The phrase “restricted firearm” or “restricted firearms” shall refer to any Title II Firearm (as hereinafter defined) as well as any other firearm the ownership, possession and/or transfer of which is regulated by any state and/or local jurisdiction in which the trust is situated.
- *State Law, Statute or Regulation.* The phrase “state law, statute or regulation” shall mean the laws, statutes or regulations of the State of Oregon and the laws, statutes or regulations of any other state and/or local jurisdiction which regulates the

ownership, possession and/or transfer of any firearm owned by the trust within that state and/or jurisdiction.

- *Title II Firearms.* The phrase “Title II Firearm” shall refer to those firearms whose ownership, possession and/or transfers are regulated by the NFA (also referred to as “Class 3 Firearms” and “Class III Firearms”).

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**ARTICLE IV**  
**TRUSTEE'S POWERS**

Specifically subject to the provisions and limitations of Paragraph 4.E. as hereinafter set forth, In addition to the above, the Trustee shall have all of the powers authorized by the Oregon Uniform Trust Code (as though such powers were set forth herein) and, in addition, the Trustee is specifically authorized and empowered to exercise those powers hereinafter set forth in this Article IV:

4.A. **Bank Accounts.** To open and maintain bank accounts in the name of the Trustee with any bank authorized and doing business in any State of the United States of America. If more than one Trustee shall be acting, the Trustees may designate one or more of them to conduct banking activities and to make deposits, withdrawals and endorsements upon giving written notice of such designation to the bank in question; and such bank shall be protected in relying upon such designation;

4.B. **Contracts.** To enter into contracts which are reasonably incident to the administration of the trust;

4.C. **Manage and Control.** To buy, exchange, repair; to sell or otherwise dispose of the whole or any part of the trust fund on such terms and for such property or cash or credit, or any combination thereof, as the Trustee may deem best; and to secure such insurance, at the expense of the trust fund, as the Trustee may deem advisable;

4.D. **Loans.** To borrow for the trust fund from any person, corporation or other entity, including the Trustee, at such rates and upon such terms and conditions as the Trustee shall deem advisable, and to pledge as security any of the assets of the trust fund for the benefit of which such loan is made by mortgage or deed of trust or any other form of hypothecation;

4.E. **Firearms.** Notwithstanding any other provision of this trust (or any other document incorporated by reference by this trust), any firearms owned by the trust which are subject to any state or federal law, statute or regulation shall be held and transferred in the manner hereinafter stated:

(1) *Ownership.* Before the trust shall maintain ownership of any firearm, the Trustee shall comply with all state and federal requirements for the registration of such firearm; including, registration of all Title II Firearms with BATFE. Further, the Trustee is expressly prohibited from altering a firearm in such a manner that it would then be a prohibited firearm or from obliterating, removing, changing, or altering the serial number of the firearm.

(2) *Use and Possession.* The custody, control, use and possession of any firearm owned by the trust shall remain exclusively with the current Trustee of the trust.

(3) *Transfers.* Before the transfer of any firearm from the trust to any person or other entity, the Trustee shall comply with all state and federal requirements for the transfer of such firearm; including, the payment of all applicable transfer taxes.

(4) *Prohibited Transfers.* Before the transfer of any firearm to anyone other than a licensed dealer, the Trustee shall use due diligence to determine that the transferee is not a prohibited person.

4.F. **General Powers.** To have all rights and powers and do any and all acts necessary, proper or desirable for the benefit of the trust fund and its beneficiaries, which may be authorized and enabled by NFA and by the laws, statutes or regulations of the State of Oregon and the laws, statutes or regulations of any other state and/or local jurisdiction which regulates the ownership and/or transfer of any firearm owned by the trust within that state and/or jurisdiction.

## ARTICLE V

### TRUSTOR'S RETAINED POWERS

5.A. **Revocation.** During the Trustor's lifetime, this Trust Agreement may be revoked in whole or in part by an acknowledged instrument in writing signed by the Trustor which shall refer to this Trust Agreement and this specific power and which shall be delivered to the thenacting Trustee.

5.B. **Amendment.** Trustor may at any time during the Trustor's lifetime amend any of the terms of this Trust Agreement by an acknowledged instrument in writing signed by the Trustor which shall refer to this Trust Agreement and this specific power and which shall be delivered to the thenacting Trustee.

5.C. **Powers Terminate on Death.** On the death of the Trustor, this Trust Agreement may not be amended, revoked, or terminated (except as hereinafter provided in Article VI).

## ARTICLE VI

### DISPOSITION OF TRUST FUND

6.A. **Trustee's Basic Duties.** During the term of this Trust Agreement, the Trustee shall hold, manage, invest and reinvest the trust, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this Article VI.

6.B. **Discretionary Distributions.** During the Trustor's lifetime, the Trustee shall pay the income and/or the principal of the trust as the Trustor shall direct. If Trustor becomes physically or mentally incapacitated, whether or not a court of any jurisdiction has declared the Trustor in need of a conservator and/or a guardian, the Trustee shall pay over or apply the income and/or the principal of the trust for the Trustor's support, maintenance, comfort, and/or well-being, in such

amounts and to such extent as the Trustee, in its sole judgment and discretion, shall deem to be in the Trustor's best interests. After the Trustor's death, the Trustee may pay the income and/or the principal of the trust to any of the beneficiaries of the trust (as hereinbelow set forth), such distributions (if any) to be in the Trustee's absolute discretion; provided, however, no firearm which may be part of the principal of the trust shall be distributed to a prohibited person.

**6.C. Distribution of Principal.** After the death of the Trustor, the trust shall be held, administered and distributed as follows:

(1) Until such time as the trust no longer owns any restricted firearms, the Trustee shall hold the trust for the benefit of Trustor's wife JANE SAMPLE, if she is then-living; provided, however, if she is not then-living, the trust shall be held for the benefit of Trustor's heirs; the identities and respective shares of such heirs to be determined according to the laws of the State of Oregon in effect at the date of execution of this Trust Agreement.

(2) When the trust no longer owns any restricted firearms, the Trustee shall distribute the remaining assets of the trust to the beneficiary then entitled to the benefit of the trust as hereinabove set forth in subparagraph (1). If more than one beneficiary is then entitled to the benefits of the trust, such distribution shall be made in equal shares. When the remainder of the trust has been completely distributed, the trust shall terminate.

Executed on \_\_\_\_\_, 2014, in Your County, Oregon.

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**JOE SAMPLE,**  
Trustor

I hereby acknowledge receipt of the trust fund, accept the terms of THE JOE SAMPLE FIREARM'S TRUST, and covenant that I will execute the trust with all due fidelity.

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**JOE SAMPLE,**  
Trustee

STATE OF OREGON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2014, by JOE SAMPLE.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

## **Additional Documents Not Shown Here**

- Exhibit A to NFA Trust
- Certification of NFA Trust
- Letter to Bank to open checking account in name of NFA Trust
- Appointment of Co-Trustee
- Acceptance of Co-Trustee
- Instructions for Distribution of Trust Property (NFA Weapon) at time of death