

QUALIFIED PERSONAL RESIDENCE TRUST (QPRT)

(Permits Grantor to live in residence for a period of years while transferring residence to next generation at a discount for estate and gift tax purposes.)

HIGHLIGHTS OF THE PLAN

OVERVIEW

Code Section 2702 requires that retained interests in a split-interest gift be valued at zero unless it is a qualified retained interest. In other words, split-interest gifts of remainder interests must be valued at the full fair market value of the property subject to the split-interest gift unless they are made in the form of a grantor retained annuity trust, grantor retained unitrust, nondepreciable tangible personal property, personal residence trust, or qualified personal residence trust.

A qualified personal residence trust permits the Grantor to live in his or her residence for a period of years, while transferring the residence to the next generation at a discount for estate and gift tax purposes if the Grantor lives for the full term of his or her interest in the trust. If the Grantor dies during the term of his or her interest in the trust, the full value of the residence will be included in the Grantor's estate for federal estate tax purposes. Life insurance in a life insurance trust should generally be purchased to protect against any estate taxes that might be due if the residence is included in the Grantor's estate.

THE TRUST

This trust agreement is irrevocable and lasts for a fixed term of years. It permits the Grantor to use the trust estate as his personal residence. It also permits the Grantor to add cash to the trust for the express purpose of paying trust expenses, making improvements to the residence, making an initial purchase of a residence, and/or purchasing a residence to replace another residence.

If proceeds from the sale of the residence or from insurance due to damage or destruction of the residence are not used to repair the residence or purchase a replacement within specified periods of time, the proceeds may be held in a separate account. Cash held in a separate account (see Article IV) is used to pay a qualified annuity amount to the Grantor.

This trust is designed to terminate the Grantor's interest in the trust after a fixed number of years but retain the residence in trust for the benefit of the remainder beneficiaries until the death of the Grantor. The Grantor and Trustee may enter into a separate agreement for the Grantor to rent or purchase the residence from the Trustee after the Grantor's interest in the trust terminates. [See PLR 9425028.] Please note, however, that Proposed Regulation Section 25.2702-5(c)(9), which applies to trusts created after May 16, 1996, requires the governing document to prohibit the Grantor, the Grantor's spouse, or any entity controlled by the Grantor

from purchasing the residence from the trust during the period in which the Grantor has a qualified interest in the trust or the trust is a Grantor trust.