

## **INSTRUCTIONS: Declaration of Trust**

### **WARNING**

**This document was generated using an older—and potentially out-of-date—software program that may or may not agree with the laws of your state. We recommend obtaining the latest version in order to ensure this document's validity. To upgrade at a significant discount, please call Nolo at 1-800-728-3555, Monday through Friday, from 7:00 AM to 6:00 PM Pacific Time.**

### **Before You Sign**

This section lists the steps to take before you finalize your Quicken WillMaker document and put it to use.

#### *Review Your Document*

Before you sign the trust document, make sure it says exactly what you want it to say and that you understand it all. If you want to make changes, use the program and print out another trust document. Don't write any changes on the document.

### **Get Your Signature Notarized**

Sign your living trust document in front of a notary public for your state. The notary may sign the notary statement at the end of your trust document or fill in a separate form and staple it to the trust. Be prepared to show the notary some identification and to pay a small fee for the service.

### **Making Copies**

If you need a copy of the trust document, make a photocopy of the original trust document—the one you signed and had notarized. Do not just print out and sign another copy.

### **Registering the Trust**

Some states (Alaska, Colorado, Florida, Hawaii, Idaho, Maine, Michigan, Missouri, Nebraska and North Dakota) have laws requiring that you register your living trust document with the local court. But there are no legal consequences or penalties if you don't. See Chapter 18 of the Legal Manual for instructions on how to register.

### **Storing the Trust Document**

Store your living trust document where you keep other important papers. Make sure your successor trustee knows where it is and can get hold of it soon after your death.

### **Important Reminder: Transferring Property to the Trust**

Each property item you want to hold in trust must be transferred to yourself in your capacity as trustee. If you don't take this step, your trust will not serve to avoid probate.

#### ***Items With Title Documents***

With your printed trust document you'll find a list of the items that have title documents. You'll need to get new title documents, to show that you own the property in your capacity as trustee. See Chapter 19 of the Legal Manual for instructions.

#### ***Items Without Title Documents***

Another document, called an Assignment of Property, is also automatically printed with your trust document. It serves to transfer items without title documents to yourself as trustee. Be sure to sign it, too. You don't need to have your signature notarized.

**You should transfer ownership as soon as possible after you print out and sign your Declaration of Trust.** Instructions are in Chapter 19 of the Legal Manual. (To view the Quicken WillMaker Legal Manual, open the Help menu or click the "Legal Manual" icon.)

### **A Note About Document Formatting**

In some Quicken WillMaker documents, hash marks [////] automatically appear at the bottom of a page. These marks are both a precaution and a legal necessity. In many legal documents, it is a requirement that a few lines setting out something of substance appear on the same page as the signatures. In others, the signatures, or sometimes other material, must simply be kept together on one page. These formatting requirements may result in a page break that leaves less than a full page of text on one or more pages of a document. The hash marks prevent someone from inserting additional language into the blank spaces after you have signed the document.

### **Quicken WillMaker Doesn't Provide Legal Advice**

Nolo, provider of legal content for Quicken WillMaker, publishes legal forms that are useful in many situations. But we can't tell you whether or not a form is right for you, given your circumstances. If you want advice geared to your specific situation, consult an expert. No general legal form is a substitute for personalized advice from a knowledgeable lawyer licensed to practice law in your state.

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## **Declaration of Trust**

### **Part 1. Trust Name**

This revocable living trust shall be known as the David Timothy Crowley Revocable Living Trust.

### **Part 2. Declaration of Trust**

David Timothy Crowley, called the grantor, declares that he has transferred and delivered to the trustee all his interest in the property described in Schedule A attached to this Declaration of Trust. All of that property is called the "trust property." The trustee hereby acknowledges receipt of the trust property and agrees to hold the trust property in trust, according to this Declaration of Trust.

The grantor may add property to the trust.

### **Part 3. Terminology**

The term "this Declaration of Trust" includes any provisions added by valid amendment.

### **Part 4. Amendment and Revocation**

#### ***A. Amendment or Revocation by Grantor***

The grantor may amend or revoke this trust at any time, without notifying any beneficiary. An amendment must be made in writing and signed by the grantor. Revocation may be in writing or any manner allowed by law.

#### ***B. Amendment or Revocation by Other Person***

The power to revoke or amend this trust is personal to the grantor. A conservator, guardian or other person shall not exercise it on behalf of the grantor, unless the grantor specifically grants a power to revoke or amend this trust in a Durable Power of Attorney.

### **Part 5. Payments From Trust During Grantor's Lifetime**

The trustee shall pay to or use for the benefit of the grantor as much of the net income and principal of the trust property as the grantor requests. Income shall be paid to the grantor at least annually. Income accruing in or paid to trust accounts shall be deemed to have been paid to the grantor.

### **Part 6. Trustees**

#### ***A. Trustee***

David Timothy Crowley shall be the trustee of this trust.

***B. Trustee's Responsibilities***

The trustee in office shall serve as trustee of all trusts created under this Declaration of Trust, including children's subtrusts.

***C. Terminology***

In this Declaration of Trust, the term "trustee" includes successor trustees or alternate successor trustees serving as trustee of this trust. The singular "trustee" also includes the plural.

***D. Successor Trustee***

Upon the death or incapacity of David Timothy Crowley, the trustee of this trust and of any children's subtrusts created by it shall be Komel Rasool Crowley.

***E. Resignation of Trustee***

Any trustee in office may resign at any time by signing a notice of resignation. The resignation shall be delivered to the person or institution who is either named in this Declaration of Trust, or appointed by the trustee under Section F of this Part, to next serve as the trustee.

***F. Power to Appoint Successor Trustee***

If no one named in this Declaration of Trust as a successor trustee or alternate successor trustee is willing or able to serve as trustee, the last acting trustee may appoint a successor trustee and may require the posting of a reasonable bond, to be paid for from the trust property. The appointment must be made in writing, signed by the trustee and notarized.

***G. Bond***

No bond shall be required for any trustee named in this Declaration of Trust.

***H. Compensation***

No trustee shall receive any compensation for serving as trustee, unless the trustee serves as a trustee of a child's subtrust created by this Declaration of Trust.

***I. Liability of Trustee***

With respect to the exercise or non-exercise of discretionary powers granted by this Declaration of Trust, the trustee shall not be liable for actions taken in good faith. Such actions shall be binding on all persons interested in the trust property.

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## **Part 7. Trustee's Management Powers and Duties**

### ***A. Powers Under State Law***

The trustee shall have all authority and powers allowed or conferred on a trustee under Minnesota law, subject to the trustee's fiduciary duty to the grantors and the beneficiaries.

### ***B. Specified Powers***

The trustee's powers include, but are not limited to:

1. The power to sell trust property, and to borrow money and to encumber trust property, including trust real estate, by mortgage, deed of trust or other method.
2. The power to manage trust real estate as if the trustee were the absolute owner of it, including the power to lease (even if the lease term may extend beyond the period of any trust) or grant options to lease the property, to make repairs or alterations and to insure against loss.
3. The power to sell or grant options for the sale or exchange of any trust property, including stocks, bonds, debentures and any other form of security or security account, at public or private sale for cash or on credit.
4. The power to invest trust property in every kind of property and every kind of investment, including but not limited to bonds, debentures, notes, mortgages, stock options, futures and stocks, and including buying on margin.
5. The power to receive additional property from any source and add it to any trust created by this Declaration of Trust.
6. The power to employ and pay reasonable fees to accountants, lawyers or investment experts for information or advice relating to the trust.
7. The power to deposit and hold trust funds in both interest-bearing and non-interest bearing accounts.
8. The power to deposit funds in bank or other accounts, whether or not they are insured by the FDIC.
9. The power to enter into electronic fund transfers or safe deposit arrangements with financial institutions.
10. The power to continue any business of the grantor.
11. The power to institute or defend legal actions concerning this trust or the

grantor's affairs.

12. The power to execute any documents necessary to administer any trust created by this Declaration of Trust.

13. The power to diversify investments, including authority to decide that some or all of the trust property need not produce income.

#### **Part 8. Incapacity of Grantor**

If the grantor becomes physically or mentally incapacitated, whether or not a court has declared the grantor incompetent or in need of a conservator or guardian, the successor trustee named in Part 6 shall be trustee.

The determination of the grantor's capacity to manage this trust shall be made by Daniel Theodore Crowley. The successor trustee shall, if necessary, ask Daniel Theodore Crowley to state, in writing, an opinion as to whether or not the grantor is able to continue serving as trustee. The successor trustee may rely on that written opinion when determining whether or not to begin serving as trustee.

If the successor trustee is unable, after making reasonable efforts, to obtain a written opinion from Daniel Theodore Crowley, the successor trustee may request an opinion from Mitch Heil and may rely on that opinion.

If the successor trustee is unable, after making reasonable efforts, to obtain a written opinion from Daniel Theodore Crowley or Mitch Heil, the successor trustee may request an opinion from a physician who examines the grantor, and may rely on that opinion.

The trustee shall use any amount of trust income or trust property necessary for the grantor's proper health care, support, maintenance, comfort and welfare, in accordance with the grantor's accustomed manner of living. Any income not spent for the benefit of the grantor shall be accumulated and added to the trust property. Income shall be paid to the grantor at least annually. Income accruing in or paid to trust accounts shall be deemed to have been paid to the grantor.

The successor trustee shall manage the trust until the grantor is again able to manage his affairs. The determination of the grantor's capacity to again manage this trust shall be made in the manner specified just above.

#### **Part 9. Death of a Grantor**

When the grantor dies, this trust shall become irrevocable. It may not be amended or altered except as provided for by this Declaration of Trust. It may be terminated only by





**Certification of Grantor**

I certify that I have read this Declaration of Trust and that it correctly states the terms and conditions under which the trust property is to be held, managed and disposed of by the trustee, and I approve the Declaration of Trust.

David Timothy Crowley Dated: 19 Jan 10  
David Timothy Crowley, Grantor and Trustee

**CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC**

State of Minnesota )  
 ) ss.  
County of Steele )

On January 19th, 2010 before me, Katy McMasters, a notary public in and for said state, personally appeared

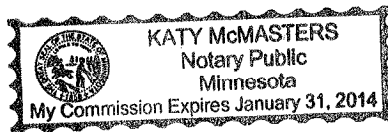
David Timothy Crowley, personally known to me (or proved on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that she/he executed the same in her/his authorized capacity, and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Katy McMasters  
Notary Public

[NOTARIAL SEAL]

My commission expires: January 31, 2014



## **SCHEDULE A**

### **Property Placed in Trust**

1. Short barrel AR15 .223 caliber rifle serial number CM74758.


## Assignment of Property

I, David Timothy Crowley, as grantor of the David Timothy Crowley Revocable Living Trust dated January 19<sup>th</sup>, 2010, hereby assign and transfer all of my rights, title and interest in the following property:

1. Short barrel AR15 .223 caliber rifle serial number CM74758

to David Timothy Crowley, as trustee of the David Timothy Crowley Revocable Living Trust dated January 19<sup>th</sup>, 2010.

Executed at Owatonna, Minnesota, on January 19<sup>th</sup>, 2010.

  
\_\_\_\_\_  
David Timothy Crowley, Grantor and Trustee

## **Property You Must Transfer Into the Trustee's Name**

You must transfer the following items into your name as trustee of your living trust. If you don't, the items won't pass under the terms of the trust document.

For each item, you must use the appropriate transfer document—for example, to transfer real estate, you must use a deed. Chapter 19 of the Legal Manual explains how to transfer title to various kinds of assets. (To view the Quicken WillMaker Legal Manual, open the Help menu or click the "Legal Manual" icon.)

- Short barrel AR15 .223 caliber rifle serial number CM74758 (check to see whether or not this property has a title document)

## **INSTRUCTIONS: Letter to the Successor Trustee**

Accompanying these instructions is a document called "Letter to the Successor Trustee," which outlines the tasks your successor trustee will be asked to handle. It's not part of the trust document and has no legal effect. But you might want to show it to your proposed choice for successor trustee, so that he or she will have an idea of what is involved. You might also want to attach it to your trust document, for your successor trustee to read when it comes time to deal with your trust.

## Letter to the Successor Trustee

You have been nominated to serve as successor trustee for David Timothy Crowley, to be in charge of carrying out the plan expressed in his revocable living trust. To perform this role well, you do not need special financial or legal knowledge. Common sense, conscientiousness and honesty are the main requirements.

### **Your Duties**

You won't have any responsibilities until David Timothy Crowley, the trust grantor, has died or can no longer manage his affairs.

#### ***Your Duties If the Grantor Becomes Incapacitated***

If the grantor becomes unable to manage his affairs—for example, because of illness or hospitalization—you will take over as trustee. Before you can assume authority you must follow the procedure outlined in Part 8 of the trust document and obtain a written opinion of whether or not the grantor is capable of managing the trust. If you obtain a written opinion stating the grantor can no longer manage the trust, you are authorized to begin serving as trustee.

You'll want the person to sign something along these lines:

"I have determined that John E. Knight, grantor and trustee of the John E. Knight Revocable Living Trust dated June 5, 2009, has become incapacitated and is no longer reasonably able to manage the trust. My determination was made on the basis of my knowledge of the grantor's circumstances and condition. Under the terms of the trust document, this determination allows the successor trustee named in that document to serve as trustee."

In this situation, you have broad authority to manage the property in the living trust and use it for the grantor's health care, support and welfare. The law requires you to act honestly and prudently and in the grantor's best interests. And because the grantor is no longer the trustee, you must file an annual income tax return for the trust. If you need professional help—from an accountant, lawyer or tax preparer, perhaps—you can pay for it out of trust assets.

#### ***Your Duties After the Grantor's Death***

After the grantor's death, you will take over as trustee. Your primary responsibility is to distribute trust property to the beneficiaries named in the trust document. That is usually a straightforward process that can be completed in a few weeks. For example,

you might need to prepare, sign and file a deed, transferring trust real estate to its new owner.

### ***Your Duties If You Must Manage a Child's Subtrust***

The trust document may direct that if any of the trust beneficiaries are under 35 when they become entitled to inherit, a separate child's subtrust be created for each young beneficiary. Your job would be to manage the trust property, and use it for the beneficiary's health and welfare. The subtrust will end when the beneficiary reaches the age set out in the trust document.

### ***Your Duties If There Is No Executor***

If the deceased person didn't leave a will appointing an executor, or no one has taken on the responsibility of distributing the person's non-trust property, that job will probably fall to you. You'll also need to make sure that debts are paid (from the deceased person's assets) and that final tax returns are filed.

### **Payment**

You are not entitled to payment for serving as successor trustee unless you manage the property in a child's subtrust. In that case, you are entitled, under the terms of the trust document, to "reasonable compensation." You decide what is reasonable and take it from the trust property left to the young beneficiary. A beneficiary who feels that the fees are much too high can go to court to challenge them.

### **If You Cannot Serve, or Choose Not To**

Being named as a successor trustee does not obligate you to serve. When it comes time, you can choose whether to accept this responsibility. And even if you do agree to serve as successor trustee, you can resign at any time.

If you do not serve, for whatever reason, the person named as alternate in the trust document will become trustee. If no one named in the trust document can serve, the last trustee to serve can appoint another successor trustee.

### **If There Is More Than One Successor Trustee**

The trust document will specify whether you can act on your own on behalf of the trust or must get the agreement of all the cotrustees. If one of you cannot serve, the others will serve. If none of you can serve, the alternate will take over.

### **Getting Help**

Many successor trustees handle the paperwork themselves with little difficulty. But you

may want some expert help, at least once in a while.

### ***Resources***

*Quicken WillMaker Plus 2009* (Nolo). The Legal Manual that comes with the software will help you understand how living trusts work. And it contains several chapters that discuss your duties, including Chapter 21, *After a Grantor Dies*. (To view the Quicken WillMaker Legal Manual, open the Help menu or click the "Legal Manual" icon.)

*The Executor's Guide: Settling a Loved One's Estate or Trust*, by Mary Randolph (Nolo). This book is a thorough guide to an executor's or trustee's duties. It explains how to wrap up someone's affairs with a minimum of heartache and hassle, from finding and protecting assets to transferring property to beneficiaries with or without formal probate.

*How to Probate an Estate in California*, by Julia Nissley (Nolo). This book shows you, step by step, how to wrap up a living trust and handle a California probate. It contains all probate court forms.

### ***Experts***

It might be useful to hire a lawyer for specific tasks—for example, to do some research for you or look over documents. And if you must prepare and file an estate tax return or other complicated document, work with an experienced lawyer or CPA.

### **Names Mentioned in the Trust**

Here are the people and organizations mentioned in the trust. (If the original document has been amended, this list may no longer be accurate.) If address and phone information was entered, it appears after the name.

#### **Komel Rasool Crowley**

Successor trustee, Beneficiary

#### **Daniel Theodore Crowley**

Determines grantor incapacity

#### **Mitch Heil**

Determines grantor incapacity