

## Charitable Remainder Trust Sample Language

\_\_\_\_\_, referred to as the DONOR, herewith establishes a charitable remainder unitrust, within the meaning of Rev. Pro. 89-20 and section 664(d) (2) of the Internal Revenue Code and hereby creates the \_\_\_\_\_ Charitable Remainder Unitrust; and designates \_\_\_\_\_ to act as the INITIAL TRUSTEE.

The DONOR transfers to the INITIAL TRUSTEE the following described property:

\_\_\_\_\_ to be held strictly in trust for the purposes and under the terms and conditions set forth herein.

The trustee shall pay to a living individual ("recipient") in each taxable year of the trust during the recipient's life a unitrust amount equal to at least five percent of the net fair market value of the assets of the trust valued as of the first day of each taxable year of the trust ("valuation date"). The unitrust amount shall be paid in equal quarterly amounts from income and, to the extent that income is not sufficient, from the trust principal.

The trustee shall operate the trust in accordance with the laws of the state of \_\_\_\_\_. However, the trustee shall not exercise any power or discretion granted under such laws that would result in a disqualification of the trust under section 664(d) (2) of the Internal Revenue Code.

The trustee shall not be precluded from investing trust assets in a manner possibly resulting in the annual realization of a reasonable amount of income or gain from the sale or disposition of assets.

In the event that the income exceeds the unitrust amount, the surplus shall be added to the principal of the trust.

If the net fair market value of the trust assets is incorrectly determined then within a reasonable time after the value is finally determined, for federal income tax purposes, the trustee shall:

In the event of an overpayment resulting from an overvaluation, collect the amount of the overpayment from the recipient;

In the event of an underpayment resulting from an undervaluation, pay the amount of the underpayment to the recipient.

In determining the unitrust amount, the trustee shall prorate the amount on a daily basis for a short taxable year and for the taxable year of the recipient's death.

Upon the death of the recipient, the trustee shall distribute the corpus of the trust, inclusive of interest and principal, except for any amounts due to the recipient's estate, to Amigos de las Américas, the charity. In the event that the charity is not an organization described in sections 170(c), 2055(a), and 2522(a) of the Internal Revenue Code at the time when any distributions are to be made to the Charity, the trustee shall distribute such principal and interest to any such organization in trustee's sole discretion.

The income of the trust for each taxable year shall be distributed at such time and in such manner as not to subject the trust to tax under section 4923 of the Internal Revenue Code. Except for the payment of the unitrust amount to the recipient, the trustee shall not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code and shall not make any taxable expenditures as defined in section 4945(d) of the Internal Revenue Code. The trustee shall not make any investments that jeopardize the charitable purpose of the trust, within the meaning of section 4944, Internal Revenue Code, or retain any excess business holdings, within the meaning of section 4943.

If any additional contributions are made to the trust after the initial contribution, the unitrust amount for the year in which the additional contribution is made shall be five percent of the sum of (a) the net fair market value of the trust assets as of the first day of the taxable years (excluding the assets so added and any income from, or appreciation and gain on such assets) and (b) the proportion of the value of the assets so added that was excluded under (a) that the number of days in the period that begins with the date of contribution and ends with the earlier of the last day of the taxable year or the recipient's death bears to the number of days in the period that begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or the recipient's death. In the case where there is no valuation date after the time of contribution, the assets so added shall be added at the time of contribution.

The donor reserves the right to dismiss the trustee and to appoint a successor.

The trust is irrevocable, however, the trustee shall have the power, acting alone, to amend the trust in any manner which is required for the sole purpose of continuation of the trust's qualification as a charitable remainder unitrust within the meaning of section 664(d) (2) of the Internal Revenue Code.

Dated: \_\_\_\_\_

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DONOR

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TRUSTEE

The TRUSTEE herewith acknowledges receipt of the trust assets described above.

Dated: \_\_\_\_\_

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TRUSTEE

Charitable Remainder Trust

Review List

This review list is provided to inform you about this document in question and assist you in its preparation. This is a standard charitable remainder trust. You should add or delete items as appropriate.

1. Make multiple copies.
2. Give one to each signatory.
3. Keep one in your home safe.
4. Keep one in the related transaction file.

*Amigos de las Américas is a 501(c)3 nonprofit organization. As such, we are not a professional financial advising organization. Any information included here does not constitute financial or legal advice. For financial and legal counsel, please consult your personal financial and legal advisers.*