

THE [EMPLOYEE]  
LEGAL EXPENSE TRUST FUND

THIS AGREEMENT, dated the last dated executed below, shall constitute a Trust Agreement between [name of grantor] hereinafter called the Grantor, and [name of trustee] hereinafter called the Trustee.

This agreement established the [employee] Legal Expense Trust Fund (the "Trust").

ARTICLE I

Trust Property

The Grantor, desiring to create a trust for the purpose of accepting funds and making expenditures in connection with legal expenses incurred by the Beneficiary relating to or arising by virtue of the Beneficiary's service to the [agency] and any other legal expenses that have arisen or may arise in any judicial, civil, criminal, administrative, state, Federal, or Congressional inquiries or proceedings arising from the same operative facts and circumstances, does hereby assign to the Trustee the sum of \$10.00 and such other property, monies, and assets payable to or contributed to the Trust which shall hereinafter come into his possession. Negotiable instruments made payable "[employee] Legal Expense Fund" shall be considered as being donated to the Trust.

## ARTICLE II

### Trust Purposes

The sole purpose of this Trust is to receive funds and to pay all expenses reasonably related to the legal representation of the Beneficiary in connection with the matter described in Article I, relating to or arising by virtue of the Beneficiary's employment by or service to the [agency], and to pay all taxes which arise from the existence of this Trust or for which the Beneficiary may become liable as a result of the establishment of this Trust. This Trust will be established, administered, and terminated in conformity with all applicable gift and ethics rules, including but not limited to 5 C.F.R. § 2635 and 5 U.S.C. §§ 7351 and 7353, and all applicable rules governing Federal Executive Branch employees.

## ARTICLE III

### Beneficiary

The beneficiary of this trust shall be [employee], but he/she shall exercise absolutely no control over the Trust property and shall receive no tangible or intangible benefit from the Trust other than such benefit that is incidental to or may have arisen from legal representation related to the purposes stated in Articles I and II.

## ARTICLE IV

### Grantor

The Grantor shall not be a prohibited source as defined in 5 C.F.R. §2635.203(d), and desires to create a trust for the purposes stated in Articles I and II.

## ARTICLE V

### Trustee

The Trustee shall not be: a relative of the Beneficiary; an employee of the Beneficiary; an employee of any organization affiliated with Beneficiary; an employee of the United States Government; a partner of, or involved in any joint venture or other investment with the Beneficiary; an entity or individual with any business that would be affected by the official duties of the Beneficiary; a law firm or a partner, associate or employee of any law firm that is representing the Beneficiary in connection with any matter of investigation, which may be entitled to payment of attorney fees from this Trust; a prohibited source as defined in 5 C.F.R. §2635.203(d); a registered lobbyist or lobbyist organization as those terms are defined by 2 U.S.C. §1602 and the Presidential Executive Order 13770; or an agent of a foreign government.

## ARTICLE VI

### Trustee's Powers

In the administration of the Trust, the Trustee shall have the following powers, which, subject to the restrictions contained elsewhere herein, may be exercised in the sole and absolute discretion of the Trustee without resort to any person or court for further authority and which shall be in addition to the powers conferred upon the Trustee by law or by other provisions of this instrument:

1. to invest and reinvest the principal and any accumulated interest of the Trust, if any, in only the following: (a) obligations of the United States; or (b) bank deposits maintained at a depository institution or trust company organized under

the laws of the United States or any of the States thereof or the District of Columbia;

2. to incur reasonable expenses on behalf of the Trust where necessary to make the Trust productive;
3. to hold cash uninvested for such length of time as the Trustee shall determine is advisable;
4. to sell, exchange or otherwise dispose of any of the Trust property as the Trustee may deem expedient;
5. to employ such agents, custodians, investment counsel and attorneys which the Trustee deems expedient and to pay them reasonable compensation for their services out of either principal or income of the Trust property, pursuant to the terms and conditions of a services agreement with the Trust;
6. to allocate to income or principal any receipt, gain, loss, or expenditure as he/she deems just and equitable under the circumstances of each case as it arises;
7. to compound, compromise, settle, and adjust all claims and demands in favor of or against the Trust estate on such terms as the Trustee shall deem just; and
8. to set up reserves from principal or income for the purpose of making provision for any liability or obligation of the Trust including reserves for the payment of any and all taxes referred to in Article II.

## ARTICLE VII

### Duties of the Trustee

In addition to the duties stated elsewhere in this Agreement, the Trustee shall have the authority to:

1. solicit and accept contributions to the trust, which may be accomplished by retaining the services of a professional fundraiser, under the following restrictions:
  - a. contributions shall not be solicited from: a subordinate federal employee; a foreign government or agent of a foreign government; a federal employee earning a federal salary that is less than the Beneficiary; or, if the Beneficiary is an appointee subject to Executive Order 13770, a registered lobbyist or lobbying organization (as defined by 2 U.S.C. §1602 and the Presidential Executive Order 13770),
  - b. contributions shall not be accepted from: a subordinate federal employee; a foreign government or agent of a foreign government; a federal employee earning a federal salary that is less than the Beneficiary; from any donor that indicates verbally or in writing that such contribution is given because of the Beneficiary's official position or because of the performance of [his/her] duties or from a prohibited source (as defined in 5 C.F.R. § 2635.203(d)), unless a specific exception under 5 C.F.R. §2635.204 applies; or, if the Beneficiary is an appointee subject to Executive Order 13770, a registered lobbyist or lobbying organization (as defined by 2 U.S.C. §1602 and the Presidential Executive Order 13770),
  - c. Contributions shall not be accepted unless the donor certifies in writing that the donor is not a prohibited source (as defined in 5 C.F.R. § 2635.203(d)) and that

the donor is not giving the gift because of the Beneficiary's official position or because of the performance of his duties,

- d. contributions shall not be accepted from anonymous sources, and
  - e. contributions solicited by the Beneficiary shall not be accepted;
2. make expenditures for the purpose described in Article II;
  3. enter into any legal agreements with legal counsel selected by the Beneficiary, including agreements relating to compensation, as may be necessary to effectuate the purposes of this Agreement;
  4. transfer to the Trust property all property, monies, and assets payable or contributed to the Trust which the Trustee may hereafter come to possess, from or through Grantor or any other source, unless the Trustee in his/her discretion determines that such property, monies, and assets shall be returned to their source;
  5. confer with the designated Ethics Official within the [agency] as needed within 30 days of the receipt of any contribution or notification by a potential donor of the intent to make a contribution, whichever is earlier, to seek a determination as to whether the contribution is from a prohibited source;
  6. confer with the Office of Government Ethics, where appropriate;
  7. distribute cash to the Beneficiary for tax purposes as related to the Trust;
  8. retain professional services on behalf of the Trust;
  9. keep Trust property separate from any of the Trustee's personal funds or any other funds;
  10. operate as a fiduciary in relation to the Trust property and the Trust purpose as stated in this Agreement;

11. provide information to the Beneficiary as necessary to comply with the Ethics in Government Act, 5 U.S.C. app. § 102(a)(2).
12. return any previously accepted contribution not in conformity with the limitations found herein or not otherwise a permissible contribution within 30 days of learning the contribution is not permissible, or, when Trustee is not reasonably able to return the impermissible contribution to the donor, to donate such contribution to one or more organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986 and made exempt from taxation under Section 501(a) thereof as selected by the Grantor in **his/her** sole discretion, without advice or input from the Beneficiary.

#### ARTICLE VIII

##### Liability of Trustee

The Trustee shall not be liable for any act, in **his/her** capacity as Trustee, undertaken in good faith and with the purpose of advancing the best interests of the Trust. No bond or other security shall be exacted or required of the Trustee in any jurisdiction.

#### ARTICLE IX

##### **Compensation of Trustee**

The Trustee, if an individual, shall be compensated from either income or principal of the Trust per hour spent in administration of this Trust in accordance with his or her usual hourly rate for professional services. In the event that the Trustee shall be the trust department of a national banking institution, the Trustee shall be compensated in accordance with the usual,

customary, and published Trustee's rates of said institution for a trust of this type and size. The Trustee may waive any or all compensation.

The Trustee shall keep a log of the time spend and a record of services performed, which log shall be available for inspection by the Grantor or his agents at reasonable times and places.

The Trustee shall further maintain documentation and an itemization of all expenses incurred in the administration of this Trust. The Grantor reserves the right to inspect such documentation at reasonable times and places.

The Trustee shall be reimbursed for all reasonable expenses incurred in the administration of this Trust.

Fees incurred by the Trustee and all expenses incurred by the Trustee shall be submitted and paid monthly, and said Trustee's fees and expenses shall have priority over other payments to accomplish the purpose of this Trust.

## ARTICLE X

### A. The Term and Disposition of Residual Funds

The Trust established by this Agreement may be terminated at any time by the Trustee upon the direction of the Grantor. The Trust shall terminate, in any event, no later than six months following the completion of the legal proceedings, as determined by the Grantor, involving the Beneficiary as a result of the matter described in Article I for which the Trust was created.

Upon termination of the Trust, no further contributions shall be accepted, and no further expenditures shall be made.

B. Distribution of Unexpended Funds Upon Termination

Funds remaining upon the termination of the Trust shall, within thirty days thereafter, be returned to contributors to the Trust on a pro rata basis or donated and distributed to one or more organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986 and made exempt from taxation under Section 501(a) thereof as selected by the Grantor in his/her sole discretion.

ARTICLE XI

The Trust shall be executed and delivered in [STATE / DC] and shall be construed and administered according to the laws of [STATE / DC].

ARTICLE XII

The Trustee herein named may, at any time following thirty (30) days' notice to the Grantor, resign as Trustee. In such event, or in the event of the death, malfeasance or incapacitation of the Trustee, the Grantor shall appoint a substitute Trustee without the need of Court approval and without consulting the Beneficiary.

IN WITNESS WHEREOF, said Grantor has hereunto set his hand and said Trustee has signed this instrument, all parties intending to be legally bound hereby on the day, month and year written below.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 201\_.

Witness:

\_\_\_\_\_

\_\_\_\_\_

Grantor

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 201\_.

Witness:

\_\_\_\_\_

\_\_\_\_\_

Trustee