

179410

**DECLARATION OF  
CLEVE D. MALLORY and DELORES D. MALLORY FAMILY TRUST**  
dated November 8, 2002

**TO WHOM IT MAY CONCERN:** PURSUANT TO N.R.S. Chapter 164

The undersigned, husband and wife, of, Elko, Nevada, 89801 have made and executed on Novemr 8, 2002, the CLEVE D. MALLORY and DELORES D. MALLORY FAMILY TRUST wherein the undersigned are Settlers or Trustors, Trustees and Beneficiaries, to which certain real and personal property have been or will be transferred. Said Trust also names and identifies the Trustees, successor and special Trustee(s) of the special trusts and concerning the events of resignation of Trustees, incompetency or the death(s) of either or both Trustors serving as Trustee(s) and the powers and authority of such Trustee(s). Provisions concerning the named Trustees, special Trustees and successor Trustees, and powers of such Trustee(s) regarding our Trust(s) are recited or paraphrased as follows:

**ARTICLE FIVE**

**Provisions relating to the Appointment and Removal of Trustees**

5.1 Original Trustees. The original Trustees are the Settlers/Trustors, CLEVE D. MALLORY and DELORES D. MALLORY. All power conferred on the original Trustees by the Trust may be exercised by them jointly or by either CLEVE D. MALLORY or DELORES D. MALLORY separately, and all third parties and entities dealing with this Trust shall rely on that, including the signature, of either CLEVE D. MALLORY or DELORES D. MALLORY serving as Trustee by his or her act alone on behalf of this Trust. For all purposes the foregoing provision is and shall be construed as a General and Durable Power of Attorney from one Settlor/Trustor and Trustee to the other Settlor/Trustor and Trustee, which shall not be affected by the subsequent incapacity or disability of the other. Upon the resignation or incompetency of an original Trustee, the other original Trustee, if competent, shall act as sole Trustee of the entire Trust estate.

5.2 Trustee of Survivor's Trust; Upon the death of one Settlor/Trustor, the surviving Settlor, if competent, may serve as the sole Trustee of the Survivor's Trust as described under Article Three. If the surviving Settlor is incompetent, then the Successor Trustee(s) shall be the as identified in 5.4.

5.3 Successor Trustees of Temporary Decedent's Trust, Credit Shelter Trust and Marital Trust Upon the Death of One Settlor: Upon the death of one Settlor/Trustor, the competent surviving Settlor, as Trustee, shall serve as sole Trustee of the Temporary Decedent's Trust, Credit Shelter Trust and Marital Trust, if such Trusts are then applicable, however, any distribution of principal from said trusts to the surviving Settlor (except as allowed under 3.6.2 hereof), which may require decisions or determinations as to the rules regarding "ascertainable standards", shall be made by WADE MALLORY and VICKI D. MALLORY McCOMBS as special Co-Trustees appointed hereby to only make such decisions or determinations for such limited purposes. If either WADE MALLORY or VICKI D. MALLORY McCOMBS is unable or unwilling to serve as a special Co-Trustee, then the

other shall serve as special Trustee for such limited purposes.

5.4 Successor Trustees of All Trusts Upon the Death, Incompetency or Resignation of Both Settlers. Upon the death, incompetency or resignation of both Settlers/Trustors, then WADE MALLORY and VICKI D. MALLORY McCOMBS shall serve as Co-Trustees of all Trusts hereunder, sole Trustee if the other is unable or unwilling to serve.

5.7 Incompetency of Individual Trustee. If, in the opinion of two duly licensed physicians not in association with each other, any individual Trustee, including a Settlor/Trustor serving as Trustee, who has suffered substantial impairment of his or her ability to care for the property of the Trust due to advanced age, illness, infirmity, mental weakness, alcohol abuse, addiction to drugs, or other cause, such Trustee shall be deemed to have resigned as Trustee. The individual, including the other Settlor/Trustor, if competent, or entity named as successor trustee shall, effective upon the date of the second physician's opinion, assume the responsibilities and duties of the resigning Trustee. Any third party having possession of or maintaining record title to any assets or interests of the Trust shall upon notification by the successor trustee of the two physicians' opinions honor the instructions of such successor trustee(s). If no successor trustee is named, as provided above in the preceding sections, a majority of adult income beneficiaries of the Trust may appoint a successor trustee.

5.8 No Court Proceeding Necessary. The appointment and qualification of the successor Trustee provided for in sections 5.2 through 5.7, inclusive, shall be effective without the necessity of any court proceeding or decree.

## ARTICLE SEVEN

### Trust Administrative Provisions

7.1 Powers of Trustee. To carry out the purposes of the Trust, and subject always to the discharge of Trustee's fiduciary obligations and any limitations stated elsewhere herein, Trustee shall be vested with the powers enumerated at NRS 163.265 through NRS 163.410, which are expressly incorporated herein by reference as though fully set forth at length. The incorporation of these powers shall not limit the general or implied powers of the Trustee. The Trustee shall have such additional powers that are now or may hereafter be conferred on Trustee by law and all powers, without restriction, that may enable Trustee to administer this Trust and the respective Trusts and shares herein created, subject only to limitations expressly provided herein.

In addition to any powers or duties now or hereafter conferred on the Trustee by law, the Trustee is specifically granted the following powers:

7.1.1 Power to Deal with Securities. To purchase, sell and trade in securities (including puts, calls, straddles and other options, covered and uncovered), limited partnerships and commodities or futures of every kind and nature, engage in any transaction (including short sales), mutual funds (including "indexed") on margin or otherwise, and for such purpose, may maintain and operate margin accounts and pledge any security, limited partnership or commodity for any loans or advances made to the Trustee.

7.1.2 Power to Consolidate Trust. To consolidate a Trust created by this

agreement with any other trust established for the benefit of the same beneficiary or beneficiaries on substantially identical terms.

7.1.3 Power to Terminate Trust. To terminate a Trust created by this agreement and to distribute the remaining assets pursuant to such Trust, if the principal held in such Trust has been reduced to such a level that the Trustee, in the Trustee's sole discretion, determines that it does not justify continued administration hereunder.

THIS DECLARATION OF TRUST is hereby made and a copy thereof with all particulars is located in the undersigned at Elko, Nevada.

TRUSTORS and TRUSTEES

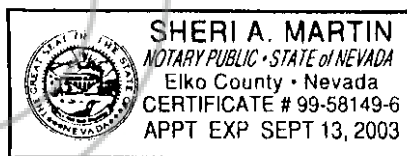
  
CLEVE D. MALLORY

  
DELORES D. MALLORY

STATE OF NEVADA )  
  ) SS.  
COUNTY OF ELKO )

On November 8, 2002, personally appeared before me, a Notary Public, CLEVE D. MALLORY and DELORES D. MALLORY, husband and wife, personally known (or proved) to me to be persons whose names are subscribed to the above instrument who acknowledged that they executed the instrument.

  
NOTARY PUBLIC



BOOK 354 PAGE 033  
OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF  
P. Michael Marfisi, Ltd  
02 NOV 13 PM 1:17

ELKO COUNTY NEVADA  
M. REBALEATI, RECORDER  
FILE NO. FEES 76<sup>00</sup>