

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

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Case No. 03-PR- 441

DEC 29 2003

**ORDER PURSUANT TO WIS. STATS. §701.12,  
FOR MODIFICATION OF TRUST**

The Petition of the Trustees of The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust, pursuant to Wis. Stats. §701.12, for modification of the Trust having been received and reviewed; and the consents of the Trust Settlers, and of the adult beneficiaries and of the contingent remainder beneficiaries not under any incapacity all having been received and filed; and the consent of the guardian ad litem on behalf of minor, unascertained and unborn beneficiaries, pursuant to Wis. Stats. §701.12 (2) having been received and filed, and the Court having been advised in the premises, and finding that the requirements of Wis. Stats. §701.12 have been met,

IT IS ORDERED That The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust be, and it hereby is, modified as follows:

Section 1.11 of the Trust hereby is created, to provide as follows:

Section 1.11 Discretionary Charitable Distributions. Notwithstanding any other provision of this Article 1, the Trustee shall have the discretion to make distributions in cash and in kind, from time to time, to or for the benefit of charitable organizations holding current and valid exempt organization

determinations from the United States Internal Revenue Service pursuant to §501(c)(3) of the Internal Revenue Code of 1986, as amended, and to cause, permit or acquiesce in such distributions to such organizations by pass-through tax entities in which the Trust may hold any interest, provided, however, that such distributions by the Trust shall not exceed, in the aggregate in any calendar year, five percent (5%) of the Trust corpus, determined as of the last day of such calendar year prior to giving effect to such distributions; and, provided, further, that with respect to any such pass-through entity such distributions by the Trust shall not exceed, in the aggregate, in any calendar year, five percent (5%) of the fair market value of such pass-through entity, determined as of the last day of such calendar year prior to giving effect to such distributions.

Section 4.03 of the Trust hereby is modified, by the creation of paragraphs a) and b) and (c) thereof, to provide as follows:

Section 4.03 Delegation of Trustee's Duties.

a) The Corporate Trustee shall not be required to maintain physical custody of assets of the Trust, provided that, as to such assets not in its physical custody, they are in the physical custody of the Individual Trustee. With respect to assets of the Trust in the physical custody of the Individual Trustee, the Corporate Trustee shall have no responsibility for any loss of, or damage to any such asset while in the physical custody of the Individual Trustee.

b) With respect to assets of the Trust that are in the physical capacity of the Individual Trustee, the Corporate Trustee shall have no duty to monitor,

manage or administer them, or any of them, for values or valuation purposes, or for enhancement or preservation of values, or for trust or income tax accounting purposes.

c) The Individual Trustee shall indemnify and hold the Corporate Trustee harmless from all loss and damage, including costs and expenses (including reasonable attorneys' fees) of defense, arising out of or attributable to any claim of a Trust beneficiary, or any third person or party relating any trust asset while held by the Individual Trustee and not in the physical custody of the Corporate Trustee.

Dated: 12/29/03

BY THE COURT:

A handwritten signature in dark ink, consisting of several overlapping, fluid strokes, positioned above a horizontal line.

In the Matter of the )  
Ronald H. Johnson and )  
Jane K. Johnson Irrevocable )  
Endowment Trust )

Case No. 03-PR- 441

### CONSENT TO ACT

State of Wisconsin )  
County of Winnebago )

Jeanne E. Baivier, being first duly sworn, on oath says that she:

1. Is an attorney admitted to practice in Wisconsin and maintains an office at 217 Ceape Ave. in Oshkosh, Wisconsin.

2. Believes herself competent to understand, protect and maintain, as guardian ad litem, the rights of Benjamin D. Johnson and the legally incapacitated, unascertained or unborn beneficiaries of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust.

3. Has no interest or feeling adverse to the interests of Benjamin D. Johnson and the legally incapacitated, unascertained or unborn beneficiaries of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust, is in no way connected in business with any adverse party or counsel, and is financially responsible to answer for any liability she may incur as guardian ad litem.

Dated at Oshkosh, Wisconsin this 19<sup>th</sup> day of December, 2003.

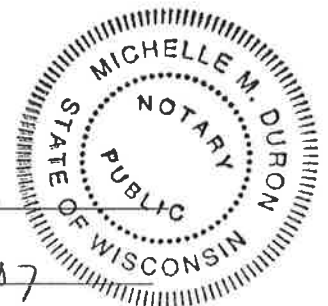
  
Jeanne E. Baivier

Signed and sworn before me on December 19<sup>th</sup>, 2003.

DEC 29 2003

  
Notary Public, State of Wisconsin

My Commission Expires: 1-7-2007



REFF BAIVIER BERMINGHAM & LIM, S.C.  
ATTORNEYS AT LAW SINCE 1858

Russell J. Reff  
Jeanne E. Baivier  
John E. Bermingham  
Michael Lim  
Daniel M. Muza  
R. Samuel Sundet

December 24, 2003

Hon. Daniel J. Bissett  
Probate Court Commissioner  
Winnebago County Courthouse  
P. O. Box 2808  
Oshkosh, WI 54903-2808

Re: Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust

Enclosed is my report and recommendation as Guardian ad Litem in the above matter.

Thank you.

Very truly yours,

  
Jeanne E. Baivier

JB

Enclosure

DEC 29 2003

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

DEC 29 2003

REPORT OF GUARDIAN AD LITEM

03 PR 441

The undersigned is the Guardian ad Litem for Benjamin O. Johnson and the legally incapacitated, unascertained or unborn beneficiaries of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust. A petition has been filed requesting, pursuant to Wis. Stats. Sec. 701.12, modification of said Trust.

In connection with this matter, I have reviewed the Trust document as well as the Petition that was submitted by the trustees to amend the language in the Trust. There has also been consultation with Steven Remark of Associated Trust Company, N.A., the acting Corporate Trustee of said Trust and James Malczewski of Virchow Krause & Company, certified public accountants, regarding the reasons for the amendments to the Trust and their interpretation of the language of these amendments.

James Malczewski recommended that these amendments be made for income tax reasons. The question arose as to whether the Trust could claim an income tax deduction for charitable contributions that it might make directly from the Trust, as well as those that might be made by pass-through entities in which the Trust had an ownership interest. Currently the Trust has a majority equity interest in an LLC which conducts a manufacturing business. The management of this LLC is vested in a manager who at this time is Ronald Johnson. Mr. Malczewski was concerned that the IRS might disallow any charitable contribution deductions claimed by the Trust because the Trust document did not specifically provide that the Trust could make charitable contributions. Further, Mr. Malczewski thought this could also jeopardize the use of deductions that are passed through to the Trust by the LLC. Conflicting authority existed regarding the ability of a Trust to claim a deduction for charitable contributions when the document did not specifically provide for them. He felt that because this Trust or the LLC may want to make charitable contributions in the future that the Trust language should be amended now to provide for this.

Allowing and permitting the Trustee to make charitable contributions directly reduces the Trusts's income tax and can potentially reduce the income taxes of both the Trust and the beneficiaries through the balancing of tax rates. The beneficiaries of the Trust will benefit from a lower amount of income tax on the distributions they receive. In searching for a direct benefit to the beneficiaries as a result of this amendment one could argue that if the beneficiaries themselves are charitably minded, the Trust becomes a vehicle for them to make charitable contributions and have the ability to balance income tax rates between the Trust and the individual tax payers. Another benefit would be that since the Johnsons (the grantors) are charitably minded, they would be more inclined to add more assets to the Trust, knowing that the Trust can make charitable contributions.

The contributions that are made by the LLC and which become an income tax deduction for the Trust create an income tax benefit for the Trust but do not require that the Trust actually

expend any of its funds to generate this deduction. The cash used to make the donations comes out of the LLC. Thus, in the current matter beneficiaries will receive a direct benefit from the tax savings realized by the Trust. Currently, the Trustee of the Trust does not have any ability to restrict the charitable contributions that are made by the LLC since it does not have voting control or the management responsibility for the LLC. But as a majority equity owner of the LLC the Trust will be able to claim a deduction for these contributions and it will not have expended any of its funds to generate this deduction. The Trust beneficiaries in turn derive a significant benefit because the Trust's income tax is reduced, resulting in more assets remaining in the Trust that will be available for future distributions to the beneficiaries.

The proposed amendment to the Trust language also limits the aggregate amount of the contributions that the Trust can make directly to 5% of the Trust corpus in any calendar year. Therefore the overall limitation on the Trust is the 5% of Trust corpus. Since at some point in the future the Trustee may control the LLC and be the one deciding on the amount of contributions that the LLC makes, this second limitation will apply to the contributions that the pass-through entity makes. This language refers to the fair market value of the pass-through entity and not the percentage of the entity owned by the Trust. As a result the application of the limitation would apply if and when the Trustee controls the LLC or any other pass through entity.

The unknown beneficiaries do not have a vested interest in the Trust but instead a contingent vested interest. The language of the Trust includes numerous contingencies that can cause a denial of benefits to a beneficiary. Further, the Trustee does not have to distribute anything to a beneficiary if the beneficiary can pay the cost of the item on his or her own. It can be argued that a beneficiary's right to Trust assets is not absolute and accordingly, the beneficiary does not have a basis to object to the proposed modification to the Trust. Lastly, it appears that the beneficiaries will receive distributions from the Trust regardless of the amount of charitable contributions that the Trust makes. The Trustee has the discretion to decide whether to make a distribution to a beneficiary or make a charitable contribution with the needs of the beneficiaries being the primary consideration according to the Trust language.

Based upon the foregoing analysis, the undersigned does not have any objection to the modification of the Trust as set forth in the Petition. The undersigned consents to such modification and waives notice of any hearing on the Petition.

Dated this 24<sup>th</sup> day of December, 2004



Jeanne E. Baivier  
P.O. Box 1190  
Oshkosh, WI 54903-1190  
State Bar No. 1016457

**THE RONALD H. JOHNSON AND JANE K. JOHNSON  
IRREVOCABLE ENDOWMENT TRUST**

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DEC 19 2003

Trust Agreement entered to this 29<sup>th</sup> day of December, 1997, by and between Ronald H. Johnson and Jane K. Johnson, adult residents of the State of Wisconsin, hereinafter called the "Grantors"; and Jane K. Johnson and Associated Bank, N.A. hereinafter together or singularly called the "Trustee".

The above-named Trustee, and the successors thereto, shall serve as the Trustee for each and every Trust/Subtrust as may come into existence from time to time hereunder.

This Trust Agreement, entered into by and between the Grantors and the Trustee for the purpose of creating a Trust, for convenience, shall be designated the Ronald H. Johnson and Jane K. Johnson IRREVOCABLE ENDOWMENT TRUST.

Ronald H. Johnson, as Grantor, is depositing with the Trustee his individual personal property listed at Schedule A attached hereto. Jane K. Johnson does not now, but may in the future deposit additional property. For that reason, and because her life is a measuring life for certain purposes of this Trust for drafting convenience, she is termed a "Grantor" or "Trust Grantor" in this Agreement. That property, together with any reinvestments of the property, and any additions to said property as made by the Grantors or as made by other persons is the "Trust Estate".

By signing this Agreement and accepting the Trust Estate, the Trustee agrees to hold, administer and distribute the Trust Estate as set forth according to the terms, conditions and covenants of this Trust Agreement. During the life of each of the Grantors, and until the time of death of the last of the Grantors, and where the Grantors continue to make any deposit of moneys or other property to the Trust Assets hereunder, the following terms and provisions shall be in force and effect:



## ARTICLE I

### Dispositive Provisions

1.01 Discretionary Distributions. During Grantors' lives and after Grantors are both become deceased, the initial Trust Estate and each separate Subtrust (Trust Share) created hereafter may be distributed all or in part to members of the Class Of Beneficiaries for whom the Trust is created (as described in Paragraph 1.02) as follows:

In its sole discretion the Trustee may pay as much of the net income and/or trust principal as the Trustee from time to time considers advisable for the general health, education and higher education of any one or more members of the Class Of Beneficiaries. Upon the death of the later of the children of the Trust Grantors Ben Johnson, Carey Johnson and Jenna Johnson, if the Trust has an inclusion ratio of greater than zero (0), then the Trustee shall pay to the Ronald H. and Jane K. Johnson Foundation (or, if there be no such Foundation, to the Oshkosh Foundation, Inc.) an amount of trust income at least equal to 10% of trust income. All distributions to the Class of Beneficiaries shall be made according to the needs of the various members of the Class of Beneficiaries rather than equally among them. However, the Grantors' direction to the Trustee is that if there is no exceptional need for a member of a Class Of Beneficiaries for health, welfare, maintenance or higher education, then the Trustee should exercise its discretion so that distributions between members of the Class of Beneficiaries will be fairly equitable. This direction to the Trustee shall be in effect for all paragraphs and subparagraphs hereinafter provided.

In determining whether to make a distribution to any one or more members of the Class Of Beneficiaries, the Trustee shall consider the Trust Grantors' intention that the Trust income, and/or principal be used primarily for the following purposes:

(a) Health Care Expenses, including dental, psychological and other purposes for which an Income Tax Deduction under Section 213 of the Internal Revenue Code of 1986, as amended from time to time is or would be allowable, after taking into consideration applicable medical insurance or, if there is none then in effect for such member, the reason(s) why such member then has no such insurance in effect, and further provided that the Trustee shall have the sole discretion to determine the maximum dollar amount that will be paid for such health care expenses for any member of the Class Of Beneficiaries. The Trustee may, but is not required to, purchase and maintain in effect for the benefit of any such member, such policies of insurance for health care expenses in such amounts as the Trustee may determine. It is not the Trust Grantors' intention that the terminology "health care expenses" include medical expenses for treatments which are not required for medical health purposes. As an example, cosmetic surgery that is not necessary for a health related purpose, either physical health or psychological health (i.e., for example, a face lift operation incurred on account of natural ageing of the skin) is not considered necessary for either physical health or psychological health).

(b) Educational Expenses, including tuition for all educational levels from private pre-kindergarten through accredited post-college graduate schools. Educational expenses to be supported by distributions from the Trust include, but are not limited to: tuition; room and board; fees; educational materials; travel as part of an accredited education program; and travel from home/school on term breaks. Educational expenses also relate to any technical school/college courses relating to accreditation in a recognized trade or profession.

(c) Distribution for Purchase of Residence. The Trustee may in its discretion distribute Trust income and/or principal to a grandchild or great-grandchild or Beneficiary as enumerated in Section 1.03 herein (whether married or unmarried) who has then attained the age of

twenty-five (25) years, for the purpose of assisting such Beneficiary in buying a residence. The Trustee shall take such measures that may be necessary to ensure that any amount distributed under this paragraph is applied directly to the purchase of such residence.

(d) Discretionary Distribution to Member who is a Homemaker with Minor Child/Children.

In the case of a Member of the Class Of Beneficiaries who has a minor child or children, and as long as any one of said children is of the age of sixteen (16) years or less, and where said Member has graduated from high school or has obtained the equivalent of a high school degree, the Trustee may, in its discretion, make annual distributions of amounts of Trust income and/or principal for up to ten (10) years (which need not be a consecutive ten (10) year period of time) under the following circumstances:

If such Member falls within the Class Of Beneficiaries hereunder, whether male or female, and the following circumstances exist:

Such Member/Beneficiary (or his/her spouse) is a homemaker caring for a minor child or children; and

Such Member/Beneficiary (or his/her spouse) is not then employed outside the home.

If such Member/Beneficiary is then divorced, but is a homemaker caring for minor child or children, and whether or not employed outside of the home, he/she shall be eligible for Beneficiary Benefits hereunder.

If the former spouse, of Member/Beneficiary (former spouse through either death or divorce) has the then care, custody and control of a minor child or children, and is a homemaker providing for the care of such minor child or children, and regardless of the fact that

he/she may be employed outside of the home, he/she may be eligible for Beneficiary Benefits hereunder; provided however, that he/she shall not be considered a Member/Beneficiary that would be entitled to the power to withdraw Trust property under Section A.1 through A.2-A hereof.

(e) Business Acquisition Distributions. The Trustee may, in its discretion, make distributions to a member of the Class of Beneficiaries for the purpose of assisting such member in the acquisition or expansion of a business which shall include developing real estate; Provided, however, that for any such distribution, the maximum amount(s) thereof shall be determined within the sole discretion of the Trustee.

(f) Distributions to Disabled Beneficiaries. The Trust Grantors recognize that, due to a physical or mental condition beyond the control of a member of the Class of Beneficiaries, a Member/Beneficiary may not be able to qualify for distributions under any one or more of the subparagraphs set forth above. It is not the Trust Grantors' intention to foreclose any such Member/Beneficiary from benefits hereunder. Rather, with respect to any such Member/Beneficiary whose physical or mental condition can be medically documented by evidence satisfactory to the Trustee, the Trustee shall be authorized in its discretion to make distributions to and for the benefit such Beneficiary, for such Beneficiary's health, maintenance, support, education and higher education, after taking into account other resources reasonably available to such Member/Beneficiary, including, without limitation, government benefits and benefits available to such Member/Beneficiary under private insurance. The Trustee may, but is not required to, purchase and maintain in effect for the benefit of any such Member/Beneficiary long term disability insurance in such amount as the Trustee may determine.

(g) Discretion of Trustee. Notwithstanding the detailed nature of many of the above distribution provisions, the Trust Grantors are aware that their guidelines to the Trustee will not

cover all circumstances which could arise during the administration of this Trust. Therefore, the Trustee shall have the broad discretion to make decisions and establish policies not inconsistent with the guidelines herein contained in order to carry out the Grantors' purposes hereunder. These purposes are to promote education, hard work, achievement, integrity, high moral character and family unity of the beneficiaries of this Trust. In exercising discretion regarding whether a member of the Class Of Beneficiaries qualifies for a Trust distribution hereunder, the Trustee shall consider the Grantors' intention that uncertainties about qualification generally be resolved in favor of making a distribution to such Member/Beneficiary.

It is the intention of the Trust Grantors that their children, grandchildren and more remote issue and, more importantly, their spouses, shall not depend on this Trust for their support and maintenance if they are mentally and physically capable of earning a living themselves. If a Beneficiary has financial difficulties because of his or her own, his or her spouse's, or even his or her parents' lack of industry, the Trust Grantors believe that those difficulties should be addressed not by this Trust, but by the Beneficiary or, as the case may be, by his or her spouse or parents. In such event(s) it is the intent of the Trust Grantors that the Trustee be circumspect in making substantial distributions. With respect to adult Beneficiaries who are not homemakers, or disabled, as provided for under paragraphs (d) and (f), above, the Trustee in its discretion may limit discretionary distributions of income and/or principal in any calendar year to the amount of earned income of the Beneficiary and his or her spouse, if any, for the prior calendar year as finally determined for federal income tax purposes.

Policies established and decisions made by the Trustee in good faith in attempting to carry out the terms of this Trust Agreement, or one or more of such stated purposes, shall be conclusive

and not subject to review by any present or future Beneficiary of this Trust. The Trustee shall not be required to observe any rule of equality in making discretionary distributions hereunder.

(h) Consideration of Outside Resources. In making discretionary distribution to or for any member of the Class Of Beneficiaries, the Trustee shall consider resources known to the Trustee to be otherwise reasonably available to such Member/Beneficiary, including the obligations of any person to support such Beneficiary, as well as the size and nature of the assets of the Trust, the future requirements of the Members/Beneficiaries hereunder, and the effect that any distribution may have on increasing any income or causing wealth transfer taxes to be payable.

(i) Income Tax Considerations With Respect to Distributions. It is the Trust Grantors' intention that members of the Class Of Beneficiaries receiving distribution amounts hereunder receive the same net (approximately) of income taxes. Accordingly, the Trustee shall distribute to a Member/Beneficiary at an appropriate time determined by the Trustee additional amounts from the income and/or principal of the Trust as the Trustee determines reasonably necessary to accomplish the Grantors' intention that distribution amounts be received by a Member/Beneficiary net (approximately) of income tax effects.

(j) Cost of Living Adjustment ("COLA"). All dollar amounts specified under subparagraphs above shall be and are subject to this COLA provision, the same to be increased or decreased on January 1, 1999, and annually thereafter (hereinafter "Adjustment Dates") in accordance with the increase or decrease in the "Consumer Price Index" (urban wage earners and clerical workers - all items), Milwaukee Index, published by the U.S. Bureau of Labor Statistics, using January 1, 1998 as a base (hereinafter the "Beginning Index") and comparing it with the Consumer Price Index published for the Adjustment Date (hereinafter the "Adjustment Index"). In the event that the Adjustment Index has increased or decreased over the Beginning Index in any such

year, the above amount for the ensuing year shall be set by multiplying such amount by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index. In the event that the Consumer Price Index is discontinued or materially revised, the Trustee shall use such other government index or computation which they determine would obtain substantially the same result as would have been obtained if the Consumer Price Index had not been discontinued or materially revised.

(k) Termination of Benefits. The entitlement of a member of the Class Of Beneficiaries entitlement to any benefits hereunder shall terminate permanently and such Member/Beneficiary shall no longer be a Member/Beneficiary of this Trust under any of the following circumstances as determined within the sole discretionary judgment of the Trustee:

(i) Such Member/Beneficiary is found guilty or pleads no contest to a charge of committing a violent crime involving intentional heinous acts;

(ii) Such Member/Beneficiary as an adult is found guilty of, or pleads no contest to, a charge of committing a felony after an unrelated prior felony conviction.

(iii) Such Member/Beneficiary has fathered or given birth to more than one child without having married the other parent of such child in a licensed civil or religious marriage.

(iv) Such Member/Beneficiary shall have fathered, or given birth to, more than one child, other than through artificial insemination or surrogate motherhood or similar procedure, and shall not have married in good faith the other parent of such child in a duly state-licensed ceremony, whether civil or religious, either before the birth of such child or within ninety (90) days thereafter, unless such other parent then is deceased.

The termination of a Member/Beneficiary's interest under this subparagraph shall be effective upon the giving of written notice by the Trustee to such Member/Beneficiary. The Trustee shall

have no duty to give such notice absent actual knowledge of the conduct giving rise to such termination. The Trustee's determination shall be final, binding and not subject to review. Failure of the Trustee to act upon this section does not waive the Trustee's power hereunder. Upon the Trustee's actual notice, the Trustee shall, within 60 days, notify said beneficiary of such termination.

(l) Further Discretionary Power of Trustee. As stated above, the Trustee, before making a distribution to any member of the Class Of Beneficiaries, shall consider other resources, property or means of support available to a Member/Beneficiary, the size of the Trust Estate of any such Member/Beneficiary and all other facts and circumstances which the Trustee deems relevant. The Trustee may refuse to make or discontinue distributions to any Member/Beneficiary whose need for support derives from a lack of obtainable education or skills or a lack of motivation, or whom the Trustee determines does not need or for good reasons should not receive distributions hereunder. The Trustee may require disclosure of resources, property and other means of support as a condition to distributions to a Member/Beneficiary hereunder. The Trustee's good faith determination of relative need and other factual determinations under this subparagraph shall not be subject to question or review.

(m) The Trustee may use income and/or principal of the Trust to make an improvement to property owned by a person having the care or custody of a current member of a Class Of Beneficiaries without any right of reimbursement if the Trustee, within its sole discretion, determines that the improvement is advisable for the care and/or custody of such current member of the Class Of Beneficiaries.

(n) Section 6.02 hereof entitled "Last Illness and Burial Expenses of a Current Trust Beneficiary" is adopted herein by reference as an additional direction and intention of the Grantors under Section 1.01 hereof.



(o) In addition to the Trustee powers set forth hereinbefore or hereinafter, the Trustee shall have the discretionary power to divide the Trust Estate, in any fashion/method determined by the Trustee, into further Trusts. For example, the Trust may decide to divide the Initial Trust, or any subsequent Trust Share as created hereinafter, into two (2) or more Trusts (all provided that each further Trust so created shall then have the same terms, conditions and covenants as set forth within this Trust Document).

(p) If any Member/Beneficiary in any manner shall attempt to contest or oppose in any court of law or equity, directly or otherwise, an act, action, exercise of discretion or inaction of the Trustee with respect to the distribution to, or application of Trust income, and/or principal under any provision of the Trust, then and in that event, such Member/Beneficiary shall forfeit all beneficial rights and interests under this Trust Agreement and the Trust Estate shall be administered thereafter as if he or she had then died. This provision is not intended to be construed so as to prevent fair comment and other similar discourse by a Member/Beneficiary and the Trustee.

1.02 Initial Class of Beneficiaries. Until the initial Trust Estate is divided as provided in Paragraph 1.03, the Class of Beneficiaries shall be issue of the Trust Grantors, living from time to time, in all degrees. However, that no distribution of Trust income and/or Trust principal shall be made to or on behalf of a child of the Grantors if such child is then dependent upon one or both of the Grantors for financial support, and/or where said child is not then emancipated, and/or the Grantors have a legal obligation to such child under Internal Revenue Code Section 677(b).

1.03 Division of Initial Trust. When the Trust Grantors' then youngest living great grandchild (living at the time of the death of the last Trust Grantor) attains age forty (40), or, if there be none, when the Trust Grantors' then youngest living grandchild (living at the time of the death of the last Trust Grantor) attains age sixty (60); or, if there be none, when the youngest child of the

Trust Grantors attains age eighty (80) the last surviving child of the Trust Grantors' dies, whichever first occurs; then the initial Trust Estate shall be divided into equal trust Shares, being one Trust Share for each of Trust Grantors' then living great grandchildren and one Trust Share for each of Trust Grantors' then living great-great-grandchildren. Each such great-grandchild and/or each such great-great-grandchild shall be a Trust Share Beneficiary to his/her Trust Share as created hereunder.

1.04 \$100,000.00 Distribution. After the division as set forth under 1.03 above, then for each of the Trust Grantors' great-grandchildren, and for each of the Trust Grantors' great-great-grandchildren, the Trust Grantors request that the Trustee distribute to a great-grandchild or to a great-great-grandchild the sum of \$100,00.00 (adjusted) for the COLA increase, when each of said great-grandchildren or each of said great-great-grandchildren attains the age of forty (40) years and is then living. This \$100,000.00 distribution (as adjusted for COLA) shall be made out of the Trust Assets of each Trust Share as then in existence for a Trust Share Beneficiary.

1.05 After Division of Initial Trust - Payout. Where there is a division of the initial Trust into Trust' Shares under 1.03 above, and if a great-grandchild or great-great-grandchild of the deceased Trust Grantors is then living, the distribution of such Trust Share to such living great-grandchild or to such living great-great-grandchild shall be outright so long as such great-grandchild or such great-great-grandchild is age forty (40) or greater. For each Trust Share created for a great-grandchild or for a great-great-grandchild of the Trust Grantors (that is, for each Trust Share created for a Trust Share Beneficiary), each such Trust Share shall be further held, administered and distributed to and for the benefit of the Trust Share Beneficiary as follows:

(a) **Distribution of Income:** The Trustee shall have the discretion to distribute to the Trust Share Beneficiary the entire net income from the appropriate Trust Share, or so much thereof as shall remain in Trust from time-to-time, for the Trust Beneficiary's health, support, maintenance

and education, and the same may be paid over and distributed to the Trust Share Beneficiary at least quarterly; if a Trust Share Beneficiary has attained age twenty-five (25) or more, the Trust Share net income shall be paid over and distributed to the Trust Share Beneficiary at least quarterly.

(b) **Distribution of Principal:** The principal of said Trust Share is to be administered and/or distributed to the Trust Share Beneficiary thereof as follows:

(i) During the administration of a Trust Share, to and for the benefit of a Trust Share Beneficiary, the Trustee, may, within the sole discretion of the Trustee, distribute Trust principal to and for a Trust Share Beneficiary, according to the standards and/or directions set forth under 1.01 above.

(ii) After reaching age forty (40) years, the Trust Share Beneficiary may, by written request to the Trustee, from time-to-time withdraw any part or all of the Trust Share.

(c) In the event that a Trust Share Beneficiary, whether a great-grandchild or a great-great-grandchild, shall die before receiving final distribution of his/her Trust Share, and leaves lineal issue surviving, the Trust Share for the deceased great-grandchild or the deceased great-great-grandchild shall be further divided, into equal Trust Shares, for each of the then surviving children from and through such deceased great-grandchild or such deceased great-great-grandchild, and each Trust Share as then established for a further Trust Share Beneficiary shall be held, administered and distributed according to the same Trust provisions as in effect for a Trust Share for a great-grandchild or for a great-great-grandchild of the Deceased Grantors.

(d) In the event that a Trust Share Beneficiary shall die before receiving final distribution of his/her Trust Share, and leaves no children surviving, but leaves siblings surviving, the share for the deceased Trust Share Beneficiary shall be further divided into equal shares for the number of sibling of the deceased Trust Share Beneficiary then surviving, to be further held,

administered and distributed as a Trust Share to and for the benefit of the siblings of such deceased Trust Share Beneficiary, the same to be added to, further held, administered and distributed pursuant to the provisions hereinbefore or hereinafter applying to a Trust Share allocated to and for the benefit of either a great-grandchild or great-great-grandchild of the deceased Trust Grantors.

(e) In the event that a Trust Share Beneficiary shall die before receiving final distribution of his/her Trust Share, and leaves no children surviving, and leaves no siblings surviving, the balance of a deceased Trust Share Beneficiary's then remaining Trust Share, at his/her death shall be further divided into equal Trust Shares, for each then great-grandchild and for each then surviving great-great-grandchild of the deceased Grantors and shall be either distributed outright to each such Trust Share Beneficiary who is then age forty (40) or, if such Trust Share Beneficiary is under the age of Forty (40), the same shall be added to and become a part of the Trust Share then in existence for such Trust Share Beneficiary.

1.06 Termination Distribution to a Current Beneficiary. Any termination distribution to a person who is a current Beneficiary of another Trust Share under this Agreement shall be added to and administered as part of the other Trust Share rather than being distributed outright.

1.07 Rules Against Perpetuities. Notwithstanding anything to the contrary in this Agreement, no Trust property shall be construed to remain held in Trust beyond the period permitted by applicable law. If the law now or later prohibits suspension of the power of alienation for longer than a permissible period, this Trust shall terminate on the last day of the permissible period. If any permissible period for duration of this Trust is measured in whole or in part by a life or lives in being, the lives to be used in measuring the permissible period of this Trust shall be the lives of all of Trust Grantors' descendants who are living upon the date of this Trust Agreement. In the event any applicable law should require the termination of any Trust created hereunder within a certain

period of time, the Trust so affected shall immediately terminate as to such property as of the later of (a) the last day in which the Trust could exist under such applicable law; or (b) the day before the date that such law becomes applicable. Upon termination of a Trust as to such property under this Paragraph, such property shall be distributed as if the Trustee had terminated the Trust under Paragraph 1.05.

1.08 Disclaimer. Any Beneficiary may disclaim any portion of that Beneficiary's interest in any property passing to the Trust/Trust Share provided the disclaimer is within the time limit provided by law and is prior to that Beneficiary's accepting any benefit from the property. A Fiduciary may disclaim property passing to that Fiduciary without Court or Beneficiary approval.

1.09 Penultimate Disaster. In the event of the death of all lineal descendants of the Trust Grantors during the term of the Trust, such that there is no beneficiary of the Class of Beneficiaries to receive a distribution of income or principal under Section 1.01, above, and/or Sections 1.02 through 1.05 above, then the Class of Beneficiaries shall be expanded to include the issue of each brother and sister of each Trust Grantor, living from time to time, in all degrees, and the Trust Assets shall continue to be held, administered and distributed for their benefit, with the limitations applicable to each child, grandchild or great-grandchild of the Trust Grantors then applied to the children, grandchildren and great-grandchildren of each such sibling, as the case may be.

1.10 Ultimate Common Disaster. In the event of the death of the Trust Grantors, and the death of all lineal descendants, all siblings and all issue of siblings identified in Section 1.09, above, of the Trust Grantors, such that there is no beneficiary of the Class of Beneficiaries to receive a distribution of income or principal under Section 1.01 above, and/or Sections 1.02 through 1.05 above, then the Trust Assets, following the death of the last of the Trust Grantors, and/or thereafter the death of all lineal descendants of the Grantors, shall be distributed as follows: To the Ronald H.

and Jane K. Johnson Foundation, Inc. If the said Foundation is not then in existence or is not then an Entity qualified as set forth in this clause above, then the Trust Assets shall be distributed for the charitable purposes and in the amounts or proportions specified for the charitable organizations identified in the Last Will of the surviving Trust Grantor, referring expressly to this limited power of appointment under this Article 1, Section 1.09 or, if or to the extent that this limited power of appointment is not effectively exercised, to the Oshkosh Foundation, Inc., Oshkosh, Wisconsin, without restriction as to use.

## **ARTICLE 2**

### **Interim and Termination Distributions**

2.01 **Facility of Payment.** If a Beneficiary is incompetent or not adjudicated incompetent but by reason of illness or disability is, in the Trustee's judgment, unable to manage any interim or termination distribution of income or principal or both in a prudent manner, or is under age twenty-one (21), the Trustee may make the payment to: (a) the Beneficiary's fiduciary; (b) a relative or friend having care or custody of that Beneficiary to be used and applied for the Beneficiary's benefit; (c) a custodianship under a Uniform Transfers to Minors Act established for the Beneficiary by the Trustee or another person; or the Trustee may postpone the distribution. A receipt for payment by any of the persons named in (a) through (c) shall be a complete discharge of the Trustee in respect to the payment. A postponement may last until the attainment of the above age, the removal of the Beneficiary's incompetency or until, in the Trustee's judgment, the Beneficiary is able to manage the property.

2.02 Distribution to a Current Beneficiary of Another Trust. Any distribution to a person who is a current Beneficiary of another Trust Share under this Agreement shall be added to and administered as part of the other Trust Share rather than being distributed outright.

### **ARTICLE 3**

#### **(Succession of Trustees)**

3.01 Original Trustee. (See Introductory Paragraph for the appointment of Jane K. Johnson and Associated Bank, N.A. as Trustee hereunder.) If for any reason Jane K. Johnson should resign or cease to act as a Trustee except as provided in Section 3.02 below, there shall be no successor Trustee appointed for her.

3.02 Authority to Designate a Successor Trustee. A two-thirds (2/3) majority in percentage interest of all income beneficiaries (or, if a minor or under any other legal disability, his or her Fiduciary) of any Trust established under this Agreement, may a) designate a new individual Trustee in the name and stead of Jane K. Johnson; and b) remove any corporate Trustee of such Trust for reasonable cause and substitute in lieu thereof a new corporate Trustee. When the removed corporate Trustee has received written notice of its removal and has been notified in writing by its successor of the latter's acceptance, the removed corporate Trustee shall surrender all books, records and assets in its possession comprising a portion of the trust estate or relating thereto. However, such removed corporate Trustee shall not be relieved of liability until its successor has qualified and such Trustee's accounting has been settled. As used in this Paragraph, the term "reasonable cause" includes, but is not limited to (i) inability of the corporate Trustee and the beneficiaries to agree upon reasonable compensation for the corporate Trustee; (ii) unreasonably poor investment performance; (iii) the removal of all current income beneficiaries from the State in which the corporate Trustee

is licensed to conduct business as a corporate Trustee; (iv) unreasonable inattention to the reasonable needs of the beneficiaries; (v) unreasonable lack of communication between the Trustee and the beneficiaries; (vi) unreasonable inaccurate or unclear transaction statements or statement of accounts; (vii) unreasonable conflicts between the corporate Trustee and the beneficiaries; (viii) merger, acquisition or a deteriorating financial condition of the corporate Trustee; or (ix) unreasonably high turnover of account officers assigned to any trust hereunder.

#### ARTICLE 4

##### (Concerning the Trustee)

4.01 Powers of a Successor Trustee. A Successor Trustee shall have the same rights and powers and shall be subject to the same duties as the original Trustee. A Successor Trustee shall not be required to examine the accounts and acts of any previous Trustee and shall not be responsible for any act or omission of any previous Trustee.

4.02 Powers and Duties of Trustee. A Trustee, if a Beneficiary, may participate and vote in decisions relating to discretionary distributions to such person as a beneficiary (if the discretion is limited to an ascertainable standard for Federal Estate Tax purposes) but may not participate or vote as a Trustee as to the early termination of any Trust of which such person is a Beneficiary. A Trustee shall have no incidents of ownership as to any insurance policy held in Trust on such person's life. A Trustee may not discharge his or her individual legal obligation of support to any Beneficiary. If there is more than one (1) Trustee, the powers of each Trustee shall be joint and co-extensive except as provided in this Paragraph, or as the exception provided in Section 4.09 hereof.

4.03 Delegation of Trustee's Duties. Except as provided in Section 4.09, below, any person acting as a Trustee may delegate to another Trustee any and all of the duties and powers



exercisable or required of such person as Trustee. The delegation shall be written, shall be given to the Trustee to whom the duty or powers exercisable or required of such person as Trustee. The delegation shall be written, shall be given to the Trustee to whom the duty or power has been delegated and any other Trustee, and shall be effective for the time stated unless it is revoked in writing. Any person dealing with the Trustee may rely upon the certificate of any Trustee as to who is or are the Trustees and to the extent of any authority. The Trustee who has delegated authority to another Trustee shall not be liable for acts or omissions of the other Trustee of which it had no actual knowledge.

4.04 Trustee's Accounts. the Trustee shall keep an accurate record of the Trust Estate including all receipts and all disbursements. At least annually after the death of the survivor of the Trust Grantors, the Trustee shall give each current Beneficiary an account of the administration of the Trust. If a Beneficiary is unable to manage the Beneficiary's affairs, the account shall be given to the Beneficiary's fiduciary other than the Trustee. If any Beneficiary or fiduciary to whom an account is given fails to notify the Trustee in writing of any objection to the account within one (1) year after the account has been given to that Beneficiary or fiduciary by actual delivery or by mailing the account to the address of the Beneficiary or fiduciary as last known to the Trustee, the Beneficiary shall be bound by the account and barred from alleging or claiming any breach of Trust arising out of any matter or transaction reasonably disclosed by the account. The Trustee may also periodically apply to any Court of competent jurisdiction for approval of its accounts.

4.05 Bond Not Required. No bond or other security shall be required of any Trustee, unless a majority of beneficiaries believe the trustee should maintain a bond or other security.

4.06 Trustee's Fees. the Trustee may be paid a Trustee's fee which is commensurate with then customary fees charged for Trustee's services and which also is then commensurate with the actual Trustee's services being rendered by the Trustee to each Trust/Trust Share hereunder.

4.07 Non-inquiry as to Trustee's Actions. No person dealing with the Trustee need inquire into the validity of the Trustee's acts or see to the application of any property transferred to or by the Trustee.

4.08 Trustee of Out-of-State Property. If the Trustee is unable to act as Trustee with respect to any property, the Trustee may appoint a person to act as Trustee with respect to the property and may later remove the appointed Trustee and appoint another. The appointed Trustee shall have the same powers and duties as to the property as the Trustee and shall act without bond.

4.09 Authority of Trustee. Jane K. Johnson, while acting as Trustee, shall have no power, right or authority to participate in or vote upon any decision relating to a discretionary distribution or other action or activity by the Trustee if the existence of such power, right or authority would cause any part of the Trust or Trust income to be includable in her income for federal income tax purposes, or in her estate for federal estate tax purposes. If there is more than one (1) Trustee, then the corporate Trustee may exercise any or all of the investment powers and authorities of the Trustee without obtaining the consent or signature of the other Trustee. Where, when and as provided by the Trust, it is the intent of the Trust Grantors that any one (1) of the Trustees may act alone. Trust assets may be registered in the name of the Corporate Trustee. Any person dealing with the Corporate Trustee shall be protected upon this grant of authority to such Trustee to bind the Trust.

4.10 Non-Liability of Individual Serving as Trustee/Co-Trustee. Any Trustee/Co-Trustee hereunder is specifically alleviated from any common law or statutory rule of prudent man investment; therefore, except for willful default or gross negligence, any such Trustee/Co-Trustee

who is an individual shall not be liable for any act, omission, loss, damage or expenses arising from the performance of said Trustee's/Co-Trustee's duties under this Trust Agreement.

## **ARTICLE 5**

### **(Trustee's Powers)**

In order to administer efficiently each Trust, the Trustee is authorized to do all things necessary or convenient for the orderly administration of each trust without Court approval. Without limiting the general power, the Trustee shall have the following powers in addition to those provided by law.

5.01 Retention of Property. The Trustee may retain for any period of time any property received from the Trust Grantors or any other person regardless of any requirement of diversification, productivity or statute or law regulating investments by a Trustee.

5.02 Investments.

(a) General. The Trustee may invest and reinvest in any property or undivided interest in property regardless of where located, of any requirement of diversification and of any statute or law regulating investments by a Trustee. This shall include, without limitation, investments or reinvestments in securities of a corporate fiduciary, obligations or interests in an unincorporated association, trust, investment company, mutual fund, common trust fund and commercial paper of a corporation. The investment and reinvestment is authorized although the property may be acquired through or from another department of a corporate fiduciary. The Trustee may deposit money in an interest-bearing or noninterest-bearing account with a corporate fiduciary. The Trustee may not make loans to the Grantors or any other contributor to this Trust.

(b) Business Interest. The Trustee may continue, participate in the management of or liquidate any business or commercial enterprise.

The Trustee may invest in or retain any interest in family closed corporation or any successor to its assets or business or any business whose securities are issued in exchange for securities of that business. The investment or retention is authorized even though the business interest may be all or a large portion of the Trust Property. The Trustee may participate in the conduct of the business and may take any action or delegate to others the power to take any action with respect to the management of the business that an individual could take as the owner of the business. This includes the voting and the determination of all questions of policy. The Trustee may execute partnership agreements and amendments; may participate in any incorporation, reorganization, merger, consolidation, voting trust recapitalization or liquidation and may invest additional capital in the business or subscribe to additional securities of or loan money or credit, with or without security, to the business. The Trustee may leave income in the business at the risk of the business by way of contribution to capital or loans subordinate to other creditors. The Trustee may rely upon reports of certified public accountants as to the operation and financial conditions of the business and need not conduct an independent investigation. The Trustee may elect or employ directors, officers, managers, employees or agents of the business and may compensate any person, including a Trustee, director, officer or agent of the Trustee. The Trustee may deal with and act for the business in any capacity, including any banking or trust capacity and the loaning of money or of the Trustee's own funds and be compensated for such action. The Trustee may sell or liquidate all or any part of the business at any time.

(c) Transaction with Trust Grantor's Estates or a Beneficiary. As limited by Article 4, Section 4.09 above, the Trustee may purchase property from or sell property to Trust

Grantors' estates, a Trust of which either of the Trust Grantors is the creator, a Beneficiary or the estate of a Beneficiary, at a price and upon terms determined by the Trustee to be fair. The Trustee shall incur no liability for such a purchase or sale made in good faith, and may enter into the transaction even though the Trustee may be the other party to the transaction in an individual or fiduciary capacity. The Trust Grantors anticipate that the Trustee may use Trust Property to make such a purchase so as to provide the sellers with necessary liquidity, even though the property purchased may lack marketability and may form a large portion of the Trust Property. The Trust may make the purchase even though the property may not be property in which a Trustee is authorized by statute or law to invest. In the event of a sale of property to the Estate of a Trust Grantor, the Trustee shall be paid in full for the sale price at date of sale.

(d) Loans to a Beneficiary. The Trustee may lend money to a Beneficiary who is not a Trustee on terms that are reasonable and prudent. The Trustee may lend money to a Beneficiary who is a Trustee if the loan provides for adequate security and interest. No loans are permitted hereunder to be made to the Trust Grantors.

(e) Unproductive Property. The Trustee may hold cash uninvested for a length of time determined by the Trustee to be advisable and purchase unproductive property.

5.03 Additions. The Trustee may receive additions to the Trust from the Grantors or any other person.

5.04 Disposition of Property.

(a) Sales, Exchanges or Leases. The Trustee may sell property at public or private sale, exchange for like or unlike property, lease, release, demolish, abandon, dedicate or make contracts concerning and give options for property, all for a price and upon such terms as to the credit or otherwise as the Trustee determines to be advisable. The leases, contracts and options

may extend beyond termination of the Trust. The Trustee may execute deed, transfers, leases or other instruments of conveyance.

(b) Improvements to Real Estate. The Trustee may improve or develop real estate, construct, alter or repair buildings or structures on real estate, settle boundary lines, easements and other rights with respect to real estate and participate and join with co-owners and others in dealing with real estate in any way.

(c) Life Insurance. The Trustee is authorized to purchase or receive assignments of ownership of insurance policies. The Trustee is vested with all right, title and interest in and to any policy of insurance it purchases or which is at any time assigned to it or to the trust, and is authorized and empowered to exercise, as a fiduciary, and as absolute owner of such policies of insurance, all of the options, benefits, rights and privileges under such policies, including the right to borrow upon such policies and to pledge the same for loans. The Trustee shall have no responsibility to pay premiums which may become due under the provisions of insurance policies or to ascertain that such premiums are paid, or to notify any person of the nonpayment of such premiums, and the Trustee shall have no liability for any lapse or cancellation of policies by reason of the nonpayment of such premiums. The Trustee may apply any dividends received towards the payment of premiums if it elects to do so. Upon notice at any time during the term of this Trust that premiums due upon any insurance policies are in default or that premiums to become due will not be paid, the Trustee, in its sole discretion, may apply any cash value attributable to such policies to the purchase of paid-up insurance (or extended insurance) or may borrow upon such policies for the payment of premiums due thereon, or may accept the cash value of such policies upon their forfeiture. If an insurance policy or policies is subject to a policy loan, or stands as collateral for an undertaking by reason of the action of any person other than the Trustee acting in its fiduciary

capacity, the Trustee shall have no responsibility for any loss resulting from the occurrence of any default with respect to or nonpayment of such policy loan, of the undertaking for which such policy stands as collateral, as the case may be, and shall have no responsibility to take any action to preserve such policy against any such loss. The Trustee shall have no responsibility to ascertain whether a policy owner or Beneficiary possesses any privilege or contractual right under an insurance policy (other than the payment of proceeds upon the death of the insured if the policy is then in effect), or when any such privilege or contractual right may become exercisable, or to exercise any such privilege or contractual right, even though the nonexercise thereof may result in the lapse or diminution in value of the coverage provided by such policy. The Trustee is authorized to compromise and adjust claims arising out of any insurance policy upon such terms and conditions as it, in its sole discretion, may deem necessary and proper. The Trustee may, in its sole discretion, enter into or maintain litigation to enforce payment of any insurance policy, but shall not be required to take any such action unless first secured to its satisfaction against all expense or liability which it might incur as a result. Further, the Trustee may accept the net proceeds of any insurance policy subject to any charges which are deducted for the proceeds. Notwithstanding any contrary provisions of this instrument, the Trustee is prohibited from applying income of any Trust herein created (including accumulated income which may have been transferred to principal) to pay premiums on policies of insurance on either or both of the lives of the Trust Grantors.

5.05 Securities.

(a) Voting and Proxies. The Trustee may vote stock or refrain from voting or give general or specific proxies or powers of attorney for voting or acting in respect to securities, which proxies or powers of attorney may be discretionary and with powers of substitution. The Trustee may deposit securities with or transfer them to protective committees, voting trusts or similar

bodies and join in any reorganization and pay assessments or subscriptions called for in connection with securities held by the Trustee.

(b) Ownership of Securities. the Trustee may be an officer or director or employee of, or buy or sell, or vote or refrain from voting securities, or be personally interested in any manner in any capacity in any organization in which the Trustee shall own securities or otherwise be interested and which in may otherwise be a conflict of interest.

#### 5.06 Trust Management.

(a) Consolidations, Mergers or Divisions of Trust. The Trustee may consolidate for purposes of investment and administration any two or more Trusts established under this Agreement into a single fund and assign proportionate undivided interests to the respective Trust. Further, the Trustee may transfer property of a Trust to, or receive property from, the Trustee of any Trust with substantially similar provisions for the same Beneficiaries, for purposes of merging the trusts. In addition, the Trustee may divide a Trust into two or more separate Subtrusts.

(i) The Trustee may also merge this Trust with any other endowment Trusts of the Trust Grantors provided the same does not amount to a revocation of any Trust being merged, or does not result in a Trust with a GST exclusion ratio other than 0.

(b) Employment of Advisors. The Trustee is authorized to employ attorneys, accountants, investment advisors, specialists and such other agents as the Trustee shall deem necessary or desirable. The Trustee shall have the authority to appoint an investment manager or managers to manage all or any part of the assets of the Trust, and to delegate to said manager investment discretion. Such appointment shall include the power to acquire and dispose of such assets. The Trustee may charge the compensation of such attorneys, accountants, investment advisors, investment managers, specialists and other agents and any other expenses against the Trust.



The Trustee may employ one or more agents to perform any act of administration, whether or not discretionary, including attorneys, auditors, investment managers or others, as the Trustee shall deem necessary or advisable.

The Trustee may employ persons, including attorneys, auditors, investments advisors, or agents, even if they are associated with the Trustee, to advise or assist the Trustee in the performance of his/her administrative duties; to act without independent investigation upon their recommendations; and instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.

(c) Income and Principal. The Trustee may allocate receipts and disbursements between income and principal according to a generally accepted rule of accounting or in an equitable manner where there is no express provision made by statute.

(d) compromising of Claims. The Trustee may compound, compromise, settle and adjust all claims and demands against or in favor of the Trust upon terms and conditions the Trustee determines just.

(e) Relying on Notice. The Trustee may rely on any notice, certificate, letter, affidavit or other Agreement believed by it to be genuine or rely on any evidence deemed by it to be sufficient.

(f) Moving of Trust. The Trustee may from time to time change the situs of any Trust to any City or place in the universe, with the permission of the Trust Protector.

(g) Environmental Powers and Protection.

(i) Inspection and Cleanup of Property. The Trustee may inspect property held in or passing to the Trust; prevent, contain or remedy any actual or threatened contamination on property or comply with any environmental law, rule or regulation; refuse to accept property

which it believes may be contaminated or present substantial risk of liability for environmental pollution; institute, contest or settle legal proceedings and employ agents, consultants and legal counsel in connection with any of these powers. The Trustee may use Trust Property to pay for such inspection and cleanup of property without any personal liability if the Trust determines such activities are necessary for the protection of the Beneficiaries or any fiduciary.

(ii) Exoneration of Trustee. The Trustee shall not be personally liable for any decrease the value of Trust Property due to the Trustee's compliance with any environmental law, rule or regulation or due to its retention of property which is discovered to be contaminated unless the Trustee contributed to the decrease through willful misconduct or gross neglect.

(iii) Liability to Third Party. To the extent permitted by law, the Trustee shall not be personally liable to a third party for contribution or indemnity for costs the third party incurred in connection with contaminated property; rather, the third party's remedy shall be limited to Trust Property.

(iv) Trustee Indemnification. The Trustee may withhold a distribution to a Beneficiary until the Beneficiary agrees to indemnify the Trustee against personal liability for claims arising from contamination of property for which the Trustee would not be liable under this paragraph.

#### 5.07 Distribution.

(a) Division of Trust. The Trustee may make payments, divisions or distributions in cash or in kind or both as determined by the Trustee without any requirement that each item be allocated pro rata between or among shares or Beneficiaries.

(b) Early Termination. The Trust Grantors realize that presently unforeseeable conditions may arise in the future, such as a radically substantial change in the political, economic

or social order of the United States of America, legislation or Court decisions highly detrimental to any Trust under this Agreement or to any Beneficiary, or lack of suitable trust investments for an extended period, or other events tending materially to impair the intent and purpose of any Trust under this Agreement. In addition, it is possible that the Trust Property could decrease to a size where it would be uneconomical to continue the administration of the Trust. (In this regard, Trust Grantors consider two hundred fifty thousand dollars (\$250,000.00), adjusted for the cost of inflation from the date of this Agreement to be too small for administration). In these cases, the Corporate Trustee may, in its sole discretion, (in the exercise of which Jane K. Johnson, if then a Trustee, shall have no right or authority to participate) terminate the trust and distribute the then trust estate to the current Beneficiaries in proportion to their interests in the trust. The Trustee shall not be required to consider this action until a Beneficiary has requested this consideration in writing.

In the event of any such early termination, distribution of the Trust Estate should be in equal shares for each child of the Trust Grantors and his or her living issue or, if there be none, in equal shares for each child of the brothers and sisters of the Trust Grantors, and their living issue, determined under Section 1.01 above; provided, however, that each such share then shall be further divided so that each generation of such issue, and their parent who is a child of the Trust Grantors, each shall receive an equal part of such share, and each such part shall be distributed equally to the then living issue of that generation.

(c) Undistributed Income. The Trustee may add to principal at least annually any net income not required to be distributed. Unless specifically disposed of, undistributed accrued income at the termination of an income Beneficiary's interest shall be treated as though it had been received after such termination.

#### 5.09 Miscellaneous.

(a) Borrowing. The Trustee may borrow money from any lender (including borrowing from a Trustee or an affiliate of a Trustee, if the Trustee is a bank) for any purpose for periods of time and upon the terms and conditions as the Trustee deems advisable. The Trustee may mortgage, hypothecate, pledge or create a security interest in part or the whole of the Trust Property as may be required to secure to the loan; assume or extend indebtedness and encumber by mortgage, pledge, assignment or other interest.

(b) GST Planning. If any Trust under this Agreement is to receive an addition of property which has a federal generation-skipping transfer tax inclusion ratio under the Internal Revenue Code of 1986, as amended from time-to-time, (GST inclusion ratio) greater than zero or if any federal generation-skipping tax exemption ("GST exemption") is to be allocated to a Trust under this Agreement, the Trustee may first divide that Trust into two separate Trust Shares, each such Trust Share to be administered as provided for in the Trust being so divided, so that one Trust Share shall hold only property with a zero GST inclusion ratio and the other Trust Share shall have a GST inclusion ratio greater than zero.

If the Trustee is aware that property will be added to a Trust Share under this Agreement, which property may have any GST exemption allocated to it, the Trustee may request the person adding such property to divide the property into two Trust Shares prior to allocating the GST exemption, such that one Trust Share will have a GST inclusion ratio of zero and the other Trust Share will have a GST inclusion ratio of one.

If the Trustee is to distribute Trust Property to another Trust under this or another Agreement, which property may have GST exemption allocated to it, the Trustee may divide the property into two Trust Shares prior to allocating the GST exemption, such that one Trust Share will have a GST inclusion ratio of zero and the other Trust Share will have a GST inclusion ratio of one.

To the greatest extent practicable, the Trustee shall allocate assets with a GST inclusion ratio of zero to those Trust Shares from which generation-skipping transfers are most likely to occur, and shall allocate assets with a GST inclusion ratio of greater than zero to those Trust Shares from which generation-skipping transfers are least likely to occur. Furthermore, the Trustee shall, to the greatest extent practicable, make distributions to skip persons from Trust Shares, or with assets, with a GST inclusion ratio of zero, and shall make distributions to nonskip persons from Trust Shares, or with assets, which have a GST inclusion ratio of greater than zero.

(c) Disability. If a person is unable to manage his affairs, the Trustee may give any notice to the person's fiduciary, who may also consent or otherwise act on behalf of the person for purposes of this Agreement.

## **ARTICLE 6**

### **Miscellaneous**

#### **6.01 Construction of Trust.**

(a) Beneficiary. "Beneficiary" means a person to whom income or principal is distributable, whether or not subject to the contingency of a prior death or any Beneficiary or a prior event.

(b) Current Beneficiary. "Current Beneficiary" means a Beneficiary to whom income or principal is currently distributable even though such distribution may be in the discretion of the Trustee.

(c) Child. "Child" means issue in the first degree of the person designated.

(d) Corporate Fiduciary. "Corporate fiduciary" means a state or national bank with trust powers or a trust company located in any state, district or territory of the United States. Any dealings with a corporate fiduciary includes dealings with a parent, subsidiary or affiliate.

- (e) Fiduciary. An individual's "fiduciary" shall include a Trustee of a trust for the benefit of the individual (including any trust under this Agreement), or the individual's legal or natural guardian, personal representative or attorney-in-fact.
- (f) Grandchild. "Grandchild" means issue in the second degree of the person designated.
- (g) Great-grandchild. "Great-grandchild" means issue in the third degree of the person designated.
- (h) Great-great-grandchild. "Great-great-grandchild" means issue in the fourth degree of the person designated.
- (i) Heirs. Unless otherwise defined, a person's heirs and their respective shares shall be determined under the law of Wisconsin in effect on the date of this Agreement as if the person had died intestate on termination of the preceding interest, or if the person is one of the Trust Grantors, as if the Trust Grantors had both died unmarried and intestate on termination.
- (j) Issue. "Issue" means descendants in the first, second or more remote degree of a descent. A child in gestation is issue. An adopted child of any person has the same status as a natural child of that person for all purposes from the time of placement for adoption, if the adoption is finalized while the child is a minor.
- (k) Person. "Person" includes an individual, partnership, corporation, estate, trust, insurer, bank, Beneficiary or any other business entity.
- (l) Property. Unless more specifically defined, "property" means any real property, intangible and tangible personal property, natural resources, commodity or other security, leaseholds and generally anything which may be subject to ownership.

(m) Right of Representation. When a distribution or division is to a person's issue by right of representation, the root generation shall be the children of the person, whether or not a child of the person is then living.

(n) Security. "Security" means common and preferred stock, bonds, debentures, obligations, warrants, options, puts, calls and any other interest or unit of participation in a corporation or other business entity.

(o) Spouse. The "spouse" of a person refers to anyone who is or at any time has been married to that person of the opposite sex but does not include anyone whose marriage to that person has been terminated by Court decree. All decrees by a Court of record, wherever located, shall be considered valid.

(p) Determination of Inability. For purposes of this Agreement, any person shall be considered to be unable to act or to manage his/her affairs if under legal disability or unable to give prompt and intelligent consideration to financial matters because of mental or physical incapacity. Failure to submit to this evaluation within 60 days of request shall immediately disqualify said Trustee. If any Trustee is a person, any determination as to the existence or ending of inability shall be made in writing by two physicians or a physician and a psychologist who have personally examined the person. As to any other person, the determination shall be made by the Trustee based upon such evidence as the Trustee, in its sole discretion, determines is appropriate. Any successor Trustee or other person may rely on a written determination under this subparagraph.

(q) Gender and Number. Any reference to a gender extends to other genders and any use of the singular extends to the plural, and vice versa.

(r) Headings. Headings, titles and subtitles are used for convenience and not for construction of the trust.

6.02 Last Illness and Burial Expense of a Current Trust Beneficiary. Upon the death of a current Beneficiary of a Trust or Trust Share, the Trustee may pay from the undistributed income or principal of the Trust or Trust Share the expenses of the Beneficiary's last illness and the cost of the Beneficiary's funeral, including if required, the purchase of a cemetery lot, the erection of a grave marker and a reasonable payment for perpetual care. The payments may only be made if the Trustee first determines in good faith that there are not sufficient funds from other sources which may be legally obligated to make these payments, and that the Trust or Trust Share never has been an S corporation shareholder.

6.03 Spendthrift Provision. The interest of any Beneficiary in income or principal is not subject to claims of creditors or others, legal process, voluntary or involuntary transfer, encumbrances or assignment.

6.04 Applicable Law. Each Trust/Trust Share as created hereunder is governed by the laws of the State of Wisconsin.

6.05 Trust/Trust Share. The term "Trust" refers herein to the Trust created hereunder and as in existence prior to the Division of Initial Trust as provided under Section 1.03 above. The term "Trust Share" refers to each individual Trust Share as created under either Sections 1.03, 1.04, 1.05 and/or 5.08(b) hereof. The term "Trust" or "Trust Share" as used herein may from time to time be used as a generic term covering either or both of the Initial Trust or subsequent Trust Shares created hereunder.

## **ARTICLE 7**

### **Trust Cannot Be Changed**



This Agreement is irrevocable and may not be changed or revoked. Trust Grantors renounce and relinquish any right, title or reversionary interest in the trust which Grantors now have or may subsequently acquire.

This Agreement shall be effective upon signature of this Agreement by both Trust Grantors.

IN WITNESS WHEREOF, the above-named Ronald H. Johnson, Jane K. Johnson, and Associated Bank have executed this Trust Agreement on the aforementioned date.

(S)

\_\_\_\_\_  
Ronald H. Johnson

(S)

\_\_\_\_\_  
Jane K. Johnson (as a possible future contributor and for drafting convenience)

Associated Bank, N.A., Trustee

By: (S)

\_\_\_\_\_

(S)

\_\_\_\_\_  
Jane K. Johnson, Trustee

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

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Case No. 03-PR- 441

**PETITION PURSUANT TO WIS. STATS. §701.12,  
FOR MODIFICATION OF TRUST**

Associated Trust Company, N.A., and Jane K. Johnson respectfully show to the Court and petition as follows:

1. On December 29, 1997, Jane K. Johnson and her husband, Ronald H. Johnson, as Grantors, created The Ronald H. and Jane K. Johnson Irrevocable Endowment Trust (the "Trust"). Jane K. Johnson is the duly appointed and acting Individual Trustee of the Trust. Associated Trust Company, N.A., is the duly appointed and acting Corporate Trustee of the Trust. A copy of the Trust is attached to this Petition, marked as Exhibit "A".

2. The beneficiaries of the Trust include born and as-yet unborn lineal issue of the Grantors, and spouses of such issue. The contingent remainder beneficiary of the Trust, in default of lineal issue of the Grantors and spouses of such issue, is the Ronald H. and Jane K. Johnson Foundation or, if there be no such Foundation, the Oshkosh Foundation, Inc.

3. There are three living issue of the Grantors. Their names, addresses and, where applicable date of birth, are as follows:

Carey B. Johnson

Adult

5171 Island View Drive

Oshkosh, WI 54901

DEC 19 2003

Jenna A. Johnson	Adult	5171 Island View Drive Oshkosh, WI 54901
Benjamin D. Johnson	Minor d/o/b: 1/11/88	5171 Island View Drive Oshkosh, WI 54901

None of them are married. All three of them are beneficiaries of the Trust and, as such, interested persons in these proceedings.

4. On December 17, 2003, pursuant to our petition to this Court, Ms. Jeanne E. Baivier, Esq., was appointed Guardian ad Litem for Benjamin D. Johnson, minor beneficiary, and for all unascertained and unborn beneficiaries of the Trust. As such, she is an interested person in these proceedings. Her address is: 217 Ceape Avenue, Oshkosh, WI 54903.

5. As Grantors, Ronald H. Johnson and Jane K. Johnson are persons interested in these proceedings. Their address is: 5171 Island View Drive, Oshkosh, WI 54901.

6. As of the date of this Petition there is no Ronald H. and Jane K. Johnson Foundation in existence, nor is there any intention of the Grantors at the present time to form such an entity. As such, although named in the Trust as a contingent residuary beneficiary, the Ronald H. and Jane K. Johnson Foundation is not an interested person in these proceedings.

7. As the ultimate default contingent remainder beneficiary, the Oshkosh Foundation, Inc., now known as the Oshkosh Community Foundation, Inc., is an interested person in these proceedings. Its address is: 404 N. Main Street, Oshkosh, WI 54901.

8. The principal of the Trust is comprised of financial assets that include certain business entities that, for income tax and trust accounting purposes, are “pass-through” entities,

which means that the entity itself pays no state or federal income tax on its net income, but instead annually distributes its net income tax liabilities to its owners, in proportion to their shares of ownership. Such “pass-through” entities customarily utilize standard accepted income tax planning and management concepts, including charitable contributions, to manage their net income tax liabilities that are passed through to their owners. But in every event, in every taxable year, the net income tax liabilities that thus are passed through to the entity owners must then, in fact, be paid by those owners.

9. The Grantors are informed, and believe, that one or more “pass-through” entity in which the Trust has an ownership interest has, or will, make charitable contributions in their current tax years, and can be expected to make such contributions in future years, and a part of their income tax liability planning and management. The Trustees have no authority to control, or participate in any such decisions.

10. The Federal Internal Revenue Code of 1986, as amended, precludes the Trust, in its present form, from utilizing any charitable contribution that may be included as an income tax deduction for any net income tax liability that the Trust will receive from any “pass-through” entity in which it holds any ownership interest. This has the effect of requiring the Trust to pay a greater percentage of its net taxable income in the form of federal and state income taxes than would be the case if it were allowed to claim such charitable contributions as deductions from such taxes otherwise payable. Therefore, this result is adverse to the interests of the beneficiaries of the Trust, and is unnecessary if the Trust were appropriately amended.

11. As the Trustees are informed and believe, the Trust would be entitled properly to claim and utilize as deductions in calculating its net income tax liability any charitable contributions made by “pass-through” entities in which it has any ownership interest if the Trust

were modified to add language, substantially as follows:

Section 1.11 Discretionary Charitable Distributions. Notwithstanding any other provision of this Article 1, the Trustee shall have the discretion to make distributions in cash and in kind, from time to time, to or for the benefit of charitable organizations holding current and valid exempt organization determinations from the United States Internal Revenue Service pursuant to §501 (c) (3) of the Internal Revenue Code of 1986, as amended, and to cause, permit or acquiesce in such distributions to such organizations by pass-through tax entities in which the Trust may hold any interest, provided, however, that such distributions by the Trust shall not exceed, in the aggregate in any calendar year, five percent (5%) of the Trust corpus, determined as of the last day of such calendar year prior to giving effect to such distributions; and, provided, further, that with respect to any such pass-through entity such distributions by the Trust shall not exceed, in the aggregate, in any calendar year, five percent (5%) of the fair market value of such pass-through entity, determined as of the last day of such calendar year prior to giving effect to such distributions.

12. As the Trustees are informed and believe, the orderly administration of the Trust would be enhanced if the language of Section 4.03 of the trust, pertaining to the Delegation of Trustee's Duties, were supplemented with the following language.

Section 4.03 Delegation of Trustee's Duties.

• • •

a) The Corporate Trustee shall not be required to maintain physical custody of assets of the Trust, provided that, as to such assets not in its physical

custody, they are in the physical custody of the Individual Trustee. With respect to assets of the Trust in the physical custody of the Individual Trustee, the Corporate Trustee shall have no responsibility for any loss of, or damage to any such asset while in the physical custody of the Individual Trustee.

b) With respect to assets of the Trust that are in the physical custody of the Individual Trustee, the Corporate Trustee shall have no duty to monitor, manage or administer them, or any of them, for values or valuation purposes, or for enhancement or preservation of values, or for trust or income tax accounting purposes.

c) The Individual Trustee shall indemnify and hold the Corporate Trustee harmless from all loss and damage, including costs and expenses (including reasonable attorneys' fees) of defense, arising out of or attributable to any claim of a Trust beneficiary, or any third person or party relating any trust asset while held by the Individual Trustee and not in the physical custody of the Corporate Trustee.

WHEREFORE, Petitioner, as Trustees of The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust pray for an Order Modifying the Trust, pursuant to Wis. Stats. §701.12, as follows:

That The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust be, and it hereby is, modified as follows:

Section 1.11 of the Trust hereby is created, to provide as follows:

Section 1.11 Discretionary Charitable Distributions. Notwithstanding any other provision of this Article 1, the Trustee shall have the discretion to make

distributions in cash and in kind, from time to time, to or for the benefit of charitable organizations holding current and valid exempt organization determinations from the United States Internal Revenue Service pursuant to §501 (c) (3) of the Internal Revenue Code of 1986, as amended, and to cause, permit or acquiesce in such distributions to such organizations by pass-through tax entities in which the Trust may hold any interest, provided, however, that such distributions by the Trust shall not exceed, in the aggregate in any calendar year, five percent (5%) of the Trust corpus, determined as of the last day of such calendar year prior to giving effect to such distributions; and, provided, further, that with respect to any such pass-through entity such distributions by the Trust shall not exceed, in the aggregate, in any calendar year, five percent (5%) of the fair market value of such pass-through entity, determined as of the last day of such calendar year prior to giving effect to such distributions.

Section 4.03 of the Trust hereby is modified, by the creation of paragraphs a) and b) and (c) thereof, to provide as follows:

Section 4.03 Delegation of Trustee's Duties.


...

a) The Corporate Trustee shall not be required to maintain physical custody of assets of the Trust, provided that, as to such assets not in its physical custody, they are in the physical custody of the Individual Trustee. With respect to assets of the Trust in the physical custody of the Individual Trustee, the Corporate Trustee shall have no responsibility for any loss of, or damage to any such asset while in the physical custody of the Individual Trustee.

b) With respect to assets of the Trust that are in the physical capacity of the Individual Trustee, the Corporate Trustee shall have no duty to monitor, manage or administer them, or any of them, for values or valuation purposes, or for enhancement or preservation of values, or for trust or income tax accounting purposes.

c) The Individual Trustee shall indemnify and hold the Corporate Trustee harmless from all loss and damage, including costs and expenses (including reasonable attorneys' fees) of defense, arising out of or attributable to any claim of a Trust beneficiary, or any third person or party relating any trust asset while held by the Individual Trustee and not in the physical custody of the Corporate Trustee.

Dated: December 16, 2003.

  
Jane K. Johnson

ASSOCIATED TRUST COMPANY, N.A.

By: 



STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

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Case No. 03-PR- 441

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO ALLOW MODIFICATION OF TRUST**

I hereby acknowledge receipt of a copy of the Petition of the Trustees for the  
Modification of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust. I  
waive notice of the hearing of the Petition, and consent to the modification of the Trust and the  
entry of an Order in modification of the Trust in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

Oshkosh Foundation, Inc.  
n/k/a Oshkosh Community Foundation, Inc.

Eileen Connolly-Keesler

By: Eileen Connolly- Keesler, Executive Secretary

DEC 19 2003

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

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Case No. 03-PR- 441

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO ALLOW MODIFICATION OF TRUST**

I hereby acknowledge receipt of a copy of the Petition of the Trustees for the Modification of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust. I waive notice of the hearing of the Petition, and consent to the modification of the Trust and the entry of an Order in modification of the Trust in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

Jenna A. Johnson  
Jenna A. Johnson, Beneficiary

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STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust


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Case No. 03-PR- 441

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO ALLOW MODIFICATION OF TRUST**

I hereby acknowledge receipt of a copy of the Petition of the Trustees for the Modification of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust. I waive notice of the hearing of the Petition, and consent to the modification of the Trust and the entry of an Order in modification of the Trust in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

  
Carey R. Johnson, Beneficiary

DEC 19 2003

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

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In the Matter of the )  
Ronald H. Johnson and )  
Jane K. Johnson Irrevocable )  
Endowment Trust )

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Case No. 03-PR- 441

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**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO ALLOW MODIFICATION OF TRUST**

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I hereby acknowledge receipt of a copy of the Petition of the Trustees for the Modification of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust. I waive notice of the hearing of the Petition, and consent to the modification of the Trust and the entry of an Order in modification of the Trust in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

Jane K. Johnson  
Jane K. Johnson, Grantor

DEC 19 2003

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the )  
Ronald H. Johnson and )  
Jane K. Johnson Irrevocable )  
Endowment Trust )

Case No. 03-PR- 441

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO ALLOW MODIFICATION OF TRUST**

I hereby acknowledge receipt of a copy of the Petition of the Trustees for the Modification of the Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust. I waive notice of the hearing of the Petition, and consent to the modification of the Trust and the entry of an Order in modification of the Trust in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

DEC 19 2003

  
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Ronald H. Johnson, Grantor

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In the Matter of the )  
Ronald H. Johnson and )  
Jane K. Johnson Irrevocable )  
Endowment Trust )

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Case No. 03-PR- 2141

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**PETITION FOR APPOINTMENT OF GUARDIAN AD LITEM**

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Pursuant to Wis. Stat. § 701.12(2), this is a petition for appointment of a Guardian ad Litem to represent the interests of the legally incapacitated, unascertained or unborn beneficiaries of The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust (the "Trust"), and the minor child beneficiary of the Trust, Benjamin O. Johnson, born January 11, 1988, in connection with a Petition to Modify the Trust in certain respects.

The petitioners respectfully show that:

1. Benjamin O. Johnson is a minor child born January 11, 1988, and is a current beneficiary of the Trust; there also legally incapacitated, unascertained or unborn beneficiaries who are contingent beneficiaries under the Trust. All of them are interested in the Petition to Modify the Trust.
2. Therefore, the minor child and the other legally incapacitated, unascertained and unborn have a need for a guardian ad litem to represent their best interests, as provided under Wis. Stat. § 701.12(2).
3. Ms. Jeanne E. Baivier, an attorney licensed to practice law in the State of Wisconsin, is a responsible and proper person to be named guardian ad litem herein, and has indicated her willingness so to act.

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4. No previous application has been made for an appointment of a guardian ad litem in this matter.

WHEREFORE, petitioners pray that Jeanne E. Baivier by appointed guardian ad litem, to represent in this action the interests of the minor child Benjamin O. Johnson and all other legally incapacitated, unascertained or unborn beneficiaries of The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust.

Dated this \_\_\_\_\_ day of December, 2003.

By: Jane K. Johnson  
Jane K. Johnson, Trustee of The Ronald H. Johnson and Jane K.  
Johnson Irrevocable Endowment Trust

Associated Trust Company N.A., Trustee of The Ronald H.  
Johnson and Jane K. Johnson Irrevocable Endowment Trust

By: SR  
Steven Remark, Vice President

P.O. Address:

U.S. Bank Bldg.  
One Pearl Avenue, P.O. Box 886  
Oshkosh, WI 54903-0886  
(920) 235-7300

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

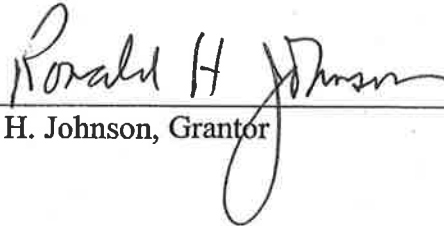
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Case No. 03-PR-\_\_\_\_\_

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO APPOINT GUARDIAN AD LITEM**

I hereby acknowledge receipt of a copy of the Petition for Appointment of Guardian Ad Litem. I hereby waive notice of the hearing of the Petition and consent to the entry of an Order in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.



Ronald H. Johnson, Grantor

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STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

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Case No. 03-PR- \_\_\_\_\_

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO APPOINT GUARDIAN AD LITEM**

I hereby acknowledge receipt of a copy of the Petition for Appointment of Guardian Ad Litem. I hereby waive notice of the hearing of the Petition and consent to the entry of an Order in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

Jane K. Johnson  
Jane K. Johnson, Grantor

DEC 17 2003

STATE OF WISCONSIN

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WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

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Case No. 03-PR-\_\_\_\_\_

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO APPOINT GUARDIAN AD LITEM**

I hereby acknowledge receipt of a copy of the Petition for Appointment of Guardian Ad Litem. I hereby waive notice of the hearing of the Petition and consent to the entry of an Order in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

Jane K. Johnson

Jane K. Johnson, parent and natural guardian of  
Benjamin O. Johnson

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STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

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In the Matter of the )  
Ronald H. Johnson and )  
Jane K. Johnson Irrevocable )  
Endowment Trust )

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Case No. 03-PR-\_\_\_\_\_

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**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO APPOINT GUARDIAN AD LITEM**

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I hereby acknowledge receipt of a copy of the Petition for Appointment of Guardian Ad Litem. I hereby waive notice of the hearing of the Petition and consent to the entry of an Order in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

Jenna A. Johnson  
Jenna A. Johnson, Beneficiary

DEC 17 2003

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

In the Matter of the  
Ronald H. Johnson and  
Jane K. Johnson Irrevocable  
Endowment Trust

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Case No. 03-PR-\_\_\_\_\_

**WAIVER OF NOTICE AND CONSENT TO HEARING ON PETITION  
TO APPOINT GUARDIAN AD LITEM**

I hereby acknowledge receipt of a copy of the Petition for Appointment of Guardian Ad Litem. I hereby waive notice of the hearing of the Petition and consent to the entry of an Order in accordance with the Petition.

Dated at Oshkosh, Wisconsin this 15<sup>th</sup> day of December, 2003.

  
Carey R. Johnson, Beneficiary

DEC 17 2003

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

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In the Matter of the )  
Ronald H. Johnson and )  
Jane K. Johnson Irrevocable )  
Endowment Trust )

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Case No. 03-PR- 441

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**ORDER APPOINTING GUARDIAN AD LITEM**

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A petition having been filed in these proceedings requesting, pursuant to Wis. Stat. § 701.12(2), the appointment of a guardian ad litem to represent the interests of Benjamin O. Johnson, a minor, and other unascertained and unborn beneficiaries of The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT, Jeanne E. Baivier, Attorney at Law, be and she hereby is appointed to act as Guardian ad Litem for the legally incapacitated, unascertained or unborn beneficiaries of The Ronald H. Johnson and Jane K. Johnson Irrevocable Endowment Trust, including the minor child, Benjamin O. Johnson, born January 11, 1988, who is a current beneficiary of the trust; that she make an investigation of the circumstances of the petition for modification of the Trust on file herein; and that she take whatever steps she deems necessary with regard to the protection of the best interest of the legally incapacitated, unascertained or unborn beneficiaries and the minor child beneficiary, and report to the Court accordingly.

Dated at Oshkosh, Wisconsin this 18 day of December, 2003.

BY THE COURT:

A handwritten signature in dark ink, consisting of several horizontal, overlapping strokes that form a stylized, somewhat illegible name.