

*THIRD RESTATED LIVING TRUST OF MARY MONROE DAVIS DATED
JANUARY 24, 2005*

The following is the full text of Article Ten of the Living Trust that created the Davis Educational Fund at the Yakima Valley Community Foundation. Full names in [brackets] were inserted for the ease of the reader.

A. Purpose and Administration of Educational Trust.

The primary purpose of the Educational Trust shall be to provide academic scholarships to residents of Yakima County, Washington to enable them to attend college. The term "college" shall mean and include a private or public college or university situated within the United States which is accredited to confer a Bachelor's Degree or a community or junior college which is accredited to confer an Associate of Arts Degree. Any reference herein to a Bachelor's Degree or Associate of Arts Degree shall also include any other degree which is academically equivalent thereto. The Foundation shall be guided by the following instructions in administering and managing the Educational Trust:

1. The [Yakima Valley Community] Foundation shall establish a long-range prudent spending policy for the Educational Trust with the goal of maximizing the amount of distributable funds for scholarships while growing the corpus to offset the effects of inflation. The spending policy should be revised periodically to account for long-term changes in investment policies, inflation forecasts and other long term factors. It is anticipated that the spending policy will result in funds in excess of earnings being distributed in some years while in other years a portion of earnings will be added to the corpus rather than being distributed. The intent is to allow the Foundation freedom in adopting investment policies and strategies while maintaining a relatively stable growth in the amount of distributions.
2. From the distributable funds, determined as above set forth, the [Yakima Valley Community] Foundation shall be entitled to deduct a reasonable number of basis points (initially 25 basis points) annually (applied to the beginning of the year Educational Trust balance) as reimbursement of its fees and costs, including its indirect costs, incurred by it in fulfilling its administrative, investment and oversight responsibilities under this Article Ten. The number of basis points shall not be increased without the prior approval of the [Yakima Valley Community] Foundation's board of directors for good cause. In addition, the Foundation shall be entitled to be reimbursed from said funds for all investment fees, including investment consultant fees, incurred by it in investing the trust estate and overseeing the performance of the money manager(s).
3. Following the payment of the basis points and investment fees to the [Yakima

Valley Community] Foundation as above set forth, the balance of the distributable funds is to be made available to fund the scholarship program and pay the same to the scholarship program administrator under Paragraph B below, to be held, administered and distributed pursuant to Paragraphs B and C below.

B. Administration of Scholarship Program.

The Yakima Rotary Trust ("Rotary Trust") is designated to receive all available scholarship program funds from the Foundation and to administer the scholarship program as provided herein, and the Foundation shall have no responsibility in respect thereto, except as otherwise provided herein. The Rotary Trust shall maintain and expend the scholarship funds received from the Foundation in accordance with the criteria set forth in this Paragraph B and in Paragraph C below.

1. Of the amounts received from the [Yakima Valley Community] Foundation annually or otherwise, the Rotary Trust may deduct three percent (3%) thereof as a charitable contribution which it may use for its own charitable purposes. It may additionally deduct therefrom an amount equal to the net amount raised by it following the Trustor [Davis]'s death and during the preceding calendar year from a publicized fundraising event sponsored by it in the Trustor [Davis]'s name, but not to exceed two percent (2%) of the amounts received by it from the [Yakima Valley Community] Foundation annually, to use for its charitable purposes. Further, the Rotary Trust may deduct in the first year that the Scholarship Trust is initially funded, also for its charitable purposes, a match equal to the sum of the total net proceeds raised from the annual golf tournament held by it in 2003 and 2004 and also held by it in ensuing years during the Trustor [Davis]'s lifetime, but not to exceed \$40,000 for each year's fundraiser. This shall apply to a fundraiser held in the year of the Trustor [Davis]'s death provided that it is held on or before the date of her death.
2. The Rotary Trust shall maintain all scholarship funds in a separate account from its other funds. Such funds and the earnings thereon are to be used to pay scholarships which have been awarded and also to pay the Rotary Trust's expenses in administering the scholarship program. The Rotary Trust may, but need not, expend all scholarship funds received by it annually from the Foundation. It may retain a reasonable reserve to ensure the availability of adequate funds to meet all program commitments, obligations, and needs, but the amount held in reserve shall not exceed applicable restrictions under the Code, including pertinent IRS regulations.
3. The Rotary Trust shall maintain a record of all receipts, expenses, and expenditures in accordance with generally accepted accounting practices and principles a double entry bookkeeping system. Such records shall be subject to an annual audit by a certified public accounting firm doing business in Yakima County, appointed for such purpose by the Foundation, to ensure that scholarship funds are being properly accounted for and expended and that the scholarship program is being

administered as provided herein. The audit report of the scholarship program shall be made available to the public by the Foundation upon request. In addition, a summary thereof shall be publicized in such manner as the Foundation deems appropriate but without incurring any significant expense in doing so.

4. The Rotary Trust shall publicize the scholarship program and how to make application for a scholarship by such means and in such manner as it deems appropriate. Such publicity shall include making program information available to high school and college students and to other prospective applicants in Yakima County.

5. The Rotary Trust may employ or contract with Bank of America, the Foundation, or others for any support or professional services which will aid it in its administration of the scholarship program, including accounting and legal services.

6. The Rotary Trust may resign its responsibilities hereunder upon giving the Foundation not less than six (6) months' advance written notice on or before June 30 of any calendar year. Similarly, the Foundation may terminate the Rotary Trust as the scholarship program administrator, pursuant to Paragraph H below. In either event, a successor foundation or other organization shall be appointed to administer the scholarship program pursuant to Paragraph H below.

C. Criteria for Awarding and Disbursing Scholarships.

Scholarships shall be awarded in the name of the Educational Trust and shall be administered in accordance with the following criteria and directives:

1. Scholarships are to be awarded on an objective and nondiscriminatory basis (the persons making the selections shall not directly or indirectly benefit from the selections) and only to persons:

(a) Who have been accepted for admission to a college where they will be enrolled full time in a program of study leading to a Bachelor's or Associate of Arts degree, or to a degree generally recognized as academically equivalent thereto; provided, however, that a scholarship may be awarded to an applicant conditioned upon his/her acceptance for admission to a college; and

(b) Who are U.S. citizens and are able to clearly establish that their primary residence, when making initial application, is in Yakima County. Proof of citizenship and residency shall be established in such manner as the Rotary Trust shall determine. Primary residence in Yakima County shall not be a continuing requirement to be eligible for the scholarship program benefits following approval of the initial application.

2. Except as provided in Paragraph 3 below, scholarships are to be awarded on an annual basis only. A student who is awarded a scholarship for one academic year (as defined by the college or university) may be awarded a scholarship for one or more subsequent academic years provided that he/she achieves a minimum cumulative

grade point average of 2.75 on a 4.0 scale or the equivalent thereof ("minimum academic standard"), meets the other eligibility criteria set forth herein, except as otherwise provided in Paragraph I (b) above, and has not yet received a Bachelor's Degree.

3. Scholarships may be awarded for up to four academic years or, if Paragraph 4 below is applicable, five academic years of study under the following conditions:

(a) There is a greater likelihood the applicant will enroll in a specific degree program knowing that his/her financial ability to complete the program is assured; or

(b) The applicant intends to enroll in a structured or certified program of study leading to the acquisition of specific professional, scientific, health care, agricultural (including animal husbandry), educational, or technological skills which will take a prescribed time to complete; or

(c) The applicant presents a compelling reason for awarding him/her a scholarship for more than one academic year. If a student is awarded a scholarship for more than one academic year, his/her academic progress shall be reviewed annually following each academic year to ensure that the objectives for which the award was made are being met and that the student is achieving the minimum academic standard. If a student's cumulative grade point average falls below the minimum academic standard at the end of any academic year, he/she shall be allowed one additional quarter or semester, as the case may be, to achieve such standard, and if he/she fails to do so, his/her scholarship award shall be terminated.

4. Normally, scholarships will not be awarded for a total of more than four academic years, but a scholarship for a partial or full fifth year of study may be awarded if the student was prevented from earning a degree in four academic years for acceptable reasons (e.g. because of a serious illness or injury) or if the student is enrolled in a degree program which requires more than four years of study to complete. Scholarships may not be awarded for post-graduate or professional degree program beyond a Bachelor's Degree.

5. Scholarship funds are to be used pay the cost of tuition and student fees and may be used to pay (a) board and room in a college operated student residence hall or in a fraternity or sorority which is officially recognized or sanctioned by the college or (b) rent in a college operated student housing facility. Such payments are to be made directly to the college or to the fraternity or sorority and not to the student. Scholarship funds may also be used to pay rent for an off-campus apartment or other rental unit during the school year if college operated or sanctioned student residential facilities are not available for any reason. In such event monthly rent checks shall be sent to the landlord in a timely manner and a reasonable monthly allowance for food

shall be paid to the student. A scholarship may additionally include a reasonable sum for the purchase of books, supplies, and equipment, including computer equipment, which may be paid or reimbursed to the student, as appropriate, from time to time. Scholarship funds shall not be used to pay for personal expenses, such as clothing, transportation, recreational activities, social fees, or entertainment.

6. In evaluating a student's application for a scholarship, consideration is to be given to the applicant's financial need and also to his/her academic record, leadership activities, school and community involvement, and moral character. Financial need should be an important factor in every case, but the other criteria should be weighed differently for different applicants based upon an overall assessment of an applicant's strengths, qualities, and potential for future leadership and success. It is the Trustor [Davis]'s intent that emphasis not be placed consistently upon any one criterion, apart from financial need. For example, it is the Trustor [Davis]'s intent that prior academic success be a criterion but not the primary criterion in every case.

7. "Financial need" as used in Paragraph 6 above shall mean that an applicant is in need of financial assistance to attend the college of his/her choice. It does not mean that to qualify for a scholarship, an applicant or his/her parent(s) must be incapable of paying some part of his/her college expenses or could pay the full cost of attending a less expensive college. Thus, partial scholarships may be awarded when an applicant or his/her parent(s) is capable of paying a portion of his/her college expenses.

8. As a condition to receiving a scholarship, scholarship recipients shall sign a contract with the Rotary Trust agreeing to enroll in college as a full-time student, as defined by the college or university which they will be attending; to promptly notify the Rotary Trust should they cease to be a full-time student or withdraw from school during a quarter or semester for which they have received a scholarship, stating the reason for the enrollment change or withdrawal; and to comply with all scholarship program requirements. They shall also promise to promptly remit to the Rotary Trust any resulting refund of prepaid tuition, board and room, or other deposits or payments received by them or paid in their behalf if the same were paid from scholarship funds. Such contract should include or have attached thereto a summary of the scholarship program requirements and may include other appropriate provisions as are deemed reasonable and necessary by the Rotary Trust to ensure adherence to the spirit and intent of the scholarship program.

9. The term "Rotary Trust" as used in Paragraph B above and this Paragraph C shall also mean and include any successor scholarship program administrator appointed pursuant to Paragraph H below.

D. Compliance with Internal Revenue Code.

No substantial part of the activities of the [Yakima Valley Community] Foundation

shall include the carrying on of propaganda, or otherwise attempting to influence legislation, or the participation in or intervention in any political campaign on behalf of any candidate for public office, including the publishing or distributing of statements. No part of the net earnings of the Trust Estate shall inure or be payable to or for the benefit of any private individual. The Foundation shall not conduct or carry on activities not permitted to be conducted or carried on by an organization exempt under Section 501 (c) (3) of the Code, the contributions to which are deductible pursuant to Section 170 (c) (2) of the Code.

E. Additional Powers of [Yakima Valley Community] Foundation.

The Trustor [Davis] recognizes that this trust and the scholarship program will likely continue in perpetuity and that changes may occur in the delivery of college educational services, in the applicable tax laws, and in state laws which cannot now be foreseen and which may impact this trust or the scholarship program. Accordingly, the [Yakima Valley Community] Foundation is authorized, in its discretion, to modify the administration of the trust or scholarship program to accommodate any such changes which may occur in order to ensure that the tax exempt status of the trust is maintained. The [Yakima Valley Community] Foundation is further empowered/ in its discretion, to modify the scholarship program as changed circumstances or conditions may warrant/ provided that the spirit and intent thereof is adhered to, as expressed herein. In doing so, the Foundation may confer with experienced tax and probate professionals and also with community leaders to seek their advice in respect to such modifications.

F. Term of Educational Trust.

The term of the Educational Trust shall be perpetual but the [Yakima Valley Community] Foundation may act to terminate the trust if it determines, in its discretion/ that the corpus of the trust is insufficient to implement the intent of the trust efficiently and effectively. Alternatively/ the trust shall terminate if the Foundation resigns as trustee and no successor trustee can be identified to succeed it pursuant to Paragraph I below. In the event of such termination, the trust assets shall be distributed one-half to the Yakima Valley Community College Foundation/ including any successor foundation/ and one-half to the Heritage University Foundation/ including any successor foundation/ provided that the recipient foundation is an organization exempt under Section 501 (c) (3) of the Code/ the contributions to which are deductible pursuant to Section 170 (c) (2) of the Code. If either above foundation or a successor foundation does not then exist which meets the above qualifications, the trust assets shall be distributed to the other foundation or successor foundation, as the case may be. If no such qualified foundations or successor foundations are in existence, the trust assets shall be distributed to one or more educational organizations situated in Yakima County which meet the above qualifications, as the Foundation deems

reasonable and proper. In doing so, the [Yakima Valley Community] Foundation may seek the advice of experienced tax and probate professionals and also community leaders.

G. Use of Trustee as Money Manager.

The Foundation shall use the Trustee herein as the money manager for the Educational Trust assets unless it determines, in its sole discretion, that it would be in the best interest of the Educational Trust to utilize one or more other money managers, either in addition to or instead of the Trustee. The Educational Trust assets shall be invested by the Trustee and/or other money managers in accordance with the Foundation's investment policy from time to time for the Educational Trust.

H. Use of Rotary Trust as Scholarship Program Administrator.

1. It is the Trustor [Davis]'s desire the Foundation shall use the Rotary Trust to administer the scholarship program under Paragraphs B and C above, unless it resigns pursuant to Paragraph B.6 above or is terminated by the Foundation pursuant to paragraph 2 below.

2. If the Rotary Trust fails to manage the scholarship funds or administer the scholarship program in accordance with the requirements of Paragraphs B and C above and does not cure such failure within one (1) year following the receipt of written notice thereof from the [Yakima Valley Community] Foundation, the [Yakima Valley Community] Foundation may terminate the Rotary Trust as the scholarship program administrator by a written notice of termination, provided that such one-year cure period may be reduced to thirty (30) days if the Foundation determines, in its discretion, that such failure is placing the scholarship program or its funds in serious jeopardy.

3. If the Rotary Trust resigns or is terminated as the scholarship program administrator pursuant to Paragraph 2 above, the Foundation shall there upon appoint a successor foundation or other organization to administer the scholarship program. Any such successor administrator shall be a community-based organization which is an exempt organization under Section 501 (c) (3) of the Code, the contributions to which are deductible pursuant to Section 170 (c) (2) of the Code. It shall have all of the Rotary Trust's powers, duties and responsibilities as set forth in Paragraphs B and C above.

4. Upon confirmation of the successor administrator, the Rotary Trust shall transfer its remaining scholarship funds to the successor administrator, following the payment of its remaining fees and costs of administration. In addition, it shall deliver its records and any operating equipment and fixtures purchased from scholarship funds to the successor administrator.

5. Any successor administrator may resign or be terminated as provided herein in which event a subsequent successor administrator shall be appointed in like manner.

I. **Successor Trustee of Educational Trust.**

The Foundation may resign as the trustee of the Educational Trust pursuant to RCW 11.98.029, as amended. If it should do so, it shall be authorized to appoint a successor trustee effective as of the effective date of its resignation. In doing so, it may seek the advice of experienced tax and probate professionals and also community leaders. The successor trustee shall be a community-based foundation or publicly supported organization, as defined in Section 170 (b) (1) (A) (vi) of the Code, and further, shall be an exempt organization under Section 501 (c) (3) of the Code, the contributions to which are deductible under Section 170 (c) (2) if the Code. Upon confirmation of the successor trustee, the Foundation shall transfer the trust assets to the successor trustee in a timely manner, following the payment of any remaining unreimbursed investment fees. The annual basis points for the calendar year in which the change of trustee occurs shall be prorated between the Foundation and the successor trustee as of the effective date of the Foundation's resignation or as the two organizations may otherwise agree in writing. If the Foundation is unable or unwilling to so act, then the Yakima County Superior Court, upon proper application, shall be empowered, in its discretion, to designate a successor trustee pursuant to RCW 11.96A and 11.98, as amended. The successor trustee, however designated, shall be a community-based organization as described herein. The successor trustee shall succeed to all of the Foundation's powers, duties and responsibilities as set forth in this Article Ten. Any successor trustee may resign in which event a subsequent successor trustee shall be appointed in like manner.