

**The Alabama Family Trust**

**A Summary Of Special Planning For Special Persons -  
How Can You Protect Loved Ones With Disabilities?**

**And**

**Common Place Scenarios Where The Alabama Family  
Trust Can Offer Solutions**

**Alabama Council of Community Mental Health Boards  
Birmingham, Alabama  
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**Presented by Lynn Campisi and  
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*No representation is made that the quality of the legal services to be performed  
is greater than the quality of legal services performed by other lawyers.*

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## **Special Planning For Special Persons –**

### **How Can You Protect Your Loved Ones With Disabilities?**

One may protect assets, improve quality of life, and protect public benefits for a spouse or disabled child with special planning techniques. Leaving assets out right to or in a support trust for a disabled beneficiary will terminate Medicaid benefits. A special needs trust can help preserve the continuation of these much needed benefits.

#### **I. Exempt Trusts For Medicaid Purposes Include The Following:**

- A.** The Self-Settled D4A Trust established under 42 U.S.C. 1396 p (d) (4) (A), (otherwise known as the A Trust).

The A Trust may be established with the assets of an individual who is under the age of 65.

- B.** The Miller or QIT Trust established under 42 U.S.C.-1396 p (d) (4) (B), (otherwise known as the B Trust).

The B Trust is established with excess income that renders a nursing home beneficiary ineligible.

- C.** The Pooled Trust established with third party assets or self-settled with the assets of the individual or his or her spouse established under 42 U.S.C. 1396 p (d) (4) (C), (otherwise known as the C Trust).

The C Trust may be funded with assets of the individual or his or her spouse. Also, third parties may establish a pooled trust for a disabled beneficiary. While The C Trust is allowed for persons under the age of 65, the Alabama Medicaid Agency allows individuals over age 65 to establish pooled trusts particularly with that of the Alabama Family Trust with no interruptions in Medicaid eligibility. However, beneficiaries over the age of 65 with SSI benefits could face a period of ineligibility under the SSI rules. The maximum period of ineligibility under the SSI rules would be three (3) years.

The Alabama Family Trust is a pooled trust and has been used with significant success, not only for the Medicaid Agency, but for obtaining eligibility and enhanced quality of life for the individual Medicaid and trust beneficiary. The AFT is codified in the *Code of Alabama 1975 Section 38-9B-1, et. seq.*

The importance of establishing the proper trusts under the proper rules is to provide for a disregard of excess resources or excess income. If a trust is improperly established or the trust does not provide for reimbursement to Medicaid (if self-settled), or the trust makes improper

disbursements, then the Medicaid beneficiary could be penalized with gaps in eligibility. Therefore, it is important to understand basic rules applying to exempt trusts.

## **II. Special Needs Trusts.**

The assets of a Special Needs Trust are not countable assets because the trust corpus is unavailable to the beneficiary. Therefore, such a trust will not cause the beneficiary to become ineligible for Medicaid benefits. The trust may be used for the extra needs of the beneficiary not otherwise covered by Medicaid and must not be used to provide food or shelter. Prior to March 9, 2005, Special Needs Trusts could not pay for clothing. The trust may not make payments directly to the Medicaid beneficiary.

### **A. Special Needs Trusts – The Basics.**

- Assets in Special needs Trusts do not count as a resource because the assets are not available to pay for food or shelter.
- If the trust provides food and shelter, Medicaid and Supplemental Security Income (SSI) benefits can be reduced or eliminated.
- Excess resources that would otherwise render beneficiary ineligible can be placed in a Special Needs Trust to provide for the extra needs of beneficiary not otherwise covered by Medicaid or by SSI monthly income.
- Source of Excess Resources:
  1. Tort Settlements
  2. Inheritance
  3. Life Time Gifts
  4. Personal Assets

### **B. Special Needs Beneficiaries - must have a mental or physical disability.**

#### **1. Primary Importance of Medicaid Qualification**

- SSI beneficiary qualifies for full Medicaid in Alabama.
- Nursing Home beneficiary – Separate Medicaid program for institutional benefits.
- Excess resources and excess income will terminate Medicaid benefits.

**2. SSI – Supplemental Security income Beneficiary – Income and Resource Limits**

- \$674.00 + \$20.00 = \$694.00 – Income limit.
- \$2,000.00 – Resource limit.
- \$1,500.00 – Limit life insurance (with cash value) Term insurance is included.
- No limit on household goods and personal effects.
- Home is excluded.
- One car is excluded – value capped at \$4,500.00 if not used for essential activities.
- Burial funds of \$1,500.00. (Aggregated with Life Insurance)
- Burial items, plots and spaces for the individual and the immediate family are excluded. Items excluded are casket, vault, marker, headstone, opening and closing.

**3. Nursing Home Medicaid Beneficiary – Income and Resource Limits**

- \$2,022.00 - Income cap (Income Trust (also known as Miller Trust or Qualified Income Trust) can correct excess).
- \$2,000.00 - Resource limit.
- Spousal protection of ½ of countable assets (up to \$109,560.00 cap).
- \$5,000.00 – life insurance excluded if face value is \$5,000.00 or less. Term insurance is excluded.
- No limit on household goods and personal effects.
- Home is excluded if spouse or dependent relative lives there.
- One car is excluded.
- Burial funds of \$5,000.00 (Offset by face value of life insurance \$5,000.00 or less. Otherwise, offset by cumulative cash value of policies greater than \$5,000.00).
- Burial plots and spaces for individual and immediate family members. Same exclusion as for SSI.

**4. Home and Community Based Waivers – (Elderly and Disabled State of Alabama Independent Living Waiver [Sail], Mentally Retarded [MR], HIV/AIDS, and Technology Assisted [TA]).**

- Income cap for Elderly and Disabled Waiver is \$674.00.
- Income cap for other waivers is \$2,022.00 (QIT may not correct excess in this program).
- \$2,000.00 Resource limit.
- No spousal protection of assets.

**C. Special Needs Trust – can be **Individually Drafted** or can utilize a **Pooled Trust**.**

**1. Individually Drafted Special Needs Trusts**

- Can provide for more customized planning.
- Individual tailored documents require individual approval by Social Security and Medicaid
- Requires individual or institutional Trustee and ongoing legal, financial and tax management.
- Trustee is responsible for maintaining Medicaid and SSI eligibility and should hire professional counsel for assistance.
- Beneficiary must be younger than age 65.
- If funded by the beneficiary's own assets, must be established by a court order, parent, grandparent or legal guardian prior to the beneficiary attaining **age 65**.
- Institutional Trustee fees can be a minimum of \$5,000.00 per year.

**2. The Alabama Family Trust – Pooled Trust**

- Trust document is provided.
- Trustee manages a pool of funds for multiple beneficiaries with each beneficiary having a separate account.
- A family member (other than the spouse) or friend serves as Co-Trustee along with a bank Co-Trustee (neither the spouse nor the beneficiary may be the Trustee).
- Under federal law, Court approval not necessary for establishment.
- Beneficiaries over the age of 65 may establish an Alabama Family Trust.
- Ongoing assistance with Medicaid and SSI eligibility issues.
- Co-Trustee can request disbursements for benefit of trust beneficiary.

- Tax returns are prepared by the bank Co-Trustee.
- Trustee fees are virtually non-existent. The fee assessed is 1.25% of net asset value. Principle cannot be invaded to pay fees. Fees can only be paid from income.

***Example.** A \$30,000.00 trust could be charged a \$375 per year Trustee fee. However, if the trust generates only \$300 income, then only \$300 may be charged as the Trustee fee.*

#### **D. When Should I Establish A Special Needs Trust?**

##### **1. Trust established with funds belonging to the individual or his/her spouse = Self Settled Trust**

###### **a. Life time gifts to newly established or existing trust.**

- Medicaid payback required.
- Use to protect resources for extra needs.
- Use to accomplish spend-down of excess resources.
- Should only use when securing or maintaining Medicaid benefits.

###### **b. Testamentary gifts made through your Will for surviving spouse to newly established or existing trust.**

- No Medicaid payback, if funded through your Will.
- Direct inheritance by a Medicaid spouse can suspend benefits.
- Particularly useful for spousal Medicaid cases when community spouse dies owning the home or other assets. Estate can be liquidated and placed in Special Needs Trust for surviving spouse.
- The Last Will and Testament can state that the Special Needs Trust will receive all or part of the Estate.
- If an individually drafted trust is used, the trust must be established in the Will.
- Executor can be directed to establish an Alabama Family Pooled Trust.

##### **2. Trust for other family member (child, grandchild, cousin, nephew) or friend = Third Party Trust**

###### **a. Life time gifts.**

- No Medicaid payback.

- Direct gift to beneficiary can be counted as income or resource and could suspend SSI or Medicaid.
- Provide resources for extra needs.
- Preserve Medicaid and SSI.

**b. Testamentary gifts made through your Will.**

- No Medicaid payback.
- You can name the Special Needs Trust to receive assets from your estate.
- You can establish the Special Needs Trust during your life or establish it at death (as part of your Will document) or at death with instructions to Executor.
- Provide resources for extra needs.
- Preserve Medicaid and SSI.

**E. The Source of The Funding of A Special Needs Trust Determines Medicaid Payback.**

- 1. Self Settled.** If the trust is funded with the individual's assets (or those of the individual's spouse), then upon the termination of the trust (upon the beneficiary's death), Medicaid is reimbursed for expenses it has paid on behalf of the beneficiary, up to the amount remaining in the trust. If there is a balance after Medicaid has been reimbursed, then the balance may be paid to successor beneficiaries named in the trust.
- 2. Third Party.** If a trust is established with assets not belonging to the individual or the individual's spouse, then there is no payback due to Medicaid.
- 3. Trust Established by the Will of the Spouse.** The Special Needs Trust established by the Will of the deceased spouse for the benefit of the Medicaid beneficiary will not be considered as a resource of the Medicaid beneficiary. Upon the death of the surviving spouse who is the Medicaid beneficiary, the remaining balance of the trust may be paid to beneficiaries designated in the Will of the deceased spouse. There is no Medicaid payback.

**F. Practical Uses.**

1. Maintain beneficiary's ongoing special care.
2. Nursing home beneficiary's use of excess resources.

- Contribution to Alabama Family Trust is safe spend-down.
  - Provides cushion to pay extra expenses.
  - Helpful as spend-down and cushion in a spousal spend-down. Husband in private room costing \$450.00 per month. Wife's Community Spouse Resource Allowance equals \$25,000.00 Husband must spend \$25,000.00 down to \$2,000.00. Consider Alabama Family Trust contribution of part or all of his required spend-down.
3. Maintain beneficiary's Medicaid benefits when tort settlements are received.
  4. Testamentary or inter vivos gifts to disabled family members.
  5. Simplification of asset management and maintenance of public benefits in circumstances where the Trustee has limited ability to manage complex issues.

**G. Alabama Family Trust Fees and Information**

<b><u>Minimum Deposit</u></b>	\$500.00
<b><u>Fees:</u></b>	
Application	\$400.00
Check Writing Fees	None
Administrative	1.25% of Trust* Account Balance
Participation in Investment	All Accounts**
Invasion of Principal for Administrative Costs	No
Current Accounts/Beneficiaries	360
Assets Under Management	\$8.6 million

(\*Never to invade Trust principal)

(\*\*Investments held by Bancorp South -- Custodian)

**FOR INFORMATION AND PACKETS ON THE ALABAMA FAMILY TRUST**

**Ron Locke, Executive Director**  
**Alabama Family Trust**  
**120 Oslo Drive**  
**Birmingham, AL 35211**  
**1-800-711-1303 or (205) 944-3979**

## H. Estate Planning Guidelines When Medicaid Is A Player

1. **Redesign Beneficiary Designations.** Avoid naming the incapacitated or institutionalized individual as a beneficiary.
2. **Avoid Survivorship Deeds.** If husband is institutionalized and wife lives at home, upon the death of wife, home will pass automatically to institutionalized husband. The home will no longer be exempt and will be subject to a potential Medicaid lien at the husband's death. The home should be titled in the well spouse's name.
3. **Restructure the Will to Provide for Special Needs Planning for Medicaid Beneficiary/Spouse.** Even though husband and wife are considered as one unit for transfer purposes, a transfer to a trust by one's Will will not cause a penalty. You should avoid direct gifts of your estate to an incapacitated or institutionalized spouse or other individual who may be a Medicaid beneficiary. Any gifts made through a will for this individual should be made to a Special Needs Trust that may be established in the Will. Any transfers made into this type of Trust will not cause a period of ineligibility and will not require a payback to Medicaid.
  - a. **Do Not Omit Spouse.** The Medicaid beneficiary spouse may not be omitted from the estate of the deceased spouse. In order to continue Medicaid benefits, the surviving spouse must receive the equivalent of the Elective Share (generally 1/3 of the estate; 2/3 of the estate if granted to a trust) and the equivalent of the Homestead Exemption (\$6,000), the Family Allowance (\$6,000) and exempt property (\$3,500) totaling \$15,500. In the case where all or part of the community spouse's estate is used to satisfy the Elective Share and fund the Special Needs Trust, the assets of the Special Needs Trust are exempt assets and do not render the beneficiary ineligible for Social Security Income (SSI) benefits, Medicaid benefits or other public assistance programs.
  - b. **Satisfying the Elective Share and Funding the Special Needs Trust.** If the elective share (generally 1/3) (Alabama Code Section 43-8-70) is placed in the Special Needs Trust, then it will require 2/3 of the estate to satisfy the elective share (Alabama Code Section 43-8-75 (a)). **However, caution because Medicaid's policy is to treat the elective share as a personal right similar to the exemptions. If the elective share is claimed and granted by a formal**

**process in court and then placed by Court Order in the Special Needs Trust, Medicaid will treat it as a transfer.** Therefore, it is best to leave the surviving spouse the entire estate and direct that it be placed in the Spouse's Special Needs Trust.

- c. The Spouse may not Waive or Disclaim any Rights in the Estate.** This waiver would be considered as a transfer and would create eligibility breaks likely to last longer than the money would have lasted if received directly.

**COMMON PLACE SCENARIOS WHERE ALABAMA FAMILY TRUST CAN OFFER SOLUTIONS**

**1. The Elderly Nursing Home Resident With Excess Resources And No Medicaid Benefits.**

Husband and wife are married fifty-five years. Husband is admitted to nursing home with no reasonable expectation to ever return home. A private room along with an occasional sitter is necessary to provide for the specific care of this nursing home resident who often times exhibits outward behavior and aggression toward other residents. The behavior is common during the sundown periods of the day. This behavior can be typical of an Alzheimer's patient. Although a nursing home resident, the resident is not able to have one on one 24/7 care. If the husband and wife go through the normal spend-down necessary for nursing home eligibility, the spouse would continue to pay the nursing home care for the extra benefits for her husband. After consulting with a Medicaid specialist and the family's lawyer, the spouse at home may retain half of the countable resources along with one car and the home. The nursing home resident must complete a spend-down before qualifying for Medicaid. After spend-down, if extra needs are necessary for the nursing home resident, these extra needs will be paid for out of the spouse's protected assets. However, the AFT may be used to set aside assets required in a Medicaid spend-down. The trust can pay for the private room and sitters.

**Spousal Case:**

Total countable assets:	\$ 225,000.00
House	Exempt
Car	Exempt
<b>Anticipated extra monthly needs:</b>	
Private room	\$ 500.00
Extra sitter from 2-5:00 p.m. in the evening (\$45 per day X 5 days a week X 4 weeks a month)	\$ 900.00
Clothes	\$ 100.00
Toiletries	<u>\$ 100.00</u>
Total monthly expenses anticipated	\$1600.00

**Husband in Nursing Home**

**Wife at Home**

\$115,440.00	Home	Exempt
Allowable Resource - \$ 2,000.00	Car	Exempt
Spend down required \$113,440.00		
Burial - prepaid - \$ 7,000.00		
Balance Available for AFT Contribution \$106,440.00 (Payback to Medicaid is the balance at death)	CSRA	\$109,560.00
	Wife at home gets to protect the car, the house and ½ of \$225,000 up to a cap of \$109,560.00	

2. **Middle Aged Individual With Supplemental Security Income and Medicaid Medical Benefits.**

The individual was injured in an auto accident and expects to receive a lump sum settlement of \$100,000.00. The administrative costs and Trustee fees will cost about \$6,000.00 per year and renders the establishment of a D4A self settled trust uneconomical. The individual, although suffering from a physical disability, has full mental understanding and can understand and manage his own financial affairs.

The Alabama Family Trust offers an economic and streamlined trust arrangement for smaller trusts. The individual may literally create his own trust and appoint a family member as co-Trustee. The trust may pay for phone, cable, recreation and transportation which seem to be the most expensive items facing this individual. The individual is housed in a HUD 1 subsidized apartment and receives food stamps. The monthly income is used to pay for his own food and shelter. The trust can pay for his extra and supplemental needs.

3. **The Accidental Heir On Medicaid.** During an estate administration, the executor realizes that a beneficiary is due a \$20,000.00 distribution. The distribution will render the individual ineligible for Medicaid. The executor may ask for court approval to reform the distribution and place it in the Alabama Family Trust for the benefit of the heir. The distribution from the estate directly to the Alabama Family Trust does not interrupt the Medicaid benefits.

4. **The Alabama Family Trust Used In Conjunction With A Single Transaction Authority For Medicaid Benefits.** Under Alabama Code Section 26-2A-137, Protective Arrangements and Single Transactions Authorized, *the court, without appointing a conservator, may authorize, direct or ratify any contract, trust or other transaction relating to the person's protected property and business affairs if the court determines that the transaction is in the best interest of the protected person.* A Medicaid recipient with no durable power of attorney and social security as a single income source, may own a home. When the house is sold, then the proceeds become a resource. If, after a proper Medicaid lien is satisfied from the proceeds of the house, there are excess resources, the excess resources may be placed in the Alabama Family Trust.

While in the trust, the proceeds are strictly supervised and a disbursement committee determines the proper disbursements. If a trust is established with the resources of the Medicaid beneficiary, then after the death of the Medicaid beneficiary, Medicaid receives a reimbursement for the amount it has expended for the beneficiary. The remaining amount may be paid to the remainder beneficiaries in the trust.

A single transaction authority is particularly helpful in these types of situations and helps to streamline the court's ongoing involvement if there is no estate planning in place and where there are limited assets to be sold.

5. **Estate Planning For The Nursing Home Spouse.** A Special Needs Trust established in the Will of the decedent does not require a Medicaid payback. However, if a decedent leaves a spouse his or her entire estate in a Special Needs Trust without a payback, Medicaid still

requires the individual nursing home resident to receive his or her spousal exemptions (statutory allowances under the homestead allowance, Alabama Code Section 43-8-110; family allowance, Alabama Code Section 43-8-112 and exempt property Alabama Code Section 43-8-111) totaling \$15,500.00. A decedent may leave the \$15,500.00 outright to the nursing home spouse or directly to the Alabama Family Trust with a Medicaid payback provision. If the \$15,500.00 is paid directly to the nursing home spouse, nursing home benefits will be interrupted. The balance of the estate may be directed to a separate Special Needs Trust established by the Will of the decedent and there is no payback required for this type of trust.

**Spousal Case: Trust Established at Death Through the Deceased Spouse's Estate**

Home	\$200,000.00	
Car	\$ 15,000.00	
Spouse's Savings	\$109,560.00	
		\$15,500.00 (Outright or to AFT with payback)
		Balance to Trust (Established in Will of Husband) (**No Payback to Medicaid Here)

Result: Spouse in Nursing Home Continues on Medicaid With Little Or No Interruption of Benefits.

## Appendix I

### IMPORTANT NUMBERS TO REMEMBER

<b>Medicaid Income Limit</b>	\$2,022
<b>SSI Level</b>	\$ 674 + 20 = \$ 694
<b>Resource level</b>	\$2,000
<b>Burial Limit</b>	\$5,000 (Caution Pre-paids and other Insurance) \$1500 (for SSI Eligibles)
<b>CSRA = Countable / 2</b> (spouse's protected resource)	\$109,560 MAX \$ 25,000 MIN
<b>MMMNA (Changes in July)</b> (spouse's needs allowance)	\$1,822
<b>Penalty Factor</b>	\$4,800
<b>Medicare Premiums</b>	
Part A	\$ 461
Part B	\$ 110.50 (new enrollees)
Part D (Standard)	\$ 30.73
<b>Medicare SNF Co-Pay</b>	\$ 137.50

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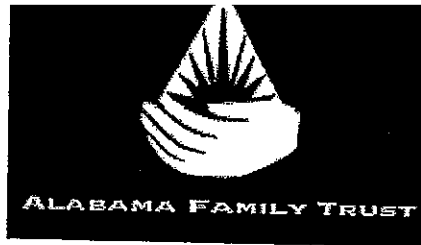
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**Bryan Luquire, Sr. Vice President and Regional Trust Executive**



## HOW TO OPEN AN ALABAMA FAMILY TRUST (AFT) ACCOUNT FOR YOUR DISABLED LOVED ONE

1. Request information (Alabama Family Trust Packet) from AFT Office or see our website at [www.AlabamaFamilyTrust.com](http://www.AlabamaFamilyTrust.com) for the most up to date forms.
  2. Upon receipt of your Alabama Family Trust Packet, the Trust Agreement, the Agreement Addendum, and the Investment Options Agreement should be reviewed thoroughly. The AFT recommends one consult his or her attorney and/or financial advisor before completing these documents; although, the Executive Director of the AFT, Mr. Ronald Locke, is always available to speak with those who might need assistance with the process itself, as well as, Agreement completion.
  3. In the Trust Agreement document the donor will:
    - a) Designate the Life Beneficiary;
    - b) Designate the account Co-Trustee(s) and Successor Co-Trustee(s);
    - c) Designate the Beneficiary(ies) of the account upon the death of Life Beneficiary;
    - d) Decide if the account will be **revocable** or **irrevocable** (*If revocable, donor must pay taxes on the account annually, including payment of taxes for future contributions from other sources, such as friends and family. If the Life Beneficiary is a Medicaid recipient and not the Donor (the person contributing the money to start the trust), then the trust must be irrevocable.*).
    - e) Determine amount of the first contribution (**minimum first contribution is \$500. Of this, \$100 will be the actual contribution as there is a one-time establishment fee of \$400.**) Determine the amount (if any) to be disbursed quarterly to the Co-Trustee(s) on behalf of the Life Beneficiary, to the degree that there are sufficient resources in the account, as well as documentation of the need for disbursement.
  3. Send executed documents (the AFT Trust Agreement, AFT Addendum and Investment Options Agreement) with check, money order, or cashier's check payable to the Alabama Family Trust (with Life Beneficiary's name listed on the Memo Line).
  4. Documents and check should be sent to:

**Alabama Family Trust  
120 Oslo Circle  
Birmingham, Alabama 35211-5965**
- You may also address your questions to Dan Cobb, Accountant, whose direct telephone line is 205.944.3927 or [dan@ucpbham.com](mailto:dan@ucpbham.com).
5. Upon receipt of the completed documents and funds by the AFT Director, the Life Beneficiary's trust account will be established as soon as possible.
  6. AFT operating hours are Monday through Friday, between 8:00AM and 5:00PM CST.
  7. The telephone numbers are 1.800.711.1303 or 205.944.3987. The facsimile number is 205.944.3988.

## **BancorpSouth Model Portfolios – A Comprehensive Risk Solution**

The BancorpSouth Model Portfolios are lifestyle or target-risk portfolios, offering instant diversification to multiple asset classes in a single portfolio, with the added benefit of professional asset allocation and experienced security selection.

### **Diversification Made Easier**

BancorpSouth's seven Model Portfolios have an asset allocation mix among stocks, bonds, and short-term instruments that range from a more conservative and lower equity allocation mix to a more aggressive and higher equity allocation mix.

As an investor you should first understand your personal risk tolerances, time horizons, and investing goals. Then simply pick the Model Portfolio with the total stock percentage number that most closely matches your target asset mix and BancorpSouth's investment staff will do the rest.

### **Benefits of BancorpSouth Model Portfolios**

**Diversification** – In a single portfolio you will have exposure to multiple asset classes, including domestic and international stocks across varying styles and market cap ranges, investment-grade and high-yield fixed-income, and short-term instruments, such as money markets.

**Confidence** – With BancorpSouth Model Portfolios you can be assured that your asset allocation mix will be consistent with your selected target mix.

**Ease** – Invest in and monitor one portfolio instead of several.

### **How BancorpSouth Model Portfolios Work**

The BancorpSouth Model Portfolios use a lead/sub-portfolio management structure that incorporates two levels of money management:

#### **Lead Management – Focus on Asset Allocation**

BancorpSouth's Investment Committee maintains the overall asset allocation targets and makes controlled shifts in allocation to the various sub-portfolios, including domestic and international stocks, investment-grade fixed income, and short-term securities, to capitalize on market dynamics. As market conditions change, we can make modest adjustments in the asset allocation weightings, but we never strays far from the neutral asset allocation mix. This allows us to take advantage of market opportunities without materially changing the intended risk/return profile. The portfolio is re-balanced periodically.

#### **Sub-Portfolio Management – Focus on security selection**

The sub-portfolios consist of mutual funds investing in domestic and international stocks, investment-grade fixed income, and short-term securities. They are managed by experienced portfolio managers, research analysts, and sector specialists. BancorpSouth monitors the fund managers on an ongoing basis. Managers may be replaced periodically.

## **INVESTMENTS**

To assist the Alabama Family Trust (AFT) and the Donors and/or beneficiaries who establish an account through AFT, BancorpSouth, as custodian for AFT, has made available the use of the Model Portfolios to utilize when investing funds within each AFT account in accordance with investment objective chosen by the Donor / Beneficiary / Trustee of the respective AFT account. All Portfolios are comprised of mutual funds managed by a qualified portfolio manager. Within each fund, expenses are incurred for the management of the fund and are charged within the fund prior to any dividend, interest, or capital gains being paid out to each investor. The Model Portfolios available to be utilized by AFT are listed below. All trusts will have the balances under \$2000 invested into the Money Market Fund option.

### **High Growth with Income Model**

**Expense Ratio 0.70%**

Maintaining a neutral mix over time of **80%** of assets in stocks and **20%** of assets in bonds and short-term and money market instruments, though BancorpSouth may overweight or underweight in each asset class. Allocating the portfolio's assets among stocks, bonds, and short-term and money market instruments.

### **Aggressive Balanced Model**

**Expense Ratio 0.59%**

Maintaining a neutral mix over time of **60%** of assets in stocks and **40%** of assets in bonds and short-term and money market instruments, though BancorpSouth may overweight or underweight in each asset class. Allocating the portfolio's assets among stocks, bonds, and short-term and money market instruments.

### **Balanced Model**

**Expense Ratio 0.54%**

Maintaining a neutral mix over time of **50%** of assets in stocks and **50%** of assets in bonds and short-term and money market instruments, though BancorpSouth may overweight or underweight in each asset class. Allocating the portfolio's assets among stocks, bonds, and short-term and money market instruments.

### **Conservative Balanced Model**

**Expense Ratio 0.49%**

Maintaining a neutral mix over time of **40%** of assets in stocks and **60%** of assets in bonds and short-term and money market instruments, though BancorpSouth may overweight or underweight in each asset class. Allocating the portfolio's assets among stocks, bonds, and short-term and money market instruments.

### **High Income with Growth Model**

**Expense Ratio 0.38%**

Maintaining a neutral mix over time of **20%** of assets in stocks and **80%** of assets in bonds and short-term and money market instruments, though BancorpSouth may overweight or underweight in each asset class. Allocating the portfolio's assets among stocks, bonds, and short-term and money market instruments.

### **Income Model**

**Expense Ratio 0.27%**

Maintaining a neutral mix over time of **100%** of assets in bonds and short-term and money market instruments, though BancorpSouth may overweight or underweight in each asset class. Allocating the portfolio's assets among stocks, bonds, and short-term and money market instruments.

### **Money Market Fund**

**Expense Ratio 0.18%**

100% of the assets are invested in the Goldman Sachs Financial Square Government Money Fund

### **Tax- Free Money Market Fund**

**Expense Ratio 0.22%**

100% of the assets are invested in the Federated Tax- Free Obligations Money Market Fund

You may call or email Dean Niesen, Vice President and Trust Officer with BancorpSouth with any questions regarding the Model Portfolios. 205-558-7721 or dean.niesen@bxs.com.

**Asset Allocation Model  
Historical Returns  
Disclaimer**

Asset Allocation Models are comprised of non-proprietary mutual funds. All performance results are presented net of mutual fund fees, but do not include a charge for the Bank's fee. Past performance does not guarantee or indicate future results.

Model composition and investment performance data assume daily rebalancing of each model according to the stated composition of the model. Rebalancing typically occurs semi-annually, but may occur more frequently. The composition of each fund may be changed from time to time by adjusting the percentage allocated to a particular mutual fund, or by adding or removing a fund. Therefore, the actual returns experienced by an account invested in an Asset Allocation Model may have been higher or lower.

Investment performance is based on information received from Morningstar, and is prepared with the use of Zephyr StyleADVISOR. It assumes reinvestment of all interest and dividends, and takes into consideration all changes in composition of the models for the period reported. The information received from both sources is believed to be accurate and complete. However, no warranty is given as to the accuracy or completeness of the information. Because the timing of purchases into and sales out of a model within the month by an investor may also affect that investor's return, the returns shown are only intended to be generally representative of those experienced for the time periods indicated.

Some mutual funds charge early redemption fees for accounts that trade too frequently. These fees vary from fund to fund as to the amount of the fee and the definition of frequent trading. Early redemption fees are paid directly to the mutual fund that assesses the fee, and will reduce the return to an investor against whom such a fee is imposed.

None of the mutual funds comprising the models pay fees of any type to BancorpSouth in connection with assets invested in these Asset Allocation Models.

This information does not constitute investment advice, is not intended to be investment advice, and should not be taken as such.

Mutual funds are not deposit products, they are not guaranteed by the Bank, they are not FDIC insured, and they may lose value.

# Alabama Family Trust

Phone: Toll Free 800.711.1303 Main 205.944.3987 Fax 205.944.3988

Mailing Address: 120 Oslo Circle, Birmingham, AL 35211-5965

## Request for Disbursement

Name of Beneficiary: \_\_\_\_\_

Trust Account No (if known): \_\_\_\_\_

Requested by: \_\_\_\_\_  
(Co-Trustee)

Telephone number: \_\_\_\_\_ e-Mail: \_\_\_\_\_

Payable to: \_\_\_\_\_

Address: \_\_\_\_\_

Account#: \_\_\_\_\_ Amount: \_\_\_\_\_

Purpose, which **must** be for or on the behalf of the beneficiary:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Receipts attached: Yes No This disbursement is medically necessary: Yes No

Under penalties of perjury, I declare that to the best of my knowledge and belief, this information is true, correct and complete.

X \_\_\_\_\_

Date: \_\_\_\_\_

A separate form should be completed for each payee.

# ALABAMA FAMILY TRUST:

## A sample of covered items:

- Medical supplies not covered by Medicaid
- Over the counter drugs
- Personal hygiene products such as shampoo, lotion, adult diapers
- Clothing/shoes for the Beneficiaries
- Monthly cable service
- Telephone, including cellular, service
- Mileage for Co-Trustee visits to Beneficiary: (1) to perform tasks specifically associated with the Beneficiary's care; or (2) trips made with the Beneficiary in the vehicle, for example, for treatments; or (3) trips to purchase/pick-up medication or supplies for the Beneficiary. Mileage for general visitation of Beneficiaries is **NOT** reimbursable. (Mileage is compensated at the then Federal IRS rate in force at the time.)
- Vacation expenses for the Beneficiary and a caretaker (These expenses need to be discussed with AFT prior to the trip. Not all expenses can be paid by the Trust. Appropriate documentation is required to support these expenditures.)
- Items for bedrooms, comforters, bedspreads, curtains
- Furniture for the beneficiary, such as new bed

*\* Please note that the items not covered are a result of the restrictions imposed by law to special needs trusts and/or the rules and regulations of Medicaid and SSI.*

- Electronic Games
- Movie or DVD Rentals
- Veterinary bills for Beneficiary's pet
- Pre-need funeral/burial contracts (Limit of \$5,000 on the Services portion in these contracts)
- Sitter Services for the Beneficiary if allowed by Medicare or SSI in the Beneficiary's particular case. **Sitter Services must have Employer Identification Numbers from the IRS.**
- Dental bills, not covered by Medicaid or Medicare
- Vision bills, not covered by Medicaid or Medicare
- Repairs to medical equipment not covered by Medicaid
- Differential for private room in nursing facility
- Magazines/Newspaper subscriptions

## Items that are not covered:

- Food or food items of any kind
- Shelter, such as mortgage payment, rent payment, residence insurance
- Utilities, such as electricity, water and gas/propane
- Final expenses upon the death of the beneficiary. The trust is to be used for lifetime benefits only.
- Mileage for general visitation of Beneficiaries is **NOT** reimbursable.

*\*\*If the Co-Trustee is at all unsure whether a service or expense is covered for reimbursement under the special needs trust, please do not hesitate to contact the AFT office.*



## ALABAMA FAMILY TRUST

Many Americans depend upon governmental entitlements such as Medicaid and SSI to provide for their financial needs. Many of these individuals have mental or physical disabilities that substantially limit their major life activities. However, the financial resources provided by Medicaid and SSI are often insufficient to cover the day-to-day living expenses of those that depend upon these programs. This is particularly true of those with disabilities, who must also face the costs of increased medical bills and the need for special medical equipment and supplies.

The Alabama Family Trust (AFT) provides trust services for persons with such disabilities. The organization was created by the State of Alabama Legislature in 1994 to encourage, enhance, and foster the provision of medical, social, or other supplemental services for persons with a mental or physical impairment (See Code of Alabama 1975 Chap. 38-9B). The AFT is a 501 (c) (3) general non-profit organization established for the purpose of administering special needs trusts for the disabled.

Special Needs trusts are a type of trust specifically designed for individuals with disabilities. If properly structured and administered, special needs trusts do not affect an individual's eligibility for governmental benefits such as SSI and Medicaid.

However, because of prescribed resource limitations, such financial assistance from family and friends can adversely affect the disabled individual's eligibility for Medicaid and SSI. The current resource limit for Medicaid and SSI benefits is anything in excess of \$2,000.

This is where the Alabama Family Trust fulfills a need. The AFT provides for the establishment of a trust from which funds may be disbursed to supplement the care, support, shelter, and treatment of the designated disabled person, or beneficiary. As written, the legislation establishing the AFT is fairly broad as to what may be expended on behalf of the trust's beneficiary.

The AFT has beneficiaries who are already Medicaid and SSI recipients. It also has many individuals who become eligible for these governmental

entitlements as they simultaneously establish an Alabama Family Trust for themselves or loved ones.

The trust may be established with a minimum of funds. The current minimum for trust establishment is \$100.00 accompanied with a one-time application/administrative fee of \$400.00 which is also required. Thus, technically, the minimum is \$500.00.

AFT is governed by an eleven member Board of Trustees who are appointed by the governor of the State and the Legislature. The Board members represent the interests of persons with mental illness, mental retardation or developmental disabilities, physical impairments, and who are recognized for their expertise in general business matters and procedures. Board members serve without compensation and are appointed to 3 year terms.

If you have any questions regarding the AFT, you can visit the program's web site at [www.alabamafamilytrust.com](http://www.alabamafamilytrust.com), or you can contact the AFT's Executive Director, Ronald P. Locke, Esq., at 205.944.3987 (Toll Free 800.711.1303) or [ronlocke@ucpbham.com](mailto:ronlocke@ucpbham.com).

# ALABAMA FAMILY TRUST AGREEMENT

**THIS IS A BINDING LEGAL DOCUMENT. YOU MAY WISH TO OBTAIN PROFESSIONAL ADVICE BEFORE SIGNING.**

The Donor hereby makes the following contribution, IN TRUST, to the Alabama Family Trust Corporation (hereinafter called the "Corporation" or "Trustee") its successors and assigns, as Trustee, of the Alabama Family Trust (hereinafter called the "AFT Trust"), to be held for the benefit of the Life Beneficiary pursuant to the following terms and conditions:

1. The name(s) of the Donor(s) is (are):

---

What is the source of the Trust assets? (e.g.: Gift, Estate or Legal Settlement, Proceeds from Sale of Property; not Checking or Savings Account, IRA, etc.)

---

Do the assets belong to the life beneficiary or the life beneficiary's spouse? { } Yes { } No Please check one.

The Donor(s) address is (are):

---

The Donor(s) phone number is (are):

---

The Donor's Social Security Number is:  
(If more than one donor, complete both)

A. Name: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

B. Name: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

The Donor(s) relationship to the Beneficiary is (are):

---

*(If the Donor is the same as the Beneficiary then please mark above with "SAME AS BENEFICIARY".)*

C. The name of the Donor to whom earnings, gains and losses of the Life Beneficiary's Account are to be charged for income tax purposes if the Life Beneficiary's Account is **revocable** is:  
NOT APPLICABLE

D. In the event of an **irrevocable** trust, earnings, gains and losses of the Life Beneficiary's Account are to be charged for income tax purposes to the Life Beneficiary's Account in the AFT Trust.

2. A. The name of the **Life Beneficiary** is:

\_\_\_\_\_

Whose address is:

\_\_\_\_\_

Whose disability is :<sup>1</sup> \_\_\_\_\_

\_\_\_\_\_

Whose telephone number is: \_\_\_\_\_

Whose Social Security Number is \_\_\_\_\_

Whose date of birth is: \_\_\_\_\_

---

<sup>1</sup> At the time of trust establishment, the AFT requires a medical doctor's written statement regarding the beneficiary's disability. It can be mailed along with the completed agreements, or faxed to 205-944-3988.

B. The name of the Successor Life Beneficiary is:<sup>2</sup>

\_\_\_\_\_

Whose address is: \_\_\_\_\_

\_\_\_\_\_

Whose Phone Number is: \_\_\_\_\_

Whose Social Security Number is: \_\_\_\_\_

Whose date of birth is: \_\_\_\_\_

3. The contribution of the Donor consists of:

A. Cash in the amount of:

\$ \_\_\_\_\_ [minimum of \$500 to create an account, which shall include the one-time establishment fee of \$400. This \$400 fee is non-refundable and is assessed upon signing off on the application by AFT upon receipt. Thus, technically the minimum is \$100 into the initial trust account.]<sup>3</sup>

B. Other property consisting of: \_\_\_\_\_

\_\_\_\_\_  
(Any non-cash contribution must be approved by the Trustee and is subject to immediate liquidation.)

4. A Quarterly disbursement will/will not [strike the inapplicable word or words] be paid to the Co-Trustee on behalf of the Life Beneficiary. If a Quarterly disbursement is to be issued, complete the following:

<sup>2</sup> By law, a Successor Life Beneficiary is defined as a legal sibling of the Life Beneficiary and who otherwise qualifies as a Life Beneficiary under the conditions set forth in AL Code Sections 38-9B-1 ~ 7.

<sup>3</sup> If the amount contributed to establish the trust is less than \$40,000.00, then it will be placed into the Reserved Investment Account (RIA). Please call the AFT office at 800.711.1303 or 205-944-3987 for further information regarding the policies that govern this pooled account.

On a Quarterly basis, a check in the amount of \$ \_\_\_\_\_ shall be issued to (Co-Trustee name) \_\_\_\_\_ (to the degree that there are sufficient assets in the Life Beneficiary's Account), for the purpose of providing supplemental benefits to the above-named Life Beneficiary. In no event may the disbursements cause the Account balance to fall below \$100.

The Co-Trustee will annually receive a Quarterly Disbursement Request form in the month preceding the account establishment date to enable adjustment of the Quarterly amount requested based upon the most current needs of the Life Beneficiary. If, upon opening the Life Beneficiary Account, the Donor does not wish to establish a Quarterly disbursement, a Quarterly Disbursement Request form will be sent to the Co-Trustee upon request.

5. The Donor designates the following Co-Trustee(s) of the AFT Trust, whose name(s), address(es), telephone number(s), and social security number(s) is/are:

A. Name: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone#: \_\_\_\_\_ Fax#: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

B. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

C. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

The above designated Co-Trustee(s) of the AFT Trust shall/shall not [strike the inapplicable word(s)] be compensated from the Trust fund for his/her/their [strike the inapplicable words] legitimate expenses as such. Such compensation shall be (circle selection):

a. In an amount as determined as reasonable by the Trustee, or

b. In the amount of \$\_\_\_\_\_ per year.

Donor agrees that any such compensation shall be paid in the sole discretion of the Trustee, taking into account the amount of income earned by the Account and other expenses charged to the Account.

6. If for any reason the above designated Co-Trustee(s) is (are) unwilling, unable or unqualified to serve as such at any time, then the Donor designates, in order of preference, the following successor Co-Trustee(s) of the AFT Trust, whose name(s), address(es), telephone number(s) and social security number(s) is/are:

A. Name: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone#: \_\_\_\_\_ Fax#: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

B. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

C. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

The above designated Co-Trustee(s) of the AFT Trust shall/shall not [strike the inapplicable word(s)] be compensated from the Trust fund for his/her/their [strike the inapplicable words] legitimate expenses as such. Such compensation shall be (circle selection):

- a. In an amount as determined as reasonable by the Trustee, or
- b. In the amount of \$ \_\_\_\_\_ per year.

Donor agrees that any such compensation shall be paid in the sole discretion of the Trustee, taking into account the amount of income earned by the Account and other expenses charged to the Account.

7. The Donor designates the following Trustee(s) of the Successor Trust, whose name(s), address(es), telephone number(s), and social security number(s) is/are:

A. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

B. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

C. Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

The above designated Trustee(s) of the Successor Trust shall/shall not [strike the inapplicable word(s)] be compensated from the Successor Trust fund for his/her/their [strike the inapplicable words] legitimate expenses as such. Such compensation shall be (circle selection):

a. In an amount as determined as reasonable by the Trustee, or

b. In the amount of \$\_\_\_\_\_ per year.

8. If for any reason the above designated Trustee(s) of the Successor Trust is/are unwilling, unable or unqualified to serve as such, at any time, then the Donor designates the following Successor Trustee(s) of the Successor Trust, if any, whose name(s), address(es), telephone number(s), and social security number(s) is/are:

A. Name: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone#: \_\_\_\_\_ Fax#: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

B. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

C. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

The above designated successor Trustee(s) of the Successor Trust shall/shall not [strike the inapplicable word(s)] be compensated from the Successor Trust fund for his/her/their [strike the inapplicable words] legitimate expenses as such. Such compensation shall be (circle selection):

a. In an amount as determined as reasonable by the Probate Court in the City of Birmingham, Jefferson County, Alabama, or

b. In the amount of \$\_\_\_\_\_ per year.

9. The duly appointed guardian(s)/conservator(s) for the Life Beneficiary and his/her/their name(s), address(es), telephone number(s), and social security number(s) is/are:

A. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

B. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

C. The Court who appointed the guardian(s)/conservator(s) is:

\_\_\_\_\_

Whose address is:

\_\_\_\_\_

\_\_\_\_\_

The case number is : \_\_\_\_\_

10. Upon the death of the Life Beneficiary, the "applicable portion"<sup>4</sup> of the current fair market value of the Life Beneficiary's Account, as determined on the date of death, not to exceed the contribution for the Life Beneficiary, as permitted by this Agreement and Sections 38-9B-1 through 38-9B-7 of the Code of Alabama, 1975, shall be distributed to the following designated person(s), and in the percentages indicated:

Name	Current Address	Date of Birth	Social Security #	Day Phone	%

\* In completing the above beneficiary section, it is not permissible that the beneficiary designation be to "the estate" or to "the heirs" of the primary beneficiary. It is permissible that the beneficiary designation be to "the children, or issue, or descendants" of the primary beneficiary and it is also permissible that a specific person or entity be designated as beneficiary.

11. It is recommended that the Donor receive professional advice, with regard to the AFT Trust and this Agreement, and if such advice was sought, it was received from:

Name: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone#: \_\_\_\_\_ Fax#: \_\_\_\_\_

<sup>4</sup> "Applicable Portion" is defined as those monies remaining in the account after the Charitable Trust has retained 10% for the purpose of assisting indigent disabled individuals with no association whatsoever with this special needs trust and Medicaid reimbursement, if relevant, as defined in Section 13 of this Agreement has occurred.

12. **Donor May Revoke.** Unless otherwise elected to be irrevocable, so long as the Donor or his or her spouse is not the Life Beneficiary, then the Donor, from time to time, during his or her lifetime, may revoke, in whole or in part, any gift made hereunder; provided, however, the Donor first shall have given reasonable notice to the Trustee in accordance with the then rules and regulations of the Trustee, of the amount to be returned to the Donor upon revocation; and, provided further however, except in the case of a revocation in whole, the amount remaining in the Life Beneficiary's Account, after any such partial revocation, shall not be less than the then minimum contribution required to open an Account for a Life Beneficiary. Every notice of revocation must be signed by all contributors to an Account. If the Donor has died or becomes incapacitated, the Co-Trustee shall have the right to transfer the funds to a Successor Trust pursuant to Section 5 of the Addendum and Section 38-9B-5(c)(6) of the Code of Alabama, 1975. If at the time the Donor revokes, by written notice, his or her gift to the AFT Trust, and the Life Beneficiary has not received any benefits provided by use of AFT Trust income or principal, then an amount equal to the current fair market value of the Life Beneficiary's Account, as determined on the date of distribution, shall be returned to the Donor. If at the time the Donor revokes his or her gift to the AFT Trust and the Life Beneficiary has received any benefits provided by the use of trust income or principal, then an amount equal to 95% of the current fair market value of the Life Beneficiary's Account, as determined on the date of distribution, shall be returned to the Donor. The remaining balance of the Life Beneficiary's Account shall be distributed to the AFT Charitable Trust.

*\*\*If the Donor and the Life Beneficiary are one and the same or share a spousal relationship, and the Donor/Beneficiary is a Medicaid recipient, then the trust must be established as irrevocable.\*\**

THE DONOR ELECTS THAT THE CONTRIBUTIONS  
TO THE AFT TRUST FOR THE ACCOUNT  
ESTABLISHED HEREUNDER FOR THE BENEFIT OF  
THE LIFE BENEFICIARY BE  
REVOCABLE/IRREVOCABLE [STRIKE ONE]. \_\_\_\_\_  
(DONOR'S INITIALS)

\_\_\_\_\_  
(Donor's  
Initials)

THE UNDERSIGNED, BY HIS/HER/THEIR INITIALS IN THE MARGIN HEREOF, HEREBY ACKNOWLEDGES THAT HE/SHE/THEY HAS/HAVE READ AND UNDERSTAND THE ATTACHED PROVISIONS OF THE ALABAMA FAMILY TRUST INCLUDING THE ADDENDUM TO THIS DOCUMENT, ATTACHED HERETO AND MADE A PART OF THIS AGREEMENT. THE UNDERSIGNED FURTHER ACKNOWLEDGE(S) THAT THIS AGREEMENT CONTAINS A **BINDING ARBITRATION PROVISION** WHICH MAY BE ENFORCED BY THE PARTIES.

13. **Medicaid Reimbursement.** If the Donor and the Life Beneficiary are one and the same, and this person is a Medicaid recipient, then a medical assistance assessment will be taken at the end of the active life of the trust to accurately determine monies disbursed during the Beneficiary's life, and an affidavit will be filed on behalf of Alabama Medicaid with the AFT Director for estate recovery to ensue. This process will occur prior to the enactment of Section 10 of this Agreement. Alabama Medicaid will accept the lower of the two; the fair market value, or balance, of the trust at the time of its closing, or the amount spent by Medicaid for the life beneficiary's medical assistance.

This Agreement is executed by the Donor, intending to be bound by the terms hereof, and the Alabama Family Trust Corporation as the Trustee of the Alabama Family Trust, acting through an authorized agent, has signed this Agreement, hereby accepting this trust, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Donor(s):

1. Name: \_\_\_\_\_

2. Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

WITNESSES:

1. Name: \_\_\_\_\_

2. Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ALABAMA FAMILY TRUST CORPORATION  
TRUSTEE:

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# ALABAMA FAMILY TRUST AGREEMENT

## ~ ADDENDUM ~

1. **Contribution to AFT Trust Fund.** The Donor hereby contributes to the Corporation, as Trustee of the AFT Trust, the property described in Section 3 of the written Agreement. Upon receipt of the contribution, the Trustee shall open an Account for the benefit of the Life Beneficiary designated in Section 2 of the written Agreement. For income tax purposes, no Account shall list more than one Donor, although contributions may be made to any particular Account by an unlimited number of contributors.
  
2. **Separate Account for Life Beneficiary.** The Trustee shall hold the contributed property and the earnings thereon as part of the AFT Trust, on the terms and conditions described in this Agreement and as provided in Sections 38-9B-1 through 38-9B-7 of the Code of Alabama, 1975. The Trustee shall maintain a separate Account for such property and the earnings thereon for the benefit of the Life Beneficiary. The Life Beneficiary shall not have the power to assign, convey, alienate, or otherwise encumber any interest acquired in the income or principal of any Account hereunder, nor shall such income or the principal or any interest of the Life Beneficiary hereunder be payable toward any debt incurred by the Life Beneficiary, nor shall the principal or income of any Account be subject to seizure by any creditor of the Life Beneficiary under any writ or proceeding in law or in equity, until such income or principal shall have been actually paid over and delivered to the Life Beneficiary.
  
3. **Annual Agreement on Use of Funds.** The Co-Trustee, if any, with the consent of the Trustee, shall annually agree on the amount of income or principal or income and principal to be used to provide benefits and the nature and type of benefits to be provided for the Life Beneficiary. It is the purpose of the AFT Trust to supplement, not replace, any government benefits for the Life Beneficiary's basic support to which such Life Beneficiary may be entitled and to increase the quality of such Life Beneficiary's life by providing him or her with those amenities which cannot otherwise be provided by public assistance or entitlements. The Trustee may expend income and principal for the Life Beneficiary in accordance with Medical and Social Services approved by the Social Security Administration in the Program Operations Manual System (POMS) SI 00815.050, as it now exists, or as it may be amended from time to time. Permissible expenditures include, for example, more

sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, and expenditures to purchase personal property, as not to cause loss of individual eligibility, and services which will make life more comfortable and enjoyable for the Life Beneficiary but which will not defeat his or her eligibility for public assistance or government entitlements. The Trustee, in its discretion, where medically necessary, may make payments from time to time for a person to accompany, or assist, the Life Beneficiary and for the transportation of the Life Beneficiary. **THE SOCIAL SECURITY ADMINISTRATION RESERVES THE RIGHT UNDER FEDERAL REGULATIONS TO REVIEW ALL EXPENDITURES. ALL EXPENDITURES OTHER THAN AS APPROVED UNDER SI 00815.050 WILL BE PROMPTLY REPORTED TO THE SOCIAL SECURITY ADMINISTRATION.** The Trustee may make payments and distributions in any one or more of the following ways as the Trustee may deem advisable, in such amounts and for such uses as, in the reasonable opinion of the Trustee, will not defeat the Life Beneficiary's eligibility for public assistance, namely:

- (a) To the legal guardian of the Life Beneficiary;
- (b) To any adult relative of the Life Beneficiary to be held and expended by such relative for the support, education and welfare of the Life Beneficiary;
- (c) To any adult relative of the Life Beneficiary as custodian for such Life Beneficiary pursuant to the Alabama Transfers to Minors Law, or any other statute of similar import; or
- (d) By the Trustee itself expending such income or principal for the support, education, welfare and comfort of the Life Beneficiary, and to that end the Trustee may make payments to any person, firm, corporation or governmental agency.

Any undistributed income shall be added to principal from time to time. Expenditures shall not be made for the primary support or maintenance of the Life Beneficiary, including his or her basic food, shelter and clothing, if, as a result, the Life Beneficiary would no longer be eligible to receive public benefits or assistance to which the Life Beneficiary would otherwise be entitled. In the event that the Trustee and the designated Co-Trustee, shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the Trustee or the Co-Trustee shall have the right to request that the

matter be resolved by arbitration, as provided in Section 38-9B-5(c) (7) of the Code of Alabama, 1975.

4. **Donor as Beneficiary May Not Revoke.** If the Donor or his or her spouse is the Life Beneficiary, then the Donor may not revoke any gift made hereunder, and any amounts remaining in the Life Beneficiary's Account upon the death of the Life Beneficiary shall be retained by the AFT Trust and transferred to the AFT Charitable Trust pursuant to Section 38-9B-5(c) (5) of the Code of Alabama, 1975. It is the intention of the Donor that this "self-sufficiency" type trust shall qualify as a trust under the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") that is a permissible vehicle for individuals to transfer assets into trust and remain eligible for government entitlements. Upon the death of the Life Beneficiary, any amount transferred to the AFT Charitable Trust that is greater than the amount deemed to be a reimbursement to the State of Alabama under OBRA '93 shall be considered a charitable contribution of the Life Beneficiary's estate.
  
5. **Co-Trustee (Other Than Donor) May Transfer.** Any designated Co-Trustee, other than the original Donor, shall have the right, for good and sufficient reason stated in written notice to the Trustee to revoke and direct withdrawal of all, but not less than all, of the Life Beneficiary's Account. In such event, if the Life Beneficiary has not received any benefits provided by the use of the AFT Trust income or principal, or the Life Beneficiary has received benefits provided by the use of AFT Trust income or principal for a period of not more than five (5) years from the date a contribution has first been made to the AFT Trust for the Life Beneficiary, then an amount equal to 95% of the current fair market value of the principal balance of the Life Beneficiary's Account as determined on the date of distribution shall be distributed to the Successor Trust; and the balance of the Life Beneficiary's Account shall be distributed to the AFT Charitable Trust. If, at the time of transfer by the Co-Trustee, the life Beneficiary has received any benefits provided by the use of AFT Trust income or principal for a period of more than five (5) years from the date a contribution had first been made to a Life Beneficiary's Account, then an amount equal to 90% of the current fair market value of the balance of the Life Beneficiary's Account as determined on the date of distribution shall be distributed to the Successor Trust, and the balance of the Life Beneficiary's Account shall be distributed to the AFT Charitable Trust. In the event that the Trustee and the Co-Trustee shall be unable to agree upon whether the Co-Trustee has stated a good and sufficient reason to make such withdrawal, then either the Trustee or the Co-Trustee shall

have the right to request that the matter be resolved by arbitration, as provided in Section 38-9B-5(c) (8) of the Code of Alabama, 1975.

**6. Termination by Trustee.**

- (a) In the event that a court, pursuant to a lawfully convened hearing with notice to the Trustee, or a governmental agency shall make a determination that the AFT Trust's principal or income shall be liable for the Life Beneficiary's primary support or maintenance otherwise provided at public or private, or public and private, expense, or that any public benefits or assistance then being received by the Life Beneficiary or to which the Life Beneficiary may otherwise be entitled are denied or terminated, then in such event the Trustee shall terminate the AFT Trust as to such Life Beneficiary and the then balance in the Life Beneficiary's Account shall be distributed in accordance with the provisions of Section 12 of the written Agreement, if the Donor is then living, or in accordance with provisions of Section 5 hereof, if the Donor is incapacitated or not then living.
- (b) In the event that extenuating circumstances shall arise which, in the reasonable opinion of the Trustee make the continuation of the AFT Trust for the Life Beneficiary impractical or uneconomical, then in such event the Trustee may terminate the AFT Trust as to such Life Beneficiary and the then balance in the Life Beneficiary's Account shall be distributed in accordance with the provisions of Section 12 of the written Agreement, if the Donor is then living, or in accordance with the provisions of Section 5 hereof, if the Donor is incapacitated or not then living. In the event that the Trustee and the then acting Co-Trustee shall be unable to agree upon whether the continuation of the AFT Trust for the benefit of the Life Beneficiary is impractical or uneconomical, then either the Trustee or the Co-Trustee shall have the right to request that the matter be resolved by arbitration, as provided in Section 38-9B-5(c) (8) of the Code of Alabama, 1975.

- 7. Death of Life Beneficiary.** If the Life Beneficiary dies before receiving any benefits provided by the use of AFT Trust income or principal, then an amount equal to 100% of the current fair market value of the Life Beneficiary's Account shall be transferred to the account of a Successor Life Beneficiary, if any. If (1) there is no Successor Life Beneficiary, (2) the Donor and the Life Beneficiary are one and the same or share a spousal relationship, and (3) the Donor/Beneficiary is a Medicaid recipient, then a medical assistance assessment will be taken at the end of the active life of

the trust to accurately determine monies disbursed during the Beneficiary's life, and an affidavit will be filed on behalf of Alabama Medicaid with the AFT Director for estate recovery to ensue. Any monies remaining after State reimbursement, or "applicable portion", shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement. If the Donor/Beneficiary is not a Medicaid recipient, then said amount shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement.

If at the date of death of the Life Beneficiary, the Life Beneficiary shall have been receiving benefits provided by the use of AFT Trust income or principal or both, then in such an event, all amounts remaining in the account of such Life Beneficiary shall be transferred to the account of a Successor Life Beneficiary, if any. Ten percent of the trust account will be distributed to the AFT Charitable Trust. If (1) there is no Successor Life Beneficiary, (2) the Donor and the Life Beneficiary are one and the same or share a spousal relationship, and (3) the Donor/Beneficiary is a Medicaid recipient, then a medical assistance assessment will be taken at the end of the active life of the trust to accurately determine monies disbursed during the Beneficiary's life, and an affidavit will be filed on behalf of Alabama Medicaid with the AFT Director for estate recovery to ensue. Any monies remaining after State reimbursement, or "applicable portion", shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement. If the Donor/Beneficiary is not a Medicaid recipient, then an amount equal to 90% of the current fair market value of the Life Beneficiary's Account, as determined on the date of distribution shall be distributed to such person or persons as the Donor shall have designated in Section 10 of the written Agreement, and the remaining balance of the Life Beneficiary's Account shall be distributed to the AFT Charitable Trust.

8. **Successor Trust.** Upon the happening of an event described in Section 6, or upon receipt of a notice of transfer from a designated Co-Trustee, other than the original Donor, and a determination that the reason for such transfer is good and sufficient, the Trustee shall distribute and pay over to the designated Successor Trustee(s), IN TRUST, the "applicable portion" of the current fair market value of the principal balance of the Life Beneficiary's Account, as determined on the date of transfer, not to exceed the contribution for the Life Beneficiary, as determined in Section 5 of this addendum. The date of transfer shall be defined as the date that the Co-Trustee revokes a Life Beneficiary's Account. The designated Successor Trustee(s) of the Successor Trust shall hold, administer and distribute the

principal and income of the Successor Trust, in the discretion of such Trustee(s), for the maintenance, support, health, education and general well-being of the Life Beneficiary, recognizing that it is the purpose of the Successor Trust to supplement, not replace, any government benefits for the Life Beneficiary's basic support to which such Life Beneficiary may be entitled and to increase the quality of such Life Beneficiary's life by providing him or her with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. **The Trustee may expend income and principal for the Life Beneficiary in accordance with Medical and Social Services approved by the Social Security Administration in the Program Operations Manual System (POMS) SI 00815.050, as it now exists or as it may be amended from time to time.** Permissible expenditures include, for, example, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the Life Beneficiary but which will not defeat, his or her eligibility for public assistance or governmental entitlements. The Trustee of the Successor Trust, in his or her discretion, where medically necessary, may make payments from time to time for a person to accompany, or assist, the Life Beneficiary and for the transportation of the Life Beneficiary. **THE SOCIAL SECURITY ADMINISTRATION RESERVES THE RIGHT UNDER FEDERAL REGULATIONS TO REVIEW ALL EXPENDITURES. ALL EXPENDITURES OTHER THAN AS APPROVED UNDER SI 00815.050 WILL BE PROMPTLY REPORTED TO THE SOCIAL SECURITY ADMINISTRATION.** The Trustee of the Successor Trust may make payments and distributions in any one or more of the following ways as the Trustee may deem advisable, in such amounts and for such uses as, in the reasonable opinion of the Trustee, will not defeat the Life Beneficiary's eligibility for public assistance, namely:

- (a) To the legal guardian of the Life Beneficiary;
- (b) To any adult relative of the Life Beneficiary to be held and expended by such relative for the support, education and welfare of the Life Beneficiary;
- (c) To any adult relative of the Life Beneficiary as custodian for such Life Beneficiary pursuant to the Alabama Transfers to Minors Law, or any other statute of similar import; or

- (d) By the Trustee itself expending such income or principal for the support, education, welfare and comfort of the Life Beneficiary, and to that end the Trustee may make payments to any person, firm, corporation or governmental agency.

Any undistributed income shall be added to principal from time to time. Expenditures shall not be made for the primary support or maintenance of the Life Beneficiary, including his or her basic food, shelter and clothing, if; as a result, the Life Beneficiary would no longer be eligible to receive public benefits or assistance to which the Life Beneficiary would otherwise be entitled. In the event that the Trustee and the designated Successor Co-Trustee, shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the Trustee or the Successor Co-Trustee shall have the right to request that the matter be resolved by arbitration, as provided in Section 38-9B-5(c)(7) of the Code of Alabama, 1975, provided, however, in no event shall any decision of the arbitrator be permitted if, as a result of the same, the Life Beneficiary would no longer be eligible to receive public benefits or assistance to which the Life Beneficiary would otherwise be entitled.

#### **9. Compensation of Trustees.**

- (a) The Trustee may charge a reasonable fee to pay the costs and expenses of administration of the Trust; provided, however, in no event shall the fee charged by the Trustee exceed the amount of income earned by the AFT Trust. The fees charged by the Trustee shall be deducted periodically from the individual Life Beneficiary Accounts.
- (b) In addition to the Trustees' fee, the Trustees' investment agent may receive reasonable compensation from the mutual funds selected by the Donor or the Donor's designated representatives as investment options. Such compensation may be paid to the investment agent by the mutual funds in return for providing services to the funds, such as investment-advisory, custodial or other shareholder services.
- (c) The designated Co-Trustee(s) of the AFT Trust shall be entitled to reasonable compensation for his or her services, if provided for in this Agreement. No Trustee or Co-Trustee shall be required to audit or examine the books of a prior Trustee or Co-Trustee, and no Trustee or Co-Trustee shall be

required to post bond as a condition of serving as a Trustee or Co-Trustee.

10. **Responsibility For Investments and Management of Trust Funds.** The responsibility and authority for investment and management of the funds held hereunder shall be vested in the Trustee and its successors. The Trustee shall have full power and authority to manage and control the trust funds except insofar as authority is specifically retained by the Donor or granted to the designated Co-Trustee (whether or not the Donor) to participate in decisions regarding the provision of benefits for a Life Beneficiary. The income earned shall be credited to the Accounts of the respective Life Beneficiaries as provided in Section 38-9B-5(c) (2) of the Code of Alabama, 1975. The administrative expenses of the Trustee shall be paid to the Trustee not less frequently than quarterly. Other than their investment option decisions, no Donor or designated Co-Trustee whatsoever shall have any authority or responsibility, however, for investment of the AFT Trust funds; except, as appropriate, with respect to periodic elections of investment options, no Donor or designated Co-Trustee shall have authority over or responsibility for investment of trust funds unless the Board of Trustees of the Alabama Family Trust determines, in its sole discretion, that it is appropriate or desirable for the Donor or designated Co-Trustee to participate in investment decisions.
11. **Powers of Trustee.** The Trustee shall have all powers granted to trustees acting under Alabama law and shall have any powers specifically granted to the Trustee under Sections 38-9B-1 through 38-9B-7 of the Code of Alabama, 1975 as the same may be now in effect or hereafter be amended. The Trustee reserves the right to amend this agreement, from time to time, upon reasonable notice to the Donor or the then acting Co-Trustee. The Trustee shall have authority to appoint such investment counselors, managers and advisors as it may select from time to time and to pay reasonable fees for such services.
12. **Acceptance of Provisions.** Execution of this Alabama Family Trust Agreement by the Donor and a duly authorized agent of the Trustee shall constitute acceptance of the provisions hereof and of Sections 38-9B-1 through 38-9B-7 of the Code of Alabama, 1975.
13. **Succession.** These provisions shall be binding upon, inure to the benefit of and be enforceable by the Donor, Trustee, and if applicable, the Co-

Trustee and Successor Trustee, and their respective successors in interest, heirs and personal representatives.

14. **Trustee Liability.** No Trustee, Co-Trustee, or Successor Trustee serving pursuant to the provisions of this chapter shall at any time be liable for any mistake of law or fact, or of both law and fact, or errors of judgment, or for any loss sustained by the AFT Trust, or by any Life Beneficiary, or by any other person, except through actual fraud or willful misconduct on the part of such Trustee, Co-Trustee or Successor Co-Trustee.
15. **Trust Amendments and Modifications.** It is the intent and purpose of this Trust to always conform with applicable Alabama statutes and those of the Federal government. If in the future, laws, rules, regulations, or policies pertaining to public assistance are passed by the Alabama Legislature or any Federal or State of Alabama agency which would require changes in the Trust Agreement in order to conform with requirements of a Life Beneficiary being able to continue receiving public governmental benefits and/or governmental entitlements, then such changes shall be deemed to be adopted and will become the applicable provisions to this Trust effective as of date of this trust.

**It is the intent and purpose of this trust that the implementation thereof shall always conform with the requirements of a beneficiary being able to continue receiving governmental benefits and/or entitlements, and if, as the result of any changes in Medical and Social Services to be approved by the Social Security Administration in its Program Operations Manual System (POMS) (SI00815.050), as they now exist or as it may be amended, from time to time, then such changes as may be necessary to conform thereto shall be deemed to be adopted and will become applicable provisions to this Trust.**

16. **The Donor hereby acknowledges receipt of:**
  - a) A copy of this Agreement.
  - b) A copy of the 1994 Alabama Family Trust Law, Section 38-9B-1 through 9B-7 of the Code of Alabama, 1975.
  - c) A copy of any rules and regulations, if any, in addition to this Alabama Family Trust Agreement document. If any rules and regulations are not provided initially to the Donor they will be provided as soon as they are adopted.

d) A schedule showing the Trustee's fees which are currently being charged by the AFT Trust. Also, the Donor understands that, separate and apart from the Trustee's fee, the AFT Trust's Investment Agent may receive reasonable compensation from any of the mutual funds selected by the Donor as investment options. Such compensation may be paid to the investment agent by the mutual funds in return for providing services to the funds, such as investment-advisory or other shareholder services. It is understood and agreed that the Trustee fees, determined by the fees charged to the Trustee by the Investment Agent of the Trustee, are subject to change. Upon such change, the Donor will be notified and provided with the new fee schedule showing current Trustee fees.

e) The prospectuses of all mutual funds which are made available to the Donor as investment options. The Donor also acknowledges that the AFT Trust's Investment Agent has delivered to Donor, under separate cover, a listing of any compensation which may be received from the mutual funds for investment-advisory or shareholder services, and the basis upon which such compensation is to be calculated.

## **ALABAMA FAMILY TRUST FEE STRUCTURE**

### **FAMILY TRUST ACCOUNTS:**

Annual administrative fee: Annual Asset Value fee\* of: 1.25%

\*In no event shall total fees, other than distributions or Co-Trustee compensation, exceed the annual net income of the account. Compensation on annual asset fee will be deducted on June 30<sup>th</sup> of each year.

### **COMPENSATION FOR CO-TRUSTEES:**

An individual Co-Trustee of an AFT Trust Account shall be entitled to receive such reasonable compensation for services as the Donor to an Account may direct. Such direction must be by an appropriate written document delivered to the AFT Trust during Donor's lifetime. Absent specific direction from the Donor to the contrary, an individual Co-Trustee shall serve without compensation.

**CHARITABLE TRUST:**

Asset fee of 7.5% per year of the market value of AFT Charitable Trust assets. This is subject to change upon determination of the AFT Board of Trustees. Fees shall be deducted on June 30<sup>th</sup> of each year.

This Agreement ~Addendum~ is executed by the Donor(s,) and witnessed, intending to be bound by the terms hereof, and the Alabama Family Trust Corporation, as the Trustee of the Alabama Family Trust, acting through an authorized agent, has signed this Agreement ~Addendum~, hereby accepting the terms herein, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**DONOR(S):**

1. \_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

2. \_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

**WITNESSES:**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

ALABAMA FAMILY TRUST CORPORATION

**TRUSTEE:**

By:

\_\_\_\_\_  
**SIGNATURE**

Print Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Date:

\_\_\_\_\_

# ALABAMA FAMILY TRUST

Ronald P. Locke, Esq., Executive Director  
120 Oslo Circle  
Birmingham, Alabama 35211-5965  
TELEPHONE: 205.944.3987/800.711.1303 FAX: 205.944.3988

## Investment Options Agreement

NAME: \_\_\_\_\_ Account \_\_\_\_\_

The *Donor* of a trust shall be given the right, herein, to select an investment strategy on their own. If no selection is received from a Donor/Co-Trustee, the trust account assets will be invested in the Balanced Model Portfolio. All trust accounts will have a minimum of \$2000 invested in the Money Market Fund. If the total value of the trust account is less than \$2000, the entire account will be invested in the Money Market Fund.

If, due to disbursements or otherwise, the balance of the trust account falls below \$100.00, such balance must be restored to the minimum of \$100.00 through additional contributions.

The *Donor* hereby acknowledges and agrees to hold the *Trustee(s)* harmless from any loss(es), as provided in Section 38-9B-7 of the Code of Alabama, 1975, incurred as a result of any investment option selection.

**THE DESIGNATED CO-TRUSTEE MAY ALTER OR AMEND THIS INVESTMENT OPTIONS AGREEMENT AS THE CO-TRUSTEE SHALL DETERMINE FROM TIME TO TIME, BUT NOT MORE FREQUENTLY THAN TWICE EVERY CALENDAR YEAR.**

INVESTMENTS MAY BE MADE IN ONLY ONE MODEL PORTFOLIO:

- |   | <b>Donor's<br/>Initials</b> |
|---|-----------------------------|
| 1. <b><u>Income Model:</u></b><br>The investment objective of this Portfolio is to seek maximum income consistent with the preservation of capital. Invests at 100% of assets in bonds and short-term and money market instruments. There is no assurance that this portfolio will achieve its investment objective.  | _____                       |
| 2. <b><u>Income with Growth Model:</u></b><br>The investment objective of this Portfolio is to seek high income and capital appreciation with low volatility by investing primarily in a diversified portfolio consisting of 20% of the assets in stocks and 80% of assets in bonds and short-term and money market instruments. There is no assurance that this portfolio will achieve its investment objective.                 | _____                       |
| 3. <b><u>Conservative Balanced Model:</u></b><br>The investment objective of this Portfolio is to seek moderate income and capital appreciation with moderate volatility by investing primarily in a diversified portfolio consisting of 40% of the assets in stocks and 60% of the assets in bonds and short-term and money market instruments. There is no assurance that this portfolio will achieve its investment objective. | _____                       |

4. **Balanced Model:**

The investment objective of this Portfolio is to seek moderate income and capital appreciation with moderate volatility by investing primarily in a diversified portfolio consisting of 50% of the assets in stocks and 50% of the assets in bonds and short-term and money market instruments. There is no assurance that this portfolio will achieve its investment objective.

5. **Aggressive Balanced Model:**

The investment objective of this Portfolio is to seek moderate income and capital appreciation with moderate volatility by investing primarily in a diversified portfolio consisting of 60% of the assets in stocks and 40% of the assets in bonds and short-term and money market instruments. There is no assurance that this portfolio will achieve its investment objective..

6. **High Growth with Income:**

The investment objective of this Portfolio is to seek high income and capital appreciation with high volatility by investing primarily in a diversified portfolio consisting of 80% of the assets in stocks and 20% of the assets in bonds and short-term and money market instruments. There is no assurance that this portfolio will achieve its investment objective.

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**MONEY MARKET FUNDS - PLEASE SELECT A MONEY MARKET FUND FOR ANY CASH THAT IS HELD IN THE TRUST.**

YOU MAY SELECT ONLY ONE MONEY MARKET FUND

1. **Prime Management Obligations Fund:**

The fund seeks to provide investors with current income consistent with stability of principal. The fund pursues its objective by investing primarily in a portfolio of short-term, high-quality, fixed-income securities issued by banks, corporations and the U.S. government. The fund will have a dollar-weighted average maturity of 90 days or less.

2. **Tax-Free Obligations Fund:**

The fund seeks to provide dividend income exempt from federal regular income tax consistent with stability of principal. The fund pursues its objective by investing primarily in a portfolio of short-term, high-quality, tax-exempt securities.

The *Custodian* of the Portfolios shall periodically *rebalance* the above investment classes so as to conform to the allocation decision of the Investment Committee of BancorpSouth Trust and Asset Management.

**PLEASE REVIEW EACH OF THE FOLLOWING ITEMS CAREFULLY AND INITIAL "ALL" THAT ARE APPLICABLE TO YOUR SITUATION.**

Donor's Initials

- A. Donor hereby elects to permit any Co-Trustee or Successor Co-Trustee designated currently or in the future by the Donor, to alter or amend this Investment Options Agreement as to the same extent as the Donor could, If then living and competent. \_\_\_\_\_
  
- B. Donor hereby acknowledges that in the event the donor does not authorize a Co-Trustee or Successor Co-Trustee to alter or amend this Investment Options Agreement, then after the Donor's death, all investment decision shall be made by the Board of Trustees, in its sole and absolute discretion. \_\_\_\_\_
  
- C. Donor acknowledges receipt of a separate schedule showing the Trustee's fees. \_\_\_\_\_
  
- D. Donor acknowledges that investments in the Model Portfolios are not deposits or obligations of or guaranteed by the Trustee or its agent, BancorpSouth. Donor also acknowledges that such investments are not federally insured by the FDIC or any other government agency. Investment in Model Portfolio involves risk, including the possible loss of principal. \_\_\_\_\_

This Investment Options Agreement is executed by the Donor, intending to be bound by the terms herein, and the Alabama Family Trust Corporation, as the Trustee of the Alabama Family Trust, acting through an authorized agent, has signed this Agreement, hereby accepting and acknowledging the Donor's selections, as of this \_\_\_\_\_ day of \_\_\_\_\_, in the year of \_\_\_\_\_.

\_\_\_\_\_ DONOR  
Print Name: \_\_\_\_\_

**WITNESSES:**

1. \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

2. \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

***ALABAMA FAMILY TRUST CORPORATION  
TRUSTEE***

By \_\_\_\_\_

As Its Authorized Agent

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



# Alabama Family Trust



## Special Needs Trusts for Individuals with Disabilities

### THE NEED:

Many Americans depend on government entitlements such as Medicaid and SSI to provide for their financial needs. Many of these individuals have mental or physical disabilities that substantially limit their major life activities.

Financial resources provided by Medicaid and SSI are often not enough to cover day-to-day living expenses. This is particularly true of those with disabilities, who must also face the costs of increased medical bills and the need for special medical equipment and supplies.

Without planning, a well-meaning family member might simply leave an inheritance to an individual with a disability, not knowing that it might affect their government entitlements. Because of set resource limitations, financial assistance from family and friends can adversely affect Medicaid and SSI eligibility for a person with a disability. Currently, if an individual has resources in excess of \$2,000, their eligibility for receiving Medicaid or SSI will be effected.

**THIS IS WHERE THE ALABAMA FAMILY TRUST  
FULFILLS A NEED.**

Our dedicated administrative team of Ron Locke, Angela Saddler, and Dan Cobb are ready to guide you through every step of the process as you set up your trust.

We have the knowledge and expertise to set up the trust accounts, file all the necessary documents, and answer your questions as you decide how best to care for your loved ones.

Please feel free to contact us with any questions you have, and we'll be happy to assist you in every way we can.

Sincerely,  
Ronald P. Locke, Esq.  
Executive Director  
Alabama Family Trust  
[ronlocke@ucpbham.com](mailto:ronlocke@ucpbham.com)



120 Oslo Circle, Birmingham, Alabama 35211  
Tel 1-800-711-1303 Fax 205.944.3988  
[WWW.ALABAMAFAMILYTRUST.COM](http://WWW.ALABAMAFAMILYTRUST.COM)

## THE SOLUTION:

The Alabama Family Trust (AFT) provides for the establishment of a TRUST from which funds may be spent for the care and treatment of a person with a disability, regardless of age.


**SPECIAL NEEDS TRUSTS** are trusts specifically designed for individuals with disabilities. Properly structured and administered, special needs trusts do not affect an individual's eligibility for governmental benefits such as SSI and Medicaid. The legislation creating the AFT is fairly broad in allowing spending to meet the needs of the beneficiary with a disability, so that the trust can be used to pay expenses such as the following:"

- Clothing
- Phone, Cable and Internet Services
- Vehicle, Insurance, Maintenance, and Gas
- Tuition, Books, Tutoring
- Travel and Entertainment
- Household Furnishings and Furniture
- Durable Medical Equipment
- Care Management
- Therapy and Medications

The current minimum to create a trust under the Alabama Family trust is \$100 plus an establishment fee of \$400.

**CALL TODAY TO SEE HOW THE AFT CAN ASSIST YOU.**



- 
- The Alabama Family Trust (AFT) provides trust services for persons with disabilities.
  - The organization was created in 1994 by an act of the Alabama Legislature to encourage, enhance, and foster the provision of medical, social, or other supplemental services for persons with a mental or physical impairment (See Code of Alabama 1975 Chap. 38-9B).
  - The AFT is a 501 (c) (3) general non-profit organization established for the purpose of administering special needs trusts for individuals with disabilities.

120 Oslo Circle, Birmingham, Alabama 35211  
Tel 1-800-711-1303 Fax 205.944.3988

[WWW.ALABAMAFAMILYTRUST.COM](http://WWW.ALABAMAFAMILYTRUST.COM)