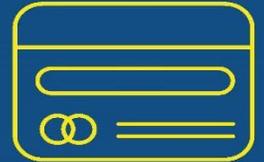


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**CIVIL  
RIGHTS**

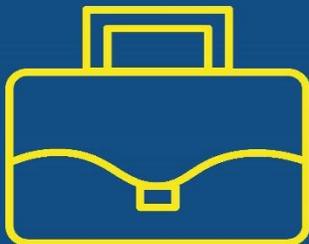
OF THE SAN FRANCISCO BAY AREA



# CONTINGENCY PLANNING FOR IMMIGRANT BUSINESS OWNERS IN CALIFORNIA

Protecting Business Owners in  
Case of Detention and Deportation

Lawyers' Committee for Civil Rights of the San Francisco Bay Area



# Contingency Planning for Preparing Immigrant Business Owners in California

Lawyers' Committee for Civil Rights of the San Francisco Bay Area

*Disclaimer: This manual is a general educational resource and should not be regarded as legal advice. It is intended as a California supplement to the "Protecting Assets and Child Custody in the Face of Deportation" guide published by Appleseed. <http://www.appleseednetwork.org/deportationmanual/>*

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## Purpose of this Guide

The purpose of this guide is to provide legal forms and information for practitioners assisting Preparing Immigrants in California. While this guide is intended as an aid for practitioners, the forms are intended to be used directly by Preparing Immigrants.

This guide is intended to complement the *Protecting Assets and Child Custody in the Face of Deportation* guide published by Appleseed<sup>1</sup>. As such, some of the same terms in that guide are used throughout this guide. Such terms include “Preparing Immigrants”, which refers to non-citizen immigrants, both undocumented individuals and legal permanent residents, who do not face immediate deportation. Such individuals may wish to make preparations in case of future deportation.

This guide will be periodically updated and posted to the following link on LCCR’s website: <https://lccr.com/resource-library/downloadable-materials/>.

Please make sure to check our website for the most updated version.

## Contingency Planning for Preparing Immigrant Business Owners in California

California has more immigrants than any other state. California is home to more than 10 million immigrants—about a quarter of the foreign-born population nationwide. As of 2015, 27% of California's population was foreign-born, about twice the US percentage.<sup>2</sup> California has recently enacted laws such as SB54 limiting state and local law enforcement agencies from cooperating with, or using state resources to carry out, federal immigration enforcement.<sup>3</sup>

However, real risks remain. The Trump Administration’s directives to immigration enforcement agents have effectively made any person unlawfully present in the United States a potential target for deportation. As immigration enforcement activities increase in California, it is increasingly important for immigrants to plan for detention or deportation.

A common misconception is that if a Preparing Immigrant is detained or deported, there is little he or she can do to protect him or herself, their family, and their business. It is true that if a person is detained by Immigration and Customs Enforcement (ICE) or by Customs and Border Protection (CBP), he or she will likely have very limited ability to make phone calls, receive visitors, access their business accounts, let alone their place of business. In addition, they will not be able to access the Internet or their personal records. They will also face the possibility of being deported to their country of origin, where the distance from their family and their assets in the United States would prevent them from managing their daily affairs.

This guide recommends three specific legal tools that Preparing Immigrant Business Owners can use to prepare for detention or deportation: powers of attorney, revocable trusts, and agreements between business partners. This section of the guide covers agreements between business partners.

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<sup>1</sup> Available at: <http://www.appleseednetwork.org/deportationmanual/>

<sup>2</sup> See generally Public Policy Institute of California, <http://www.ppic.org/publication/immigrants-in-california/>

<sup>3</sup> See SB 54 [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB54](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB54)

## Written Agreements with Business Partners

If a Preparing Immigrant has business partners, a form of preparation can include creating a written agreement between all business partners. The agreement should describe all of the following:

1. How decisions are currently made;
2. How decision-making would change if the Preparing Immigrant is absent for a significant time due to detention or deportation;
3. How profits are normally shared;
4. How profits should be paid to the Preparing Immigrant while he or she is away (such as paying profits to another family member);
5. Under what conditions should the business be temporarily closed or permanently dissolved; and,
6. If the business is dissolved, who gets what kind of distribution of remaining assets.

This agreement should be signed by the Preparing Immigrant and all business partners. Unlike the Power of Attorney, which will be discussed in the next section, the agreement should not mention the Preparing Immigrant's immigration status or an immigration-related trigger (i.e. use of the words "detention" or "deportation."). Instead, the agreement should contain phrases such as, "In the event that any business partner is absent and unable to make decisions" or "In the event of any business partner's inability to communicate or other absence that would render the partner unable to make decisions on behalf of the business." This is to ensure that no one within the entity uses the immigration status of an owner against them.<sup>4</sup>

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<sup>4</sup> Please check an updated version of this Guide for a form Agreement Between Business Partners

## Power of Attorney

A “**power of attorney**” (POA) can be an important tool for noncitizen business owners (referred to here as “Preparing Immigrants”) who want to protect their business assets. A POA is a written document that allows a person (referred to as the “principal” in the POA) to designate someone else (referred to as the “agent” in the POA) to act on his or her behalf with respect to finances or business matters.<sup>5</sup> A POA can be used to handle almost any financial or business issue, such as banking, gaining access to safety deposit boxes, entering into contracts, filing tax returns, or settling legal claims.

A POA may be particularly useful for a noncitizen facing imminent detention or deportation who does not have time to make other financial arrangements before leaving the United States or getting detained. Alternatively, a POA can be used once a person has already been detained or deported.<sup>6</sup> A POA can be especially useful for a noncitizen who wants to maintain ownership of his or her business if detained or deported, since a POA facilitates the transfer of management authority for a potentially limited period of time. Because a POA can be prepared relatively quickly, effectively, and inexpensively, we advocate its use as a first step for noncitizens who wish to begin formulating a contingency plan in the case of detention, deportation, or other reasons. The revocable trusts section of this guide provides additional discussion on when to use a POA versus a revocable trust.

This section of the guide describes what a POA is, explains how to create one in California, and suggests how Preparing Immigrants in California could use one to initiate their contingency planning for the protection of financial and business assets.

### What Does a POA Look Like in California?

California residents may use a document called the “Uniform Statutory Form Power of Attorney” to establish a POA. A sample form, filled out for Betty Businessowner, our hypothetical business owner, is attached to this guide as Exhibit A, and is referred to throughout this guide as “the POA Form” or “the Form”.<sup>7</sup> The POA Form begins with a paragraph identifying the state where an immigrant is residing, which should be California if the form is to be governed by California law. The first paragraph also includes a space to list the name of the principal and the appointed agent, or agents, if more than one are to be appointed. Note that while the Form describes the agent as the principal’s “attorney-in-fact,” neither the principal nor the agent included in a POA needs to be an attorney.

The next paragraph on the POA Form includes a list of possible powers a principal can give an agent. If the principal wants to create a General POA, as discussed below, he or she should initial next to option “(N)”, which grants the agent the enumerated powers (A) through

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<sup>5</sup> A POA can be used for other purposes but we focus on its potential use(s) for Preparing Immigrants. See, e.g., Appleseed Network 19 (2017); ILRC Family Preparedness Plan 4 (2017).

<sup>6</sup> See Appleseed Network 22-23 (2017) for tips on preparing POAs while in detention or after deportation.

<sup>7</sup> This guide includes a modified version of the “Uniform Statutory Form Power of Attorney”, which is governed by Probate Code Section 4401 et. seq. Other types of power of attorney forms may be used, including those governed by Probate Code Section 4100 et. seq.

(M). If the principal wants to create a limited POA, he or she should select from the powers (A) through (M), as discussed below.

Next, the POA Form includes a section for any “Special Instructions” the principal wishes to include that may limit or extend the powers granted to the agent. The form allots several lines of blank space to this part. In California, POAs take effect immediately and will continue until revoked, unless the agent specifies otherwise in the “Special Instructions” box (see below). If a Preparing Immigrant wishes to create a POA to take effect only if the Preparing Immigrant is detained or deported, the Preparing Immigrant should indicate this in the “Special Instructions” section. The next section provides sample language to be included to create a springing condition, allowing the POA only be effective upon detention or deportation.

The form also includes a section entitled “Exercise of power of attorney where more than one agent designated.” If the agent selects more than one agent to manage his or her affairs, he or she must indicate in this space whether the agents are permitted to act alone without the other agent joining (by writing “separately” in a blank space in this section). If the principal does not insert any word in the blank space or writes “jointly,” all of the delineated agents must act or sign together.

Finally, there is a signature line for the principal. In California, the principal and agent(s) must appear in front of a notary public, who must attest to the creation of the POA.

When using the POA, the agent should keep the original signed version of the POA and the principal should keep a copy for his or her records.

**NOTE:** Banks or other institutions may have their own POA forms to cover particular actions, so it is advisable for Preparing Immigrants to consider the context(s) in which their POAs will be of use and prepare accordingly. Although banks and other institutions should honor other valid POA forms, the easiest way to ensure that an institution will honor a POA may be to use any specific form that it suggests.

**NOTE:** People who wish to use a POA to effectuate real estate transactions almost always need to “record” or “file” the POA with the local clerk or land records office, and should check local requirements.

#### *What if the Preparing Immigrant Has Property in Other States?*

If a Preparing Immigrant has financial or business assets in states other than California, it may be valuable to have separate POAs executed according to the rules of each relevant state. However, an individual facing detention or deportation may not have the time or resources to make valid POAs for several states. In that situation, an individual may want to execute one POA that complies with the strictest requirements for POAs in the United States. A POA that complies with all state requirements would have: the Preparing Immigrant’s signature and the date, the

signatures of two witnesses, the signature of a notary public and acknowledgements by the agent(s)<sup>8</sup>.

### General versus Limited POA

Preparing Immigrants must decide which kind of POA to use. First, a Preparing Immigrant should decide whether his or her POA should grant the agent(s) “general” authority or “special”/“limited” authority. Then he or she should decide when the POA will become effective, i.e. immediately or only if a particular triggering or “springing” event happens. The principal also must decide how long the POA will last. For Preparing Immigrants, there are advantages and disadvantages to each choice.

#### *The “General” POA in California*

A “general” POA gives an agent a wide range of powers, essentially enabling the agent to do almost anything on behalf of the principal. In California, a general POA can be effectuated by a principal who writes his or her initials on the line next to option “(N)” (ALL OF THE POWERS LISTED ABOVE) on the Uniform Statutory Form Power of Attorney. While the scope of authority granted to the agent is broad, an agent cannot do certain acts, such as taking oaths, going through marriage ceremonies, or signing wills.

A general POA is not necessary, or even recommended, for most Preparing Immigrants. However, it can be useful when an individual does not have much time before deportation and needs to do various actions including disposing of their personal assets, selling their business and having access to money when they get to their country of origin, for example. Furthermore, many individuals who are detained are allowed to have visitors, so detained Preparing Immigrants might be able to make arrangements for the management of their assets from detention—which would make it less necessary to use a general POA.

#### *The “Special” or “Limited” POA in California*

A “special” or “limited” POA allows an agent to do only the specific acts listed in the POA document. It can be utilized for a wide range of activities. In California, a Preparing Immigrant can create a “special” or “limited” POA by initialing select powers on the first page of the Uniform Statutory Form Power of Attorney. The most relevant powers for Preparing Immigrants is Power (F) (“Business operating transactions”). Other relevant powers include Power (E) (“Banking and other financial institution transactions”), Power (H) (“Estate, trust, and other beneficiary transactions”), and Power (M) (“Tax matters”).<sup>9</sup>

“Special” or “limited” POAs can also be established by the principal identifying particular acts the agent(s) can take in the “Special Instructions” box on page two of the Uniform Statutory Form Power of Attorney form. “Special” or “limited” POAs should be as detailed as

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<sup>8</sup> See Appleseed Network p. 22 (2017) for more information and state-by-state sample forms; *see also* Probate Code Section 4464, which provides that the powers provided in the California Uniform Statutory Power of Attorney Form are exercisable equally whether or not the property is located in the state of California.

<sup>9</sup> Probate Code Sections 4450 - 4465 provides explanations for each of these powers.

possible.<sup>10</sup> For example, the POA should list all relevant bank account numbers over which the agent may have control, as well as the name of the bank(s) and the addresses of the immigrant's local United States branch. If the POA gives the agent authority to sell business equipment, for example, the property for sale should be described in detail, including any identifying marks or numbers such as serial and registration numbers. Other terms that are important to the Preparing Immigrant, such as a minimum selling price, should also be included.

We recommend using more than one POA, to appoint different trusted persons to handle personal and family matters separately from business matters. For the purpose of the power of attorney related to managing one's business, we recommend selecting Power F alone. Power F allows the agent to perform a wide scope of activities including, the actions required of a partner in a partnership, handling tax matters on behalf of the business, accessing the bank account and dealing with employees.<sup>11</sup>

### When Does the POA Take Effect?

In California, as in most states, a POA becomes effective as soon as it is signed (and authenticated by a notary public). However, a principal can state other wishes in the "Special Instructions" box and create a "springing" POA (see below).

#### *The Springing POA in California: POA Effective in the Future*

In California, as in many states, a general, special, or limited POA can be written as a "springing" POA that takes effect only after a certain event occurs. These types of POA are sometimes used for people who want the POA to become effective only if they become incapacitated.<sup>12</sup> In the immigration context, a springing POA might be used to make the POA effective only if the principal is detained or deported.

A springing power of attorney may be a good option for a person who wants to ensure that a potential agent cannot take action on his or her behalf unless a specific condition occurs. In general, it has the advantage of ensuring that an agent cannot use a POA to influence or coerce the principal before the triggering condition occurs.

However, there may be disadvantages to using a springing POA for Preparing Immigrants. For example,

1. Many institutions may be reluctant to accept a springing POA as a matter of policy. They may not be accustomed to seeing this type of document, or they may feel they cannot adequately verify that the triggering event has occurred.

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<sup>10</sup> For a helpful checklist for principals to review when drafting a POA, see the National Council of La Raza's Know Your Rights – Financial Safety document, available here: <http://publications.nclr.org/handle/123456789/1706>.

<sup>11</sup> See Probate Code Section 4456 for a description of all of the powers included under Power F.

<sup>12</sup> California's definition of legal incapacity is located in Probate Code Section 812 and Civil Code Section 39. It generally refers to inability to handle one's own affairs due to mental illness, serious health conditions, serious accidents, addiction or advanced age. This guide does not discuss legal incapacity. Rather it is referring to the risks of detention or deportation.

2. In the immigrant context in particular, a springing POA may be difficult to use in circumstances where the springing condition may be temporary, such as if an immigrant is detained but not yet deported.

Because many institutions may be hesitant to honor a springing POA, making the required proof of triggering more official may help make the POA more effective. If a Preparing Immigrant wishes to use a springing POA, the document should be very clear about what the triggering event is and how the agent will prove that it occurred. In California, the Preparing Immigrant can use the “Special Instructions” box on the Uniform Statutory Form Power of Attorney to explain the triggering event and how the agent must prove it. One option could be to state that the POA takes effect if the principal is deported from the United States, and that this must be proven by having a specific person – possibly the agent – swear to that fact before a notary public. In California, the POA can require the agent to sign a declaration, certifying that the springing event has occurred; and the declaration must contain the following language to be effective: “I certify (or declare) under penalty of perjury that the foregoing is true and correct.”<sup>13</sup>

The sample POA at the end of this Chapter contains sample language creating a springing POA. It provides, “The powers granted my agent herein shall only be effective if I am detained or deported by U.S. immigration authorities, proof of which requires a declaration under penalty of perjury by my agent that I have been detained or deported; and the presentation of one of the following documents:

If I am deported:

- Issuance of a Final Order of Removal by an Immigration Judge; OR
- Issuance of any of the following by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement:
  - Expedited Order of Removal;
  - Administrative Order of Removal; or
  - Reinstatement of Existing Order of Removal.

If I am detained:

- Documentation on U.S. Immigration and Customs Enforcement’s online detainee locator that I am currently detained. The online detainee locator is available at this url: <https://locator.ice.gov/odls/homePage.do>; OR
- Any other documentation from U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement establishing that I have been detained.

This Power of Attorney will continue to be effective only for as long as I am detained or deported.”

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<sup>13</sup> Cal. Prob. Code § 4129(b) (West, Westlaw through Ch. 4 of 2017 Reg. Sess.).

## Selecting an Agent and Duties of Agents

It is critical for Preparing Immigrants to choose appropriate agents in POAs. POAs can be abused, especially when the immigrant is detained or has been deported and cannot easily monitor the agent's actions.

An agent must be a legal adult (18 years old or older in California<sup>14</sup>), but otherwise Preparing Immigrants have wide discretion in selecting agents. Agents need not speak English or have any kind of educational qualifications. It is also not necessary to include the agent's contact information or proof of identity when drafting the POA. When selecting an agent, a Preparing Immigrant should consider:

- A person who resides in California, since different states may have different requirements for writing a valid POA;
- A person who can be trusted to act wisely and in accordance with the immigrant's wishes;
- A person willing to expend the time and effort necessary to manage the immigrant's financial assets;
- A person who is comfortable dealing with banks and other financial and business institutions and who has a basic understanding of financial and business issues; and
- A person who has the necessary documentation to be in the United States legally or who will not otherwise be subject to detention or deportation in the near future, if possible.<sup>15,16</sup>

The agent is legally obligated to act in the principal's best interests. The agent has duties to the principal including: the agent must keep their own money separate from the immigrant's money; the agent must not stand to profit from any transaction where he or she is acting as the principal's agent; the agent must not give or transfer the principal's money or property to the agent (unless the POA specifically allows the agent to do this); and the agent should keep clear records of his or her activities as agent under the POA.

**NOTE:** Individuals should be cautious about choosing a spouse or intimate partner as their agents. Especially in abusive situations, the parties' interests often become quickly opposed if there is a divorce or breakup. Many service providers have seen immigration status used as a means of control and coercion by abusive partners.<sup>17</sup>

## Durability of POAs in California

A POA generally lasts until it is revoked in writing or until the principal dies (or for a POA that is not durable, until the principal becomes incapacitated). Most POAs in the United States are "durable," meaning that they remain in effect even after the principal becomes "incapacitated" – i.e. mentally or physically unable to act. In most states, including California, the durability of a POA must be explicitly stated. The Uniform Statutory Form Power of

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<sup>14</sup> Cal. Fam. Code § 6500 (West, Westlaw through Ch. 134 of 2017 Reg. Sess.).

<sup>15</sup> These considerations come from the Appleseed Network 21 (2017).

<sup>16</sup> For a list of an agent's legal obligations, see Appleseed Network 22-23 (2017).

<sup>17</sup> Appleseed Network 21-22 (2017).

Attorney includes the following language: “This power of attorney will continue to be effective even though I become incapacitated. Strike the preceding sentence if you do not want this power of attorney to continue if you become incapacitated.”

A principal can also specify in the POA that it ends on a certain date or upon the occurrence of a certain event. A POA with a set ending point may be considered more trustworthy than one without an ending point. However, if a Preparing Immigrant facing detention or deportation puts a limit on his or her POA, he or she should ensure that his or her agent has enough time to finish everything that needs to be done.

A disadvantage to having a POA with no ending point is that POAs can be difficult to cancel. A principal can cancel a POA by signing a separate piece of paper that says the POA is cancelled, sending a copy of the paper to the agent and to anyone (such as a bank) that had dealings with the agent, and physically taking back the original POA and all copies that have been given to anyone. Despite the principal’s best efforts, it is hard to tell everyone that a POA has been cancelled, and this can lead to unwanted results.

An immigrant principal can change a POA by canceling the original POA and making a new one. This can be done with one document, as long as the new POA says that all previous POAs are cancelled. However, for the same reasons that it is hard to cancel a POA, it is also hard to change POAs. For instance, it is hard to know whether anyone is still relying on the original POA. It can be challenging – though not impossible – to modify or cancel a POA while detained or deported, so when creating a POA it is important for Preparing Immigrants to contemplate their current situation and wishes as well as how those could change in the future.<sup>18</sup>

In order to address the difficulty of canceling a POA, the sample form provided in Exhibit A states that the Power of Attorney will last only for so long as the principal is detained or deported. This means that if the principal is no longer detained, or returns to the United States, then the POA automatically ends.

## Concluding Thoughts

*What happens if the principal has already been deported?*

It is possible to prepare or amend a valid POA after an individual has been deported. The individual will likely have to use the Apostille process to authenticate the document in the United States. See the Appleseed Guide pages 22-23 for a discussion on the apostille process.

*Working with attorneys*

Although it is not necessary for a Preparing Immigrant to work with an attorney to establish a POA, consulting with one where possible can help a principal ensure that his or her the POA is effective and that the powers granted by the POA match the principal’s wishes.

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<sup>18</sup> See Appleseed Network 21-22 (2017) for more information on amending or canceling a POA while detained or after deportation.

**NOTICE: THE FOLLOWING SAMPLE FORMS OF POWERS OF ATTORNEY AND RELATED DOCUMENTS ARE NOT LEGAL ADVICE. THE FORMS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. PLEASE CONSULT AN ATTORNEY BEFORE ADOPTING THESE FORMS FOR YOUR INDIVIDUAL SITUATION.**

**FAIR USE NOTICE: THESE FORMS MAY CONTAIN COYPRIGHTED MATERIAL THE USE OF WHICH HAS NOT ALWAYS BEEN SPECIFICALLY AUTHORIZED BY THE COPYRIGHT OWNER. SUCH MATERIAL IS MADE AVAILABLE FOR EDUCATIONAL AND RESEARCH PURPOSES AND IS DISTRIBUTED WITHOUT PROFIT OR COMMERCIAL INTENT. IT IS BELIEVED THAT THIS CONSTITUTES A FAIR USE OF ANY SUCH COPYRIGHTED MATERIAL IN ACCORDANCE WITH 17 U.S.C. SECTION 107.**

## Sample Powers of Attorney

### **UNIFORM STATUTORY FORM POWER OF ATTORNEY**

(California Probate Code Section 4401)

**NOTICE:** THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA [PROBATE CODE SECTIONS 4400-4465](#)). THE POWERS LISTED IN THIS DOCUMENT DO NOT INCLUDE ALL POWERS THAT ARE AVAILABLE UNDER THE PROBATE CODE. ADDITIONAL POWERS AVAILABLE UNDER THE PROBATE CODE MAY BE ADDED BY SPECIFICALLY LISTING THEM UNDER THE SPECIAL INSTRUCTIONS SECTION OF THIS DOCUMENT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

ALL POWERS CONFERRED UPON THE AGENT in this UNIFORM STATUTORY FORM POWER OF ATTORNEY shall also function completely as a DURABLE POWER OF ATTORNEY within all circumstances set forth herein:

I,        *[Name of business owner, i.e. Betty Businessowner]* \_\_\_\_\_, (PRINCIPAL)

**APPOINT:**

       *[Name of Agent, i.e. Frank Friend]* \_\_\_\_\_ (NAME)

       *[Frank Friend's address]* \_\_\_\_\_ (ADDRESS)

\_\_\_\_\_

       *[Frank Friend's phone number]* \_\_\_\_\_ (PHONE NUMBER[s])

\_\_\_\_\_

*[name and address of the person appointed, or of each person appointed if you want to designate more than one]* as my AGENT (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL:

- \_\_\_\_\_ (A) Real property transactions.
- \_\_\_\_\_ (B) Tangible personal property transactions.
- \_\_\_\_\_ (C) Stock and bond transactions.
- \_\_\_\_\_ (D) Commodity and option transactions.
- \_\_\_\_\_ (E) Banking and other financial institution transactions.
- BB (F) Business operating transactions.
- \_\_\_\_\_ (G) Insurance and annuity transactions.
- \_\_\_\_\_ (H) Estate, trust, and other beneficiary transactions.
- \_\_\_\_\_ (I) Claims and litigation.
- \_\_\_\_\_ (J) Personal and family maintenance.
- \_\_\_\_\_ (K) Benefits from the Social Security Administration, Medicare, Medicaid, or other governmental programs, or civil or military service.
- \_\_\_\_\_ (L) Retirement plan transactions.
- \_\_\_\_\_ (M) Tax matters.
- \_\_\_\_\_ (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

**SPECIAL INSTRUCTIONS:**

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

The powers granted my agent herein shall only be effective if I am detained or deported by U.S. immigration authorities, proof of which requires a declaration under penalty of perjury by my agent that I have been detained or deported; and the presentation of one of the following documents:

If I am deported: issuance of a Final Order of Removal by an Immigration Judge; OR issuance of any of the following by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement: Expedited Order of Removal; Administrative Order of Removal; or Reinstatement of Existing Order of Removal.

If I am detained: documentation on U.S. Immigration and Customs Enforcement's online detainee locator that I am currently detained. The online detainee locator is available at this url: <https://locator.ice.gov/odls/homePage.do>; OR any other documentation from U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement establishing that I have been detained.

This Power of Attorney will continue to be effective only for as long as I am detained or deported.

The attached Appendix A provides instructions, including information about my bank accounts and other property, and is incorporated into this Power of Attorney.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This Power of Attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

**AUTHORIZATION TO USE PHOTOCOPIES:**

1. Only ONE ORIGINAL of this Uniform Statutory Form Power of Attorney has been executed. The Agent specified in this instrument is authorized to make photocopies of this instrument and any attached documents (such as certificates of incapacity, attached as necessary) as frequently and in such quantities as the Agent deems appropriate. Each photocopy shall have the same force and effect as the original, and all parties dealing with the Agent herein are authorized to rely fully on any such photocopy showing the Principal's signature thereon.

2. A copy of a Uniform Statutory Form Power of Attorney shall be certified in accordance with California Probate Code Section 4307; and shall have the same force and effect

as the original, so long as the attached certification is effectuated by 1), an authorized notary public in California; 2) an attorney authorized to practice law in California; OR 3) an official of the state or of a political subdivision who is authorized to make such certification, who states that the certifying person has examined the original Uniform Statutory Form Power of Attorney and that the copy is a true and correct copy of the original Uniform Statutory Form Power of Attorney. *CA Probate Code Section 4307(c); see CA Govt. Code Section 8205(a)(2) and (4).*

**EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT IS DESIGNATED**

If I have designated more than one agent, the agents are to act separately. [*“separately” or “jointly”*]

INITIAL: BB

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it according to the specific provisions set forth in the Special Instructions section herein, above. A third party may seek identification. Revocation of this Power of Attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this Power of Attorney.

Signed this 1st day of January, 2018.

Betty Businessowner  
(your signature)

Betty Businessowner,  
PRINCIPAL [*print name*]

State of California, County of Alameda,

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT (ATTORNEY-IN-FACT) ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT UNDER THIS UNIFORM STATUTORY FORM POWER OF ATTORNEY.

**ACKNOWLEDGMENT**

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

**(Seal)**

Signature \_\_\_\_\_

**APPENDIX A**  
**INSTRUCTIONS FROM**  
**BETTY BUSINESSOWNER, (principal), TO FRANK FRIEND, (agent)**

I, BETTY BUSINESSOWNER, grant FRANK FRIEND the authority to access the following bank accounts:

1. Bank of America account number XXXX, [LOCAL BRANCH ADDRESS]
2. Wells Fargo Bank account number XXXX, [LOCAL BRANCH ADDRESS]

I, BETTY BUSINESSOWNER, grant FRANK FRIEND the authority to sell the following business equipment under the following conditions:

1. [BRAND NAME] commercial oven, serial number XXXX, registration number XXXX.  
Must sell for at least \$4,000. Oven has a small dent on right-hand side of front door.

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

\_\_\_\_\_  
Betty Businessowner

**UNIFORM STATUTORY FORM POWER OF ATTORNEY**

(California Probate Code Section 4401)

**NOTICE:** THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA [PROBATE CODE SECTIONS 4400-4465](#)). THE POWERS LISTED IN THIS DOCUMENT DO NOT INCLUDE ALL POWERS THAT ARE AVAILABLE UNDER THE PROBATE CODE. ADDITIONAL POWERS AVAILABLE UNDER THE PROBATE CODE MAY BE ADDED BY SPECIFICALLY LISTING THEM UNDER THE SPECIAL INSTRUCTIONS SECTION OF THIS DOCUMENT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

ALL POWERS CONFERRED UPON THE AGENT in this UNIFORM STATUTORY FORM POWER OF ATTORNEY shall also function completely as a DURABLE POWER OF ATTORNEY within all circumstances set forth herein:

I, \_\_\_\_\_, (PRINCIPAL)

**APPOINT:**

\_\_\_\_\_ (NAME)

\_\_\_\_\_ (ADDRESS)

\_\_\_\_\_

\_\_\_\_\_ (PHONE NUMBER[s])

\_\_\_\_\_

*[name and address of the person appointed, or of each person appointed if you want to designate more than one]* as my AGENT (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL:

- \_\_\_\_\_ (A) Real property transactions.
- \_\_\_\_\_ (B) Tangible personal property transactions.
- \_\_\_\_\_ (C) Stock and bond transactions.
- \_\_\_\_\_ (D) Commodity and option transactions.
- \_\_\_\_\_ (E) Banking and other financial institution transactions.
- \_\_\_\_\_ (F) Business operating transactions.
- \_\_\_\_\_ (G) Insurance and annuity transactions.
- \_\_\_\_\_ (H) Estate, trust, and other beneficiary transactions.
- \_\_\_\_\_ (I) Claims and litigation.
- \_\_\_\_\_ (J) Personal and family maintenance.
- \_\_\_\_\_ (K) Benefits from the Social Security Administration, Medicare, Medicaid, or other governmental programs, or civil or military service.
- \_\_\_\_\_ (L) Retirement plan transactions.
- \_\_\_\_\_ (M) Tax matters.
- \_\_\_\_\_ (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

**SPECIAL INSTRUCTIONS:**

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

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UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This Power of Attorney will continue to be effective even though I become incapacitated.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

**AUTHORIZATION TO USE PHOTOCOPIES:**

1. Only ONE ORIGINAL of this Uniform Statutory Form Power of Attorney has been executed. The Agent specified in this instrument is authorized to make photocopies of this instrument and any attached documents (such as certificates of incapacity, attached as necessary) as frequently and in such quantities as the Agent deems appropriate. Each photocopy shall have the same force and effect as the original, and all parties dealing with the Agent herein are authorized to rely fully on any such photocopy showing the Principal’s signature thereon.

2. A copy of a Uniform Statutory Form Power of Attorney shall be certified in accordance with California Probate Code Section 4307; and shall have the same force and effect as the original, so long as the attached certification is effectuated by 1), an authorized notary public in California; 2) an attorney authorized to practice law in California; OR 3) an official of the state or of a political subdivision who is authorized to make such certification, who states that the certifying person has examined the original Uniform Statutory Form Power of Attorney and that the copy is a true and correct copy of the original Uniform Statutory Form Power of Attorney. *CA Probate Code Section 4307(c); see CA Govt. Code Section 8205(a)(2) and (4).*

**EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT IS DESIGNATED**

If I have designated more than one agent, the agents are to act \_\_\_\_\_ . [“separately” or “jointly”]  
INITIAL: \_\_\_\_\_

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY," THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it according to the specific provisions set forth in the Special Instructions section herein, above. A third party may seek identification. Revocation of this Power of Attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this Power of Attorney.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

(your signature)

\_\_\_\_\_  
PRINCIPAL [print name]

State of \_\_\_\_\_, County of \_\_\_\_\_,

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT (ATTORNEY-IN-FACT) ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT UNDER THIS UNIFORM STATUTORY FORM POWER OF ATTORNEY.

**ACKNOWLEDGMENT**

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

**(Seal)**

Signature \_\_\_\_\_

**GENERAL DURABLE POWER OF ATTORNEY**

I, \_\_[*name of principal*] \_\_, residing at \_\_[*address of principal*] \_\_, hereby appoint my \_\_[*describe relationship*] \_\_, \_\_[*name of agent*] \_\_, who resides at \_\_[*address of agent*] \_\_, as my attorney-in-fact, with the power to perform on my behalf any act whatsoever that I may lawfully perform through an attorney-in-fact. In the event that the agent fails to qualify, resigns, or ceases to act, then my \_\_[*describe relationship*] \_\_, \_\_[*name of alternate agent*] \_\_, who resides at \_\_[*address of alternate agent*] \_\_, shall become the attorney-in-fact under this instrument with the same powers.

This power of attorney shall become effective on:

- a) the principal’s incapacity; or
- b) on the principal’s detention or deportation by U.S. immigration authorities.

In the case of incapacity, in accordance with California [Probate Code §4129](#), I designate \_\_[*name of designee*] \_\_ of \_\_[*address of designee*] \_\_, as the person who, by a written declaration under penalty of perjury, shall have the power to determine conclusively that my incapacity has occurred.

In the case of detention or deportation by U.S. immigration authorities, the agent \_\_[*name of designee*] \_\_, will either:

- Demonstrate my condition of detention by attaching an Internet print-out of my information on the U.S. Immigration Customs Enforcement Online Detainee Locator System (found at <https://locator.ice.gov/odls/homePage.do>) to this Power of Attorney; or
- Demonstrate my condition of deportation by attaching to this Power of Attorney a copy of any one of the following documents issued by the Executive Office for Immigration Review (EOIR), U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE):
  - Expedited Order of Removal.
  - Administrative Order of Removal.
  - Reinstatement of Existing Order of Removal.

IN WITNESS WHEREOF, the principal has signed this durable power of attorney on \_\_[*date*] \_\_, at \_\_[*city*] \_\_, California.

\_\_[*Signature*] \_\_  
\_\_[*Typed name*] \_\_

The undersigned acknowledges and accepts appointment as agent and agrees to serve as agent under this \_\_[*springing*] \_\_ durable power of attorney.

Date: \_\_\_\_\_  
\_\_[*Signature*] \_\_  
\_\_[*Typed name*] \_\_

**FAIR USE NOTICE: THESE FORMS MAY CONTAIN COYPRIGHTED MATERIAL THE USE OF WHICH HAS NOT ALWAYS BEEN SPECIFICALLY AUTHORIZED BY THE COPYRIGHT OWNER. SUCH MATERIAL IS MADE AVAILABLE FOR EDUCATIONAL AND RESEARCH PURPOSES AND IS DISTRIBUTED WITHOUT PROFIT OR COMMERCIAL INTENT. IT IS BELIEVED THAT THIS CONSTITUTES A FAIR USE OF ANY SUCH COPYRIGHTED MATERIAL IN ACCORDANCE WITH 17 U.S.C. SECTION 107.**

## Sample Agent's Declaration Demonstrating Deportation or Detention of Principal

### **DECLARATION OF FRANK FRIEND, AGENT**

I, FRANK FRIEND, declare that BETTY BUSINESSOWNER has been

DETAINED; or

DEPORTED.

I certify under penalty of perjury that the foregoing is true and correct.

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

Frank Friend

In order to demonstrate BETTY BUSINESSOWNER'S condition of deportation, I have attached:

a copy of BETTY BUSINESSOWNER'S Issuance of a Final Order of Removal by an Immigration Judge;

a copy of BETTY BUSINESSOWNER'S Issuance of Expedited Order of Removal;

a copy of BETTY BUSINESSOWNER'S Administrative Order of Removal; OR

a copy of BETTY BUSINESSOWNER'S Reinstatement of Existing Order of Removal.

In order to demonstrate BETTY BUSINESSOWNER'S condition of detention, I have attached:

\_\_\_ an Internet print-out of BETTY BUSINESSOWNER'S information on the U.S. Immigration Customs Enforcement Online Detainee Locator System (found at <https://locator.ice.gov/odls/homePage.do>); OR

\_\_\_ other documentation from U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement establishing that I have been detained.

### ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

**(Seal)**

Signature \_\_\_\_\_

## Revocable Trusts

This Section covers the steps for why and how to form a revocable trust as a preparedness measure for Preparing Immigrants. For the purposes of this guide we assume that the person creating the trust (the “settlor”) is the Preparing Immigrant. This guide assumes that the Preparing Immigrant is a single (i.e., unmarried) California resident and that the business is in California. (Sample trust instruments for married Preparing Immigrants are included starting on page 19.) The guide also assumes that the Preparing Immigrant is the initial trustee and that the successor trustee is a family member or trusted associate (the “successor trustee”).

As a hypothetical example, Claudia Cafeowner owns Claudia’s Café, which she operates as a sole proprietorship. Her daughter, Mary Cafeowner, works at the café. Her other daughter, Patricia Cafeowner, does not work at the café. Claudia wants to ensure that if she is detained, deported, or otherwise unable to continue to manage the café, Mary will take over the business. A revocable trust might be a useful tool for her. The attached sample trust will refer back to this scenario.

### What is a Trust?

A trust is a formal legal relationship, documented in writing, between an original owner of property (the “settlor”), a person who manages the property if the original owner cannot (the “trustee”), and the person or people whom the trust will benefit in the settlor’s absence (“beneficiary”).<sup>19</sup> The trustee is legally obligated to manage the property for the benefit of the beneficiary. Here, we refer to the Preparing Immigrant as the “settlor”.

We note that when we use the word “property” in the guide we are not just talking about your house or other real estate – we mean any kind of asset someone can own, including a car, funds in a bank account, or tools used to do work for a business.

### Why are We Discussing Revocable Trusts?

Trusts can be used for a variety of purposes, but they are most often used as an estate planning tool. As an estate planning tool a revocable trust is useful in managing your affairs if you are incapacitated (e.g., you have a stroke or are in the hospital); and for settling your affairs when you die. This guide discusses how trusts can be used to create a contingency plan for the management of certain property in the event of detention, deportation, incapacity, or death.

A Preparing Immigrant can place their business assets into a trust that will, in the event of their detention or deportation, be managed by a trustee who will take certain actions to ensure that the owner’s plans for the business are carried out.

### *What is the difference between a revocable trust and a will?*

A revocable trust is **NOT** the same as a will. A revocable trust is a separate type of legal document, and, while the two document types are similar in some respects, they differ from each other in important ways. Revocable trusts are similar to wills in that they both can name

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<sup>19</sup> See <http://www.nolo.com/legal-encyclopedia/living-trust-faq.html>.

beneficiaries of property (i.e., the people who receive property after a person dies), and both documents can be revised. However, significant differences between the two include the following:

- Revocable trusts and wills use different legal mechanisms to leave property to young children (i.e., children under 18).
- Revocable trusts allow the person leaving the property to avoid the probate court system (a court system used to wrap up a person's affairs), whereas wills must be administered through the probate court system, which can be expensive and take a lot of time.
- A will becomes a public document after death, whereas a revocable trust does not.
- A will allows for naming guardians to care for minor children, whereas a revocable trust does not.<sup>20</sup>

Depending on what purpose a Preparing Immigrant wants to accomplish, it may be better for them to prepare a revocable trust, a will, or both. The Preparing Immigrant should consult with an attorney to determine which document(s) is/are most appropriate for their purposes.

**This guide only discusses revocable trusts. It does not discuss other types of trusts, such as irrevocable trusts. It also does not discuss wills or other legal instruments.**

### What is a Revocable Trust?

In a revocable trust, the settlor retains the right to modify or entirely revoke, i.e. invalidate, the trust. A revocable trust might also be called a “living trust” or “*inter vivos* trust.” In California, trust instruments may either be in the form of a “declaration of trust” or a “trust agreement”. (We will use “declaration of trust” in this guide.) In California, trusts are presumed to be revocable unless the declaration of trust, the document that states the terms of the trust, says otherwise.<sup>21</sup>

A settlor may revoke the trust by:

- Any means included in the declaration of trust. The declaration of trust may limit the methods of revocation to those it lists.
- If the declaration of trust does not limit the revocation methods, then the settlor may deliver a written and signed revocation to the trustee.<sup>22</sup>

### *What are the drawbacks of forming a trust?*

The primary downside is that it may take significant time and money to set up and maintain the trust. Whether or not these costs are worth it will depend on: i) the risk of detention or deportation of the Preparing Immigrant; ii) the value of the property to be protected; iii) the Preparing Immigrant's time and ability to draft the declaration of trust and manage the trust; and

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<sup>20</sup> See <https://www.nolo.com/legal-encyclopedia/living-trust-v-will.html>, which includes more important differences between the two document types.

<sup>21</sup> Cal. Prob. Code § 15400

<sup>22</sup> Cal. Prob. Code § 15401

iv) the need to ensure that the business continues to operate and that dependents are provided maintenance funds.

### *How do you form a trust in California?*

In order to form a trust, the following must be present<sup>23</sup>:

- The settlor must intend to form the trust<sup>24</sup>;
- A trustee;
- A beneficiary;
- Property is conveyed to the trust; and
- If the trust involves real property, then the trust must be written and may be recorded with the county recorder.

**It is advisable that the settlor create a written document regardless of what property will be owned by the trust.**

### Selecting a Successor Trustee

In general, a trustee has the power to manage the property placed in the trust. However, the trustee's specific powers are provided in the California Probate Code<sup>25</sup> and by the terms of the declaration of trust itself. Therefore, it is important to draft a clear declaration of trust and carefully select a trustee.

The Preparing Immigrant, or settlor, should be named as the initial trustee. This will allow the Preparing Immigrant to continue to manage the property placed in the trust, including the business. However, the Preparing Immigrant should also name a "successor trustee" who will take over as trustee in the event that the Preparing Immigrant can no longer manage the trust. Commonly the declaration of trust will authorize the successor trustee to take over only in the event of the Preparing Immigrant's (or settlor's) death or incapacity. However, the declaration of trust can also be drafted to authorize the successor trustee to take over in the event of detention or deportation.

After taking over, the successor trustee is legally bound to manage the trust for the benefit of the beneficiary, in accordance with the declaration of trust (see discussion on beneficiary below).<sup>26</sup> Trustees are entitled to reasonable compensation, unless the declaration of trust provides otherwise.<sup>27</sup>

When selecting a successor trustee, look for someone who is able and willing to do the work of administering the trust. This may sound obvious, but because in many cases the Preparing Immigrant will want to choose family members or friends to serve as their successor trustee, it is important to make sure they have the time, skills and capacity to do so. It is also important to make

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<sup>23</sup> Cal. Prob. Code § 15200-15206; § 15210; [Luna v. Brownell \(2010\) 185 Cal.App.4th 668, 674 n.7](#)

<sup>24</sup> Cal. Prob. Code § 15201

<sup>25</sup> See [Cal. Prob. Code § 16220](#) - 16249

<sup>26</sup> Cal. Prob. Code § 16400

<sup>27</sup> [Cal. Prob. Code §§15600, 15680](#) and [15681](#)

sure that the successor trustee will honor the Preparing Immigrant’s wishes and will work well with the beneficiaries and any other family or friends who may be involved. Finally, it may be best to select someone whose citizenship and immigration status limits the risk that they might also be detained or deported.

A less likely option is to select a professional trustee. This means either (i) the trust department of a bank or trust company that specializes in managing trusts or (ii) an individual licensed by the State of California as a “Professional Fiduciary”<sup>28</sup>. The advantages of selecting a professional trustee are the assurances that the trustee will be able to carry out its required duties and that the trustee is a neutral third party. Of course, a professional trustee will likely be more expensive, and thus may not be the best option for all settlors. Moreover, banks and professional trustees are not likely to take on the responsibility of day to day management of a small business, so this option will not be available for most Preparing Immigrants.

#### *A Note on Taxes*

A revocable trust is not a separate taxpaying entity and does not have to obtain an employer identification number (EIN) during the settlor's lifetime. The trust will instead use the settlor’s Social Security Number or Individual Taxpayer Identification Number (ITIN). However, if a successor trustee takes over, then the trust will need to obtain an EIN.<sup>29</sup> To obtain an EIN for a trust, complete Form SS-4 and submit it to the IRS.

#### Selecting a Beneficiary

A beneficiary is the person or entity who, upon the triggering event specified in the trust, will be entitled to the benefits of the trust property, including income from a business and the profits from a sale. A trust must have “a beneficiary or class of beneficiaries whose identity is ascertainable with reasonable certainty.”<sup>30</sup>

In a revocable trust, the settlor is the initial beneficiary. It is only at the settlor’s death that the selection of beneficiaries matters, and the trust declaration identifies who the next beneficiary will be.

#### *Can Someone be Both the Settlor and the Beneficiary?*

In California, in general, yes, as long as there is both an initial beneficiary (the Preparing Immigrant, in the situation described in this guide) and a successor beneficiary (the person(s) who receives the trust assets at the settlor’s death).<sup>31</sup>

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<sup>28</sup> See <http://www.fiduciary.ca.gov/> for additional information.

<sup>29</sup> <https://www.irs.gov/pub/irs-pdf/iss4.pdf>

<sup>30</sup> Cal. Prob. Code §15205

<sup>31</sup> Cal. Prob. Code § 15209

## Conveying Property to the Trust

This is also known as “funding” the trust. Although the settlor may draft a declaration of trust and have a trustee and beneficiary in place, a trust does not exist until the property is formally transferred to the trust. How this is done depends on the type of property.

Most declarations of trust include a schedule that purports to transfer property to the trust. However, to assure that ownership of each asset owned by the settlor is actually transferred to the trustee of the trust, and particularly to satisfy third parties such as banks, brokerage firms, etc., additional action is required. A corollary to this is that even if an asset is not included on the schedule, if it is titled in the name of the trust, it will be trust property.

Title to trust assets should be in the name of the *trustee* of the trust, and the date of the trust should always be referenced. For example, Claudia Cafeowner should re-title all of her existing property as follows: “Claudia Cafeowner, Trustee of the Claudia Cafeowner Revocable Trust dated \_\_\_\_\_.” Any new property she acquires should also be titled this way.

Many third parties will require a copy of the declaration of trust at the time that the settlor requests that title be changed. This is because the third party needs to be satisfied that the trust actually exists and to make sure that the Trustee has the power to deal with the appropriate transactions (e.g., for a bank: the power to open and close accounts, write checks, make deposits, etc.). In lieu of receiving a full copy of the declaration of trust, the third party may have its own Probate Code Section 18100.5 form of “Certification of Trust” by which the Trustee alleges, under penalty of perjury, that the trust exists (usually other things as well: the identity(ies) of the trustee and beneficiaries, for instance).

The following are general rules for formally transferring title of the settlor’s assets the trustee of the revocable trust:

### *Bank Accounts (or Brokerage Accounts with Stock)*

Many banks and brokerages have pre-printed forms of Certification of Trust that can be completed. Some banks or brokerages may require that a new trust account be opened and existing assets transferred over. (This is not a problem; it’s just additional paperwork).

### *California Real Estate*

In order to transfer California real property into a trust, the settlor must execute a deed transferring title of the property to the trustee of the trust and the deed must be recorded in the county where the property is located.<sup>32</sup> The deed must be acknowledged by a Notary Public. When the deed is submitted for recording, a “Preliminary Change of Ownership” form should also be submitted to the Assessor.

**Caveat:** Prior to recording: if real property other than the settlor’s residence is being transferred to the trustee and there is a mortgage, contact the lender to (i) advise it that the property is being transferred to the settlor’s revocable trust and (ii) obtain its consent. Failure to

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<sup>32</sup> Cal. Prob. Code § 15210

do so could result in the mortgage being called (i.e., lender demanding full repayment). *It is important to obtain the lender's written consent to the transfer and a written assurance that the lender will not call the mortgage.*

### *Intellectual Property*

Copyrights, trademarks, and patents may be included in the assignment document, but should be specifically listed with identifying information such as a patent or copyright number. They should also be assigned in a separate assignment document,<sup>33</sup> and signed in the presence of a notary.

### *Business Ownership*

Before transferring ownership of any business to a trust, review all relevant documents, including the balance sheet, the list of assets, licenses or permits, and any governance documents. The law imposes different restrictions and requirements depending on how the business is structured. California law may impose restrictions on who can own the business depending on the nature of the business.<sup>34</sup>

Each form of business ownership will have its own internal restrictions and requirements:

- **Sole proprietorship:** In general, a sole proprietor may transfer ownership into a trust by a simple assignment. One notable exception is when professional licensing laws restrict the transfer to a trust, e.g., in the case of a law practice.
- **Partnership:** A partner may, in many circumstances, transfer their interest in the partnership into a trust. However, the partnership agreement may impose restrictions on such a transfer, including requiring approval from other partners. If the partnership agreement does not allow an interest to be transferred to a trust, the agreement will need to be amended or modified.
  - Before transferring a partnership interest, gather the following information:
    - Whether it is a general or limited partnership, and whether the client has a general or limited partnership interest;
    - The identities of the other partners;
    - What percentage interest is owned by the client;
    - Whether there are any restrictions on the transfer of a partner's interest;
    - Who has to consent to the transfer (e.g., the general partner, all partners);
    - How title is held (e.g., if clients are a married couple);
    - An estimate of the value of the client's interest; and

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<sup>33</sup> See sample assignment document below.

<sup>34</sup> Cal. Corp. Code § 13405

- Whether any professional licensing laws restrict the transfer of the partnership to a trust, e.g., in the case of a law practice.<sup>35</sup>
- **Limited Liability Company (LLC):** Similar to transferring partnership interests, review the LLC’s articles of organization and operating agreement for any restrictions on the transfer of membership or manager interests.
- **Privately Held Corporations:** Be sure to review the articles of incorporation, the shareholders’ agreements, corporate bylaws, tax returns, and balance sheets. As with the other business structures, look for any restrictions on the transfer of interest to a trust. The general procedure for assigning shares is as follows:
  - Create a document assigning the stock (an “assignment”).
  - Provide the original certificate and assignment to the secretary of the corporation.
  - The corporation’s secretary will retitle the shares.
  - See also potential restrictions on transfer by professional licensing laws, as mentioned above for sole proprietorships and partnerships.
- **S corporation:** When the settlor dies, the trust becomes irrevocable, which may put S corporation status in jeopardy. To limit this risk, be sure that the trust document provides that the stock will transfer from the trust to beneficiaries within two years.<sup>36</sup>

### What Relationship Does a Trust Have to a Power of Attorney?

While both powers of attorney and revocable trusts are themselves useful tools, these tools can be used together in the following ways. For example, a power of attorney agent may create a revocable trust for the principal, if expressly permitted in the power of attorney document.<sup>37</sup> In addition, the power of attorney agent could be granted the power to fund the trust, that is, transfer the Preparing Immigrant’s property into a revocable trust. This would allow the agent to transfer property the Preparing Immigrant forgot to transfer or was unable to transfer due to detention, deportation, or incapacity. This is important because the successor trustee may not manage any of the Preparing Immigrant’s property not assigned to the trust; therefore the agent should be legally able to ensure that any remaining property is placed into the trust. Finally, the power of attorney can grant the agent the authority to file documents with government agencies, such as tax returns, in the name of the Preparing Immigrant’s business. This is especially important if the business is a sole proprietorship.

### What Special Considerations are there for Preparing Immigrants in Forming a Trust?

If a settlor (i.e. a Preparing Immigrant) does not have a Social Security Number, he or she must acquire an Individual Taxpayer Identification Number (ITIN) in order to form a trust.<sup>38</sup> An ITIN

<sup>35</sup> Cal. Corp. Code § 13405

<sup>36</sup> [26 U.S.C. § 1361\(c\)\(2\)\(A\).](#)

<sup>37</sup> [Cal. Prob. Code § 4264\(a\)](#)

<sup>38</sup> <https://indianwellsestateplanningattorney.com/2013/02/02/whose-social-security-number-or-ein-do-i-use-for-a-trust/>

is a processing number used by the Internal Revenue Service (IRS) for people who do not have and are not eligible to obtain a Social Security Number.<sup>39</sup> If a Preparing Immigrant pays taxes, he or she likely has an ITIN already. If not, they can apply by:

- Mailing an IRS Form W-7, tax return, proof of identity, and foreign status documents to the IRS;
- Applying for an ITIN in-person using the services of an IRS-authorized Certified Acceptance Agent<sup>40,41</sup>; or
- Making an appointment at a designated IRS Taxpayer Assistance Center.<sup>42,43</sup>
  - The IRS should mail the ITIN to the applicant within seven weeks.<sup>44</sup>
  - ***IMPORTANT NOTE:** Obtaining an ITIN does not authorize someone to work in the United States or make them eligible for Social Security benefits. In addition, the IRS does not currently share personal information of ITIN holders with immigration enforcement agencies. However, that could change in the future, so applicants for an ITIN who are undocumented should proceed with caution.*<sup>45</sup>

*The IRS Categorizes Trusts as Either Domestic or Foreign:*

A **domestic trust** is any trust that meets both of the following requirements:<sup>46</sup>

- A court within the United States can exercise primary supervision over its administration; and
- One or more United States persons have the authority to control all substantial decisions of the trust.<sup>47</sup>

By contrast, a **foreign trust** is any trust that fails to meet both of these requirements. A United States person is defined as a citizen or resident of the United States.<sup>48</sup> In this context, and for income tax purposes, someone is considered a resident of the United States if they satisfy either the green card test<sup>49</sup> or the substantial presence test.<sup>50</sup>

When a Preparing Immigrant who resides in the United States forms a trust, that trust may be considered a domestic trust. **However, in the event of deportation, the trust may be considered a foreign trust, unless the terms of the trust document provide that the trust**

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<sup>39</sup> <https://www.irs.gov/individuals/individual-taxpayer-identification-number-itin>

<sup>40</sup> <https://www.irs.gov/individuals/new-itin-acceptance-agent-program-changes>

<sup>41</sup> <https://www.irs.gov/individuals/acceptance-agents-california>

<sup>42</sup> <https://www.irs.gov/uac/tac-locations-where-in-person-document-verification-is-provided>.

<sup>43</sup> <https://www.irs.gov/uac/contact-my-local-office-in-california>

<sup>44</sup> <https://www.irs.gov/individuals/how-do-i-apply-for-an-itin>

<sup>45</sup> <https://www.americanimmigrationcouncil.org/research/facts-about-individual-tax-identification-number-itin>

<sup>46</sup> <https://www.irs.gov/instructions/i3520a/ch01.html#d0e12.7> Also see definition of US Agent + US Beneficiary.

<sup>47</sup> I.R.C. 7701(a)(30)(E) and (31)(B)

<sup>48</sup> I.R.C. 7701(a)(30)(A)

<sup>49</sup> <https://www.irs.gov/individuals/international-taxpayers/alien-residency-green-card-test>

<sup>50</sup> <https://www.irs.gov/individuals/international-taxpayers/substantial-presence-test>

**transfers to a successor trustee in the case of deportation. In addition, the successor trustee should be a U.S. person.**

Designation as a foreign trust has implications for the trust's required reporting to the IRS. A foreign trust with at least one U.S. owner must file IRS Form 3520-A.<sup>51,52</sup> Property placed in a revocable trust is still subject to federal estate tax.<sup>53</sup> A foreign trust may receive a tax credit for taxes paid in another country.<sup>54</sup> Income earned through a foreign trust is calculated differently.<sup>55</sup>

#### Defining Deportation or Detention as a Trust-Triggering Event:

Because trusts are traditionally used as an estate planning device, the events that would trigger the transfer of trust control from the settlor to the successor trustee would be the settlor's death or incapacity. To address the specific needs of Preparing Immigrants, the trust may also contain a provision that transfers control to the successor trustee in the event of the Preparing Immigrant's detention or deportation.

A trust will often include methods to establish the Preparing Immigrant's incapacity. For example, to prove incapacity, the trust could require certification from two independent physicians of the Preparing Immigrant. A trust intended to trigger in the event of detention or deportation should include an equivalent set of standards.

#### *Proof of the Preparing Immigrant's Deportation*

To establish deportation, a Preparing Immigrant might use one or more of the following standards:

- Issuance of a Final Order of Removal by an immigration judge.
- Issuance of any of the following by U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE):
  - Expedited Order of Removal.
  - Administrative Order of Removal.
  - Reinstatement of Existing Order of Removal.

#### *Proof of the Preparing Immigrant's Detention*

A Preparing Immigrant may have more difficulty establishing proof of detention. Often family members are not notified and the detained person may have difficulty getting the relevant documents to them. They might consider referencing ICE's online detainee locator,<sup>56</sup> although it may not always be kept up to date.

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<sup>51</sup> <https://www.irs.gov/instructions/i3520a/ch01.html#d0e127>

<sup>52</sup> [https://www.irs.gov/pub/irs-access/f3520a\\_accessible.pdf](https://www.irs.gov/pub/irs-access/f3520a_accessible.pdf)

<sup>53</sup> I.R.C. 2038

<sup>54</sup> I.R.C. 642(a) and 901

<sup>55</sup> I.R.C. 643(a)(6)

<sup>56</sup> <https://locator.ice.gov/odls/homePage.do>

A Preparing Immigrant might also consider including broader language such as “any documentation from ICE or CBP establishing that the Preparing Immigrant has been detained.” This broad language gives the Preparing Immigrant, successor trustee, and beneficiaries the flexibility to use whatever documentation they have. The risk would be that a successor trustee might be a bad actor and take over management of the trust without having to sufficiently prove the Preparing Immigrant has been detained. This risk is mitigated by the fact that the Preparing Immigrant may revoke the trust at any time, even after detention.

## Concluding Thoughts

### *Laws of Country to which a Preparing Immigrant Would Likely be Deported*

A Preparing Immigrant should also consult the laws in their country of origin or the country to where they would likely be deported. These laws may impact how a trust should be structured or if a trust can have the intended effect.

### *What Happens if the Settlor Has Already been Deported?*

If the settlor has already been deported, and has not prepared a revocable trust, the settlor can mention in a valid POA that the agent has the power to create a revocable trust on the settlor’s behalf. The individual will likely have to use the Apostille process to authenticate the revocable trust document in the United States. See the Appleseed Guide pages 22-23 for a discussion on the apostille process.

### *What Happens if the Settlor Returns to the United States or Otherwise Wants to Revoke the Trust?*

As discussed earlier, even though in California, trusts are presumed to be revocable, every declaration of trust should include a section specifying that the settlor may, at any time, modify or entirely revoke the trust. In the context of Preparing Immigrants, this allows the settlor who leaves but later returns to the United States to regain control of their business from the successor trustee.

### *Working with Attorneys*

Although it is not necessary for a Preparing Immigrant to work with an attorney to establish a revocable trust, revocable trusts can be quite complex, as can be the formalities necessary to transfer property into or out of the ownership of the trust. Consulting with an attorney where possible can help a Preparing Immigrant ensure that their revocable trust is effective and that it matches their wishes.

**NOTICE: THE FOLLOWING FORM OF REVOCABLE TRUST IS NOT LEGAL ADVICE. THE FORMS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. PLEASE CONSULT AN ATTORNEY BEFORE ADOPTING THESE FORMS FOR YOUR INDIVIDUAL SITUATION.**

**FAIR USE NOTICE: THESE FORMS MAY CONTAIN COYPRIGHTED MATERIAL THE USE OF WHICH HAS NOT ALWAYS BEEN SPECIFICALLY AUTHORIZED BY THE COPYRIGHT OWNER. SUCH MATERIAL IS MADE AVAILABLE FOR EDUCATIONAL AND RESEARCH PURPOSES AND IS DISTRIBUTED WITHOUT PROFIT OR COMMERCIAL INTENT. IT IS BELIEVED THAT THIS CONSTITUTES A FAIR USE OF ANY SUCH COPYRIGHTED MATERIAL IN ACCORDANCE WITH 17 U.S.C. SECTION 107.**

## Sample Declaration of Trust – Single Person<sup>57</sup>

### **Part 1. Trust Name**

This revocable trust shall be known as the Claudia Cafeowner Revocable Trust.

### **Part 2. Declaration of Trust**

Claudia Cafeowner, hereafter the “Settlor,” declares that she has transferred and delivered to the Trustee all her interest in the property described in Schedule A attached to this Declaration of Trust. All of that property is called the “trust property.” The Trustee hereby acknowledges receipt of the trust property and agrees to hold the trust property in trust, according to this Declaration of Trust.

The Settlor may add property to the trust.

### **Part 3. Terminology**

The term “this Declaration of Trust” includes any provisions added by valid amendment.

The term “Trust” means the Claudia Cafeowner Revocable Trust.

### **Part 4. Amendment and Revocation**

#### ***A. Amendment or Revocation by Settlor***

The Settlor may amend or revoke this trust at any time, without notifying any beneficiary. Any amendment must be made in writing and signed by the Settlor.

#### ***B. Amendment or Revocation by Other Person***

The power to revoke or amend this trust is personal to the Settlor. A conservator, guardian or other person shall not exercise it on behalf of the Settlor, unless the Settlor specifically grants a power to revoke or amend this trust in a Durable Power of Attorney.

### **Part 5. Payments From Trust During Settlor's Lifetime**

The Trustee shall pay to or use for the benefit of the Settlor as much of the net income and principal of the trust property as the Settlor requests. Income shall be paid to the Settlor at least

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<sup>57</sup>This sample trust was created based on NOLO’s Sample Individual Living Trust (<http://www.nolo.com/legal-encyclopedia/sample-individual-living-trust.html>).

annually. Income accruing in or paid to trust accounts shall be deemed to have been paid to the Settlor.

## **Part 6. Trustees**

### ***A. Trustee***

Claudia Cafeowner shall be the initial Trustee of this trust.

### ***B. Trustee's Responsibilities***

The Trustee in office shall serve as Trustee of all trusts created under this Declaration of Trust.

### ***C. Terminology***

In this Declaration of Trust, the term "Trustee" includes successor Trustees or alternate successor Trustees serving as Trustee of this trust. The singular "Trustee" also includes the plural.

### ***D. Successor Trustee***

Upon the death, incapacity, detention, or deportation of Claudia Cafeowner, the Trustee of this trust shall be Mary Cafeowner. If Mary Cafeowner is unable or unwilling to serve as successor Trustee, Patricia Cafeowner, shall serve as Trustee.

### ***E. Resignation of Trustee***

Any Trustee in office may resign at any time by signing a notice of resignation. The resignation shall be delivered to the person or institution who is either named in this Declaration of Trust, or appointed by the Trustee under Section F of this Part, to next serve as the Trustee.

### ***F. Power to Appoint Successor Trustee***

If no one named in this Declaration of Trust as a successor Trustee or alternate successor Trustee is willing or able to serve as Trustee, the last acting Trustee may appoint a successor Trustee to be paid for from the trust property. The appointment must be made in writing, signed by the Trustee and notarized.

### ***G. Bond***

No bond shall be required for any Trustee hereunder.

### ***H. Compensation***

Trustee shall receive reasonable compensation for serving as Trustee.

### ***I. Liability of Trustee***

With respect to the exercise or non-exercise of discretionary powers granted by this Declaration of Trust, the Trustee shall not be liable for actions taken in good faith. Such actions shall be binding on all persons interested in the trust property.

## **Part 7. Trustee's Management Duties and Powers**

### ***A. Powers Under State Law***

The Trustee shall have all authority and powers allowed or conferred on a Trustee under California law, subject to the Trustee's fiduciary duty to the beneficiaries.

### ***B. Specified Duties and Powers***

1. While the Settlor is living and not serving as Trustee (as a result of detention or deportation (as defined in Part 8) or incapacity (as defined in Part 9)), Trustee shall have the following duties in relation to Settlor:
  - a. **Power to Control and Direct Payments.** The Trustee shall distribute or retain the principal and net income of the trust estate as Settlor may direct from time to time. Absent directions from Settlor, the Trustee shall distribute to Settlor the trust income at least monthly.
  - b. **Investment Decisions.** Settlor individually reserves the right to specifically approve or disapprove each and every trust investment, purchase, or sale before it is made. The Trustee is relieved from all liability for loss which may result from the purchase or sale of trust property which has been directed by Settlor.
  
2. Subject to Section B(1) above, in addition to the powers conferred by law, the Trustee's powers include, but are not limited to:
  - a. The power to sell trust property, and to borrow money and to encumber trust property, including trust real estate, by mortgage, deed of trust or other method.
  - b. The power to manage trust real estate as if the Trustee were the absolute owner of it, including the power to lease (even if the lease term may extend beyond the period of any trust) or grant options to lease the property, to make repairs or alterations and to insure against loss.
  - c. The power to sell or grant options for the sale or exchange of any trust property, including stocks, bonds, debentures and any other form of security or security account, at public or private sale for cash or on credit.
  - d. The power to invest trust property in every kind of property and every kind of investment, including but not limited to bonds, debentures, notes, mortgages, stock options, futures and stocks, and including buying on margin.
  - e. The power to receive additional property from any source and add it to any trust created by this Declaration of Trust.
  - f. The power to employ and pay reasonable fees to accountants, lawyers or investment experts for information or advice relating to the trust.
  - g. The power to deposit and hold trust funds in both interest-bearing and non-interest-bearing accounts.
  - h. The power to deposit funds in bank or other accounts uninsured by FDIC coverage.
  - i. The power to enter into electronic fund transfer or safe deposit arrangements with financial institutions.
  - j. The power, pursuant to California Probate Code 16222, to hold and operate, sell, or liquidate, at the risk of the trust, the business known as "Claudia's Café." The Trustee may do all things that the Trustee considers advisable in connection with this business, including the following:

- i. Incorporate or make other changes in the form of the organization of the business or investment activity;
  - ii. Lend or contribute other trust funds to the business or investment activity;
  - iii. Serve as an officer or director of any corporation;
  - iv. Consent to the retention of all or any portion of the distributable share of net income of the business or investment activity to meet the business's reasonable needs;
  - v. Dissolve, liquidate, sell, or otherwise dispose of the business or investment activity or any interest in it;
  - vi. Purchase and maintain inventory;
  - vii. Represent the business with respect to tax matters before the Internal Revenue Service, the Franchise Tax Board and other tax agencies;
  - viii. File tax returns and pay taxes related to trust property;
  - ix. Without independent investigation, accept as correct and rely on financial or other statements rendered by an accountant, an officer, or a principal of the business, for any business or investment activity or any interest in it; and
  - x. For accounting and reporting purposes, regard the business as an entity separate from the trust and account for money and property received from and paid to the business or investment activity.
- k. The power to institute or defend legal actions concerning this trust or the Settlor's affairs.
  - l. The power to execute any documents necessary to administer any trust created by this Declaration of Trust.
  - m. The power to diversify investments, including authority to decide that some or all of the trust property need not produce income.

## **Part 8. Detention or Deportation of Settlor**

If the Settlor is detained or deported, the successor Trustee named in Part 6 shall be Trustee.

The determination of the Settlor's deportation shall be made by the presentation to the successor Trustee of any of the following:

- Issuance of a Final Order of Removal by an Immigration Judge.
- Issuance of any of the following by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement:
  - Expedited Order of Removal.
  - Administrative Order of Removal.
  - Reinstatement of Existing Order of Removal.

The determination of the Settlor's detention shall be made by the presentation to the successor Trustee of any of the following:

- Documentation on U.S. Immigration and Customs Enforcement's online detainee locator that the Settlor is currently detained.<sup>58</sup>

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<sup>58</sup>

<https://locator.ice.gov/odls/homePage.do>

- Any other documentation from U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement establishing that the Settlor has been detained.

The successor Trustee shall make all reasonable efforts to determine the status of and remain in contact with the Settlor.

The successor Trustee shall have all the same powers and duties specified in Part 7.

Regardless of detention or deportation, the Settlor shall retain the right to revoke this trust.

### **Part 9. Incapacity of Settlor**

If the Settlor becomes physically or mentally incapacitated, whether or not a court has declared the Settlor incompetent or in need of a conservator or guardian, the successor Trustee named in Part 6 shall be Trustee.

The determination of the Settlor's capacity to manage this trust shall be made by a) a court of competent jurisdiction or (b) one licensed physician who is Settlor's attending physician or primary care physician and who has declared in writing under penalty of perjury that in his or her opinion Settlor is substantially unable to manage his financial resources or resist fraud or undue influence.

If the successor Trustee is unable, after making reasonable efforts, to obtain a written opinion from Settlor's attending physician or primary care physician, the successor Trustee may request an opinion from a physician who examines the Settlor, and may rely on that opinion.

The Trustee shall use any amount of trust income or trust property necessary for the Settlor's proper health care, support, maintenance, comfort and welfare, in accordance with the Settlor's accustomed manner of living. Any income not spent for the benefit of the Settlor shall be accumulated and added to the trust property. Income shall be paid to the Settlor at least annually. Income accruing in or paid to trust accounts shall be deemed to have been paid to the Settlor.

The successor Trustee shall manage the trust until the Settlor is again able to manage her affairs. The determination of the Settlor's capacity to again manage this trust shall be made in the manner specified just above.

### **Part 10. Death of Settlor**

When the Settlor dies, this trust shall become irrevocable. It may not be amended or altered except as provided for by this Declaration of Trust. It may be terminated only by the distributions authorized by this Declaration of Trust.

The Trustee may pay out of trust property such amounts as necessary for payment of the Settlor's debts, estate taxes and expenses of the Settlor's last illness and funeral.

### **Part 11. Beneficiaries**

At the death of the Settlor, the Trustee shall distribute the trust property as follows:

- i. Claudia's Café: Mary Cafeowner shall be given Claudia Cafeowner's entire interest in Claudia's Café. If Mary Cafeowner does not survive Claudia Cafeowner, that property shall be given to Patricia Cafeowner.
- ii. Other Assets: Patricia Cafeowner shall be given all of Claudia Cafeowner's other property. If Patricia Cafeowner does not survive Claudia Cafeowner, that property shall be given to Mary Cafeowner.

**Part 12. Terms of Property Distribution**

A beneficiary must survive the Settlor for 120 hours to receive property under this Declaration of Trust. As used in this Declaration of Trust, to survive means to be alive or in existence as an organization.

All personal and real property left through this trust shall pass subject to any encumbrances or liens placed on the property as security for the repayment of a loan or debt.

If property is left to two or more beneficiaries to share, they shall share it equally unless this Declaration of Trust provides otherwise. If any of them does not survive the Settlor, the others shall take that beneficiary's share, to share equally, unless this Declaration of Trust provides otherwise.

**Part 13. Grantor's Right to Homestead Tax Exemption**

If the Settlor's principal residence is held in trust, the Settlor has the right to possess and occupy it for life, rent-free and without charge except for taxes, insurance, maintenance and related costs and expenses. This right is intended to give the Settlor a beneficial interest in the property and to ensure that the Settlor does not lose eligibility for a state homestead tax exemption for which she otherwise qualifies.

**Part 14. Severability of Clauses**

If any provision of this Declaration of Trust is ruled unenforceable, the remaining provisions shall stay in effect.

**Part 15. Applicable Law**

This document shall be construed in accordance with the laws of the State of California.

**Certification of Settlor**

I certify that I have read this Declaration of Trust and that it correctly states the terms and conditions under which the trust property is to be held, managed and disposed of by the Trustee, and I approve the Declaration of Trust.

\_\_\_\_\_ Dated: \_\_\_\_\_

Claudia Cafeowner, Settlor and Trustee

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**CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC**



**Schedule A**  
**Property Placed in Trust**

1. The entire interest in and all equipment owned by the business known as “Claudia’s Café.”
2. House at 1234 Sample Street, Oakland, California.
3. [ADD BANK ACCOUNTS, but note that many institutions require that their own assignment forms be completed or that a new account be opened in the name of the trust and the settlor’s funds transferred into that account. See Section IX, Conveying Property to the Trust.]
4. [Add tangible personal property]

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## Sample Declaration of Trust – Married Couple<sup>59</sup>

### **Part 1. Trust Name**

This revocable living trust shall be known as the Chris and Jan Trustmaker Revocable Trust.

### **Part 2. Declaration of Trust**

Chris Trustmaker and Jan Trustmaker, hereinafter the “settlers,” declare that they have transferred and delivered to the trustee all their interest in the property described in Schedules A, B and C attached to this Declaration of Trust. All of that property is called the “trust property.” The trustees hereby acknowledge receipt of the trust property and agree to hold the trust property in trust, according to this Declaration of Trust.

Either settlor may add property to the trust.

### **Part 3. Terminology**

The term “this Declaration of Trust” includes any provisions added by valid amendment.

The term “Trust” means the Chris and Jan Trustmaker Revocable Trust.

### **Part 4. Character of Trust Property**

While both settlers are alive, property held in this trust shall retain its original character as community or separate property, as the case may be.

If the trust is revoked, the trustee shall distribute the trust property listed on Schedule A to the settlers as their community property. The trust property listed in Schedule B shall be distributed to Chris Trustmaker as [his/her/their] separate property, and the trust property listed in Schedule C shall be distributed to Jan Trustmaker as [his/her/their] separate property.

### **Part 5. Amendment and Revocation**

#### ***A. Revocation by Settlers***

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<sup>59</sup> This sample trust was created based on NOLO’s Sample Shared Living Trust (<https://www.nolo.com/legal-encyclopedia/sample-shared-living-trust.html>).

While both settlors are alive, either settlor may revoke this trust at any time, without notifying any beneficiary. Revocation may be made in writing or any manner allowed by law.

### ***B. Amendment by Settlers***

While both settlors are alive, this Declaration of Trust may be amended only by both of them acting together. All amendments must be in writing and signed by both settlors.

### ***C. Amendment or Revocation by Other Person***

The power to revoke or amend this trust is personal to the settlors. A conservator, guardian or other person shall not exercise it on behalf of either settlor, unless a settlor specifically grants a power to revoke or amend this trust in a Durable Power of Attorney.

## **Part 6. Payment From Trust During Settlers' Lifetimes**

The Trustees shall pay to or use for the benefit of the settlors as much of the net income and principal of the trust property as the settlors request. Income shall be paid to the settlors at least annually. Income accruing in or paid to trust accounts shall be deemed to have been paid to the settlors.

## **Part 7. Trustees**

### ***A. Original Trustees***

Chris Trustmaker and Jan Trustmaker are the trustees of this trust. Either alone may act for or represent the trust in any transaction.

### ***B. Trustee at Death, Incapacity, Detention or Deportation of Original Trustee***

Upon the death, incapacity, detention or deportation of either Chris Trustmaker or Jan Trustmaker (i.e., either one of the original trustees), the surviving, non-deported, or non-detained original trustee shall serve as sole trustee.

### ***C. Trustee's Responsibilities***

The trustee in office shall serve as trustee of all trusts created under this Declaration of Trust, including children's subtrusts.

### ***D. Terminology***

In this Declaration of Trust, the term "trustee" includes successor trustees or alternate successor trustees serving as trustee of this trust. The singular "trustee" also includes the plural.

### ***E. Successor Trustee***

Upon the death, incapacity, detention or deportation of the surviving, non-deported, or non-detained original trustee, or upon the death, incapacity, detention or deportation of both original trustees, Willamina Chang shall serve as trustee. If Willamina Chang is unable or unwilling to serve as successor trustee, Rachel Walton shall serve as trustee.

#### ***F. Resignation of Trustee***

Any trustee in office may resign at any time by signing a notice of resignation. The resignation must be delivered to the person or institution who is either named in this Declaration of Trust, or appointed by the Trustee under Section G of this Part, to next serve as the trustee.

#### ***G. Power to Appoint Successor Trustee***

If no one named in this Declaration of Trust as a successor trustee or alternate successor trustee is willing or able to serve as trustee, the last acting trustee may appoint a successor trustee and may require the posting of a reasonable bond, to be paid for from the trust property. The appointment must be made in writing, signed by the trustee and notarized.

#### ***H. Bond***

No bond shall be required for any trustee hereunder.

#### ***I. Compensation***

Trustee shall receive reasonable compensation for serving as trustee.

#### ***J. Liability of Trustee***

With respect to the exercise or nonexercise of discretionary powers granted by this Declaration of Trust, the trustee shall not be liable for actions taken in good faith. Such actions shall be binding on all persons interested in the trust property.

### **Part 8. Trustee's Management Duties and Powers**

#### ***A. Powers Under State Law***

The trustee shall have all authority and powers allowed or conferred on a trustee under California law, subject to the trustee's fiduciary duty to the beneficiaries.

#### ***B. Specified Duties and Powers***

1. While both of the settlors are living and not serving as trustees (as a result of detention or deportation of both settlors (as defined in Part 9) or incapacity of both settlors (as defined in Part 10)), trustee shall have the following duties in relation to settlors:

- a. **Power to Control and Direct Payments.** The trustee shall distribute or retain the principal and net income of the trust estate as settlors may direct from time to time. Absent directions from the settlors, the trustee shall distribute to settlors the trust income at least monthly.
  - b. **Investment Decisions.** Settlers reserve the right to specifically approve or disapprove each and every trust investment, purchase, or sale before it is made. The trustee is relieved from all liability for loss which may result from the purchase or sale of trust property which has been directed by settlors.
2. Subject to Section B(1) above, in addition to the powers conferred by law, the trustee's powers include, but are not limited to:
- a. The power to sell trust property, and to borrow money and to encumber trust property, including trust real estate, by mortgage, deed of trust or other method.
  - b. The power to manage trust real estate as if the trustee were the absolute owner of it, including the power to lease (even if the lease term may extend beyond the period of any trust) or grant options to lease the property, to make repairs or alterations and to insure against loss.
  - c. The power to sell or grant options for the sale or exchange of any trust property, including stocks, bonds, debentures and any other form of security or security account, at public or private sale for cash or on credit.
  - d. The power to invest trust property in every kind of property and every kind of investment, including but not limited to bonds, debentures, notes, mortgages, stock options, futures and stocks, and including buying on margin.
  - e. The power to receive additional property from any source and add it to any trust created by this Declaration of Trust.
  - f. The power to employ and pay reasonable fees to accountants, lawyers or investment experts for information or advice relating to the trust.
  - g. The power to deposit and hold trust funds in both interest-bearing and non-interest-bearing accounts.
  - h. The power to deposit funds in bank or other accounts uninsured by FDIC coverage.
  - i. The power to enter into electronic fund transfer or safe deposit arrangements with financial institutions.
  - j. The power, pursuant to California Probate Code 16222, to hold and operate, sell, or liquidate, at the risk of the trust, the business known as "Chris and Jan's Café." The trustee may do all things that the trustee considers advisable in connection with this business, including the following:
    - xi. Incorporate or make other changes in the form of the organization of the business or investment activity;
    - xii. Lend or contribute other trust funds to the business or investment activity;
    - xiii. Serve as an officer or director of any corporation;

- xiv. Consent to the retention of all or any portion of the distributable share of net income of the business or investment activity to meet the business' reasonable needs;
  - xv. Dissolve, liquidate, sell, or otherwise dispose of the business or investment activity or any interest in it;
  - xvi. Purchase and maintain inventory;
  - xvii. Represent the business with respect to tax matters before the Internal Revenue Service, the Franchise Tax Board and other tax agencies;
  - xviii. File tax returns and pay taxes related to trust property;
  - xix. Without independent investigation, accept as correct and rely on financial or other statements rendered by an accountant, an officer, or a principal of the business, for any business or investment activity or any interest in it; and
  - xx. For accounting and reporting purposes, regard the business as an entity separate from the trust and account for money and property received from and paid to the business or investment activity.
- k. The power to continue any business of either Settlor.
  - l. The power to institute or defend legal actions concerning this trust or the Settlers' affairs.
  - m. The power to execute any documents necessary to administer any trust created by this Declaration of Trust.
  - n. The power to diversify investments, including authority to decide that some or all of the trust property need not produce income.

### **Part 8. Detention or Deportation of Settlers**

The first settlor to be detained or deported shall be called the “detained settlor” or “deported settlor” (as the case may be). The settlor who is neither detained nor deported shall be called the “non-detained/deported settlor.”

If only one of the settlers is detained or deported, the non-detained/deported settlor shall be trustee. If both settlers are either detained or deported, the successor trustee named in Part 7 shall be trustee.

The determination of either or both settlers' deportation shall be made by the presentation to the non-detained/deported settlor or successor trustee, as the case may be, of any of the following:

- Issuance of a Final Order of Removal by an Immigration Judge.
- Issuance of any of the following by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement:
  - Expedited Order of Removal.
  - Administrative Order of Removal.
  - Reinstatement of Existing Order of Removal.

The determination of either or both settlers' detention shall be made by the presentation to the to the non-detained/deported settlor or successor trustee, as the case may be, of any of the following:

- Documentation on U.S. Immigration and Customs Enforcement's online detainee locator that the Settlor is currently detained.<sup>60</sup>
- Any other documentation from U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement establishing that the Settlor has been detained.

The successor trustee shall make all reasonable efforts to determine the status of and remain in contact with the settlors if both are detained or deported.

The successor trustee shall have all the same powers and duties specified in Part 7.

Regardless of detention or deportation, the settlors shall retain the right to revoke this trust.

### **Part 9. Incapacity of Settlors**

If Tommy Trustmaker or Tammy Trustmaker becomes physically or mentally incapacitated, whether or not a court has declared the settlor incompetent or in need of a conservator or guardian, the other Settlor shall be sole trustee until the incapacitated settlor is again able to manage their affairs.

If both settlors become incapacitated, the successor trustee named in Part 7 of this Declaration of Trust shall serve as trustee. The successor trustee shall manage the trust until either one of the settlors is again able to manage their affairs. The determination of either settlor's capacity to again manage this trust shall be made in the manner specified below.

The determination of a settlor's capacity to manage this trust shall be made by a) a court of competent jurisdiction or (b) one licensed physician who is Settlor's attending physician or primary care physician and who has declared in writing under penalty of perjury that in his or her opinion Settlor is substantially unable to manage his financial resources or resist fraud or undue influence.

If the successor trustee is unable, after making reasonable efforts, to obtain a written opinion from Settlor's attending physician or primary care physician, the successor trustee may request an opinion from a physician who examines the Settlor, and may rely on that opinion.

The trustee shall manage the trust property and use any amount of trust income or trust principal necessary for the proper health care, support, maintenance, comfort and welfare of both settlors, in accordance with their accustomed manner of living. Any income not spent for the benefit of the settlors shall be accumulated and added to the trust property. Income shall be paid to the settlors at least annually. Income accruing in or paid to trust accounts shall be deemed to have been paid to the settlors.

### **Part 10. Death of a Settlor**

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<sup>60</sup> <https://locator.ice.gov/odls/homePage.do>

The first settlor to die shall be called the “deceased settlor.” The other settlor shall be called the “surviving settlor.”

Upon the deceased settlor’s death, the trustee shall divide the property of the Chris and Jan Trustmaker Revocable Trust listed on Schedules A, B and C into two separate trusts, Trust #1 and Trust #2. The trustee shall serve as trustee of Trust #1 and Trust #2.

Trust #1 shall contain all the property of the Chris and Jan Trustmaker Revocable Trust owned by the deceased settlor before it was held in trust, plus accumulated income, except trust property left by the terms of this trust to the surviving settlor. Trust #1 shall become irrevocable at the death of the deceased settlor. The trustee shall distribute the property in Trust #1 to the beneficiaries named in Part 11 of this Declaration of Trust.

Trust #2 shall contain all the property of the Chris and Jan Trustmaker Revocable Trust owned by the surviving settlor before it was held in trust, plus accumulated income, and any trust property left by the deceased settlor to the surviving settlor. It shall remain revocable until the death of the surviving settlor.

The trustee may pay out of trust property such amounts as necessary for payment of debts, estate taxes and expenses of the last illness and funeral of the deceased or surviving settlor.

## **Part 11. Beneficiaries**

### ***A. Chris Trustmaker's Beneficiaries***

At the death of Chris Trustmaker, the trustee shall distribute the trust property listed on Schedule C, plus accumulated interest; the share of the property on Schedule A owned by Chris Trustmaker before it was transferred to the trustee, plus accumulated interest; and if Chris Trustmaker is the second settlor to die, any property listed on Schedule B left to [him/her/them] by Jan Trustmaker, plus accumulated interest; as follows:

1. Jan Trustmaker shall be given all Chris Trustmaker's interest in the property listed in Schedule A, including the entire interest in and all equipment owned by Chris and Jan’s Café and all bank and other financial accounts used in connection with the business; the house at 3320 Windmill Road, Auburn, California and all furniture in the house; and the Community Credit Union Account 993-222-1 in the name of “Chris and Jan Trustmaker.” If Jan Trustmaker does not survive Chris Trustmaker, that property shall be given to Lisa Trustmaker.
2. James Leung shall be given all Chris Trustmaker's interest in the property listed in Schedule B, including the entire interest in the collection of painted wooden cooking spoons kept at 3320 Windmill Road, Auburn, California. If James Leung does not survive Chris Trustmaker, that property shall be given to David Hernandez.
3. Lisa Trustmaker shall be given all Chris Trustmaker's interest in the trust property not otherwise specifically and validly disposed of by this Part. If Lisa Trustmaker does not survive Chris Trustmaker, that property shall be given to the Nature Conservancy and Mills College, in equal shares.

### ***B. Jan Trustmaker's Beneficiaries***

At the death of Jan Trustmaker, the trustee shall distribute the trust property listed on Schedule B, plus accumulated interest; the share of the property on Schedule A owned by Jan Trustmaker before it was transferred to the trustee, plus accumulated interest; and if Jan Trustmaker is the second settlor to die, any property listed on Schedule C left to [him/her/them] by Chris Trustmaker, plus accumulated interest, as follows:

1. Chris Trustmaker shall be given all Jan Trustmaker's interest in the property listed in Schedule A, including the entire interest in and all equipment owned by Chris and Jan's Café and all bank and other financial accounts used in connection with the business; the house at 3320 Windmill Road, Auburn, California and all furniture in the house; and the Community Credit Union Account 993-222-1 in the name of "Chris and Jan Trustmaker". If Chris Trustmaker does not survive Jan Trustmaker, that property shall be given to Lisa Trustmaker.
2. Aida Gonzalez shall be given all Jan Trustmaker's interest in the property listed in Schedule B, including the entire interest in the four-volume American stamp collection kept at 3320 Windmill Road, Auburn, California. If Aida Gonzalez does not survive Jan Trustmaker, that property shall be given to Fernando Dietz.
3. Lisa Trustmaker shall be given all Jan Trustmaker's interest in the trust property not otherwise specifically and validly disposed of by this Part.

### ***C. Property Left to the Surviving Settlor***

Any trust property left by the deceased settlor to the surviving settlor shall remain in the surviving settlor's revocable trust, Trust #2.

### ***D. Terms of Property Distribution***

All distributions are subject to any provision in this Declaration of Trust that creates a child's subtrust or a custodianship under the Uniform Transfers to Minors Act.

A beneficiary must survive the settlor for 120 hours to receive property under this Declaration of Trust. As used in this Declaration of Trust, to survive means to be alive or in existence as an organization.

All personal and real property left through this trust shall pass subject to any encumbrances or liens placed on the property as security for the repayment of a loan or debt.

If property is left to two or more beneficiaries to share, they shall share it equally unless this Declaration of Trust provides otherwise. If any of them does not survive the settlor, the others shall take that beneficiary's share, to share equally, unless this Declaration of Trust provides otherwise.

## **Part 12. Children's Subtrusts**

### ***A. Beneficiaries for Whom Subtrusts May Be Created***

1. If Lisa Trustmaker becomes entitled to any trust property under Part 11.B before reaching the age of 29, that trust property shall be kept in a separate child's subtrust, under the provisions of this Part, until Lisa Trustmaker reaches the age of 29. The subtrust shall be known as the "Chris and Jan Trustmaker Revocable Trust, Lisa Trustmaker Subtrust."
2. If Lisa Trustmaker becomes entitled to any trust property under Part 11.A before reaching the age of 29, that trust property shall be kept in a separate child's subtrust, under the provisions of this Part, until Lisa Trustmaker reaches the age of 29. The subtrust shall be known as the "Chris and Jan Trustmaker Revocable Living Trust, Lisa Trustmaker Subtrust."

### ***B. Powers of Subtrust Trustee***

The trustee may distribute as much of the net income or principal of the child's subtrust as the trustee deems necessary for the beneficiary's health, support, maintenance or education. Education includes, but is not limited to, college, graduate, postgraduate and vocational studies and reasonably related living expenses.

In deciding whether or not to make a distribution, the trustee may take into account the beneficiary's other income, resources and sources of support. Any subtrust income not distributed by the trustee shall be accumulated and added to the principal of the subtrust.

The trustee is not required to make any accounting or report to the subtrust beneficiary.

### ***C. Assignment of Subtrust Assets***

The interests of the beneficiary of a child's subtrust shall not be transferable by voluntary or involuntary assignment or by operation of law before receipt by the beneficiary. They shall be free from the claims of creditors and from attachments, execution, bankruptcy or other legal process to the fullest extent permitted by law.

### ***D. Compensation of Trustee***

Any trustee of a child's subtrust created under this Declaration of Trust is entitled to reasonable compensation, without court approval, out of the subtrust assets for ordinary and extraordinary services, and for all services in connection with the termination of any subtrust.

### ***E. Termination of Subtrust***

A child's subtrust shall end when any of the following events occurs:

1. The beneficiary reaches the age specified in Section A of this Part. If the subtrust ends for this reason, the remaining principal and accumulated income of the subtrust shall be given outright to the beneficiary.

2. The beneficiary dies. If the subtrust ends for this reason, the subtrust property shall pass to the beneficiary's heirs.
3. The trustee distributes all subtrust property under the provisions of this Declaration of Trust.

**Part 13. Homestead Rights**

If the grantors' principal residence is held in this trust, grantors have the right to possess and occupy it for life, rent-free and without charge, except for taxes, insurance, maintenance and related costs and expenses. This right is intended to give grantors a beneficial interest in the property and to ensure that the grantors, or either of them, do not lose eligibility for a state homestead tax exemption for which either grantor otherwise qualifies.

**Part 14. Severability of Clauses**

If any provision of this Declaration of Trust is ruled unenforceable, the remaining provisions shall stay in effect.

**Part 15. Applicable Law**

This document shall be construed in accordance with the laws of the State of California.

**Certification of Settlers**

We certify that we have read this Declaration of Trust and that it correctly states the terms and conditions under which the trust property is to be held, managed and disposed of by the trustees, and we approve the Declaration of Trust.

\_\_\_\_\_ Dated: \_\_\_\_\_

Chris Trustmaker, Settlor and Trustee

\_\_\_\_\_ Dated: \_\_\_\_\_

Jan Trustmaker, Settlor and Trustee

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**CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC**

State of \_\_\_\_\_ )  
 ) ss.  
 County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a notary public for said state, personally appeared Chris Trustmaker and Jan Trustmaker, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.

\_\_\_\_\_

NOTARY PUBLIC

My commission expires \_\_\_\_\_.

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**Schedule A**

**SHARED PROPERTY PLACED IN TRUST**

1. The entire interest in and all equipment owned by the business known as “Chris and Jan’s Café,” including all bank and other financial accounts used in connection with Chris and Jan’s Café.
2. The house at 3320 Windmill Road, Auburn, California, including all furniture in the house.
3. Community Credit Union Account 993-222-1 in the name of “Chris and Jan Trustmaker”.

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**Schedule B**

**JAN TRUSTMAKER'S SEPARATE PROPERTY PLACED IN TRUST**

1. The four-volume American stamp collection kept at 3320 Windmill Road, Auburn, California.

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**Schedule C**

**CHRIS TRUSTMAKER'S SEPARATE PROPERTY PLACED IN TRUST**

1. The collection of painted wooden cooking spoons kept at 3320 Windmill Road, Auburn, California.
-

FAIR USE NOTICE: THESE FORMS MAY CONTAIN COYPRIGHTED MATERIAL THE USE OF WHICH HAS NOT ALWAYS BEEN SPECIFICALLY AUTHORIZED BY THE COPYRIGHT OWNER. SUCH MATERIAL IS MADE AVAILABLE FOR EDUCATIONAL AND RESEARCH PURPOSES AND IS DISTRIBUTED WITHOUT PROFIT OR COMMERCIAL INTENT. IT IS BELIEVED THAT THIS CONSTITUTES A FAIR USE OF ANY SUCH COPYRIGHTED MATERIAL IN ACCORDANCE WITH 17 U.S.C. SECTION 107.

## Additional Sample Revocable Trust Forms<sup>61</sup>

### ASSIGNMENT OF COPYRIGHT TO TRUST<sup>62</sup>

The undersigned represents that \_\_[he/she]\_\_ is the \_\_[author/composer]\_\_ of \_\_[describe artistic or literary work]\_\_. The undersigned hereby assigns to \_\_[name of trust]\_\_ any and all copyrights in the above-described work, together with any rights of action that may have accrued under these copyrights.

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

\_\_[Signature]\_\_

\_\_[Typed name]\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of \_\_[Name of county]\_\_ )

)

On \_\_[date]\_\_ before me, \_\_[name and title of officer]\_\_, personally appeared \_\_[name(s)]\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_[Signature of Officer]\_\_

\_\_[Officer's seal]\_\_

<sup>61</sup> Forms adapted from *Drafting California Revocable Trusts*, 4<sup>th</sup> Ed. (CEB) 2016.

<sup>62</sup> The assignment should be mailed to the Copyright Office with a letter of instructions regarding registration of title of the copyright in the name of the trust and the appropriate fee.

**ASSIGNMENT OF LLC MEMBERSHIP INTEREST**

**For no consideration, \_\_[name]\_\_ and \_\_[name]\_\_ (assignors) assign to \_\_[name of trust]\_\_ all their right, title, and interest in and to their membership interest in \_\_[name of limited liability company]\_\_, a California limited liability company. This assignment shall be effective as of the date of this instrument. Hereafter, \_\_[name]\_\_ and \_\_[name]\_\_ shall have the right to receive from the company the share of company profits, losses, and distributions to which the assignors would otherwise be entitled and the right to the return from the company on its dissolution of the assignors' membership interest in the company.**

**Executed at \_\_[name of city]\_\_, California, on \_\_[date]\_\_.**

\_\_[Signature of Settlor]\_\_

\_\_[Typed name]\_\_

\_\_[Signature of Settlor]\_\_

\_\_[Typed name]\_\_

**ASSIGNMENT OF PARTNERSHIP INTEREST**

**For no consideration, \_\_[name]\_\_ and \_\_[name]\_\_ (assignors) assign to \_\_[name of trust]\_\_ all their right, title, and interest in and to their \_\_[limited]\_\_ partnership interest in \_\_[name of partnership]\_\_, a California \_\_[limited]\_\_ partnership (hereinafter “the partnership”). This assignment shall be effective as of the date of this instrument. Hereafter, \_\_[name]\_\_ and \_\_[name]\_\_ shall have the right to receive from the partnership the share of partnership profits, losses, and distributions to which the assignors would otherwise be entitled and the right to the return from the partnership on its dissolution of the assignors’ interest in the partnership.**

**Executed at \_\_[name of city]\_\_, California, on \_\_[date]\_\_.**

\_\_[Signature of Settlor]\_\_  
\_\_[Typed name]\_\_  
\_\_[Signature of Settlor]\_\_  
\_\_[Typed name]\_\_

**ASSIGNMENT OF PATENT TO TRUST<sup>63</sup>**

**\_\_ [Names of Settlers] \_\_, whose address is \_\_ [address] \_\_, have invented \_\_ [describe patent] \_\_, for which an \_\_ [Application or United States Letters Patent] \_\_ was granted on \_\_ [date] \_\_, \_\_ [Serial No. \_\_\_\_\_ / Patent No. \_\_\_\_\_] \_\_. For the sole purpose of changing formal title, \_\_ [names of Settlers] \_\_ do, without consideration, transfer and assign to \_\_ [name of trust] \_\_ all their right, title, and interest in and to \_\_ [any and all Letters Patent that may be granted in the United States/the above-referenced Letters Patent] \_\_. This Assignment is effective immediately.**

**Date:** \_\_\_\_\_ \_\_ [Signature] \_\_  
\_\_ [Typed name of Settlor] \_\_

**Date:** \_\_\_\_\_ \_\_ [Signature] \_\_  
\_\_ [Typed name of Settlor] \_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

**State of California** )  
**County of** \_\_ [Name of county] \_\_ )  
)

**On \_\_ [date] \_\_ before me, \_\_ [name and title of officer] \_\_, personally appeared \_\_ [name(s)] \_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.**

**I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.**

**WITNESS my hand and official seal.**

\_\_ [Signature of Officer] \_\_ \_\_ [Officer's seal] \_\_

<sup>63</sup> The assignment should be mailed to the Director of the U.S. Patent and Trademark Office with a Recordation Form Cover Sheet: Patents Only (Department of Commerce Form PTO-1595), a self-addressed postcard for the Patent and Trademarks Office to confirm receipt of the assignment, and the appropriate fee.

**ASSIGNMENT OF TANGIBLE PERSONAL PROPERTY**

Name of trust: \_\_\_\_\_

Settlor(s) of trust: \_\_\_\_\_

Trustee(s) at date of transfer: \_\_\_\_\_

Date trust was created: \_\_\_\_\_

**FOR VALUE RECEIVED, but without monetary consideration, we, as Settlers, assign to the Trustee or CoTrustees all our right, title, and interest in all our tangible personal property. The term “tangible personal property” refers, without limitation, to such items as:**

- 1. All articles of personal and household use and ornament, now owned or acquired later, including but not limited to personal effects, jewelry, art work, club memberships, furniture, furnishings, pictures, books, and other tangible articles of a personal nature, specifically including \_\_\_\_\_.**
- 2. All insurance covering those articles and any proceeds of these policies.**
- 3. The term “tangible personal property” excludes cash and other items of intangible personal property, if represented by tangible documentation of ownership and excludes tangible personal property used by either Settlor in a trade, business, or profession; gold bars; bars of other metals; and any other tangible property of an investment nature (such as art objects and collections of tangible personal property).**

**This property shall be held, managed, and distributed according to the Trust’s terms as they exist as of this date of assignment or as they are amended in the future.**

**Date signed: \_\_\_\_\_, at \_\_\_\_\_, California**

\_\_ *[Signature]* \_\_  
**Settlor**  
\_\_ *[Typed name]* \_\_

**The Trustee accepts this assignment and agrees as above.**

**Date signed: \_\_\_\_\_, at \_\_\_\_\_, California**

\_\_ *[Signature]* \_\_  
**Trustee**  
\_\_ *[Typed name]* \_\_

**ASSIGNMENT OF TRADEMARK<sup>64</sup>**

**\_\_[Name of settlor]\_\_, whose address is 1234 Sample Street, has adopted, used, or is using a trademark titled \_\_[name of trademark]\_\_, which is registered No. \_\_\_\_, dated \_\_[date]\_\_. For the sole purpose of changing formal title, \_\_[name of settlor]\_\_, without consideration, transfers and assigns to \_\_[name of trust]\_\_ all [his/her] right, title, and interest in and to the trademark titled \_\_[name of trademark]\_\_ and the goodwill of the business symbolized by it. This Assignment is effective immediately.**

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

\_\_[Signature]\_\_

\_\_[Name of settlor]\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

**State of California** )

**County of** \_\_[Name of county]\_\_ )

)

**On \_\_[date]\_\_ before me, \_\_[name and title of officer]\_\_, personally appeared \_\_[name of settlor]\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.**

**I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.**

**WITNESS my hand and official seal.**

\_\_[Signature of Officer]\_\_

\_\_[Officer's seal]\_\_

<sup>64</sup> The assignment should be mailed to the Director of the U.S. Patent and Trademark Office with a Recordation Form Cover Sheet: Trademarks Only (Department of Commerce Form PTO-1594), a self-addressed postcard for the Patent and Trademarks Office to confirm receipt of the assignment, and the appropriate fee.

**CONSENT TO ASSIGNMENT OF LLC MEMBERSHIP INTEREST<sup>65</sup>**

**The undersigned manager of the company waives the provision of sections \_\_[number]\_\_ through \_\_[number]\_\_ of the operating agreement, \_\_[declines on behalf of the company and \_\_[himself/herself]\_\_ to acquire the assignors' membership interest in the company,]\_\_ consents to the foregoing, and approves the admission of the \_\_[name of trust]\_\_ to the company as a substituted member, subject to all terms and conditions of the operating agreement.**

**Executed at \_\_[name of city]\_\_, California, on \_\_[date]\_\_.**

\_\_[Signature of manager]\_\_

\_\_[Typed name]\_\_

**Manager**

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<sup>65</sup> Depending on the operating agreement, the consent to assignment may be signed by an officer of the LLC. In a member-managed LLC, the consent to assignment must be signed by all the other members.

**CONSENT TO ASSIGNMENT OF PARTNERSHIP INTEREST**

**The undersigned general partner of the partnership waives the provision of sections \_\_[number]\_\_ through \_\_[number]\_\_ of the partnership agreement, \_\_[declines on behalf of the partnership and \_\_[himself/herself]\_\_ to acquire the assignors' interest in the partnership,]\_\_ consents to the foregoing, and approves the admission of the \_\_[name of trust]\_\_ to the partnership as a substituted \_\_[limited]\_\_ partner, subject to all terms and conditions of the partnership agreement.**

**Executed at \_\_[name of city] \_\_, California, on \_\_[date] \_\_.**

\_\_[Signature of partner]\_\_  
\_\_[Typed name]\_\_  
**General Partner**

**GENERAL ASSIGNMENT OF PROPERTY TO TRUST**

\_\_[Name of Settlor]\_\_, (hereafter "Settlor"), assigns and transfers to \_\_[name of Trustee]\_\_ (hereafter "Trustee") of the \_\_[name of trust]\_\_ dated \_\_[date]\_\_, all of Settlor's right, title, and interest in and to all of the property owned by Settlor that would otherwise be subject to probate on the death of Settlor, to be held, administered, and distributed according to the terms of the trust. This property includes, without limitation, Settlor's home; other real property; all stocks, bonds, mutual funds, and other financial investments; cash and cash accounts; business interests; and tangible personal property. The term "tangible personal property" includes such items as furniture, furnishings, silverware, objects of art, china, clothing, jewelry, sporting equipment, automobiles, books, collections of tangible personal property, and other tangible personal property normally kept at the Settlor's residence. The term "tangible personal property" also includes any insurance policies on this tangible personal property and any proceeds of these policies.

[If appropriate, add] Despite the foregoing paragraph, the trust property does not include any of the following property: \_\_[Specify]\_\_.

Date signed: \_\_\_\_\_, at \_\_\_\_\_, California

\_\_[Signature]\_\_

**Settlor**

\_\_[Typed name]\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of \_\_[Name of county]\_\_ )

On \_\_[date]\_\_ before me, \_\_[name and title of officer]\_\_, personally appeared \_\_[name(s)]\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_[Signature of Officer]\_\_

\_\_[Officer's seal]\_\_

**Copyright Office  
Library of Congress  
Washington, DC 20559**

**Attn: Document Unit**

**Re: \_\_ [Name of trust] \_\_  
\_\_ [Copyright number] \_\_**

**Dear \_\_ [Sir/Madam] \_\_:**

**I am \_\_ [name of settlor] \_\_, and I have created the \_\_ [name of trust] \_\_ for my benefit.**

**Among the assets to be transferred to the trust is the above-numbered copyright for \_\_  
[describe artistic or literary work] \_\_. Enclosed is an assignment of the copyright, which has  
been executed by me.**

**Please microfilm the assignment and return the original to this office in the self-addressed,  
stamped envelope.**

**Please acknowledge receipt of the enclosed assignment by stamping and dating the enclosed  
copy of this letter. Thank you.**

**Very truly yours,**

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

\_\_ [Signature] \_\_

\_\_ [Typed name] \_\_

-- [Date] --

-- [Name of financial institution] --

-- [Address] --

**Re: Account No. \_\_\_\_\_:**

\_\_ [Settlor 1 name]\_\_ and \_\_ [Settlor 2 name]\_\_

**Dear Sir or Madam:**

**The undersigned are holders of the above-referenced \_\_ [e.g., money market] \_\_ account. We have recently created a Revocable Inter Vivos Trust for our benefit. Among the assets to be transferred into the trust is the above-referenced \_\_ [e.g., money market] \_\_ account.**

**Please change title on the account to read as follows:**

\_\_ [SETTLOR 1 NAME]\_\_ and [SETTLOR 2 NAME]\_\_,  
Trustees of the [NAME OF TRUST]  
dated \_\_ [date of trust] \_\_

**The [Social Security Number/ITIN] and mailing address on the account will remain unchanged.**

**Enclosed is a copy of the Certification of Trust under California [Probate Code §18100.5](#) as evidence of the existence of the trust.**

**Please notify the undersigned in writing when the transfer has been completed.**

**Very truly yours,**

\_\_ [Signature]\_\_

\_\_ [Settlor 1 name]\_\_

\_\_ [Signature]\_\_

\_\_ [Settlor 2 name]\_\_

**Encl: Certification of Trust**

### **General Gift of Stock**

*General Gift of Property.* The Trustee shall distribute \_\_[number]\_\_ shares of \_\_[type of stock]\_\_ in \_\_[name of corporation]\_\_ to \_\_[name of beneficiary]\_\_. If the trust property does not include sufficient shares of this stock at the death of the Settlor, the Trustee shall purchase additional shares to satisfy this gift. If \_\_[he/she]\_\_ fails to survive the Settlor by 30 days, this gift shall lapse and be distributed as part of the residue of the trust property.

## Additional Resources

### Bank Accounts

#### **Managing, Accessing & Closing a Bank Account**

Appleseed Network's Protecting Assets & Child Custody in the Face of Deportation

See Chapter 6 in: <http://www.appleseednetwork.org/wp-content/uploads/2017/06/MASTERDOC.DONOTEDIT.pdf>

This chapter covers subjects such as whether you should you keep a bank account open after deportation; what power of attorney a bank may accept; how to close a bank account; how to create a joint account; and what to do if you have a safety deposit box.

#### **Financial Emergency Action Plan for Immigrants**

Mission Asset Fund

<https://missionassetfund.org/financial-emergency-preparedness-guide/>

General advice for opening and maintaining a bank account, general checklists and emergency information forms to help create a financial action plan, tips for saving for an emergency, and tips for protecting belongings.

### Business Management

#### **Dissolving or Selling a Business**

Appleseed Network's Protecting Assets & Child Custody in the Face of Deportation

See Chapter 21 in: <http://www.appleseednetwork.org/wp-content/uploads/2017/06/MASTERDOC.DONOTEDIT.pdf>

This chapter covers subjects such as common forms of business organizations; considerations when selling or dissolving a sole proprietorship; and considerations when selling or dissolving a jointly owned business.

### ITIN

#### **Information about IRS's Individual Tax Identification Number (ITIN)**

Educators for Fair Consideration

<http://www.e4fc.org/itinguide.html>

This guide covers the following topics about ITINs: frequently asked questions; recent changes to the ITIN application process; ITIN renewals; what to do if you receive a social security number; the confidentiality of the ITIN; tips to prevent fraud; tips for choosing assistance with tax preparation; general eligibility for ITINs; how to prepare an ITIN application; and how, when, and where to apply for an ITIN.

## Powers of Attorney

### **Know Your Rights - Financial Safety**

National Council of La Raza

<http://publications.nclr.org/handle/123456789/1706>

A checklist containing a brief section on powers of attorney. Also includes: keeping your home; accessing funds; filing taxes; making sure bills get paid; collecting unpaid wages; and managing benefits.

### **Powers of Attorney**

Appleseed Network's Protecting Assets & Child Custody in the Face of Deportation

See Chapter 11 in: <http://www.appleseednetwork.org/wp-content/uploads/2017/06/MASTERDOC.DONOTEDIT.pdf>

This chapter covers: what is a “power of attorney” (POA); what does POA look like; Why would someone facing deportation grant a POA; how you should choose the kind of POA to grant; how to choose an agent; how long does a POA last, and can it be changed; and how do you draft a POA. **The Chapter also covers the “Apostille” process, a way to prepare or amend a POA after a person has been deported so that it is valid in their country of destination.**

## Tax

### **Tax Filing Issues**

Appleseed Network's Protecting Assets & Child Custody in the Face of Deportation:

See Chapter 22 in: <http://www.appleseednetwork.org/wp-content/uploads/2017/06/MASTERDOC.DONOTEDIT.pdf>

This chapter covers subjects such as whether you are required to file a tax return, whether you are you a resident or non-resident for tax filing purposes, tax issues that arise if your spouse is deported and you remain in the country, when you receive your tax refund if one is owed to you, penalties for failure to file tax returns, and where can you find the necessary forms to file taxes.

## California Business Entity FAQs, Forms and Filing Tips

California Secretary of State

**FAQs:** <http://www.sos.ca.gov/business-programs/business-entities/faqs/#annual-question1>

**Forms:** <http://www.sos.ca.gov/business-programs/business-entities/filing-tips/filing-tips-llc/>

**LLC Filing Forms and Tips:** <http://www.sos.ca.gov/business-programs/business-entities/filing-tips/filing-tips-llc/>

**Corporation Filing Forms and Tips:** <http://www.sos.ca.gov/business-programs/business-entities/filing-tips/filing-tips-corp/>

Forms and frequently asked questions regarding annual and biennial requirements for business entities, such as how often you are required to file a Statement of Information, what taxes and business licenses need to be renewed, and how to update your business's information.

## Businesses – Filing Information

State of California Franchise Tax Board

[https://www.ftb.ca.gov/businesses/Filing-Information.shtml?WT.mc\\_id=Business\\_Popular\\_FilingInformation&WT.svl=BFil](https://www.ftb.ca.gov/businesses/Filing-Information.shtml?WT.mc_id=Business_Popular_FilingInformation&WT.svl=BFil)

General information, guidelines, and requirements about tax filing for a variety of business structures (sole proprietorships, partnerships, LLCs, etc.) in California.

### **2017 California Employer's Guide**

State of California Employment Development Department

[http://www.edd.ca.gov/pdf\\_pub\\_ctr/de44.pdf](http://www.edd.ca.gov/pdf_pub_ctr/de44.pdf)

**FAQs:** [http://www.edd.ca.gov/Payroll\\_Taxes/FAQ - Employers Guide.htm](http://www.edd.ca.gov/Payroll_Taxes/FAQ_-_Employers_Guide.htm)

**Important Due Dates:** [http://www.edd.ca.gov/pdf\\_pub\\_ctr/de202.pdf](http://www.edd.ca.gov/pdf_pub_ctr/de202.pdf)

This California employer compliance guide provides, among other things, information about the procedure for compliance with California payroll tax laws.

## Other

### **Más vale estar preparado (en Español)**

Comisión Nacional para la Protección y Defensa de los Usuarios de Servicios Financieros

<http://mexicanosenelexterior.condusef.gob.mx/PDF-s/cuadernillos-videos/cuadernillo-migrantes-en-baja.pdf>

This Spanish-language guide informs Mexican citizens about their rights in case of detention and return to Mexico, and the options they have to conserve, protect, and, if necessary, transfer their money and assets to their home community. Contains a section on powers of attorney.

### **Family Preparedness Plan**

Immigrant Legal Resource Center

<https://www.ilrc.org/family-preparedness-plan>

Recommendations for creating a Child Care Plan for your children in the event you are unable to care for them for a period of time, including advice about a power of attorney in regards to custody of a child (includes general checklists and emergency information forms as well).

### **Managing Outstanding Short-term Service Contracts and Related Bills**

Appleseed Network's Protecting Assets & Child Custody in the Face of Deportation

See Chapter 8 in: <http://www.appleseednetwork.org/wp-content/uploads/2017/06/MASTERDOC.DONOTEDIT.pdf>

This chapter covers subjects such as examples of short-term service contracts (water, electric, gas, etc.), advice for managing your contracts, and how to terminate a contract.

### **Taking Money Across the Border**

Appleseed Network's Protecting Assets & Child Custody in the Face of Deportation

See Chapter 16 in: <http://www.appleseednetwork.org/wp-content/uploads/2017/06/MASTERDOC.DONOTEDIT.pdf>

This chapter covers subjects such as how to find and receive your unclaimed assets; what legal obligations an individual may have when taking cash or cash-like things across the border; and practical issues an immigrant facing deportation should consider such as withdrawing cash while an immigrant is detained and withdrawing cash outside of the US.



Lawyers' Committee for Civil Rights of the  
San Francisco Bay Area



[www.LCCR.com](http://www.LCCR.com)



LCCRSF



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