

4. The trust has terminated (or has been revoked). The execution and delivery of the instrument described in paragraph 3 has been made pursuant to the provisions of the trust.

5. There has been no amendment to the trust which limits the power of trustee(s) to execute and deliver the instrument described in paragraph 3.

6. The trust is not supervised by any court.

- OR -

6. The trust is supervised by the Court of County, All necessary approval has been obtained from the court for the trustee(s) to execute and deliver the instrument described in paragraph 3.

7. Affiant does not have actual knowledge of any facts indicating that the trust is invalid.

.....
, Affiant

Subscribed and sworn to before me this
..... day of,

.....
Signature of Notary Public or Other Official

Notary Stamp or Seal

This instrument was drafted by:

.....
.....

Subd. 1a. **Form of affidavit for testamentary trust.** An affidavit of a trustee or of trustees of a testamentary trust in support of a real property transaction may be substantially in the following form:

STATE OF MINNESOTA)

AFFIDAVIT OF TRUSTEE

) ss.

COUNTY OF)

....., being first duly sworn on oath says that:

1. The Trust was created by the Last Will and Testament of, Decedent, dated, Decedent died on, Affiant, as trustee of the Trust, acquired by instrument or decree dated,, filed in the office of the County Recorder/Registrar of Titles, County, Minnesota, as Document No., an interest in real property in County, Minnesota, legally described as follows:

.....
.....
.....

.....
 (If more space is needed, continue on back or on an attachment.)

2. The name(s) and address(es) of the trustee(s) empowered by the terms of decedent's will to act at the time of the execution of this Affidavit are as follows:

.....

 3. The trustee(s) who have executed that certain instrument relating to the real property described above between, as trustee(s) and, dated,:

(a) are empowered by the provisions of the trust under decedent's will to sell, convey, pledge, mortgage, lease, or transfer title to any interest in real property held in trust; and

(b) are the requisite number of trustees required by the provisions of the will to execute and deliver such an instrument.

4. The Trust has not terminated and has not been revoked.

- OR -

4. The Trust has terminated (or has been revoked). The execution and delivery of the instrument described in paragraph 3 has been made pursuant to the provisions of the Trust.

5. There has been no amendment to the Trust which limits the powers of the trustee(s) to execute and deliver the instrument described in paragraph 3.

6. The Trust is not supervised by any court.

- OR -

6. The Trust is supervised by the Court of County. All necessary approval has been obtained from the court for the trustee(s) to execute and deliver the instrument described in paragraph 3.

7. Affiant does not have actual knowledge of any facts indicating that the Trust is invalid.

.....
 , Affiant

Subscribed and sworn to before me this
 day of,

.....
 Signature of Notary Public or Other Official

Notary Stamp or Seal

This instrument was drafted by:

.....

Subd. 2. **Effect.** An affidavit by the trustee or trustees under subdivision 1 or 1a is proof that:

- (i) the trust described in the affidavit is a valid trust;
- (ii) either the trust has not terminated or been revoked or, if the trust has terminated or been revoked, the conveyance described in the affidavit is made pursuant to the provisions of the trust;
- (iii) the powers granted the trustee or trustees extend to the real property described in the affidavit or attachment to the affidavit;
- (iv) no amendment to the trust has been made limiting the power of the trustee or trustees to sell, convey, pledge, mortgage, lease, or transfer title to the real property described in the affidavit or attachment to the affidavit, if any;
- (v) the requisite number of trustees have executed and delivered the instrument of conveyance described in the affidavit; and
- (vi) any necessary court approval of the transaction has been obtained.

The proof is conclusive as to any party relying on the affidavit, except a party dealing directly with the trustee or trustees who has actual knowledge of facts to the contrary.

Subd. 3. **Recording or filing.** An Affidavit of Trustee or Trustees under subdivisions 1 and 1a may be recorded in the office of the county recorder for any county, or filed with the office of the registrar of titles for any county with respect to registered land described in the affidavit, or in the Certificate of Trust or Trust Instrument referred to in the affidavit, and may be recorded or filed as a separate document or combined with or attached to an original or certified copy of a Certificate of Trust or Trust Instrument, and recorded or filed as one document.

History: 1992 c 548 s 3; 1996 c 338 art 2 s 1; 1998 c 254 art 1 s 107; 1998 c 262 s 5,6