Sample Irrevocable Life Insurance Trust

Investment Policy Statement

This sample has been prepared to show how credible TOLI-specific policy evaluation criteria can be established in the IPS and how The TOLI Center takes guidance from the trustee and consultant in providing its policy monitoring services.

This Investment Policy Statement sets forth guidelines and procedures for systematic review and long-term management of the trust's assets. The purpose of this Investment Policy Statement (herein IPS) is to:

- Clarify the trust's objectives and the grantor's expectations;
- Specify the grantor's risk tolerance level pursuant to the trust's objectives;
- Set forth the trustee's risk management criteria to achieve the trust's objectives; and
- Establish a procedure for timely monitoring and systematic review of performance results;

This IPS evidences the careful consideration given by both the grantor and the trustee to the formulation and implementation of a prudent asset management strategy. It will serve as a guide to the trustee, outline procedures for prudent administration of trust assets invested in the sole interest of the beneficiaries, and set out the responsibilities of outside advisors and/or providers engaged in the trust operation. This statement will be revised and modified as appropriate on a periodic basis to reflect such factors as changes in the trust objectives, asset performance and suitability, trustee risk management procedures, beneficiary objectives, and tax laws.

Purpose of the Trust: The primary purpose of the Sample ILIT, as stated in Article [TBD] in the trust agreement, is to invest prudently in life insurance policies on the life of the grantor.

Trust Time Horizon: The trust was created in [date] and the insured was age [TBD] at the time of initial policy issue. The insured is attained age [TBD] and has a life expectancy of [TBD] years based on current mortality tables. The trust-owned policy(ies) should be/were designed to sustain coverage to contract maturity/insured age [TBD].

Contributions to the Trust: The grantor intends to annually transfer funds to the trust as annual exclusion gifts to the trust beneficiaries. Pursuant to the trust's terms, the trustee receives the transfers and sends notice to the beneficiaries of their temporary right to withdraw their respective pro rata shares of these gifts. To the extent these withdrawal rights lapse, the trustee may use the funds remaining to pay the annual life insurance premiums. These transfers from the grantor are voluntary and are not required under the trust or under the contract between the grantor and the trustee. There is no guarantee that the grantor or anyone else will contribute additional funds to the trust in future years.

Trust Distribution Provisions and Beneficiaries: The trust names the grantor's [number such as 4] children as equal beneficiaries. All are to receive equal distributions from the trust upon the grantor's death.

Diversification: In achieving the goals of the larger estate planning program, the trust shall limit the assets to insurance and investment products that can best accomplish the grantor's intent. The trustee shall diversify unless it is prudent not to do so. *(Note: Depending upon trust objectives, the trustee* *can set out asset allocation guidelines to allow for reasonable percentages of insurance coverage underwritten by 'no load' and 'commission paying' universal life, whole life, and variable carriers as well as mutual and stock insurance carriers. Also, for variable policies, the asset allocation strategy should be similar to traditional investment IPS documents. The selected strategy's volatility-simulated net expected return should reasonably approximate the accumulation rates projected on the policy illustration.)*

Product Suitability and Risk Management Guide: This Guide outlines the risk/return expectations and asset management strategies to be employed by the trustee during the term of insurance policy administration. Exhibit #1 summarizes the different guaranteed and non-guaranteed policy types available to the trustee and the scope of periodic monitoring appropriate for each requiring the assistance of the Life Insurance Consultant. Selection of a policy type with non-guaranteed features should be based on an actuarially certified Benchmark Model Report's policy design parameters. Ongoing premium adequacy and policy performance monitoring should be actuarially certified.

- **Carrier Risk**: Unless constrained by health difficulties or other underwriting considerations, the trustee shall select among life insurance companies ranked among the largest 150 based on admitted assets, and shall be guided primarily by ratings issued by independent evaluation agencies including: A.M. Best, Fitch Credit Rating Company, Moody's, and Standard & Poor's. Preference shall be given to carriers with more favorable ratings from no less than three of these agencies. In the event of a ratings downgrade of the issuer, the trustee shall review the magnitude of the downgrade as well as its cause and shall determine what portfolio modifications, if any, are warranted.

- **Premium Adequacy and Contract Underperformance Risk**: The trustee shall make a policy suitability determination based on the trust's objectives and the grantor's risk tolerance. Selection and acceptance of a non-guaranteed death benefit contract requires annual actuarially-certified evaluation that scheduled premiums are adequate to sustain the policy to contract maturity or a time period approved by the grantor but no less than the insured's life expectancy as calculated by an independent life expectancy firm or set out in the 2001 CSO or a mutually-agreed alternate mortality table specific to the insured's medical rating at the time of policy issue. In the event that the contract is underperforming its acceptance benchmark evaluation, the trustee will communicate this underperformance to trust beneficiaries and policy management options to achieve the trust's objectives and grantor's expectations.

  Carrier illustrations for non-guaranteed policies shall be obtained for informational purposes only. In 1994, the National Association of Insurance Commissioners stated, "Illustrations are not and cannot be predictions or estimates of future performance." Hence, except for guaranteed policies, carrier illustrations alone are not acceptable for product suitability determinations.

- **Liquidity Risk**: The trustee has a duty to investigate policy costs and determine that they are reasonable and appropriate. The trustee shall evaluate "load" insurance contracts that pay a commission to the selling agent and "no-load" contracts that do not generate a commission. At the time of initial policy acceptance and subsequent policy restructure, the trustee shall obtain written disclosure of commission payments and surrender charges, and retain the cost evaluation in the trustee's records.

  The decision to purchase a commission-paying product may result in acquisition of a policy that offers little or no cash value for a lengthy period of time or the period of the contract. The trustee shall determine if the level of risk posed by illiquidity is appropriate to the purpose of the trust and the risk tolerance of the beneficiaries.

- **Underwriting Risk**: The trustee shall employ a Request for Proposal (RFP) process to solicit preliminary pricing inquiries from underwriting departments. The RFP will set out policy design parameters based on an actuarially-certified Benchmark Model Report, and evaluate proposals by comparison to the Benchmark Model. *(Note: The RFP process is especially important for the purchase of larger policies that involve reinsurance companies.)*

Delegation of Responsibilities: The trustee may delegate trust administration and operation responsibilities to various parties as described below:

Trustee: The trustee shall be responsible for the safe custody and investment of trust assets. The trustee's responsibilities include:

- Ongoing consultation with the grantor-insured to verify objectives, health status, and beneficiary needs;
- Determining an appropriate investment strategy to achieve the grantor's objectives;
- Monitoring investment performance to assure that performance results meet the guidelines set forth in this statement;
- Receiving all contributions and paying all benefits under the terms of the trust documents; and
- Performing administrative functions and fiduciary duties required of a trustee under applicable law and regulations.

Attorney: The attorney shall be responsible for performance of all tasks required under the terms of the engagement with his or her client in a manner which complies with the standards of practice prevailing in the community at the time such services are performed. The attorney's responsibilities include:

- Drafting and review of trust documents to determine that they are suitable and appropriate to the needs and objectives of the grantor-insured;
- Review of ownership and beneficiary designations of all trust-owned assets to determine that they confirm with the planning objectives of the grantor-insured; and
- Review of any transfers of existing assets to the trust to determine the tax and legal consequences thereof. This review encompasses any policy exchange that seeks to comply with the rules and IRC §1035.

The attorney shall not be responsible for rendering opinions that may be deemed to be investment or insurance advisory opinions.

Life Insurance Consultant: The consultant shall assist the trustee with the development and implementation of the Investment Policy Statement. The consultant shall be responsible for performance of all tasks required under the terms of the engagement with the trustee, including:

- Determining the amount of insurance required to meet the goals and objectives of the trust;
- Recommending suitable insurance carriers;
- Evaluating the risk/reward tradeoffs of selected insurance carriers;
- Determining appropriate policy types, designs, and funding levels;

- Supervising the life insurance agent to facilitate underwriting and policy implementation; and
- Supervising the monitoring and evaluation of the insurance portfolio's performance.

Life Insurance Agent: In addition to complying with the duties imposed by applicable insurance licensing regulation, the life insurance agent shall assist the trustee and consultant to apply for, underwrite, implement and service appropriate insurance contracts. The agent shall be responsible for performance of all tasks under the terms of the engagement with the trustee, including:

- Disclosure of any employment contract constraints, compensation schedules and other provisions that may materially influence the information and advice provided to the trustee, grantor, or other members of the estate planning team. The consultant shall provide a disclosure checklist for agent completion and retention in the attorney's and trustee's files;
- Provision of financial data and independent rating-company evaluations of selected carriers, contract illustrations, and other data necessary for the trustee to evidence " the exercise of reasonable care, skill and caution" required by law. The consultant shall communicate with the agent regarding the scope of such materials and shall evaluate these materials.
- Investigation into health, avocation, and financial factors which may have significant affect on the pricing of insurance contracts so that the trustee can determine that coverage is available and is appropriately priced. The agent will communicate with the consultant in the performance of these tasks;
- Completion of applications or pricing inquiry forms to selected insurance carriers, subject to consultant pre-submission review;
- Delivery of insurance contracts and collection of the premium amounts necessary to implement and sustain coverage;
- Preparation of annual in-force policy illustrations. The consultant will direct the agent regarding the required information and review such information as part of the ongoing systematic monitoring program; and
- Assistance in all policyholder service activities such as changes in premium schedules, processing of policy loans and distributions, beneficiary changes and so forth.

Policy Performance Evaluation: The trustee shall engage a vendor that provides independent, objective and unbiased policy evaluation as set out in the Product Suitability and Risk Management Guide. The vendor will affirm its scope of services and licensing at the time of selection and annually thereafter based on criteria provided by the Consultant.

- **Policy Monitoring:** The trustee intends to prepare/obtain annual reports that will reasonably conform to the standards of performance accounting enumerated in the Fiduciary Accounting Guide promulgated by the American Law Institute – American Bar Association. *("Performance accounting, as applied in the trusts and estates area, has the twin objectives of promoting full and useful disclosure and fair representation of investment results on client assets and of instilling and maintaining client confidence in the corporate or individual's fiduciary investment abilities. These objectives may be best achieved when the fiduciary includes easily understood performance indicators in the client's periodic fiduciary statements.")* This annual report will compare the policy values reported by the carrier to the policy acceptance benchmark values, and review the carrier's independent ratings. Additionally, the trustee will provide an annual policy monitoring report to beneficiaries that identifies unfavorable trends and establishes a 'watch' period during which the concern will be assessed and, if necessary, corrected to achieve the trust's objectives.

- **Policy Modification**: If continued retention of a policy appears imprudent because of contract underperformance, the trustee shall consider among the following options:
    - Increased premium funding for under-performing contracts or decreased premium funding for over-performing contracts;
    - Replacement of the coverage and acquisition of a new policy either by IRS § 1035 policy exchange or by other suitable means;
    - Election of an appropriate non-forfeiture provision with the option to devote premiums allocated to the policy to acquisition of supplemental coverage of a type and amount suitable to the trust; or
    - Disposition of the life insurance benefit either through policy sale, annuity income elections or surrender of the contract for its cash surrender value.

  If continued retention of a policy appears imprudent because of a high likelihood that the grantor's gifting program underlying the premium funding will be discontinued, the trustee shall consider among the following options:
    - Election of an appropriate non-forfeiture provision; or
    - Disposition of the life insurance benefit either through policy sale, annuity income elections, or surrender of the contract for its cash surrender value.

  If continued retention of a policy appears imprudent because of carrier downgrades by independent rating agencies, the trustee shall consider among the following options:
    - Replacement of the coverage and acquisition of a new policy either by IRS § 1035 policy exchange or by other suitable means;
    - Election of an appropriate non-forfeiture provision with the option to devote premiums allocated to the policy to acquisition of supplemental coverage of a type and amount suitable to the trust; or
    - Disposition of the life insurance benefit either through policy sale, annuity income elections or surrender of the contract for its cash surrender value.

Review of this Investment Policy Statement: Each time the life insurance policies or other trust assets are reviewed for performance and suitability, the trustee may also review the Investment Policy Statement. If changes are needed, the trustee should revise the Statement and communicate these changes to the trust beneficiaries.

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Date Trustee

Exhibit #1 – Product Suitability Matrix

The following matrix sets out a TOLI trustee's primary policy acceptance and management considerations, and the annual policy performance verification expected by beneficiaries and their professional advisors.

Trustee Acceptance Considerations Policy Management Features	Guaranteed Products				Non-Guaranteed Products			
	Whole Life	**No Lapse Guarantee Universal Life**	**Level Premium Term**	**Yearly Renewable Term**	**Adjustable Life**	**Universal Life**	**Variable Universal Life**	**Variable Life**
Premium Schedule	Fixed	Fixed	Fixed Period	Increasing	Flexible	Flexible	Flexible	Fixed
Specified Death Amount	Fixed	Fixed	Fixed	Fixed	Flexible	Flexible	Flexible	Fixed
Account Value Management	Carrier	Carrier	None	None	Trustee	Trustee	Trustee	Trustee
Asset Allocation Required	N/A	N/A	N/A	N/A	No	No	Yes	Yes
Illustration Credibility	Yes	Yes	Yes	Yes	No	No	No	No
Actuarial Evaluation	N/A	N/A	N/A	N/A	Yes	Yes	Yes	Yes
Volatility Simulation	N/A	N/A	N/A	N/A	Yes	Yes	Yes	Yes

Trustee Management Requirements								
Investment Policy Statement	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
TOLI – Specific Procedures	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Product Suitability	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing
Premium Adequacy Risk	No	No	No	No	Yes	Yes	Yes	Yes
Monitoring Cycle	N/A	N/A	N/A	N/A	Annual	Annual	Annual	Annual
Carrier Solvency Risk	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Monitoring Cycle	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing	Ongoing
Asset Allocation Review	N/A	N/A	N/A	N/A	N/A	N/A	Annual	Annual
Conversion Review	N/A	N/A	As Directed	As Directed	N/A	N/A	N/A	N/A
Rating and Rider Review	Annual	Annual	Annual	Annual	Annual	Annual	Annual	Annual
Regulatory Review (Institutional)	Annual	Annual	Annual	Annual	Annual	Annual	Annual	Annual

Professional Advisor Annual Verification								
Product Suitability	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Premium Adequacy	N/A	N/A	N/A	N/A	100%	100%	100%	100%
Death Benefit Adequacy	N/A	N/A	N/A	N/A	Yes	Yes	Yes	Yes
Carrier Solvency	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Investment Performance Rebalancing	N/A	N/A	N/A	N/A	N/A	N/A	Yes	Yes