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Ten Commandments for Successor Trustees

1. **Take the time necessary to determine if this is something you should do.** Take great effort in determining whether or not you are going to accept the office of trustee. It can be a difficult job that will sometimes consume your time and tests your skills. The position does not come free of liability or risk.
2. **Get advice-Work with a professional team of advisors.** It is foolish and wrong to think that you have to learn everything there is to learn about the administration of this trust and do it alone. Work with an attorney on the legal issues, with an accountant on the various accounting and tax issues, and with an investment advisor familiar with the duties of a Prudent Investor. Use experienced and professional advisors and follow their advice. You should know who will be the members of this advisory group before you accept the position. This group should have authority to communicate among themselves to assist you.
3. **Read and understand the controlling trust document.** Make sure you have read, reviewed, had explained, and basically understand the controlling trust document. What is the purpose of the trust? What is your role as trustee? Who are the beneficiaries with whom you will be dealing? What discretion do you have? What are you directed to do?
4. **Communicate with the beneficiaries.** Immediately, upon your acceptance of the office of trustee, communicate with the beneficiaries:
 - a. Keep them informed as to what you are doing
 - b. Keep the lines of communication open
 - c. Tell them up front what information they are entitled to
 - d. Tell them what you are going to do before you do it and not after. It is much more difficult for someone to complain about how you have handled things if they were told what you were going to do and didn't object.
5. **Be diligent in your position.** Work quickly to complete an inventory with date of death values, or, if you have taken over because of the incapacity of the grantor or because of any other reason, complete an inventory effective the date you accepted the office of trustee. If appraisals need to be performed, have this done. Determine deadlines and get them noted on a calendar.
6. **Take control of all trust property and manage it appropriately.** Provide a certification of trust to all who hold trust property so they know you are the acting trustee. Understand what you do and don't control as trustee.

7. **Keep good records.** Make sure you know what record-keeping and accounting are necessary and appropriate-then do it. Be diligent in making sure your records and accounting are kept up-to-date.
8. **Learn early on about any special problems or concerns.** Make sure you have taken the time to have your advisors inform you of special concerns and particularly any special tax concerns. Rely on them for advice in these areas. These are things such as: proper diversification of assets; what to consider before entering into any sale of assets; decisions that will affect tax liabilities.
9. **Understand your basic duties to beneficiaries.** Do not take any property out of the trust for your own benefit. Do not commingle any trust property with your own property. Provide copies of the trust document and accounting information as soon as it is available. Do not do anything that would put you (or any member of your immediate family) in a better position financially (nothing that would serve to benefit you or your family ahead of others). Do not self-deal (you can't sell trust property to yourself or to immediate family). Do not distribute property to beneficiaries without obtaining a receipt and release.
10. **Understand your basic duties to creditors.** Go to great lengths to determine all outstanding indebtedness or liabilities attributable to the trust. Find out if you are the trustee of a trust with spendthrift provisions. Do not make distributions to beneficiaries without knowing what creditors exist.
11. **Commandment-Have an agreement on trustee fees.** Understand at the beginning how your fees will be determined and get this in writing. Do not accept the office of Trustee without understanding how you will be compensated. It is a poor idea to think you will donate your time to the family and waive a fee, particularly before you begin the journey. If you are taking over as trustee because of the death of a parent, it is required that you notify all beneficiaries as to how you will be compensated.

Tim J. Larson, JD, PA, has its offices in Wichita, Kansas. Tim J. Larson and Logan M. Brown are members of Wealth Counsel, the Wichita Estate Planning Council, and *e.Planners*, a select group of nationally known and recognized Estate-planning Attorneys.