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South Dakota's Asset Protection Dynamic Duo

South Dakota's trust laws are the best in the country, but not to be overlooked are South Dakota's much heralded business entity statutes for limited liability companies (LLC) and limited liability limited partnerships (LLLP). A South Dakota LLC or LLLP, owned by a South Dakota trust, is a common and powerful asset protection shield.

Both the South Dakota LLC and LLLP choices offer a substantial asset protection guard, primarily because a judgment creditor's sole and exclusive remedy against member or partner is a "charging order." A charging order limits the judgment creditor's remedy against a partner or member to a lien on the partner's or member's distributions from a LLC or LLLP. This prevents the creditor from seizing or selling assets owned by the entity. The charging order creates a roadblock to the disruption of the entity's business and investments due to a creditor-plagued member or partner.

South Dakota's charging order statutes are among the most protective in the country, primarily because such statutes (1) prohibit a court from expanding the remedy or issuing a broad charging order, (2) prevent judicial foreclosure of a member's or partner's interest, and (3) deny other legal and equitable remedies against the entity. Additionally, South Dakota law is clear that the charging order is the judgment creditor's sole and exclusive remedy against the member's interest in a single member/single owner LLC.

There are many reasons to utilize a South Dakota entity and trust beyond asset protection. For example, if you have thought about tax-efficient investing through Private Placement Life Insurance, a South Dakota entity, properly structured, will allow you to qualify for South Dakota's premium tax which is one of the lowest in the nation.

Whatever the goal, pairing a South Dakota LLC or LLLP with a South Dakota trust provides families with a dynamic duo that achieves a multitude of planning objectives.

For more information, please visit www.gundersonpalmer.com.



GUNDERSON, PALMER, NELSON & ASHMORE, LLP has attorneys who focus their practice on the latest techniques for trusts and asset protection. Patrick G. Goetzinger and Andrew J. Knutson lead the firm's trust and asset protection group, and provide a mix of proven experience and modern strategies. Pat and Andrew have experience in decanting, reformation, and modification of irrevocable trusts; formation of public and private trust companies; have served as local counsel for out-of-state attorneys and family advisors; and work daily creating trusts and business entities that combine the unique asset protection and tax advantages of South Dakota law.