§ 36C-4-402. Requirements for creation.

(a) A trust is created only if:
   (1) The settlor has capacity to create a trust;
   (2) The settlor indicates an intention to create the trust;
   (3) The trust has a definite beneficiary or is:
      a. A charitable trust;
      b. A trust for the care of an animal, as provided in G.S. 36C-4-408; or
      c. A trust for a noncharitable purpose, as provided in G.S. 36C-4-409;
   (4) The trustee has duties to perform; and
   (5) The same person is not the sole trustee and sole beneficiary.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails, and the property subject to the power passes to the persons who would have taken the property had the power not been conferred. (2005-192, s. 2.)