

# **DECLARATION OF TRUST**

**For**

## **CHARITIES POOLED TRUST**

**CREATING THE CONNECTICUT CHARITIES POOLED TRUST**

**POOLED SPECIAL NEEDS TRUST)**

*Protection for personal injury recoveries; inheritance distributions; insurance proceeds; domestic relations payments; and other funds*

Charities Pooled Trust  
1217 Ponce de Leon Blvd.  
Clearwater, FL 33756

# CONTENTS

<b>ARTICLE ONE ESTABLISHING THE TRUST</b> .....	<b>i</b>
<b>Section 1.1</b> <b>Name of the Trust</b> .....	<b>i</b>
<b>Section 1.2</b> <b>Type of Trust</b> .....	<b>i</b>
<b>Section 1.3</b> <b>Irrevocability</b> .....	<b>i</b>
<b>Section 1.4</b> <b>Definitions</b> .....	<b>i</b>
<b>Section 1.5</b> <b>Trust Intent</b> .....	<b>i</b>
<b>Section 1.6</b> <b>Trust Purpose</b> .....	<b>ii</b>
<b>ARTICLE TWO PARTIES</b> <b>ii</b>	
<b>Section 2.1</b> <b>Charitable Organization</b> .....	<b>ii</b>
<b>Section 2.2</b> <b>Tax Exempt</b> .....	<b>ii</b>
<b>Section 2.3</b> <b>Trustee</b> .....	<b>ii</b>
<b>Section 2.4</b> <b>Investment Advisor</b> .....	<b>iii</b>
<b>Section 2.5</b> <b>Administrator</b> .....	<b>iii</b>
<b>Section 2.6</b> <b>Designated MSA Vendor</b> .....	<b>iii</b>
<b>ARTICLE THREE JOINDER AGREEMENT</b> .....	<b>iv</b>
<b>Section 3.1</b> <b>Execution of Joinder Agreement</b> .....	<b>iv</b>
<b>Section 3.2</b> <b>Grantor’s Intent in Executing Joinder Agreement</b> .....	<b>iv</b>
<b>Section 3.3</b> <b>Irrevocability of Joinder Agreement</b> .....	<b>iv</b>
<b>Section 3.4</b> <b>Joinder Agreement and Court Retaining Jurisdiction</b> .....	<b>v</b>
<b>Section 3.5</b> <b>Participation of Individual Not Determined Disabled</b> .....	<b>v</b>
<b>Section 3.6</b> <b>Structured Settlements</b> .....	<b>v</b>
<b>ARTICLE FOUR INDIVIDUAL BENEFIT ACCOUNT</b> .....	<b>v</b>
<b>Section 4.1</b> <b>Irrevocable Contribution</b> .....	<b>v</b>
<b>Section 4.2</b> <b>When Contribution Becomes Irrevocable</b> .....	<b>v</b>
<b>Section 4.3</b> <b>Effective Date of an Individual Benefit Account</b> .....	<b>v</b>
<b>Section 4.4</b> <b>Management of Individual Benefit Accounts</b> .....	<b>vi</b>

<b>Section 4.5</b>	<b>Effect of Contribution .....</b>	<b>vi</b>
<b>Section 4.6</b>	<b>Future Transfer of Assets .....</b>	<b>vi</b>
<b>Section 4.7</b>	<b>Effect of Designing a Future Transfer .....</b>	<b>vi</b>
<b>Section 4.8</b>	<b>Counsel for an Individual Benefit Account .....</b>	<b>vi</b>
<b>Section 4.9</b>	<b>Determination of Tax Status of an IBA .....</b>	<b>vi</b>
<b>ARTICLE FIVE BENEFICIARY ADVOCATE .....</b>		<b>vii</b>
<b>Section 5.1</b>	<b>Naming of Beneficiary Advocate.....</b>	<b>vii</b>
<b>Section 5.2</b>	<b>Selection of the Beneficiary Advocate .....</b>	<b>vii</b>
<b>Section 5.3</b>	<b>Acceptance by the Selected Beneficiary Advocate .....</b>	<b>vii</b>
<b>Section 5.4</b>	<b>Duties of the Beneficiary Advocate .....</b>	<b>vii</b>
<b>Section 5.5</b>	<b>Information Provided By Beneficiary Advocate .....</b>	<b>vii</b>
<b>Section 5.6</b>	<b>Requests Possibly Causing Reduction of Benefits .....</b>	<b>viii</b>
<b>Section 5.7</b>	<b>Removal of the Beneficiary Advocate .....</b>	<b>viii</b>
<b>ARTICLE SIX DISBURSEMENTS DURING LIFE OF TRUST BENEFICIARY .....</b>		<b>viii</b>
<b>Section 6.1</b>	<b>Discretionary Disbursement Guidelines .....</b>	<b>viii</b>
<b>Section 6.2</b>	<b>Disbursements from Medicare Set-Aside Allocation (MSA) .....</b>	<b>x</b>
<b>Section 6.3</b>	<b>Legal Opinion about Impact of Disbursement.....</b>	<b>x</b>
<b>Section 6.4</b>	<b>Trustee’s Discretion for Disbursements .....</b>	<b>x</b>
<b>Section 6.5</b>	<b>Scope of Trust Beneficiary’s Interests .....</b>	<b>xi</b>
<b>Section 6.6</b>	<b>Trust Not Liable For Failing To Identify Resources .....</b>	<b>xi</b>
<b>ARTICLE SEVEN DISTRIBUTION AFTER DEATH OF TRUST BENEFICIARY .....</b>		<b>xi</b>
<b>Section 7.1</b>	<b>Verifying Death, Determining Remainder Amount and Trust Remainder Share .....</b>	<b>xi</b>
<b>Section 7.2</b>	<b>Determination of State Reimbursement Claim .....</b>	<b>xi</b>
<b>Section 7.4</b>	<b>Trust Remainder Share .....</b>	<b>xii</b>
<b>Section 7.5</b>	<b>Determination of the Trust Remainder Share .....</b>	<b>xii</b>
<b>Section 7.6</b>	<b>Distribution of the Trust Remainder Share .....</b>	<b>xiii</b>
<b>Section 7.4</b>	<b>Administrative Expenses and Payback Amount .....</b>	<b>xiii</b>
<b>Section 7.5</b>	<b>Distributions After Paying Payback Amount .....</b>	<b>xiv</b>

<b>Section 7.6</b>	<b>Final Remainder Beneficiaries .....</b>	<b>xiv</b>
<b>Section 7.7</b>	<b>No Liability for Unpaid Claims.....</b>	<b>xv</b>
<b>ARTICLE EIGHT TERMINATION DURING LIFETIME OF TRUST BENEFICIARY .....</b>		<b>xv</b>
<b>Section 8.1</b>	<b>Termination of Trust.....</b>	<b>xv</b>
<b>Section 8.2</b>	<b>Termination of Trust Beneficiary's IBA .....</b>	<b>xv</b>
<b>ARTICLE NINE IBA ADMINISTRATIVE PROVISIONS .....</b>		<b>xvii</b>
<b>Section 9.1</b>	<b>Trust Beneficiary Individual Beneficiary Account.....</b>	<b>xvii</b>
<b>Section 9.2</b>	<b>Fees and Expenses .....</b>	<b>xvii</b>
<b>Section 9.3</b>	<b>Initial IBA Valuation and Valuation Date .....</b>	<b>xvii</b>
<b>Section 9.4</b>	<b>Annual Valuation.....</b>	<b>xvii</b>
<b>Section 9.5</b>	<b>Adjustments to the Valuation Amount .....</b>	<b>xvii</b>
<b>Section 9.6</b>	<b>Periodic Report and Court Account.....</b>	<b>xvii</b>
<b>Section 9.7</b>	<b>Inspection of IBA Records .....</b>	<b>xviii</b>
<b>Section 9.8</b>	<b>Preparation of Tax Returns and Elections .....</b>	<b>xviii</b>
<b>Section 9.9</b>	<b>Taxes and Grantor Trust Status .....</b>	<b>xix</b>
<b>Section 9.10</b>	<b>Costs of Defending Trust.....</b>	<b>xix</b>
<b>Section 9.11</b>	<b>No Claim on Trust Assets .....</b>	<b>xx</b>
<b>Section 9.12</b>	<b>Trust Not a Support Trust.....</b>	<b>xx</b>
<b>Section 9.13</b>	<b>Assets Not Subject To Creditors of Trust Beneficiary.....</b>	<b>xx</b>
<b>ARTICLE TEN TRUST ADMINISTRATIVE POWERS .....</b>		<b>xx</b>
<b>Section 10.1</b>	<b>Administrative Powers .....</b>	<b>xx</b>
<b>Section 10.2</b>	<b>Eligibility of a Trust Beneficiary .....</b>	<b>xxi</b>
<b>Section 10.3</b>	<b>Limits of Trustee's Authority.....</b>	<b>xxii</b>
<b>Section 10.4</b>	<b>Bond Requirement.....</b>	<b>xxii</b>
<b>Section 10.5</b>	<b>Trustee May Seek Court Order.....</b>	<b>xxii</b>
<b>Section 10.6</b>	<b>Compensation .....</b>	<b>xxii</b>
<b>Section 10.7</b>	<b>Trust Defense Costs and Expenses.....</b>	<b>xxii</b>
<b>Section 10.8</b>	<b>Resignation or Removal of Trustee .....</b>	<b>xxiii</b>

Section 10.10	Resignation or Removal of MSA Vendor.....	xxiii
Section 10.11	Acknowledgment of Parties.....	xxiii
Section 10.12	HIPAA Release Provision.....	xxiii
Section 10.13	Disbursement Disputes.....	xxiii
Section 10.14	Fraudulent Transfers.....	xxiv
Section 10.15	Seeking Advice and Assistance.....	xxiv
<b>ARTICLE ELEVEN TRUST INVESTMENT POWERS .....</b>		<b>xxiv</b>
Section 11.1	Trustee and Investment Advisor Authority.....	xxiv
Section 11.2	Trustee Delegation.....	xxv
Section 11.3	Investment Powers .....	xxv
<b>ARTICLE TWELVE AMENDMENTS TO TRUST .....</b>		<b>xxv</b>
Section 12.1	Trust and IBAs Are Irrevocable .....	xxv
Section 12.2	Trust Amendments .....	xxv
Section 12.2	Method of Making Amendments .....	xxvi
Section 12.3	Limited Scope of Amendments .....	xxvi
Section 12.4	Court Approval.....	xxvi
section 12.5	Not a General Power of Appointment.....	xxvii
<b>ARTICLE THIRTEEN GENERAL PROVISIONS AND DEFINITIONS.....</b>		<b>xxvii</b>
Section 13.1	Applicable Governing Law.....	xxvii
Section 13.2	Principal Place of Trust Administration .....	xxvii
Section 13.3	Donations .....	xxvii
Section 13.4	Related Activities .....	xxvii
Section 13.5	Notices .....	xxvii
Section 13.6	Indemnification .....	xxvii
Section 13.7	Effective Date of Trust.....	xxviii
Section 13.8	Gender, Singular and Plural Forms .....	xxviii
Section 13.9	Captions and Headings.....	xxviii
Section 13.10	Severability.....	xxviii

<b>Section 13.11</b>	<b>Legal Citations .....</b>	<b>xxviii</b>
<b>Section 13.12</b>	<b>Other References .....</b>	<b>xxviii</b>
<b>Section 13.13</b>	<b>Definitions .....</b>	<b>xxix</b>

# **DECLARATION OF TRUST FOR THE CONNECTICUT CHARITIES POOLED TRUST**

**THIS DECLARATION OF TRUST** is made this 2 day of February, 2011 by the Charities Pooled Trust a Florida non-profit corporation (herein referred to as "Non Profit"). The Non Profit is the Declarant and Settlor of this Trust.

## **ARTICLE ONE ESTABLISHING THE TRUST**

### **SECTION 1.1           NAME OF THE TRUST**

The Trust established by this Declaration shall be known as the Connecticut Charities Pooled Trust ("Trust").

### **SECTION 1.2           TYPE OF TRUST**

The Settlor hereby establishes the Trust as a discretionary master pooled self settled special needs trust pursuant to 42 U.S.C. § 1396p(d)(4)(c) in compliance with the requirements for a qualified pooled self settled special needs trust under federal and state law.

### **SECTION 1.3           IRREVOCABILITY**

This Declaration of the Trust and the Trust Beneficiary's IBA shall become irrevocable after the Non Profit accepts the Trust Beneficiary's Joinder Agreement, the Trustee accepts the assets contributed by the Grantor, and the Grantor and disabled individual seeking to become a Trust Beneficiary complete enrollment.

Notwithstanding the irrevocability of this Trust, this Trust may be amended from time to time to comply with its purposes and intent as set forth in this document. The Trustee or Non Profit may also amend the Trust to continue to conform with any statutes, rules, or regulations that are approved by any governing body or agency relating to 42 U.S.C. §1396p or related statutes including Connecticut statutes and regulations that are consistent with the provisions and purpose of complying with 42 U.S.C. §1396p.

If required by court order, the Non-Profit nor Trustee of this Trust shall modify or revoke the Trust only with court approval.

### **SECTION 1.4           DEFINITIONS**

Definitions of the terms used in this Declaration of Trust and the Trust created herein are described in alphabetical order in Section 13.13 of Article Thirteen below.

### **SECTION 1.5           TRUST INTENT**

It is the intent of the Non Profit, as Settlor of the Trust, to comply with all applicable federal and state laws and regulations related to and governing pooled trusts for persons with disabilities, including, but not limited to, 42 U.S.C. § 1396p(d)(4)(C).

## **SECTION 1.6 TRUST PURPOSE**

The purpose of the Trust is to provide a discretionary, safe and effective method for disabled individuals to benefit from their assets while retaining eligibility for Government Assistance benefits. The Trust provides a discretionary, safe and effective system for the receipt, administration, management, and investment of assets held in an Individual Benefit Account (“IBA”) for each Trust Beneficiary and the discretionary disbursement of such assets for the sole benefit of such Trust Beneficiary without causing the Trust Beneficiary to lose eligibility for Government Assistance benefits.

In the case of IBAs with Medicare Secondary Payer (MSP) obligations pursuant to 42 UCS 1395y(b)(2), exist that will require additional specialized oversight, it is the Trust’s intention to subcontract for those services with a vendor specializing in MSP compliance

## **ARTICLE TWO PARTIES**

### **SECTION 2.1 CHARITABLE ORGANIZATION**

The Non Profit is a Florida non-profit corporation and a tax exempt charitable organization. It has established this Trust and manages it as required by applicable federal and state law.

### **SECTION 2.2 TAX EXEMPT**

The Non Profit has been granted tax exempt status by the Internal Revenue Service (IRS) under Internal Revenue Code (IRC) Section 501(c)(3).

### **SECTION 2.3 TRUSTEE**

#### **A. APPOINTMENT OF TRUSTEE**

The Non-Profit shall serve as the initial Trustee of the Trust. Although the Non-Profit shall serve as the initial trustee, the Non-Profit may appoint an independent corporate trustee to serve as Trustee. If the Non-Profit appoints an independent corporate trustee as Trustee, the Trustee is acting as agent and trustee for the benefit of the Non-Profit to custody and administer trust assets contained in individual benefit accounts pursuant to instructions that are for the sole benefit of the Beneficiaries participating in the Trust and that are in accordance with the terms of the Declaration of Trust and not contrary to state or federal law. The Trustee shall be responsible for oversight for the custody, investment asset allocation model selection and disbursement of funds contributed to the Trust for each Trust Beneficiary. Any Trustee appointed by the Non-Profit shall accept the role as a Trustee in the manner provided by applicable state law.

#### **B. REMOVAL OF TRUSTEE**

The Non-Profit reserves the right to remove any Trustee and retain or engage another independent corporate trustee or appoint itself as Trustee or Successor Trustee.

## SECTION 2.4 INVESTMENT ADVISOR

### A. APPOINTMENT OF INVESTMENT ADVISOR

Although the Non Profit has established and manages the Trust, the Non Profit may retain an independent Investment Advisory Firm as the Investment Advisor responsible for the custody of the assets, risk assessment for each Trust Beneficiary, , investment and asset allocation selection and management in accordance with investment objectives established for each IBA, cash management, investment performance analysis, written investment performance reports, written account statements of activities and asset values, and annual summary of account information for each IBA and Trust Beneficiary.

### B. REMOVAL OF INVESTMENT ADVISOR

The Non Profit reserves the right to remove any Investment Advisor and retain another Investment Advisory Firm or itself as Investment Advisor.

## SECTION 2.5 ADMINISTRATOR

### A. APPOINTMENT OF ADMINISTRATOR

Although the Non-Profit has established and manages the Trust, the Non-Profit may retain an independent administrator as Administrator to assist and support the Non-Profit's disbursement governance and administration management activities for each Trust Beneficiary and his or her Individual Benefit Account ("IBA").

### B. REMOVAL OF ADMINISTRATOR

The Non-Profit reserves the right to remove any Administrator, and retain another independent administrator or Administrator the Trust itself.

## SECTION 2.6 DESIGNATED MSA VENDOR

### A. APPOINTMENT OF A DESIGNATED MSA VENDOR

Although the Non-Profit has established and manages the Trust, the Non Profit may retain an MSA Vendor for purposes of achieving Medicare Secondary Payer compliance in IBAs that contain a Medicare Set-Aside Allocation (MSAs). MSA Vendor shall be responsible for evaluation and determination of disbursement requests from funds within the IBA identified as MSA funds in accordance with policies established by the Centers for Medicare and Medicaid Services (CMS) to ensure that Medicare remains secondary payer in situations related to the underlying insurance settlement. MSA Vendor shall not be responsible for any investment or physical possession of the MSA funds and shall perform solely administrative functions related thereto. MSA Vendor shall request payments made from MSA funds directly by the Trustee to medical service providers who rendered services deemed appropriate to be paid with MSA funds.

### B. REMOVAL OF MSA VENDOR

The Non Profit reserves the right to remove any designated MSA Vendor and retain another pursuant to the notice provisions provided herein.

## ARTICLE THREE JOINDER AGREEMENT

### SECTION 3.1 EXECUTION OF JOINDER AGREEMENT

To join and benefit from this Trust, the Grantor is required to sign a Joinder Agreement. By the Grantor's execution of the Joinder Agreement, the Grantor agrees to and accepts the terms of the Trust. Any special instructions for the benefit of the Trust Beneficiary should be described in the Joinder Agreement.

### SECTION 3.2 GRANTOR'S INTENT IN EXECUTING JOINDER AGREEMENT

In making contributions to the Trust, it shall not be the intention of any Grantor to displace any Government Assistance benefits that may otherwise be available to the Trust Beneficiary. It shall be the specific intention of all Grantors to establish a discretionary, supplemental fund pursuant to 42 U.S.C. § 1396p and to limit the discretionary disbursements solely for the benefit of the Trusted Beneficiary and his or her supplemental care and supplemental needs.

### SECTION 3.3 IRREVOCABILITY OF JOINDER AGREEMENT

Subject to approval by the Non Profit, this Trust shall be enforceable against a specific individual seeking to become a Trust Beneficiary upon Grantor's execution of a Joinder Agreement and contribution of property or money ("assets") to the Trust. An individual seeking to become a Trust Beneficiary shall have completed enrollment when: (1) the Joinder Agreement is approved by the Non Profit; (2) the assets contributed to the Trust are received by the Trustee; and (3) the Trustee accepts the contributed assets. Upon completed enrollment, the individual enrolling and joining in the Trust becomes a Trust Beneficiary of this Trust and the following becomes effective:

- A. Joinder Agreement, Termination Agreement, and Individual Benefit Account ("IBA") created for the Trust Beneficiary shall become irrevocable as to such Grantor and Trust Beneficiary;
- B. Contributed assets shall not be refundable to the Grantor except as otherwise provided in Article Eight of the Declaration of Trust;
- C. All Final Remainder Beneficiary Designations may not be revoked or amended; Final Remainder Beneficiary Designations may by exercise of a special (or limited) power of appointment to any one or more persons or entities, or trusts for their benefit, other than the Beneficiary, the Beneficiary's estate, the Beneficiary's creditors, or creditors of the Beneficiary's estate. This special power of appointment shall be exercised as the Beneficiary appoints by will or codicil specifically referring to and exercising such power of appointment. Unless within 30 days after the Beneficiary's death the Trustee has actual notice of the existence of a will or codicil exercising such special power of appointment (whether or not the document has been filed or admitted to probate), the Trustee shall, without incurring any liability to any appointee, proceed as if the power had not been exercised. This clause shall not, however, bar any right of any appointee to enforce the appointment..
- D. Grantor and Trust Beneficiary shall have no further interest in, and do relinquish and release all right, control over, incidents of ownership and interest of any kind or nature in and to, the assets (including any and all assets subsequently contributed to the Trust Beneficiary's IBA) and the IBA said assets are contributed into; and

- E. Non Profit shall administer the Trust Beneficiary's IBA for the sole benefit of the Trust Beneficiary in accordance with this Declaration of Trust, the Trust Beneficiary's Joinder Agreement and Termination Agreement.

### **SECTION 3.4 JOINDER AGREEMENT AND COURT RETAINING JURISDICTION**

The Trust Beneficiary's Joinder Agreement and Termination Agreement will incorporate any order from such court. The terms of such order shall supersede any terms of the Joinder Agreement, Termination Agreement or Declaration of Trust that are inconsistent with such order.

### **SECTION 3.5 PARTICIPATION OF INDIVIDUAL NOT DETERMINED DISABLED**

If the Social Security Administration or any other authorized federal or state governmental entity has not made a determination that an individual seeking to enroll as a Trust Beneficiary of this Trust is a disabled person, the Non Profit is authorized to accept such individual as a Trust Beneficiary if the Non Profit believes that such individual is (1) a disabled person, or (2) will be determined to be a disabled person by the appropriate federal or state governmental entity.

### **SECTION 3.6 STRUCTURED SETTLEMENTS**

If the disabled individual named in the Joinder Agreement as the Trust Beneficiary is involved in a structured settlement and it is required by state or federal law, in order for the disabled individual to complete enrollment the disabled individual must obtain, and provide to the Non Profit and Trustee, a commutation rider providing for a lump sum payout upon the death of the Trust Beneficiary with the State where the Trust Beneficiary resides being the first beneficiary up to the amount of the state's Medicaid claim.

## **ARTICLE FOUR INDIVIDUAL BENEFIT ACCOUNT**

### **SECTION 4.1 IRREVOCABLE CONTRIBUTION**

The assets contributed to an Individual Benefit Account ("IBA") established herein are irrevocably assigned, transferred, conveyed and delivered to the Trustee to be used for the sole benefit of the Trust Beneficiary and as set forth in this Declaration of Trust through the Trust.

### **SECTION 4.2 WHEN CONTRIBUTION BECOMES IRREVOCABLE**

Upon delivery to and acceptance by the Trustee of the assets contributed for deposit into a Trust Beneficiary's IBA, the contributed assets shall be irrevocably contributed and non-refundable. Acceptance by the Trustee is indicated by the deposit of the contributed assets into an IBA.

### **SECTION 4.3 EFFECTIVE DATE OF AN INDIVIDUAL BENEFIT ACCOUNT**

The effective date of a Trust Beneficiary's IBA is the date the executed Joinder Agreement is approved by the Non Profit, subject to delivery to the Non Profit of all Required Documents. If any Required Documents are not received by the Non Profit, then the Non Profit may invalidate the Joinder Agreement and not accept the contributed assets. If the Joinder Agreement is invalidated, no IBA will be established for an individual and the individual will not become a Trust Beneficiary of the Trust.

#### **SECTION 4.4                   MANAGEMENT OF INDIVIDUAL BENEFIT ACCOUNTS**

Assets contributed on behalf of a Trust Beneficiary shall be invested, re-invested and administered in an IBA in the name of the Trust Beneficiary. The assets in all of the Individual Benefit Accounts may be pooled together for investment and management purposes, but each IBA will remain in a separate account. The Trustee may, in its sole and absolute discretion, disburse all or a portion of the assets in a Trust Beneficiary's IBA for the sole benefit of a Trust Beneficiary.

#### **SECTION 4.5                   EFFECT OF CONTRIBUTION**

Specifically subject to and subordinate to Section 9.13 of Article Nine herein, and to the Non Profit's and Trustee's sole and absolute discretion in making disbursements, the total disbursements made on behalf of a Trust Beneficiary shall not exceed the total of all contributions made to such Trust Beneficiary's IBA, plus any undistributed income.

#### **SECTION 4.6                   FUTURE TRANSFER OF ASSETS**

Property, or interests in property, may be designated for future transfer by a Grantor as a contribution of assets to the IBA of a Trust Beneficiary. Such designated contributions may be revoked by the Grantor at any time during that Grantor's lifetime and continued competence, provided the Grantor gives prior written notice to the Non Profit and Trustee.

#### **SECTION 4.7                   EFFECT OF DESIGNING A FUTURE TRANSFER**

The Trustee shall not consider future designations of property, as provided in Section 4.6, Article Four, of this Declaration of Trust, to be a contribution of assets to a Trust Beneficiary's IBA until such designated property has actually been contributed to the Trust and accepted by the Trustee. The Trustee shall not credit any such future designation of property to a particular Trust Beneficiary's IBA until such designated property has been accepted by the Trustee.

#### **SECTION 4.8                   COUNSEL FOR AN INDIVIDUAL BENEFIT ACCOUNT**

By the Grantor's execution of the Joinder Agreement and the Trust Beneficiary's completed enrollment in the Trust, the Non Profit and Trustee are expressly authorized to (1) retain an attorney at law as IBA Counsel to provide legal services as may be required or permitted in this Declaration of Trust, Joinder Agreement, Termination Agreement, to assist the Non Profit and Trustee, and (2) pay the IBA Counsel for such legal services from the Trust Beneficiary's IBA. The Non Profit or Trustee may retain and pay the IBA Counsel reasonable attorney's fees and expenses to represent the Trust Beneficiary in any matters related to: (1) the Trust Beneficiary's IBA; or (2) the court's continuing jurisdiction over a Trust Beneficiary's IBA. The Trustee may pay the IBA Counsel's attorney fees and expenses for services rendered to or for a Trust Beneficiary from the Trust Beneficiary's IBA. The amount of compensation for the IBA Counsel shall be an amount equal to the customary and prevailing charges for services of a similar nature during the same period of time and in the same geographic locale. The compensation of an IBA Counsel if the IBA is under court jurisdiction must be fixed and allowed by the court.

#### **SECTION 4.9                   DETERMINATION OF TAX STATUS OF AN IBA**

Neither the Non Profit, Trustee, Administrator nor the Investment Advisor make any claim, warranty, statement, or opinion, either expressly or impliedly, about the tax status of any Trust Beneficiary's IBA. The Non Profit or Trustee may, but are not required to, have an IBA Counsel or other appropriate person determine the tax status of a Trust

Beneficiary's IBA. In the absence of the Non Profit or Trustee obtaining such determination, the Beneficiary Advocate should obtain independent tax advice to determine the tax status of a Trust Beneficiary's IBA.

## **ARTICLE FIVE BENEFICIARY ADVOCATE**

### **SECTION 5.1 NAMING OF BENEFICIARY ADVOCATE**

The Grantor shall name a Beneficiary Advocate and, if possible, a Successor Beneficiary Advocate in the Joinder Agreement, subject to approval by the Non Profit. The Grantor may name the Trust Beneficiary to be the Beneficiary Advocate. If a Grantor fails to name a Beneficiary Advocate or Successor Beneficiary Advocate in the Joinder Agreement, or if the Non Profit does not approve of the Beneficiary Advocate or Successor Beneficiary Advocate named by the Grantor, then the Non Profit may name a Beneficiary Advocate.

### **SECTION 5.2 SELECTION OF THE BENEFICIARY ADVOCATE**

A Trust Beneficiary may be selected to serve as his or her Beneficiary Advocate, subject to the approval by the Non Profit. In certain circumstances the Non Profit may select someone other than the Trust Beneficiary, preferably the Trust Beneficiary's Legal Representative or some other qualified person, to be the Beneficiary Advocate. A court appointed guardian or conservator of a Trust Beneficiary will be given preference to serve as a Beneficiary Advocate. By the Grantor signing the Joinder Agreement, the Grantor authorizes the Non Profit and Trustee to compensate any Beneficiary Advocate selected or approved by the Non Profit. Such compensation shall be reasonable based upon the services rendered and the reasonable costs for such services in the community where such services are rendered.

### **SECTION 5.3 ACCEPTANCE BY THE SELECTED BENEFICIARY ADVOCATE**

Each individual selected as a Beneficiary Advocate or Successor Beneficiary Advocate, if any, shall accept such selection by executing a Beneficiary Advocate Acceptance of Duties agreement. Such agreement shall be incorporated herein.

### **SECTION 5.4 DUTIES OF THE BENEFICIARY ADVOCATE**

The Beneficiary Advocate shall act like an agent of the Trust Beneficiary, with similar authority as an attorney in fact agent of the Trust Beneficiary, but with the limited additional authority to obtain guidance, findings and assessments regarding the life care of the Trust Beneficiary, to act as requested by the Non profit or Trustee for the benefit of the Trust Beneficiary, or to receive notices from the Non Profit or Trustee on behalf of the Trust Beneficiary. The Beneficiary Advocate shall report such guidance, findings and assessments to the Non Profit and the Trustee. The Non Profit and Trustee shall have the ability to make requests of the Beneficiary Advocate in the course of administering the Trust Beneficiary's IBA for the sole benefit of the Trust Beneficiary. All reasonable requests made by the Non Profit and Trustee shall be completed by the Beneficiary Advocate.

### **SECTION 5.5 INFORMATION PROVIDED BY BENEFICIARY ADVOCATE**

The Non Profit, Trustee, Investment Advisor or Administrator may, but are not required to, rely on the guidance, findings and assessments provided by, or actions of, the Beneficiary Advocate as if made by the Trust Beneficiary.

## **SECTION 5.6 REQUESTS POSSIBLY CAUSING REDUCTION OF BENEFITS**

For requests for disbursements that, in the sole and absolute discretion of the Non Profit or Trustee, may cause a reduction in the Trust Beneficiary's Government Assistance benefits, the Non Profit or Trustee may retain an IBA Counsel to issue a legal opinion regarding the effect of the requested disbursement upon the Trust Beneficiary's continual eligibility for Government Assistance benefits. The Non Profit or Trustee may request the IBA Counsel to seek a court order authorizing such disbursement from a court retaining jurisdiction over the Trust Beneficiary or his or her IBA. Notwithstanding a request for such a disbursement, or the legal opinion of the IBA Counsel, the Non Profit and Trustee each have sole and absolute discretion to approve or deny such disbursement request.

## **SECTION 5.7 REMOVAL OF THE BENEFICIARY ADVOCATE**

The Non Profit or Trustee may remove and replace a Beneficiary Advocate if the Non Profit believes such Beneficiary Advocate is not acting in the best interest of the Trust Beneficiary. If the Trust Beneficiary's IBA is under the continuing jurisdiction of an applicable court, or if the Beneficiary Advocate is a court appointed guardian or conservator of the Trust Beneficiary, the Non Profit may obtain a court order to remove and replace such Beneficiary Advocate.

# **ARTICLE SIX DISBURSEMENTS DURING LIFE OF TRUST BENEFICIARY**

## **SECTION 6.1 DISCRETIONARY DISBURSEMENT GUIDELINES**

### **A. DISCRETIONARY DISBURSEMENTS FOR SUPPLEMENTAL CARE OR SUPPLEMENTAL NEEDS**

The Trustee may, in its sole and absolute discretion, approve and disburse any amounts of principal or income, or both, up to the whole thereof, from a Trust Beneficiary's IBA for the Trust Beneficiary's supplemental care or supplemental needs that are not otherwise provided to the Trust Beneficiary through Government Assistance benefits. The Non Profit and Trustee shall take into account that discretionary disbursements are for the sole benefit of the Trust Beneficiary. However, neither the Non Profit nor Trustee is obligated or compelled to approve a disbursement request. Before any discretionary disbursement request is approved and disbursed from a Trust Beneficiary's IBA, the Non Profit or Trustee may, although neither is required to, consider the consequences of such disbursement on the Trust Beneficiary's eligibility for Government Assistance benefits. The Non Profit and Trustee may refuse any request for a disbursement from a Trust Beneficiary's IBA for services that any public or private agency has the obligation to provide to such Trust Beneficiary.

### **B. DISBURSEMENTS NOT TO REPLACE GOVERNMENT ASSISTANCE**

No disbursement request should be approved by the Non Profit or Trustee in excess of the resource and income limitations of any Government Assistance benefits program that the Trust Beneficiary is participating in or is eligible to receive. Neither the Non Profit nor Trustee shall have to approve any disbursement request that disqualifies the Trust Beneficiary from receiving Government Assistance benefits, or supplants or replaces the Trust Beneficiary's Government Assistance benefits, unless the Non Profit and Trustee determine, each in its sole and absolute discretion, that the advantage of such disbursement outweighs the Trust Beneficiary's loss of, or ineligibility for, Government Assistance benefits. The Non Profit, Trustee, Administrator, Investment Advisor, and Beneficiary Advocate selected by the Non Profit, shall not be responsible or liable, individually, jointly or severally, for any negative

consequence to the Trust Beneficiary arising from making any disbursement from the Trust Beneficiary's IBA.

**C. INFORMATION THAT MAY BE TAKEN INTO ACCOUNT**

In approving or denying a disbursement request, or making any disbursement, the Non Profit and Trustee may, but are not required to, take into account the following information about a Trust Beneficiary if it is either actually known by the Non Profit or Trustee or actually provided to the Non Profit and Trustee:

1. Other income or resources of such Trust Beneficiary that are reasonably available to such Trust Beneficiary;
2. Public or Private Benefits that the Trust Beneficiary is eligible to receive or is currently receiving;
3. Resource and income limitations of any Government Assistance benefits program that the Trust Beneficiary is eligible to apply for or is participating in; and
4. A letter of intent supplied by the Beneficiary, Beneficiary Advocate, or Beneficiary's Independent Legal Counsel.

**D. FUTURE NEEDS OF TRUST BENEFICIARY MAY BE TAKEN INTO ACCOUNT**

The Non Profit and Trustee may, but shall not be required to, consider the future needs of a Trust Beneficiary when approving or denying disbursement requests, and making disbursements.

**E. FORM OF DISBURSEMENT**

The Non Profit and Trustee, in their sole and absolute discretion, may make any disbursement from a Trust Beneficiary's IBA in the following manner: (1) directly to a Trust Beneficiary; (2) in any form allowed by law; (3) to any person deemed suitable by the Non Profit and Trustee; or (4) by direct payment to a third party for the expense incurred by, or service provided to, the Trust Beneficiary. The Trustee may pay directly for services or products, provided the Trust Beneficiary does not receive any asset that can be converted to cash.

**F. TRUST CORPUS AND INCOME SPECIFICALLY NOT AVAILABLE**

The Trust corpus, also known as the Trust's principal, and income are specifically not available to any Trust Beneficiary except to the extent of disbursements made by the Trustee for the sole benefit of a Trust Beneficiary.

**G. NOTICE REGARDING GOVERNMENT ASSISTANCE BENEFITS**

The Grantor, Trust Beneficiary and the Trust Beneficiary's Beneficiary Advocate shall notify the Non Profit and Trustee whenever a Government Assistance Benefits Event occurs. A Government Assistance Benefits Event occurs whenever the Trust Beneficiary: (a) applies for Government Assistance benefits; (b) has an application for Government Assistance benefits approved or denied; or (c) has Government Assistance benefits terminated.

#### H. NO LIABILITY FOR DISBURSEMENTS

The Non Profit or the Trustee shall not be liable to any Beneficiary for the Non Profits or Trustee's acts or omissions, except in cases of willful misconduct, bad faith, or gross negligence. This includes for any disbursement from the Trust Beneficiary's IBA that reduces or terminates the Government Assistance benefits received by the Trust Beneficiary or makes the Trust Beneficiary ineligible for Government Assistance benefits.

#### I. CONSEQUENCES OF PAST DISBURSEMENT DECISIONS

All past decisions about disbursement requests by the Non Profit and Trustee, regardless of the reason for such decisions, shall not serve, or be construed, as a pattern, precedent or past conduct, that establishes a duty upon the Non Profit or Trustee to continue making such decisions about disbursement requests. The Non Profit and Trustee are under no duty to make future disbursement decisions based upon past disbursement decisions.

### SECTION 6.2 DISBURSEMENTS FROM MEDICARE SET-ASIDE ALLOCATION (MSA)

In the event that the Trust Beneficiary has an MSA component to his/her IBA, disbursements of any principle or income from the designated MSA funds shall be made at the sole and absolute discretion of the designated MSA Vendor contracted for the maintenance of that portion of the IBA. MSA Vendor shall make payments only for medical expenses that would otherwise be covered by Medicare and related to the insurance settlement from which fund were used to establish the MSA. Funds utilized for MSA purposes are limited by the amount of the contribution, whether funded as a lump sum or annually via a financial instrument such as a structured settlement annuity. In the event of an exhaustion of MSA funds, whether in total or on an annual basis pending the next installment, MSA Vendor shall contact Medicare and inform it of its need to resume coverage of the injury in question. MSA Vendor shall perform all accounting and reporting functions necessary to comply with policies established by the Centers for Medicare and Medicaid Services (CMS). MSA shall refuse any request for disbursement from a Trust Beneficiary's MSA funds for services neither related to the insurance settlement, nor otherwise covered by Medicare. Any payments made in error that should have otherwise been made from the IBA shall be repaid to the MSA and counted against the Trust Beneficiary's check limit or charged appropriately.

### SECTION 6.3 LEGAL OPINION ABOUT IMPACT OF DISBURSEMENT

If either the Non Profit or Trustee deems it necessary, the Non Profit or Trustee may retain IBA Counsel to provide a legal opinion regarding the impact or consequence of approving and making or denying any disbursement request on the Trust Beneficiary's eligibility for Government Assistance benefits. The Trustee may pay from the Trust Beneficiary's IBA, the IBA Counsel's reasonable attorney fees and expenses for providing such legal opinion. Furthermore, if either the Non Profit or Trustee deems it appropriate, the Non Profit or Trustee may seek an order approving a disbursement decision from a court of competent jurisdiction.

### SECTION 6.4 TRUSTEE'S DISCRETION FOR DISBURSEMENTS

The Non Profit and Trustee have sole and absolute discretion in approving or denying any disbursement request, and making a disbursement of principal or income, or both, from a Trust Beneficiary's IBA. The Trustee may allocate all disbursements between principal and income as the Trustee determines in its sole and absolute discretion. Neither the Non Profit nor Trustee is obligated or compelled to approve or deny a disbursement request or make a disbursement. The judgment of any other person or entity shall not be substituted for the

judgment of the Non Profit or Trustee in either's exercise of discretion in approving or denying a disbursement request or in making a disbursement.

## **SECTION 6.5 SCOPE OF TRUST BENEFICIARY'S INTERESTS**

The Trust Beneficiary's needs shall supersede the interests of all remainder beneficiaries recognized under the Trust, Joinder Agreement or Termination Agreement. However, in determining a Trust Beneficiary's eligibility for any Government Assistance benefits, no part of the principal or undistributed income from the Trust Beneficiary's IBA shall be considered available to the Trust Beneficiary.

## **SECTION 6.6 TRUST NOT LIABLE FOR FAILING TO IDENTIFY RESOURCES**

The Non Profit, Trustee, IBA Counsel, Investment Advisor, Administrator, and Beneficiary Advocate selected by the Non Profit, shall not be liable to any Trust Beneficiary or any other third party, for failing to identify any program or resource available to such Trust Beneficiary because of his or her disabilities. As evidenced by the execution of the Joinder Agreement, the Grantor, Trust Beneficiary and, if selected by the Grantor, the Beneficiary Advocate and Successor Beneficiary Advocate, as appropriate, recognize, understand and acknowledge the uncertainty and changing nature of the guidelines, laws and regulations pertaining to Government Assistance benefits and agree that the Non Profit, Trustee, IBA Counsel, Investment Advisor, Administrator, and Beneficiary Advocate appointed by the Non Profit, if applicable, shall not be responsible or liable for causing a period of disqualification or ineligibility for Government Assistance benefits for a Trust Beneficiary. In addition, the Non Profit, Trustee, IBA Counsel, Investment Advisor, Administrator, and Beneficiary Advocate appointed by the Non Profit, if applicable, shall not in any event be liable for any loss of benefits by a Trust Beneficiary as long as they, individually, jointly or collectively, did not act with willful misconduct, bad faith, or gross negligence. It remains the responsibility of the Grantor and Trust Beneficiary, and Beneficiary Advocate selected by either of them, to: (1) seek out and apply for appropriate Government Assistance benefits; and (2) provide all proper documentation and information necessary and required to qualify the Trust Beneficiary, and maintain the Trust Beneficiary qualified, for any such Government Assistance benefits.

# **ARTICLE SEVEN DISTRIBUTION AFTER DEATH OF TRUST BENEFICIARY**

## **SECTION 7.1 VERIFYING DEATH, DETERMINING REMAINDER AMOUNT AND TRUST REMAINDER SHARE**

The death of a Trust Beneficiary shall be verified by delivering a notice of death of a Trust Beneficiary accompanied by an original certified copy of the Trust Beneficiary's death certificate to the Non Profit and Trustee. Upon the Non Profit and Trustee verifying the Trust Beneficiary's death, the Non Profit and Trustee, in their sole and absolute discretion, and in accordance with the provisions in the Trust Beneficiary's Termination Agreement, shall determine the amount of assets remaining in the Trust Beneficiary's IBA (the "Remainder Amount"). After determining the Remainder Amount, the Non Profit and Trustee shall determine, in accordance with the provisions of the Trust Beneficiary's Termination Agreement, the Trust's share of the Remainder Amount ("Trust Remainder Share").

## **SECTION 7.2 DETERMINATION OF STATE REIMBURSEMENT CLAIM**

The Beneficiary Counsel retained by the Trust Beneficiary shall determine the amount of the State Reimbursement Amount ("Payback Amount") for claims received from state agencies, as required by federal laws related to 42 U.S.C. § 1396p and/or 42 U.S.C. § 1382b(e)(5) and any applicable Connecticut state law. The Beneficiary Counsel

shall issue notice of the termination of the Trust Beneficiary's IBA to all appropriate state and federal agencies, within the time period provided by law. The Beneficiary Counsel shall provide the Non Profit and Trustee with a written assessment ("Payback Determination Assessment") stating the nature and amount of the Payback Amount, and the priority, if any, for paying multiple state claims. If there is no Beneficiary Counsel or the Beneficiary Counsel does not provide the Non Profit and Trustee with a Payback Determination Assessment to the satisfaction of the Trustee, the Non-Profit or Trustee may, although neither is required to, retain a duly licensed attorney at law as an IBA Counsel to provide a Payback Determination Assessment. The Trustee has sole and absolute discretion to pay the Beneficiary Counsel and the IBA Counsel, his or her reasonable attorney's fees and costs directly from the Trust Beneficiary's IBA. If the Trustee is provided with a Payback Determination Assessment that, in the Trustee's sole and absolute discretion, (1) is not to the satisfaction of the Trustee; or (2) does not adequately identify the priority of payment for state claims, including multiple state claims, the Trustee may have the state claims, including multiple state claims, prorated and paid pro rata to the extent assets remain in the Trust Beneficiary's IBA after the Trust Remainder Share is distributed to the Trust Operating Account. The Trustee has sole and absolute discretion to rely on or ignore any Payback Determination Assessment regarding any State Claims or State Claims Information provided to the Trustee or Non-Profit by any Beneficiary Counsel, or IBA Counsel. The Payback Amount shall consist of only those Government Assistance benefits paid to or on behalf of the Trust Beneficiary as provided by applicable state or federal laws.

#### SECTION 7.4 TRUST REMAINDER SHARE

The Trustee shall distribute the Trust Remainder Share into the Trust Operating Account. The Non Profit, in its sole and absolute discretion, shall use the Trust Remainder Share distributed into the Trust Operating Account to pay administrative cost of the Non-Profit in administering pooled trusts or to carry out the exempt charitable activities and programs of the Non Profit, including, but not limited to, the following:

- A. For the direct or indirect use and benefit of other Trust Beneficiaries;
- B. To add disabled persons, as defined in 42 U.S.C. § 1382c(a)(3), who are indigent to the Trust as Trust Beneficiaries;
- C. To provide disabled persons, as defined in 42 U.S.C. § 1382c(a)(3), with equipment, medication, or such other services deemed suitable for such persons by the Non Profit; or
- D. For the direct or indirect benefit of disabled persons, as defined in 42 U.S.C. § 1382c(a)(3), through other services provided by the Non Profit.

#### SECTION 7.5 DETERMINATION OF THE TRUST REMAINDER SHARE

All remaining funds contributed as part of a Medicare Set-Aside Arraignment will become part of the Trust's share of the Remainder Amount in addition to the amounts described below.

If the Payback Amount is equal to or greater than the remaining assets in a Trust Beneficiary's IBA upon the death of the Trust Beneficiary, the Trustee shall retain 50% of the total assets contributed to the Trust beneficiary's IBA (Trust Remainder Share) and use the assets remaining in the Trust Beneficiary's IBA to pay the Payback Amount to the appropriate state agencies after the payment of Payable Administrative Expenses.

If the Payback Amount is less than the remaining assets in a Trust Beneficiary's IBA upon the death of the Trust Beneficiary, the Trustee shall retain 10% of the total assets contributed to the Trust Beneficiary's IBA (Trust Remainder Share) and use the assets remaining in the Trust Beneficiary's IBA to pay the Payback Amount to the appropriate state agencies after the payment of Payable Administrative Expenses

## **SECTION 7.6                    DISTRIBUTION OF THE TRUST REMAINDER SHARE**

The Trustee shall distribute the Trust Remainder to the Non Profit. The Non Profit, in its sole and absolute discretion, shall use the Trust Remainder Share to carry out the exempt charitable activities and programs of the Non Profit.

## **SECTION 7.4                    ADMINISTRATIVE EXPENSES AND PAYBACK AMOUNT**

After the death of the Trust Beneficiary, certain administrative expenses ("Payable Administrative Expenses") shall be distributed by the Non Profit and Trustee as provided in the Trust Beneficiary's Termination Agreement from assets remaining, if any, in the Trust Beneficiary's IBA. Then, to the extent possible, as provided below in this Section 7.4, and the Termination Agreement, the Non Profit and Trustee may distribute the Payback Amount, if any.

### **A.            PAYABLE ADMINISTRATIVE EXPENSES**

Unless applicable federal and state laws and regulations provide otherwise, the Trustee may distribute the following Payable Administrative Expenses before distributing the Payback Amount: (1) taxes due to the state or federal governments because of the death of the Trust Beneficiary; (2) reasonable fees and costs, including reasonable attorneys' fees, for the administration of the Trust Beneficiary's estate, including, but not limited to, preparing accountings of the Trust Beneficiary's estate and filing them with the appropriate court, completing and filing appropriate pleadings and documents, or performing other actions necessary for terminating and winding up the Trust Beneficiary's estate; (3) the expenses, including reasonable attorneys' fees, for determining the state reimbursement claims as set forth above in Section 7.2, Article Seven, and below in Paragraph A., Section 8.2, Article Eight, of this Declaration of Trust and set forth in the Termination Agreement; or (4) expenses for MSA Vendor to wind-up MSA portion of IBA and provide final report to CMS.

### **B.            ADMINISTRATIVE EXPENSES NOT PAYABLE BEFORE PAYBACK AMOUNT**

Unless allowable by state or federal law, the Non Profit and Trustee shall not pay any of the following administrative expenses from assets remaining, if any, in the Trust Beneficiary's IBA before distributing such assets to pay the Payback Amount: (1) unpaid funeral expenses of the Trust Beneficiary; (2) debts owed by the Trust Beneficiary to third parties; and (3) testamentary bequests to any Final Remainder Beneficiaries as may be provided in the Termination Agreement.

This provision does not prevent an interested party from filing a petition with a court of competent jurisdiction seeking permission to pay these items.

### **C.            DISTRIBUTION OF THE PAYBACK AMOUNT**

After distribution of the Trust Remainder Share and Payable Administrative Expenses, if there are any assets remaining in the Trust Beneficiary's IBA, the Trustee shall distribute such assets to pay the Payback Amount.

## SECTION 7.5 DISTRIBUTIONS AFTER PAYING PAYBACK AMOUNT

After the payment, if any, of the Payback Amount and before distributing remaining assets, if any, to the Final Remainder Beneficiaries as provided in the Trust Beneficiary's Termination Agreement, the Non Profit and Trustee may make the following distributions from such remaining assets:

### A. DISTRIBUTION OF AMOUNT OWED TO TRUST, FOR FUNERAL EXPENSES, OR THIRD PARTIES

The Non Profit and Trustee may distribute assets to pay any amounts appropriately owed: (1) to the Trust; (2) for the Trust Beneficiary's funeral expenses; and (3) to third parties, respectively, in such order or as the Trustee may decide in its sole and absolute discretion.

### B. USING APPLICABLE PROBATE CLAIM PROCEDURE

The Non Profit or the Trustee may use assets in the Trust Beneficiary's IBA to retain and pay IBA Counsel to use any applicable state probate court claims procedure to assure payment, resolution, termination and release of outstanding claims against the Trust Beneficiary's IBA.

### C. NOTIFICATION OF OUTSTANDING CREDITORS

The Beneficiary Advocate has the responsibility of notifying the Non Profit and Trustee of any outstanding creditors of the Trust Beneficiary so said creditors can be notified and appropriate procedures used in accordance with applicable state law.

### D. INVOLVEMENT BY NON PROFIT OR TRUSTEE

If it becomes necessary for the Non Profit or Trustee to become involved in any state probate court claims procedures, the Non Profit and Trustee may charge an additional fee and be reimbursed for incurred expenses, both to be paid from the Trust Beneficiary's IBA. If there are insufficient assets remaining in the Trust Beneficiary's IBA to pay such additional fees and reimburse such additional expenses, neither the Non Profit nor the Trustee is obligated to become involved in such state probate court claims procedures, and may refrain from doing so without liability to any party, including the Trust Beneficiary, for not taking such action.

### E. DISTRIBUTIONS TO FINAL REMAINDER BENEFICIARIES

After the distributions provided above in Sections 7.1, 7.3, 7.4, and Paragraph A. of Section 7.5, Article Seven, are made, the Trustee may distribute any remaining assets in the Trust Beneficiary's IBA to the Final Remainder Beneficiaries pursuant to the Trust Beneficiary's Termination Agreement.

## SECTION 7.6 FINAL REMAINDER BENEFICIARIES

If any assets remain in a decedent Trust Beneficiary's IBA after: (1) the death of a Trust Beneficiary; (2) the distribution, if any, of the Trust Remainder Share; (3) the payment of Payable Administrative Expenses; (4) the payment, if any, of the Payback Amount; and (5) the payment of expenses described in Section 7.5, Article Seven, above, the Non Profit and Trustee may distribute any remaining assets as provided in the Trust Beneficiary's Termination Agreement.

## **SECTION 7.7 NO LIABILITY FOR UNPAID CLAIMS**

The Trustee, the Non Profit and MSA Vendor shall not be liable to the Grantor, Trust Beneficiary, his or her Beneficiary Advocate, or any other third party, for any governmental or third party claims that remain unpaid because: (1) the claims were not provided to the Non Profit and Trustee; (2) the claims were unknown to the Non Profit and Trustee; or (3) there were insufficient assets remaining in the Trust Beneficiary's IBA to pay such claims. The Trustee and the Non Profit shall not be liable to the Grantor, Trust Beneficiary, his or her Beneficiary Advocate, or any other third party, for any governmental or third party claims remaining unpaid especially after: (1) disbursements have been made, if at all, to the Final Remainder Beneficiaries; or (2) there are no assets remaining in a Trust Beneficiary's IBA.

## **ARTICLE EIGHT TERMINATION DURING LIFETIME OF TRUST BENEFICIARY**

### **SECTION 8.1 TERMINATION OF TRUST**

Every reasonable attempt will be made to continue the Trust on behalf of a Trust Beneficiary for the purposes for which the Trust was established. However, the Non Profit does not and cannot know how future developments in the law, including administrative agency and judicial decisions, or how the conduct of a Trust Beneficiary or his or her Beneficiary Advocate, may affect the Trust or the administration of the Trust Beneficiary's IBA.

### **SECTION 8.2 TERMINATION OF TRUST BENEFICIARY'S IBA**

A Trust Beneficiary's IBA may be terminated by the Non Profit and Trustee, in their sole and absolute discretion, either has reasonable cause to believe that (1) the assets contained in a Trust Beneficiary's IBA are or will become available or liable for the Trust Beneficiary's basic maintenance, support or care that is or would otherwise be provided to such Trust Beneficiary by Government Assistance benefits; (2) the Trust has become impossible or impracticable to administer; or (3) there is no further need to continue to administer the Trust. Under such circumstance, the Trustee, with the consent of the Non Profit, shall take the following action:

#### **A. DETERMINE THE STATE REIMBURSEMENT AMOUNT**

The Beneficiary Counsel retained by the Trust Beneficiary shall determine the amount of the State Reimbursement Amount ("Payback Amount") for claims received from state agencies, as required by federal laws related to 42 U.S.C. § 1396p and/or 42 U.S.C. § 1382b(e)(5) and any applicable Connecticut state law. The Beneficiary Counsel shall issue notice of the termination of the Trust Beneficiary's IBA to all appropriate state and federal agencies, within the time period provided by law. The Beneficiary Counsel shall provide the Non Profit and Trustee with a written assessment ("Payback Determination Assessment") stating the nature and amount of the Payback Amount, and the priority, if any, for paying multiple state claims. If there is no Beneficiary Counsel or the Beneficiary Counsel does not provide the Non Profit and Trustee with a Payback Determination Assessment to the satisfaction of the Trustee, the Non-Profit or Trustee may, although neither is required to, retain a duly licensed attorney at law as an IBA Counsel to provide a Payback Determination Assessment. The Trustee has sole and absolute discretion to pay the Beneficiary Counsel and the IBA Counsel, his or her reasonable attorney's fees and costs directly from the Trust Beneficiary's IBA. If the Trustee is provided with a Payback Determination Assessment that, in the Trustee's sole and absolute discretion, (1) is not to the satisfaction of the Trustee; or (2) does not adequately identify the priority of payment for state claims, including multiple state claims, the Trustee

may have the state claims, including multiple state claims, prorated and paid pro rata to the extent assets remain in the Trust Beneficiary's IBA after the Trust Remainder Share is distributed to the Trust Operating Account. The Trustee has sole and absolute discretion to rely on or ignore any Payback Determination Assessment regarding any State Claims or State Claims Information provided to the Trustee or Non-Profit by any Beneficiary Counsel, or IBA Counsel. The Payback Amount shall consist of only those Government Assistance benefits paid to or on behalf of the Trust Beneficiary as provided by applicable state or federal laws.

#### **B. PAY PAYABLE ADMINISTRATIVE EXPENSES**

The Trustee shall pay certain administrative expenses ("Payable Administrative Expenses") from the Remainder Amount, if any, remaining in the Trust Beneficiary's IBA before paying the Payback Amount.

##### **1. Distribution of Payable Administrative Expenses**

Unless applicable federal and state laws and regulations provide otherwise, the Trustee may distribute the following Payable Administrative Expenses before distributing the Payback Amount: (1) taxes due to the State or federal governments because of the death of the Trust Beneficiary; (2) reasonable fees, including reasonable attorneys' fees, and costs, for the administration of the Trust Beneficiary's estate, including, but not limited to, preparing accountings of the Trust Beneficiary's estate and filing them with the appropriate court, completing and filing appropriate pleadings and documents, or performing other actions necessary for terminating and settling the Trust Beneficiary's trust estate or IBA; (3) the administration fee for trust termination or transfer as stated in Section 6.0 of this Termination Agreement; (4) the expenses, including reasonable attorneys' fees for the Beneficiary Counsel and IBA Counsel, for determining the state reimbursement claims and Payback Amount; or (5) expenses for MSA Vendor to wind-up MSA portion of IBA and provide final report to CMS. .

##### **2. Administrative Expenses Not Payable Before the Payback Amount**

The Trustee shall not pay any of the following administrative expenses from assets remaining, if any, in the Trust Beneficiary's IBA before using such assets to pay the Payback Amount: (1) unpaid funeral expenses of the Trust Beneficiary; (2) debts owed by the Trust Beneficiary to third parties; and (3) testamentary bequests to any Final Remainder Beneficiaries as may be provided herein.

#### **C. PAY THE PAYBACK AMOUNT**

The Trustee will use the assets remaining in the Trust Beneficiary's IBA to pay the Payback Amount to the appropriate state agencies after the payment of Payable Administrative Expenses.

#### **D. DISTRIBUTIONS AFTER PAYING THE PAYBACK AMOUNT**

After the Payback Amount has been paid, if there are any assets remaining in the Remainder Amount, the Trustee shall pay all remaining assets to the Trust Beneficiary.

## **ARTICLE NINE IBA ADMINISTRATIVE PROVISIONS**

### **SECTION 9.1 TRUST BENEFICIARY INDIVIDUAL BENEFICIARY ACCOUNT**

A separate Individual Beneficiary Account ("IBA") shall be established, administered and maintained for the sole benefit of each Trust Beneficiary enrolled in the Trust. However, for purposes of investment and management of assets contained in each IBA, the Non Profit may have the Trustee pool all of the assets contained in the IBAs for investment and management purposes while separately administering and maintaining each Trust Beneficiary's IBA. The Trustee or Investment Advisor shall maintain records showing the increases and decreases in value of each Trust Beneficiary IBA. The Trustee shall maintain records showing the assets contributed or disbursed from each Trust Beneficiary's IBA.

### **SECTION 9.2 FEES AND EXPENSES**

The fees and expenses for enrolling a Trust Beneficiary and creating an IBA for the Trust Beneficiary ("Enrollment Fees"), annually administering and maintaining each Trust Beneficiary's IBA ("Annual Administration Fees"), and if applicable, fees and expenses necessary for contracting with MSA Vendor to administer MSA funds within the IBA shall be initially assessed in accordance with the written fee schedule for the Non Profit and Trustee in effect at the time of Complete Enrollment of the Trust Beneficiary. All subsequent Annual Administration Fees shall be assessed in accordance with the written fee schedule in affect at the time the Annual Administration Fees are assessed. The Non Profit and Trustee may adjust the Enrollment Fees schedule and the Annual Administration Fees schedule from time to time. The assessed Enrollment Fees and Annual Administration Fees shall be disbursed by the Trustee to the Non Profit and MSA Vendor, in a manner which they agree. If there is continuing court jurisdiction over an individual IBA, the compensation must be fixed and allowed by the court.

### **SECTION 9.3 INITIAL IBA VALUATION AND VALUATION DATE**

The initial IBA valuation shall occur on the first day of the month in which the Trust Beneficiary's IBA is initially fund with contributed assets. The initial IBA valuation shall be the amount of the assets contributed to initially fund the Trust Beneficiary's IBA. The date in which the Trust Beneficiary's IBA is initially funded shall be the initial valuation date.

### **SECTION 9.4 ANNUAL VALUATION**

The annual valuation date shall be the annual anniversary of the initial valuation date. The annual IBA valuation shall be the value of the assets in the Trust Beneficiary's IBA on the annual valuation date or the highest value of the assets that were in the Trust Beneficiary's IBA during the prior year, whichever is highest.

### **SECTION 9.5 ADJUSTMENTS TO THE VALUATION AMOUNT**

Adjustments to the annual valuation amount may be made by the Non Profit or Trustee, as either may deem necessary.

### **SECTION 9.6 PERIODIC REPORT AND COURT ACCOUNT**

For accounting purposes, the Trust and each Trust Beneficiary's IBA thereof shall be operated on a calendar year basis. The Trustee will provide periodic reports, at least annually, to the Non Profit and to each Trust Beneficiary, or to his or her Beneficiary Advocate if designated to receive such periodic reports. The periodic reports shall show all receipts and disbursements to and from, the Trust Beneficiary's IBA during the previous reporting period.

Account statements showing all receipts and disbursements sent directly from the financial institution shall constitute a periodic report. If the Trust Beneficiary receiving the periodic reports, or his or her Beneficiary Advocate, as appropriate, desires to object to the periodic reports, the time to object ("Objection Time Period") is thirty (30) days from the date the Trust Beneficiary, or his or her Beneficiary Advocate, as appropriate, receives the periodic reports. The Trust Beneficiary's failure, or failure by his or her Beneficiary Advocate, as appropriate, to object within the Objection Time Period shall conclusively be deemed by the Non Profit and Trustee as an acceptance by the Trust Beneficiary and his or her Beneficiary Advocate, as appropriate, of all matters and transactions set forth in the periodic reports. The Trustee and the Non-Profit may file any periodic reports, or similar report, with a court of competent jurisdiction when deemed appropriate by the Trustee or the Non-Profit. The Non Profit and Trustee may also provide periodic reports as may be required by applicable state law.

For IBAs established by order of a Connecticut Court, the Beneficiary's Counsel or Beneficiary Advocate shall render any filings including accountings required by the Order of the Court or other Connecticut Statutes. Should the Beneficiary's Counsel fail to meet the provisions of the order established by the court at the inception of the Trust Beneficiary's IBA, including but not limited to periodic court-approved accounting, the Non-Profit or Trustee may retain an attorney at law as an IBA Counsel to comply with Connecticut law. The attorney's fees and reimbursable costs of such IBA Counsel shall be chargeable directly to, and collected from, the Trust Beneficiary's IBA and paid to the IBA Counsel.

## SECTION 9.7 INSPECTION OF IBA RECORDS

A Trust Beneficiary's IBA records shall be available at all reasonable times and upon reasonable prior written notice by the Trust Beneficiary delivered to the Non Profit, Trustee and MSA Vendor. Such notice shall request an inspection of the Trust Beneficiary's IBA records. The Non Profit, the Trustee and MSA Vendor shall not be required to furnish Trust records to any individual, corporation or other entity unless ordered by a court with competent jurisdiction. Neither the Non Profit nor the Trustee shall be required to furnish Trust Beneficiary IBA records to any individual, corporation or other entity who is not the Trust Beneficiary, his or her Beneficiary Advocate, or court retaining jurisdiction over the Trust Beneficiary or IBA. When the Trust Beneficiary, his or her Beneficiary Advocate, provides the appropriate prior written notice or court order, the Non Profit or the Trustee may furnish the Trust Beneficiary IBA records to any individual, corporation or other entity. The determination by the Non Profit and Trustee as to the sufficiency of any and all written authorizations or notices requesting inspection of a Trust Beneficiary's IBA records shall be final.

A Trust Beneficiary's IBA records may be made available for inspection to the Social Security Administration and any State department charged with overseeing pooled trusts, without the approval of the Trust Beneficiary or his or her Beneficiary Advocate for purposes of (1) establishing eligibility of the Trust Beneficiary, (2) proving the compliance of the Trust with any applicable law or regulation, or (3) as otherwise required under Connecticut law.

## SECTION 9.8 PREPARATION OF TAX RETURNS AND ELECTIONS

The Non Profit, Trustee, Administrator, or MSA Vendor shall not be responsible for either the preparation or filing of any tax return on behalf of any Trust Beneficiary.

### A. ASSISTANCE THAT MAY BE PROVIDED

The Non Profit, Trustee, Administrator, or MSA Vendor may, but is not required to, provide assistance to a professional tax preparer to:

1. Prepare and file any type of tax return, tax form or tax schedule for a Trust Beneficiary;

2. Prepare fiduciary income tax returns including making any necessary or appropriate elections in connection therewith;
3. Pay a part or all of a Trust Beneficiary's income tax liability that results from income received by the Trust but properly reported on a Trust Beneficiary's income tax return. The assets used to pay any such income tax liability shall be obtained directly from a Trust Beneficiary's IBA and paid directly to the appropriate taxing authority and shall not be available to the Trust Beneficiary. A Trust Beneficiary shall not have any right or interest in any assets used from the Trust Beneficiary's IBA to pay such income tax liability.

**B. EVENT OF TAX REFUND**

If a Trust Beneficiary receives a tax refund, any amount refunded to such Trust Beneficiary shall be paid directly to the Trust to the extent such refund is attributable to any amount of income tax liability previously paid by the Trustee. The Non Profit and Trustee, in their sole and absolute discretion, may deposit such refund into the Trust Beneficiary's IBA.

**C. COOPERATION BY OR ON BEHALF OF TRUST BENEFICIARY**

A Trust Beneficiary, or his or her Beneficiary Advocate, shall execute all letters, powers of attorney or other documents required or requested by the taxing authority, Non Profit, or Trustee to facilitate payment of any refund to the Trust.

**D. COMPENSATION FOR ASSISTANCE PROVIDED**

The Non Profit and Trustee, or their agent, if appropriate, shall receive additional compensation and reimbursement of expenses for any assistance provided. Such compensation shall be paid to the Non Profit from the IBA for the Trust Beneficiary who was assisted by the Non Profit or Trustee.

## **SECTION 9.9 TAXES AND GRANTOR TRUST STATUS**

In establishing the Trust, it is the intent of the Non Profit and Trustee that each Trust Beneficiary's IBA be treated as a Grantor Trust for purposes of determining the Trust Beneficiary's tax liability. For the sole purpose of determining such tax liability and having each Trust Beneficiary's IBA treated as a Grantor trust, each Grantor shall have the power to reacquire trust corpus by substituting other property of an equivalent value pursuant to Section 675(4)(C) of the Internal Revenue Code. For purposes of this Section 9.9, "trust corpus" shall have the same meaning as assets in an IBA as used elsewhere throughout this Declaration of Trust. Further, nothing in this Section 9.9 shall in any way affect or modify the intent or purpose of the Trust or any of the provisions found in this Declaration of Trust.

## **SECTION 9.10 COSTS OF DEFENDING TRUST**

Fees, costs and expenses of defending any Trust Beneficiary's IBA, including attorneys' fees incurred prior to, during, or after trial, and on appeal, against any claim, demand, legal action, equitable action, suit, or proceeding may, in the sole discretion of the Non Profit and Trustee, be (1) apportioned on a pro rata basis to all Individual Beneficiary Accounts; or (2) charged only against the Trust Beneficiary IBA that is affected by the action defended against.

## **SECTION 9.11 NO CLAIM ON TRUST ASSETS**

This Trust shall not be reduced in value by any creditor of any Trust Beneficiary. No Trust Beneficiary IBA shall be terminated or made available to a Trust Beneficiary because a creditor of such Trust Beneficiary knows of the existence of this Trust or the assets held in the Trust Beneficiary's IBA.

## **SECTION 9.12 TRUST NOT A SUPPORT TRUST**

This Trust is not a support trust. Assets held in Trust Beneficiary IBAs are not intended for the direct support of any Trust Beneficiaries. The Non Profit, Grantor and Trustee do not owe any obligation of support to any Trust Beneficiary. No Trust Beneficiary has any right of entitlement or other property right or interest in the principal and income in his or her IBA for his or her direct support.

## **SECTION 9.13 ASSETS NOT SUBJECT TO CREDITORS OF TRUST BENEFICIARY**

No part of this Trust or Trust Beneficiary IBAs shall be: (1) subject to any voluntary or involuntary anticipation or assignment by any Trust Beneficiary; (2) subject to voluntary or involuntary attachment, levy or control by any public or private creditor of any Trust Beneficiary; (3) subject to a taking by legal or equitable actions, proceedings, suits, or procedures by any voluntary or involuntary creditor, including those who provided services or products to a Trust Beneficiary; and (4) subject to a voluntary or involuntary compelled distribution to any creditor of a Trust Beneficiary.

# **ARTICLE TEN TRUST ADMINISTRATIVE POWERS**

## **SECTION 10.1 ADMINISTRATIVE POWERS**

The Non Profit, Trustee, Investment Advisor, Administrator and MSA Vendor shall have full power within the scope of their individual duties and responsibilities, subject to any court retaining jurisdiction over a Trust Beneficiary's IBA, to do all acts and things necessary to accomplish the purposes of the Trust and each IBA. The Non Profit, Trustee, Investment Advisor and Administrator shall perform their respective duties as provided in this Declaration of Trust and any other agreements incorporated herein to receive, hold, manage and control all income and principal in the IBAs and to do such other acts or things concerning the Trust as may be appropriate to effectuate the intent and purpose of the Trust. The power and authority of the Non Profit, Trustee, Investment Advisor and Administrator shall include, but is not limited to, all of the powers and authority conferred upon them under applicable federal and state laws and regulations. All such laws and regulations are hereby incorporated by reference into this Declaration of Trust. The Non Profit, Trustee, Investment Advisor and Administrator shall have the authority, within their scope of responsibility, and subject to any court retaining jurisdiction over an IBA, to do the following:

- A. The Trustee may invest in non-income producing assets, may invest in housing owned by the Trust jointly with one or more persons;
- B. The Trustee may be directed to make disbursements or distributions of Trust assets or assets in a Trust Beneficiary's IBA in money or in kind, or partly in money and partly in kind. The judgment and determination of the Trustee of the fair market value on the date of disbursement or distribution, whether or not requiring pro rata disbursement or distribution of specific assets and, whether or not requiring pro rata allocation of the tax basis of such assets disbursed or distributed, shall be binding and conclusive on all interested persons;

- C. The Trustee may be directed to retain any property (whether or not income producing) that may be transferred to the Trust until such time as the Trustee is directed to dispose of such property. However, the Trustee shall not be required to disburse or distribute income producing property to a Trust Beneficiary if it will or may disqualify the Trust Beneficiary from receiving Government Assistance benefits;
- D. The Trustee, with the consent of the Non Profit or order from any court retaining jurisdiction over a Trust Beneficiary's IBA, may: (a) borrow money, with the payment of no interest or such interest as the Trustee deems appropriate, for any purpose connected with the protection, preservation, improvement of the Trust, or the enhancement of benefits to the Trust Beneficiaries; or (b) encumber or obtain one or more mortgages on, or pledges of, any part or all of the property held by the Trust whenever the Trustee shall deem it appropriate;
- E. The Trustee, with the consent of the Non Profit, may pay, compromise or adjust any claims or lawsuits of the Trust against others or of others against the Trust as the Trustee shall deem appropriate;
- F. The Trustee may employ accountants, attorneys, consultants, government benefit specialists and other agents as may be necessary; and from appropriate Trust Beneficiary IBAs or Trust assets compensate them for their services and reimburse them for reasonable and necessary expenses rendered to or on behalf of the Trustee or a Trust Beneficiary, subject to applicable state and federal laws and regulations and, if applicable, any Court retaining jurisdiction of a Trust Beneficiary IBA.
- G. The Trustee, with the consent of the Non Profit and, if applicable, the order of the court retaining jurisdiction over a Trust Beneficiary's IBA, may independently or at the request of a Beneficiary Advocate establish additional trusts or transfer a Trust Beneficiary's assets in his or her IBA to another Trust in accordance with 42 U.S.C. § 1396p (d) (4) (C), as the Trustee may deem appropriate and for the sole benefit of the Trust Beneficiary. A different trustee may be designated for this purpose.
- H. The Trustee may allow temporary possession and use of available personal property held by the Trust by Trust Beneficiary or the Trust Beneficiary's care giver without requiring any payment therefore;
- I. The Trustee may make adjustments between principal and income as provided under the laws of the state having jurisdiction over the Trust Beneficiary IBAs; and
- J. The Trustee may hold assets in nominee form, continue a business, carry out agreements, deal with other fiduciaries and deal with other business organizations in which the Trustee, Non Profit, or Administrator may have an interest.

## SECTION 10.2 ELIGIBILITY OF A TRUST BENEFICIARY

The Non Profit and Trustee may retain IBA Counsel or other professional individuals or entities to take any and all steps necessary to obtain or maintain the eligibility of any Trust Beneficiary for any and all Government Assistance benefits and Medicare if a MSA subaccount is established. The Non Profit is authorized to compensate such IBA Counsel and qualified individuals or entities from the Trust Beneficiary's IBA, however, neither the Non Profit nor the Trustee shall be required to do so. Neither the Non Profit nor the Trustee shall incur any liability for any unfavorable result regarding the Trust Beneficiary's receipt or eligibility for Government Assistance benefits. If the

IBA is under continuing court jurisdiction, the compensation of the IBA Counsel will be fixed and allowed by a court of competent jurisdiction.

### **SECTION 10.3           LIMITS OF TRUSTEE'S AUTHORITY**

No authority described in this Trust or available to the Trustee pursuant to applicable law shall be construed to enable the Trustee to purchase, exchange or otherwise deal with or dispose of the assets contained in any Trust Beneficiary's IBA for less than adequate or full consideration in money or money's worth or to enable any person to borrow the assets contained in any Trust Beneficiary's IBA, directly or indirectly, without adequate interest or security.

### **SECTION 10.4           BOND REQUIREMENT**

The Non-Profit and the Trustee are not required to furnish any bond except as may be required by applicable law. If a bond is necessary, the payment of such bond shall be a proper expense of the Trust and paid from the appropriate Trust Beneficiary's IBA.

### **SECTION 10.5           TRUSTEE MAY SEEK COURT ORDER**

The Non Profit and Trustee may retain IBA Counsel to obtain a court order on matters relating to the construction and administration of the Trust or of a Trust Beneficiary's IBA.

### **SECTION 10.6           COMPENSATION**

- A. The Non Profit and Trustee shall be compensated for services rendered and reimbursed reasonable expenses incurred on behalf of the Trust or a Trust Beneficiary ("Fees") for services provided for herein this Declaration of Trust. The Trustee shall have the authority to pay the Fees to the Non Profit, Trustee, and MSA Vendor directly from a Trust Beneficiary's IBA. The Non Profit and Trustee shall also be authorized to receive additional compensation for services and expenses neither contemplated by the Parties at the time the Trust Beneficiary completed enrollment nor provided for in this Declaration of Trust. Notwithstanding any agreement to the contrary, the Non Profit may modify fee schedules because of changes in the Trust's economic and general circumstances.
  
- B. If an IBA is under continuing court jurisdiction of a court, the Trustee or the attorney for the Trustee shall be allowed just and reasonable compensation as fixed and allowed by the court.

### **SECTION 10.7           TRUST DEFENSE COSTS AND EXPENSES**

The costs and expenses of defending the Trust from any claim, demand, legal or equitable action, suit or proceeding may, in the sole and absolute discretion of the Trustee and the Non Profit, be: (a) charged on a pro rata basis to all Trust Beneficiary IBAs; or (b) charged only against the IBAs of the affected Trust Beneficiaries. The Trustee and Non Profit, each in its sole and absolute discretion, shall determine whether defense costs affect a substantial number of Trust Beneficiary IBAs and warrant allocation among all Trust Beneficiary IBAs or whether the issue requiring defense of the Trust is limited to a single Trust Beneficiary's IBA or only to certain Trust Beneficiary IBAs, warranting allocation only to such Trust Beneficiary IBAs. Defense costs shall also include challenges to the validity of the Trust, or the construction of language used in this Declaration of Trust, Joinder Agreement or Termination Agreement, or the use of the Trust for a specific Trust Beneficiary, by any federal or state governmental or semi-governmental agency, or private third party or entity.

## **SECTION 10.8 RESIGNATION OR REMOVAL OF TRUSTEE**

A Trustee may resign or may be removed by the Non Profit upon thirty (30) days written notice, and, if applicable, subject to confirmation by any court retaining jurisdiction over a Trust Beneficiary's IBA affected by the resignation or removal. If a Trustee resigns or is removed, the Non Profit shall select a Successor Trustee and give written notice thereof to the Trust Beneficiaries, directly, or to their Beneficiary Advocate, as the Non Profit may decide, in its sole and absolute discretion. The Successor Trustee shall be selected by the Non Profit as soon as practicable after notice of resignation is received by the Non Profit or notice of removal of the Trustee is provided by the Non Profit. Any Trustee that resigns or is removed shall serve until another person of entity accepts being appointment Successor Trustee. Any Successor Trustee shall act without any liability for the acts or omissions of any predecessor Trustee. If required by court order, the appointment of a Trustee or any successor trustee shall be done only with court approval.

## **SECTION 10.10 RESIGNATION OR REMOVAL OF MSA VENDOR**

A MSA Vendor may resign or may be removed by the Non Profit upon thirty (30) days written notice, and, if applicable, subject to confirmation by any court retaining jurisdiction over a Trust Beneficiary's IBA affected by the resignation or removal. If a MSA Vendor resigns or is removed, the Non Profit shall select a Successor MSA Vendor and give written notice thereof to the Trust Beneficiaries, directly, or to their Beneficiary Advocate, as the Non Profit may decide, in its sole and absolute discretion. The Successor MSA Vendor shall be selected by the Non Profit as soon as practicable after notice of resignation is received by the Non Profit or notice of removal of the MSA Vendor is provided by the Non Profit. Any MSA Vendor that resigns or is removed shall serve until another person of entity accepts being appointment Successor MSA Vendor. Any Successor MSA Vendor shall act without any liability for the acts or omissions of any predecessor MSA Vendor. If required by court order, the appointment of a MSA Vendor or any successor MSA Vendor shall be done only with court approval.

## **SECTION 10.11 ACKNOWLEDGMENT OF PARTIES**

As evidenced by the execution of the Joinder Agreement, the Grantor, Trust Beneficiary, and his or her Beneficiary Advocate, if any, understand and acknowledge that none of the Qualified Persons shall be liable to any Grantor, Trust Beneficiary, or Beneficiary Advocate, and their heirs, successors and assigns or any other party for their acts performed in good faith.

## **SECTION 10.12 HIPAA RELEASE PROVISION**

By signing the Joinder Agreement, a Trust Beneficiary, directly or indirectly through his or her Grantor, or Beneficiary Advocate, authorizes the release of all individually identifiable protected health information and medical records pertaining to the Trust Beneficiary to the Non Profit, the Trustee, Investment Advisor, Administrator, and MSA Vendor, and their designated directors, officers, members, employees and agents. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d and 45 C.F.R. 160-164 and to all entities and individuals covered by HIPAA. This authority has no expiration date and will only expire if revoked in writing by one of the persons granting it, with written notice to the Qualified Persons, and delivered to an applicable health care provider.

## **SECTION 10.13 DISBURSEMENT DISPUTES**

If at any time a dispute arises between the Trust Beneficiary or his or her Beneficiary Advocate and a third party vendor about whether or not a disbursement request should be approved for a product or a service provided by the third party vendor to or for the benefit of a Trust Beneficiary, the Non Profit and Trustee, in their sole and

absolute discretion, may act as an arbitrator to determine whether or not such disbursement should be made to avoid litigation expenses, fines or penalties. The decision by the Non Profit and Trustee shall be final as to the approval or denial of the disbursement request. If at any time a dispute arises between the Trust Beneficiary or his or her Beneficiary Advocate and a taxing agency about whether or not a disbursement request should be approved and disbursed to the taxing authority for the benefit of a Trust Beneficiary, the Non Profit and Trustee, in their sole and absolute discretion, may act as an arbitrator to determine whether or not disbursement request should be approved or denied to avoid litigation expenses, fines or penalties. Additionally, the Non Profit and Trustee may make a disbursement to a third party vendor or taxing authority even if the Trust Beneficiary or his or her Beneficiary Advocate did not request such disbursement. Neither the Non Profit nor the Trustee shall be liable for approving or denying a disbursement request or making such disbursement. The Non Profit and Trustee shall be held harmless from any claims of third parties and taxing authorities for debts of a Trust Beneficiary. The Non Profit and Trustee may pay the Non Profit and Trustee additional compensation for these services and reimbursement of expenses from a Trust Beneficiary's IBA.

#### **SECTION 10.14 FRAUDULENT TRANSFERS**

The Non Profit, Trustee, Investment Advisor, Administrator and MSA Vendor shall not be liable for any fraudulent transfer or conveyance made by the Trust Beneficiary, or his or her Beneficiary Advocate, to obtain or continue to receive Government Assistance benefits or other public or private benefits.

#### **SECTION 10.15 SEEKING ADVICE AND ASSISTANCE**

The Non Profit and Trustee may seek and pay for the services of IBA Counsel, Beneficiary Advocates or other people or entities, including any federal, state and local agencies that are established to assist people with disabilities, to identify programs or resources that may provide legal, social, financial, developmental or other assistance to a Trust Beneficiary. The Qualified Persons shall not in any event be liable to any Trust Beneficiary, or his or her Beneficiary Advocate, for failing to identify any programs or resources that may be available to such Trust Beneficiary because of his or her disabilities. It shall be the sole responsibility of the Trust Beneficiary, or his or her Beneficiary Advocate, to seek and apply for appropriate Government Assistance benefits or other public or private benefits.

### **ARTICLE ELEVEN TRUST INVESTMENT POWERS**

#### **SECTION 11.1 TRUSTEE AND INVESTMENT ADVISOR AUTHORITY**

The Trustee and Investment Advisor, as appropriate, shall have full discretionary power and authority, subject to any court retaining jurisdiction over an IBA, to do all acts and things necessary to accomplish the intent and purpose of the Trust. The Trustee and Investment Advisor shall perform their respective duties as provided in this Declaration of Trust and any other agreements incorporated herein, to receive, hold, administer, manage, invest, and control all the income and principal and to do such other acts or things concerning the Trust and Trust Beneficiary's IBA. The power and authority of the Trustee and Investment Advisor shall include, but is not limited to, all of the powers and authority conferred upon them under applicable federal and state laws and regulations. All such laws and regulations are hereby incorporated by reference into this Declaration of Trust.

## **SECTION 11.2 TRUSTEE DELEGATION**

For the Trustee to meet its responsibilities under applicable state uniform prudent investor laws and uniform principal and income laws, or any other applicable state laws, and amendments thereto, the Trustee may delegate some or all of its investment functions to an Investment Advisor.

## **SECTION 11.3 INVESTMENT POWERS**

The Trustee shall comply with applicable federal and state laws and regulations regarding investment and management of assets in IBAs, including those IBAs subject to continuing jurisdiction of an appropriate state court. The Trustee shall monitor any Investment Advisor selected by the Non-Profit to make sure that the Investment Advisor complies with applicable federal and state laws regarding investment and management of assets in IBAs. The Trustee shall have the power to (1) invest and manage assets in a Trust Beneficiary's IBA; and (2) monitor the Investment Advisor's investment and management of assets in a Trust Beneficiary's IBA, in any of the following:

- A. Government obligations, bonds, treasury bills, notes, investment grade corporate bonds, or other similar investments of the United States, any State or corporations;
- B. United States Treasury bonds redeemable at par value on the death of the holder for payment of federal estate taxes, regardless of maturity date;
- C. Securities listed on an established stock or bond exchange in the United States which are purchased on such exchange;
- D. An interest in a money market mutual fund registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80 a-1, et seq.) or an investment vehicle authorized for the collective investment of trust funds pursuant to Section 9.18 of Part 9 of Title 12 of the Code of Federal Regulations, the portfolios of which are limited to United States government obligations maturing not later than five years from the date of investment and to repurchase agreements fully collateralized by United States government obligations;
- E. Mutual funds held and traded in the United States; and
- F. Any other investment that the Trustee, in its sole and absolute discretion, determines is prudent and consistent with the intent and purpose of this Trust and the Trust's Investment Architecture.

# **ARTICLE TWELVE AMENDMENTS TO TRUST**

## **SECTION 12.1 TRUST and IBAs ARE IRREVOCABLE**

The Trust and the Trust Beneficiary's IBA shall become irrevocable after the Non-Profit accepts the Trust Beneficiary's Joinder Agreement, the Trustee accepts the assets contributed by the Grantor, and the disabled individual seeking to become a Trust Beneficiary completed enrollment.

## **SECTION 12.2 TRUST AMENDMENTS**

Notwithstanding the irrevocability of this Declaration of Trust and the Trust created herein, as set forth in Section 1.3 above, this Declaration of Trust and Trust created herein may be amended from time to time to effectuate their intent and purpose. The Non-Profit, in its sole and absolute discretion, may, but is not required to, amend this Declaration of Trust and the Trust created herein so that each shall:

- A. Conform with any changes in the law;
- B. Reflect tax or other legal changes that affect trust administration;
- C. Alter Section 7.4 Determination of Remainder Share to insure continued viability of administration of the trust;
- D. To comply with specific requirements of state and federal law which may be applicable to a Trust Beneficiary or his or her IBA;
- E. To comply with Internal Revenue Service, or other federal or state government agency requests, requirements, laws or regulations as may be necessary from time to time; and
- F. Correct ambiguities, including scrivener errors, which might otherwise require court construction or reformation.
- G. Notwithstanding the foregoing, the Non Profit shall not amend this agreement in any manner that would limit or alter the rights of the Beneficiary in any trust assets held by the trust before the amendment, unless the purpose of the amendment is to modify an existing provision in the trust that defeats the trust's intent of preserving public benefits.
- H. The Non Profit shall not amend the Trust in any way that will convert irrevocable asset contributions into revocable asset contributions. No amendment shall be made that will disqualify a Trust Beneficiary from being eligible for, or continuing to receive, his or her Government Assistance benefits.

## **SECTION 12.2 METHOD OF MAKING AMENDMENTS**

The Non-Profit may amend the Trust by making an amendment or attaching an addendum to the Declaration of Trust. The Declaration of Trust may be amended by the Non-Profit after giving thirty (30) days written notice to the Trust Beneficiaries, or their Beneficiary Advocates. Alternatively, the Non-Profit may attach an addendum to the Trust and subsequently give written notice of the addendum to the Trust Beneficiaries, or their Beneficiary Advocate. If an amendment or addendum only affects a limited number of Trust Beneficiaries, notice only has to be given to the affected Trust Beneficiaries or their Beneficiary Advocates.

## **SECTION 12.3 LIMITED SCOPE OF AMENDMENTS**

All contributions of assets to the Trust and to a Trust Beneficiary's IBA are irrevocable and subject to the terms of this Trust. The Non-Profit shall not amend the Trust in any way that will convert irrevocable asset contributions into revocable asset contributions. No amendment shall be made that will disqualify a Trust Beneficiary from being eligible for, or continuing to receive, his or her Government Assistance benefits.

## **SECTION 12.4 COURT APPROVAL**

The Non-Profit may submit any amendment for approval to a court of competent jurisdiction, but is not required to do so for IBAs not subject to court jurisdiction. Any amendment affecting a Trust Beneficiary IBA that is under continuing court jurisdiction may be submitted for approval by such court unless the Non-Profit determines it is not necessary to do so or the court specifically orders otherwise.

## **SECTION 12.5 NOT A GENERAL POWER OF APPOINTMENT**

The Non Profit's authority shall not be a general power of appointment under Internal Revenue Code §§2041, 2514. Accordingly, the Non Profit's powers cannot be exercised in favor of the Non Profit, the estate of the Non Profit, or any creditor of the Non Profit.

# **ARTICLE THIRTEEN GENERAL PROVISIONS AND DEFINITIONS**

## **SECTION 13.1 APPLICABLE GOVERNING LAW**

This Trust shall be exclusively governed by, and exclusively interpreted in accordance with, the laws of the State of Florida , and where appropriate, federal laws.

## **SECTION 13.2 PRINCIPAL PLACE OF TRUST ADMINISTRATION**

This Trust shall have as its principal place of administration the State of Florida.

## **SECTION 13.3 DONATIONS**

Donations, gifts, and devises to the Non Profit shall be for the benefit of the Non Profit and shall be irrevocable. Any undistributed income of the Trust that is attributable to the Trust Remainder Share shall be accumulated and added to the principal of the Trust Operating Account.

## **SECTION 13.4 RELATED ACTIVITIES**

The Qualified Persons may engage in activities related to the Trust and receive compensation as long as there is no actual conflict of interest between these activities and their responsibilities to the Trust after full disclosure to the Trust Beneficiary, or his or her Beneficiary Advocate, of any apparent conflict of interest that may exist.

## **SECTION 13.5 NOTICES**

All notices and consents shall be in writing and sent by U.S. mail, overnight courier, or by personal delivery, with a receipt acknowledged in writing, to the respective individual or entity at the addresses listed in the Joinder Agreement unless corrected or changed address information is provided in the same manner to: (1) the Qualified Persons and Trust by the Grantor, Trust Beneficiary, or his or her Beneficiary Advocate, or (2) the Grantor, Trust Beneficiary, or his or her Beneficiary Advocate, by the Non Profit or Trustee, as appropriate.

## **SECTION 13.6 INDEMNIFICATION**

The Grantor, Trust Beneficiary and his or her Beneficiary Advocate shall assume liability for and indemnify and hold harmless the Non Profit, the Trustee, the Investment Advisor, and the Administrator, and their shareholders, directors, officers, employees, agents, subcontractors, successors, business partners, and assigns, individually or collectively, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, and expenses, including reasonable legal expenses, of whatsoever kind or nature imposed on incurred by, or asserted against the Non Profit, the Trustee, the Investment Advisor, and the Administrator, and their shareholders, directors, officers, employees, agents, subcontractors, successors, business partners, and assigns, individually or collectively, arising from any of their acts or omissions in performing under this Agreement. However, the Trustee, the Investment Advisor, and the Administrator, including their shareholders, directors, officers, employees, agents, subcontractors, successors, business partners, and assigns, individually or collectively,

shall not be indemnified with respect to matters as to which he, she or it shall be finally determined to have been guilty of willful misconduct, bad faith or gross negligence in their performance by a court of competent jurisdiction. This right of indemnification shall not be exclusive of other rights to which the Non Profit, the Trustee, the Investment Advisor, and the Administrator and their shareholders, directors, officers, employees, agents, subcontractors, successors, business partners, and assigns, individually or collectively, may be entitled as a matter of law, equity, or otherwise.

### **SECTION 13.7 EFFECTIVE DATE OF TRUST**

The Trust is established by the Non Profit on the date first written above and said date shall be the effective date of the Trust.

### **SECTION 13.8 GENDER, SINGULAR AND PLURAL FORMS**

Words denoting the masculine or feminine gender shall be construed to mean or include the opposite gender and the singular form shall be construed to include the plural and the plural the singular, as the context requires or admits.

### **SECTION 13.9 CAPTIONS AND HEADINGS**

The captions and headings of Articles, Sections, subsections, paragraphs and subparagraphs used in this Declaration of Trust are for reference purposes only and shall have no effect on the interpretation of this Declaration of Trust or the Trust created herein. The captions and headings have only been included for convenience purposes to make it easier to locate the subject covered by each provision and are not to be used in construing this Declaration of Trust or Trust or in ascertaining the purposes or intentions of the Non Profit, Trustee, Administrator, Investment Advisor, Declaration of Trust or the Trust.

### **SECTION 13.10 SEVERABILITY**

The invalidity or unenforceability of any provision of this Declaration of Trust shall not affect the validity or enforceability of any other provisions of this Declaration of Trust. If any provision of this Declaration of Trust or Trust created therefrom is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Declaration of Trust shall be interpreted and construed as if any invalid or unenforceable provision had never been included in this Declaration of Trust, and such invalid and unenforceable provision shall not invalidate or make unenforceable the other provisions of this Declaration of Trust.

### **SECTION 13.11 LEGAL CITATIONS**

If a legal citation is incorrectly stated, the correct citation shall be deemed to have been stated. If a Connecticut citation is described, but the law of another state or federal law is applicable, the then applicable citation for such state or federal law shall be deemed to have been described. Citations include amendments that may be made from time to time.

### **SECTION 13.12 OTHER REFERENCES**

If a reference to a section in another document is incorrectly stated, the correct reference shall be deemed to have been described.

## SECTION 13.13 DEFINITIONS

For purposes of this Declaration of Trust, the following definitions shall apply:

1. **Allowable Disbursements** mean payments from a Trust Beneficiary's Individual Benefit Account permitted by the Trust, Trust Beneficiary's Joinder Agreement or Termination Agreement.
2. **Assets** mean and include both the principal and income of the Trust or a Trust Beneficiary's IBA, as applicable.
3. **Beneficiary Advocate** means the person and successor persons, as applicable, named in the Joinder Agreement, or otherwise selected by the Non-Profit, who are authorized, in the same capacity as an attorney in fact agent of the Trust Beneficiary, to communicate with the Trustee or Non Profit about the Trust Beneficiary's investment interests, health care, social activities, care management, residential options and other issues relating to the life care of the Trust Beneficiary or otherwise act on behalf of or receive notice for the Trust Beneficiary.
4. **Beneficiary Counsel** means the attorney at law retained by a Trust Beneficiary to represent the Trust Beneficiary during his or her participation in the Trust and administration of his or her IBA.
5. **Centers for Medicare and Medicaid Services (CMS)** means the federal agency under the Department of Health and Human Services that is charged with the enforcement of the MSP. In furtherance of that responsibility, it creates all policy with regard to seeking reimbursement for services improperly paid by Medicare as well as prevent future improper payments from occurring.
6. **Complete Enrollment, Completed Enrollment or Complete(d) Enrollment** means that the Joinder Agreement is approved by the Non Profit and the Trustee; the assets to be contributed to the Trust are received by the Trustee; and the Trustee accepts the contributed assets.
7. **Contributed Amount or contributed assets** means the initial amount and any subsequent amounts of property or money contributed or transferred to the Trust and deposited into a Trust Beneficiary's IBA.
8. **Trustee** means a Trustee, Trustees, a Co-Trustee, Co-Trustees, a Successor Trustee or Co-Successor Trustees as may be applicable and appointed by the Non Profit.
9. **Disabled Person** means a person having a physical or mental impairment that complies with the requirements of 42 U.S.C. § 1382c(a)(3) or as set forth in Item X. below.
10. **Government Assistance** means any and all services, medical care, benefits and financial assistance that may be provided by any county, state or federal agency, now or in the future, to or on behalf of a Trust Beneficiary that arises from eligibility or receipt of Supplemental Security Income (SSI) benefits, Medicaid or other similar governmental benefits for persons with mental health or other disabilities.
11. **Grantor** means a parent, grandparent, spouse or legal guardian of a Trust Beneficiary, a Trust Beneficiary himself or herself, or any person or entity acting pursuant to an order by a court, who contributes assets to a Trust Beneficiary's Individual Benefit Account in the Trust, and also includes, when applicable, any person or entity that contributed his, her or its own assets to the Trust for the sole benefit of a Trust Beneficiary, whether by gift, will, contract, or agreement.
12. **Individual Benefit Account (IBA)** means the financial account within the Trust maintained for the sole benefit of an individual Trust Beneficiary and shall be equal to the initial value of the assets contributed on the Trust Beneficiary's behalf less disbursements made on behalf of the Trust Beneficiary, increased by earnings and appreciation, less taxes, expenses, depreciation, administrative costs, administrative expenses, and fees.

13. **Investment Policy** is the policy described by the Trustee for investing the assets in the IBA in consultation with and upon the advice of the Investment Advisor.
14. **Joinder Agreement** is a separate written agreement used by an individual to enroll and participate in the Trust as a Trust Beneficiary of the Trust. The written agreement is between the Non Profit, Trustee and the Grantor and permits the Grantor to establish an IBA for the sole benefit of a Trust Beneficiary.
15. **Legal Representative** means a legal guardian, natural guardian, conservator, agent acting under a durable power of attorney, trustee, representative payee, custodian under the Uniform Gift or Transfers to Minors Act of any state, or other person caring for a Trust Beneficiary who can act on behalf of a Trust Beneficiary for the purpose of making binding agreements with the Trust.
16. **Master Pooled Self Settled Special Needs Trust** refers to the Trust described in this Declaration of Trust and created herein.
17. **Medicaid** refers to a state's Medicaid programs and equivalents.
18. **Medicare** refers to the federal entitlement program providing medical care to the elderly and disabled.
19. **Medicare Secondary Payer Act (MSP)** is a federal statute that prohibits Medicare from providing benefits in situation where a primary payer, generally meaning some form of insurance, was identified as being responsible for providing such care.
20. **Medicare Set-Aside Allocation (MSA)** means funds within an IBA designated in an insurance settlement as being intend for the payment of medical expenses related to the insurance settlement that would otherwise be entitled to coverage through the Medicare program.
21. **MSA Vendor** means entity that specializes in the administration of medical accounts intended to protect parties to an insurance settlement from recovery actions by CMS under the Medicare Secondary Payer Act after an insurance settlement is finalized.
22. **Qualified Persons** refers to the Non Profit, Trustee, Investment Advisor, Administrator and MSA Vendor, and their successors, assigns, agents, subcontractors, directors, officers, employees and members.
23. **Reimbursement Claims** refers to the applicable claims or liens of any governmental agency which is entitled to reimbursement for benefits paid to or for the benefit of a Trust Beneficiary because of being a participant of the Trust.
24. **Remainder Amount** means all of the remaining funds, if any, in an IBA of a deceased Trust Beneficiary or an IBA that has been terminated.
25. **Required Documents** refers to any documents required to enroll and participate in the Trust, including the Joinder Agreement, Termination Agreement, and any other documents required by the Non Profit or the Trustee.
26. **Successor Trustee** means a Trustee that has been appointed to succeed the functions and obligations of the original, initial, or previous Trustee. The term applies to each Successor Trustee, but such Successor Trustee is referred to as a Trustee in this Declaration of Trust and the Trust created herein.
27. **Supplemental Services** are services that provide for the "special needs," "supplemental needs" and "supplemental care," of a Trust Beneficiary, and include non-support disbursements, and non-support needs and non-support care that are not provided by Government Assistance benefits.
28. **Termination Agreement** is the agreement that provides how assets remaining in a Trust Beneficiary's IBA shall be distributed at the death of a Trust Beneficiary or when the Trust Beneficiary's IBA is terminated during the lifetime of the Trust Beneficiary.

29. **Trust Application** means the application completed and signed by a Grantor when applying to enroll an individual as a Trust Beneficiary of the Trust.
30. **Trust Beneficiary** means a disabled person, as defined in § 1614(a)(3) of the Social Security Act (42 U.S.C. § 1382c(a)(3)), who qualifies under 42 U.S.C. § 1396p, and who is identified by a Grantor as the sole recipient of services and benefits from the assets in IBA created within this Trust for such disabled person.
31. **Trust Operating Account** means the account into which the Remainder Amount is paid when a Trust Beneficiary's IBA is terminated. This account is owned by the Non Profit and funds can be transferred to the Non Profit to be used by the Non Profit to carry out its not for profit and tax exempt purposes.
32. **Trust Remainder Share** means the amount of a Trust Beneficiary's IBA Remainder Amount retained by the Trust in the Trust Operating Account.
33. **Trustee** means the Non-Profit or independent corporate trustee acting as agent and trustee for the benefit of the Non-Profit to custody and administer trust assets pursuant to instructions that are for the sole benefit of the Beneficiaries participating in the Connecticut Charities Pooled Trust and that are in accordance with the terms of the Declaration of Trust and not contrary to state or federal law. All references to "Trustee" includes Trustees, Co-Trustee, Co-Trustees, Successor Trustees or Co-Successor Trustees as may be applicable and appointed by the Non-Profit.

**Remaining portion of this page intentionally left blank**

# Execution

IN WITNESS WHEREOF, the undersigned hereby subscribes and executes this Declaration of Trust on the date and year first written above.

## Charities Pooled Trust (Settlor and Trustee)

By: *[Signature]*  
Title: President

### Witness 1

Sign: *Marie Gallant*  
Print: Marie Gallant

### Witness 2

Sign: *Joann M. Reinhardt*  
Print: JOANN M. REINHARDT

State of Florida )  
County of Pinellas ) ss.:

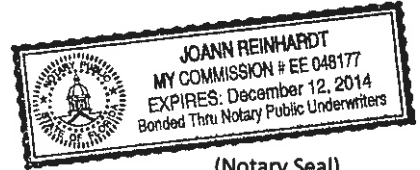
The foregoing Declaration of Trust by was sworn to and subscribed by the Charities Pooled Trust, Inc., ("Non Profit")  
by Daniel Clarr its President, before me this 2 day of  
February 2011, and who:

is personally known to me or

produced \_\_\_\_\_ as identification.

*Joann M. Reinhardt*

Notary of Public, State of Florida



(Notary Seal)