

## General Instructions For Completing This Joinder Agreement

---

---

***An Important Note to Grantors:*** Please read the entire Joinder Agreement carefully, including all of the exhibits. Some of the exhibits require you to provide the Trustee with specific information. The exhibits that require you to provide information are marked below with a star to their immediate left (\*). Your Agreement may not be accepted for administration until after the information requested has been received and reviewed. It is therefore extremely important that you follow all instructions carefully and exactly.

If you submit an Agreement that is incomplete or inaccurate, it may not be accepted. Please be aware that non- acceptance of your Agreement may cause delays in meeting eligibility requirements for your government assistance programs. At the very least, an incomplete Agreement can cause unnecessary delays. You can likely avoid these delays by carefully following all of the instructions on this sheet and the exhibits that follow. Do not leave any empty spaces; if a question does not apply to you, then indicate “N/A” in your response. Attach extra sheets of paper for any question if the provided space is inadequate. If you have any doubts about your ability to complete this Agreement properly, you should contact an attorney or other professional to help you before you begin.

***Any Law Firm engaged by the Trustee to aid in the administration of the Pooled Trust can not give you legal advice or a legal opinion. You are encouraged to seek independent legal counsel if you have any questions about the terms of this Agreement.***

---

---

1. Please be sure to include all of the following exhibits when you submit the Agreement. Some exhibits consist of information that you must provide when you submit the Agreement for review and acceptance. The exhibits that require you to provide information are marked below with a star next to them (\*) in the left-hand margin. Please be sure to provide complete information.

1.1 Exhibit “A,” *Declaration of Trust.*

\* 1.2 Exhibit “B,” *Grantor and Beneficiary Information.*

Please see Exhibit “B” for instructions on completing this part of the Agreement.

\* 1.3 Exhibit “C,” *Desires of Grantor for Use of Distributions From Trust During Lifetime of the Beneficiary.*

Please see Exhibit “C” for instructions on completing this part of the Agreement.

\* 1.4 Exhibit “D,” *Proof of Grantor’s Status to Establish Trust on Behalf of the Beneficiary.*

Please see Exhibit “D” for instructions on completing this part of the Agreement.

1.5 Exhibit “E,” *Disclaimer Regarding Legal Advice.*

2. After the Agreement is reviewed and accepted, you will receive a copy signed by the Trustee and a copy of the Declaration of Trust. If you need or want copies of the exhibits, please make them before submitting your Agreement for approval. You will also receive a package containing information about your Pooled Trust Sub-account, which will include copies of a simple form and instructions for requesting distributions from the Trust.
3. Please remember to enclose a check with your completed Agreement for whatever amount you are contributing to your Trust sub-account. The check should be made payable to: “The National Pooled Trust.”

**This Agreement is a binding legal document. You are encouraged to seek independent, professional advice before signing.**

Return your completed, signed and notarized Agreement, along with your check and completed Exhibits, to the Trustee at the following address:

The Center for Special Needs Trust Administration, Inc.  
4912 Creekside Drive  
Clearwater, FL 33760

Acceptance Date: \_\_\_\_\_

Trust sub-account number: \_\_\_\_\_  
(To be provided by Trustee)

*Top is For Office Use Only*

---

---

## NATIONAL POOLED TRUST JOINDER AGREEMENT

The undersigned, in consideration of the covenants, promises, and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby enrolls in and adopts the Declaration of Trust (the "Declaration of Trust"), executed by The Center for Special Needs Trust Administration, Inc. (the "Trustee"), and dated the 5th day of February, 2002, establishing The National Pooled Trust (the "Trust"), which is attached hereto as Exhibit "A" and incorporated herein by reference. The effect of joining the Trust through this Pooled Trust Joinder Agreement (the "Agreement") shall be to establish a Trust sub-account for the following named Beneficiary: \_\_\_\_\_. This Agreement, and the Trust sub-account created hereunder, shall be irrevocable upon acceptance of the Agreement by the Trustee and shall be established with resources, including assets and/or income, belonging solely and exclusively to the Beneficiary and/or the Beneficiary's spouse.

### Establishment of Trust

The Pooled Trust sub-account established through this Agreement, together with the Declaration of Trust attached hereto, is an OBRA 1993 Trust created pursuant to: 42 U.S.C. §1396p (d)(4)(C), amended August 10, 1993, by the Omnibus Budget Reconciliation Act of 1993 (OBRA 93); the Social Security Policy Operation Manual (POMS) SI 01120.203, *Exceptions to Counting Trusts Established on or after 1/1/00*; and all related State statutes, regulations, and/or rules.

### Article I Definitions

1.01 The term, "Trustee," means The Center for Special Needs Trust Administration, Inc., or its successor or successors, and such term includes any Co-trustee that may be appointed by the Trustee to aid in the administration of the Trust.

1.02 The terms, "supplemental needs," "supplemental care," and "government assistance" all have the same meaning that is defined in Article II of the Declaration of Trust.

1.03 The term "state" shall include, but not be limited to, the individual State where the Beneficiary resides, together with any and all such agencies, departments, sub-agencies, and/or contractors responsible for administering government assistance programs in the State where the Beneficiary resides, as the context might require or change from time to time.

## **Article II**

### **Distributions From Trust Sub-account During Life of Beneficiary**

Distributions from the Beneficiary's Trust sub-account may be made during the life of the Beneficiary in accordance with the provisions below.

2.01 Individualized Care Plan. At the Trustee's discretion, an individualized care plan shall be prepared for the Beneficiary, which the Trustee may consider, in its sole and absolute discretion, when reviewing requests for any distribution from the Beneficiary's Trust sub-account.

2.02 Benefit Solely for Beneficiary. The Beneficiary's Trust sub-account is established and shall be administered solely for the benefit of the Beneficiary.

2.03 Beneficiary to Receive Fair Market Value. This Joinder Agreement has been specifically established to comply with Section 3259.7, subsection B.2, of the State Medicaid Manual, *Exceptions to Treatment of Trusts Under Trust Provisions* ("Transmittal 64"), which is promulgated by the Centers for Medicaid & Medicare Services (CMS). As such, the Trustee shall administer the Beneficiary's Pooled Trust sub-account so that all of the resources placed in the sub-account are used to benefit the individual Beneficiary, and the sub-account shall purchase items and services for the individual Beneficiary at fair market value.

2.04 Discretion of Trustee; Use of Assets; Desires for Use of Assets. The Grantor recognizes and acknowledges that all distributions are subject to the Trustee's sole and absolute discretion, that the Trustee shall only make distributions solely for the Beneficiary's supplemental needs and supplemental care, and that the Trustee shall possess and exercise the authority to allocate all distributions between principal and income as it determines in its sole and absolute discretion. With this recognition and acknowledgment in mind, the Grantor has expressed the Grantor's desires as to how assets in the Trust sub-account might be used on behalf of the Beneficiary during the Beneficiary's lifetime.

2.05 Notice of Application; Acceptance, Denial; Termination of Benefits. In order to enjoy the benefits of the Trust to the fullest extent possible, the Beneficiary, or the Beneficiary's legal representative, shall be required to notify the Trustee whenever the Beneficiary: a) applies for government assistance; b) has an application for government assistance approved; c) has an application for government assistance denied; and/or, d) has government assistance terminated. Notice shall be in writing, by certified mail, return receipt requested, in care of the Trustee, The Center for Special Needs Trust Administration, Inc., at the address set forth in the General Instructions hereto, and which is also set forth on the last page of this Agreement, or at such other address as the Trustee may designate from time to time. Such notice to the Trustee shall be made within 10 (ten) days of the event that triggers the Beneficiary's duty to give notice under this paragraph 2.05. In no event shall the Trustee be liable for making disbursements which result in a reduction of government assistance, a termination of government assistance, or ineligibility for government assistance when the Trustee did not have actual notice of such government assistance, or other circumstances giving rise to such termination, reduction, and/or ineligibility, at the time such disbursements may have been made or requested, or when the Beneficiary or the Beneficiary's representative waives such liability in a signed writing.

### **Article III**

#### **Distributions Upon the Beneficiary's Death**

Any assets that remain in the Beneficiary's separate Trust sub-account at the Beneficiary's death shall be treated in accordance with the provisions below.

3.01 Assets in Trust. If any assets remain in the Beneficiary's separate Trust sub-account at the Beneficiary's death, such assets shall be deemed surplus Trust property and shall be retained by the Trust pursuant to all of the relevant and applicable provisions of 42 U.S.C. §1396p, including all related statutes, regulations, and/or rules.

3.02 Use of Retained Assets. In the Trustee's sole and absolute discretion, retained surplus Trust property shall be used:

- a) for the direct or indirect benefit of other Beneficiaries;
- b) to add disabled persons, as defined in 42 U.S.C. § 1382c(a)(3), who are indigent to the Trust as Beneficiaries; or,
- 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 Trustee.

Subject to all provisions herein, gifts or devises to the Trust shall be similarly treated unless a specific purpose is specified by the donor. To the extent that any surplus Trust property is not retained by the Trust pursuant to paragraph 3.01 above, such property shall be distributed to each State in which the Beneficiary received government assistance, based on each State's proportionate share of the total government assistance paid by all of the States on the Beneficiary's behalf. For all such purposes hereunder, the Trustee and all States where the Beneficiary received government assistance are clearly identifiable residual beneficiaries and have standing to challenge any attempt by the Beneficiary or any other party to revoke this irrevocable Agreement.

### **Article IV**

#### **Trustee Compensation**

The Trustee shall be entitled to a fee as compensation for its services according to its regularly published fee schedule as that schedule may be amended from time to time.

### **Article V**

#### **Miscellaneous Provisions**

5.01 Amendments. The provisions of this Joinder Agreement may be amended as the Grantor and the Trustee may jointly agree, provided any such amendment is consistent with the Declaration of

Trust and any then-applicable law. Additionally, the Trustee may also make any unilateral amendments as may be necessary to comply with any changes in the law and/or agency policy or for the proper and efficient administration of the Trust as determined in the Trustee's sole discretion without notice to the Beneficiary or the Beneficiary's representative. However, under no circumstance shall any amendment defeat the purpose and intent of this Agreement and/or the Trustee's affirmative duty to reimburse each state where the Beneficiary received government assistance when surplus trust property is not retained by the Trust, as that duty is set forth in paragraph 3.02 above.

5.02 Taxes. The Grantor acknowledges that: a) the Trustee has made no representations to the Grantor that contributions to the Trust are deductible as charitable gifts, or otherwise; b) Trust sub-account income, whether paid in cash or distributed in other property, may be taxable to the Beneficiary, subject to applicable exemptions and deductions; and, c) Trust sub-account income may be taxable to the Trust, and when this is the case, such taxes shall be payable directly from the Trust sub-account that requires such taxes to be paid. For the sole purpose of determining tax liability and having the Beneficiary's trust sub-account treated as a grantor trust, the Trustee may apply trust income to the payment of premiums on policies of insurance on the life of the Beneficiary without the approval or consent of any adverse party within the meaning of Section 672(a) of the Internal Revenue Code of 1986, as amended. For purposes of this paragraph 5.02, "trust corpus" shall have the same meaning as "trust sub-account" used elsewhere throughout this Joinder Agreement and the Declaration of Trust. Further, nothing in this paragraph 5.02 shall in any way affect or modify the intent and/or purpose of the Trust or any of the provisions found in this Joinder Agreement and/or the Declaration of Trust. The Trustee may make distributions directly to the taxing authority of any such amounts of income or principal of the Trust as may become necessary to satisfy the Beneficiary's tax obligations upon the Beneficiary making such request to the Trustee.

5.03 Testamentary Power of Appointment Over Residue. Subject to the provisions of Article III above, and all other relevant provisions, laws, and/or regulations requiring the Trustee to reimburse each state in which the Beneficiary received government assistance, the Beneficiary shall have the power, through his or her Last Will and Testament, and by making express reference to this power, to direct that part or all of the property remaining in the Trust may be delivered to such persons or their issue as the Beneficiary so directs. However, under no circumstances shall the Beneficiary have the power to direct that such property be delivered to: the Beneficiary; the Beneficiary's estate; the Beneficiary's creditors; or the creditors of the Beneficiary's estate. For purposes of this paragraph 5.03, the purpose of which is to prevent any gift tax liability, the term "property" refers to any such residual amounts as may remain after the Trustee follows the provisions set forth in Article III above.

5.04 Trustee's Duty Regarding Government Assistance Programs. In providing for the Beneficiary's special needs, and/or in making determinations regarding disbursements and/or distributions for the benefit of the Beneficiary's special needs, the Trustee shall always consider the government assistance for which the Beneficiary is currently eligible, or for which the Beneficiary may be attempting to become currently eligible, and the Trustee shall make no disbursements and/or distributions that would cause the Beneficiary to be or become ineligible for such government assistance. Distributions that the Trustee may or may not have made in the past because of less restrictive government assistance programs, more restrictive government assistance programs, or government assistance programs that the Beneficiary did not apply for, qualify for, and/or receive, shall not serve as

a pattern, or be construed to serve as a pattern, of any sort that establishes a duty or discretion in the Trustee to continue making such distributions, to continue refusing such distributions, or to make or to refuse such distributions in the future as the individual case may be. The Trustee shall have no discretion in this regard, and it shall be an absolute duty of the Trustee to follow the directions herein.

5.05 Information Concerning Grantor and Beneficiary. All information concerning the Grantor and the Beneficiary hereunder, as may be required by the Trustee, shall be provided by the Grantor. The Grantor hereby warrants that all information provided to the Trustee, both at the time of establishing the Beneficiary's sub-account and at all times thereafter, is true and complete to the best of the Grantor's knowledge as of the time of the Grantor providing such information. The Trustee and its Co-trustees, their employees and/or agents shall be entitled to rely on all such information in performing their duties hereunder toward the Grantor and/or the Beneficiary without being required to make further inquiry as to accuracy or completeness of such information. The sufficiency of such information shall be determined by the Trustee in its sole and absolute discretion, and the Trustee shall in no event be required to inquire further as to the accuracy, veracity, authenticity, or completeness of any information submitted by the Grantor.

5.06 Appointment of Advocate or Advisor. The Trustee may appoint and retain an advocate and/or advisor for the express purpose of assisting the Trustee in evaluating trust disbursements and evaluating the Beneficiary's special needs. The Trustee shall compensate any such advocate and/or advisor from the Trust estate at a rate equal to the usual and customary fee for such services, provided such fees are reasonable and appropriate in the Trustee's sole discretion.

5.07 Governing Law. This Joinder Agreement is created under, and governed exclusively by, the choice of law set forth in §10.3 (as may be amended from time to time) of the Declaration of Trust, attached hereto as Exhibit "A" and is explicitly adopted and incorporated herein by reference.

5.08 Additional Information Concerning Distributions. At the death of the Beneficiary, the Trustee shall wind up the affairs of the Trust in a manner that is consistent with the Social Security Program Operations Manual POMS SI 01120.203 B.1.f.; SI 01120.203 B.2.g.; and, SI 01120.203 B.3 ("POMS"), as such POMS currently provide and/or as they may be amended or replaced from time to time in the future. The Trustee shall have the sole and independent discretion to claim any tax deductions useful to reduce the tax paid by the Trust.

5.09 Dispute Resolution. Any dispute which may arise between the parties hereto, including the Beneficiary, concerning any matter related to or arising from this Joinder Agreement and/or the Trust, shall be resolved exclusively by binding arbitration between the parties. Said arbitration shall be conducted pursuant to the then-obtaining arbitration rules of the American Arbitration Association. The arbitration shall be conducted in Clearwater, Florida, at a location to be designated by the arbitrator(s), or such other location as may be mutually agreed by the parties.

5.10 Authority of Grantor to Contribute on Behalf of Beneficiary. The Grantor shall furnish to the Trustee such proof as the Trustee, in its sole and absolute discretion, may require in order to satisfy itself that the Grantor has the requisite status under law to contribute to the Trust on behalf of the Beneficiary. The sufficiency of such proof shall be determined by the Trustee in its sole and absolute

discretion. Further, such proof shall be deemed to be conclusive evidence that the Grantor enjoys the requisite status to contribute. The Trustee shall in no event be required to inquire further as to the accuracy, veracity, authenticity, or completeness of any proof submitted by the Grantor.

5.11 Agreement Understood by Grantor. The Grantor hereby agrees to and acknowledges that the Grantor:

- a) has reviewed this Joinder Agreement and fully understands its terms;
- b) has had a full, complete, and fair opportunity to seek the advice of legal counsel concerning this Joinder Agreement, whether or not the Grantor has done so;
- c) agrees to be bound by the terms of this Joinder Agreement, and said Agreement is binding on the Grantor's heirs, successors, and assigns; and,
- d) is not executing this Joinder Agreement because of any promises, covenants or representations other than those contained in this Joinder Agreement and the Declaration of Trust.

5.12 Agreement Constitutes Entire Understanding Between Parties. This Joinder Agreement, together with the Declaration of Trust attached hereto as Exhibit "A" and incorporated herein by reference, constitutes the entire understanding between the parties. No promises, agreements or representations, expressed or implied, have been made, except those contained in this writing, and all corrections and additions hereto shall be in writing, specifically designated as an addition or amendment to this Joinder Agreement, and signed by the parties.

5.13 Severability. Any provision of this Joinder Agreement that is adjudged invalid or unenforceable under the laws of any place where the terms of the Agreement are to be performed, or are sought to be enforced, shall be deemed inoperative without invalidating such provision elsewhere or any of the other provisions of this Agreement.

5.14 Section Headings. Section headings are for purposes of convenience only and shall have no bearing on the interpretation of any provision of this Joinder Agreement or the Declaration of Trust.

5.15 Rules of Construction. In entering this Joinder Agreement, it is the intent of the Trustee to comply fully with 42 U.S.C. §1396p (d)(4)(C), amended August 10, 1993, by the Omnibus Budget Reconciliation Act of 1993, the Social Security Policy Operation Manual (POMS) SI 01120.203, *Exceptions to Counting Trusts Established on or after 1/1/00*, together with any and all State statutes and/or State Medicaid rules and regulations as they relate to determining public assistance eligibility and the availability of trusts. As such, this Joinder Agreement shall be construed as broadly as possible to meet this purpose, and any ambiguities, including but not limited to any perceived conflict with the Declaration of Trust, that may be identified during the administration of the Trust sub-account relative to the Trustee and/or any reviewing agency shall be resolved in favor of achieving this broad objective of compliance.

IN WITNESS WHEREOF, the undersigned Grantor has signed this Joinder Agreement on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and the Trustee has accepted and signed this Joinder Agreement on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

GRANTOR'S SIGNATURE

\_\_\_\_\_  
Grantor Signature

\_\_\_\_\_  
Please Print Name

Address: \_\_\_\_\_  
\_\_\_\_\_

WITNESS SIGNATURES (2)

1. \_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Please Print Name

Address: \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Please Print Name

Address: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ ))  
COUNTY OF \_\_\_\_\_ ))

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ who [ ] is personally know by me, or who [ ] produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

**The Center for Special Needs  
Administration, Inc., Trustee**

**WITNESS SIGNATURES (2)**

By: \_\_\_\_\_

1. \_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Please Print Name  
Address: The Center for Special Needs  
Trust Administration, Inc.  
4912 Creekside Drive  
Clearwater, FL 33760

\_\_\_\_\_  
Please Print Name  
Address: \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Please Print Name  
Address: \_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_ ))  
COUNTY OF \_\_\_\_\_ ))

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_ who [ ] is personally know by me, or who [ ] produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public