

IRREVOCABLE JOINDER AGREEMENT
for the
UMBRELLA SPECIAL NEEDS POOLED TRUST
Corporation of Guardianship, Trustee

This IRREVOCABLE JOINDER AGREEMENT is entered into by and between CORPORATION OF GUARDIANSHIP, (Hereinafter “COG” or “TRUSTEE”), and **BENEFICIARY** (Hereinafter “ESTABLISHOR” and “BENEFICIARY”) this ____ day of _____, 2023.

A. Umbrella Pooled Trust and Joinder Agreement:

1. **Umbrella Pooled Trust.** Corporation of Guardianship established its Umbrella Pooled Trust (hereafter “Umbrella Pooled Trust”), on December 9, 2003. Its terms were modified by court order dated May 15, 2023. A copy of the Modified Umbrella Pooled Trust is attached as Exhibit A and incorporated herein by reference as if fully set out. Corporation of Guardianship (hereafter “CoG”), a non-profit organization, is the designated Trustee.
2. **Joinder Agreement.** A Joinder Agreement is CoG’s authorized vehicle by which a court, parent, grandparent, legal guardian or individual can establish a sub-account under the Umbrella Pooled Trust. This Joinder Agreement may be modified from time to time to comply with changes in public benefit or other applicable laws and policies.
3. **Governing Law.** The Umbrella Pooled Trust and Joinder Agreement are governed by the provisions of federal law, 42 U.S.C. §1396p, amended August 10, 1993, by the Omnibus Budget Reconciliation Act of 1993, and by applicable state law that is not in conflict with the federal law. To the extent there is conflict between the terms of the Umbrella Pooled Trust or this Joinder Agreement and any governing laws, the governing laws and regulations shall control.
4. **Applicable Policy.** The laws governing the Umbrella Pooled Trust and Joinder Agreement are interpreted by various public benefit programs in their own administrative manuals. For example, the SSA interprets the laws through their POMS and each state’s Medicaid program interprets the laws through that state’s Medicaid manual. To the extent any administrative agency finds the terms of the Umbrella Pooled Trust or this Joinder Agreement to be out of compliance with applicable law or their administrative policy, the Trustee is authorized to modify the trust documents to comply with agency policy; however, the Trustee is also authorized, in its sole discretion, to challenge the agency’s determination through an administrative appeal process and/or have the trust documents reviewed by a court for guidance.

5. **Irrevocability.** Both the Umbrella Pooled Trust and this Joinder Agreement are irrevocable and cannot be changed except as permitted pursuant to the terms of the trust or applicable law.

B. Enrollment in the Umbrella Pooled Trust / Adoption of Joinder Agreement Terms:

By executing this Joinder Agreement, the undersigned ESTABLISHOR hereby enrolls the BENEFICIARY in COG's Umbrella Pooled Trust as shown in the attached Exhibit A and adopts the terms of this Joinder Agreement.

C. ESTABLISHOR Information:

Select One: Self / Parent/ Grandparent / Legal Guardian / Court Name:

Name:

Address:

Phone:

Email:

D. BENEFICIARY Information:

1. Contact Information

- Name:
- Address:
- Phone:
- Email:
- BENEFICIARY's disability:

2. Identification Information:

- Please Provide a Copy of the Beneficiary's State Issued Photo ID
- Date of Birth:
- Full SSN:

3. Benefits Information:

- Sources of Income
 - SSI payment amount:
 - SSDI payment amount:
 - SNAP payment amount:
- Health Insurance
 - Medicaid -- Account number:
 - Medicare -- Account number:
 - Other Company, group, and ID --

E. Information Regarding BENEFICIARY's Legal Representative:

Please provide contact information and legal documentation for anyone authorized to serve as a legal representative on behalf of the Beneficiary.

- Legal Role:
- Name:
- Address:
- Phone:

F. Source and Amount of Trust Sub-Account Funding:

Source:

Approximate value of assets funding sub-account:

G. Trust Sub-Account Distributions to Beneficiary:

Distributions of principal and income from the Trust sub-account will be made on behalf of the BENEFICIARY in COG's sole and absolute discretion pursuant to the terms of the Umbrella Pooled Trust. All distributions will be for the sole benefit of the BENEFICIARY and shall take into account the BENEFICIARY's special needs.

In addition, if the Trust sub-account receives funds from a representative payee in the form of social security disability (including DAC) or supplemental security income benefits, all such funds and any income and growth on such funds ("Rep Payee Funds") shall be used as follows:

1. The Rep Payee Funds will be used to provide for the beneficiary's current and reasonably foreseeable needs.
2. The Rep Payee Funds will only be used for purposes that would be permitted by a representative payee on behalf of the Beneficiary.

H. Distributions of Funds Remaining in the Trust sub-account upon its Termination:

1. Because sub-accounts are funded with the BENEFICIARY's own funds, the termination of any Trust sub-account must comply with 42 U.S.C § 1396p(d)(4)(C) and any applicable state law not in conflict with the federal law. Pursuant to governing law, assets remaining in a Trust sub-account at its termination may be retained by COG. To the extent COG does not retain all of the remaining funds in the Trust sub-account, any assets remaining in the Trust sub-account are subject to a reimbursement claim by the State for any Medicaid benefits paid on the Beneficiary's behalf.

2. Upon the termination of this Joinder Agreement and Trust sub-account, distributions shall be made to the following individuals or entities:
 - a. First, unless otherwise limited by law, COG may retain 100% of the funds remaining in the Trust sub-account at the termination of the joinder agreement. If retention is limited by law, COG may retain the maximum amount allowed by law.
 - i. Alternatively, in its sole and absolute discretion, COG may elect to retain less than 100% of the funds remaining in the trust sub-account at termination (or the maximum amount allowed by law). For example, COG may establish a retention schedule whereby it retains a percentage of remaining trust sub-account funds on a sliding scale, correlating to the number of years the beneficiary's funds were held in trust.
 - ii. In the event COG chooses to retain less than 100% of the funds remaining in the trust sub-account at termination (or the maximum amount allowed by law), COG may retain any percentage of the funds remaining in the trust sub-account, in its sole and absolute discretion, to the extent such retention is not prohibited by law.
 - b. Second, if COG retains less than 100% of the funds remaining in the Trust sub-trust account balance upon trust termination, Corporation of Guardianship shall repay Medicaid an amount up to that amount remaining in the sub-account. However, the amount paid to Medicaid shall not be more than the total amount of medical assistance paid on behalf of the BENEFICIARY, and in no event shall the amount be greater than the minimum amount required by law to satisfy any claim Medicaid may have against the remaining sub-trust assets.
 - c. Third, after any retention by COG and any payment to Medicaid, all remaining funds, if any, shall be distributed in accordance with any limited power of appointment exercised by the BENEFICIARY (as stated in the UMBRELLA POOLED TRUST Instrument). In the event no legal document exercising this limited power of appointment is presented to the Trustee within 60 days of the Beneficiary's death, the remaining trust assets shall be retained by COG.

I. Trust Advisory Committee for Sub-Account:

1. The TRUSTEE may from time to time convene a Trust Advisory Committee (hereinafter "TAC") for the purpose of making recommendations and advising the

Trustee as to distributions that would be in the BENEFICIARY's best interests, but without the power to override the Trustee's sole and absolute discretion.

2. Once convened, the TAC shall advise the TRUSTEE regarding distributions for supportive services (e.g. professional care management, supplemental attendant care, therapy, educational assistance), any major purchases (e.g. home or an automobile), or any other disbursement request presented by the TRUSTEE for TAC consideration.
3. The TRUSTEE shall give consideration to any recommendations and advice provided by the TAC, but is under no duty to follow any guidance received from the TAC. The Trustee is not required to convene a TAC or consult with an existing TAC prior to making distributions of trust funds or for any other purpose. This Section in no way affects the sole and absolute discretion of the Trustee under this agreement.
4. The TAC has no authority to amend any provision of the Umbrella Pooled Trust or this Joinder Agreement. The TAC has no duty to monitor or supervise any Trustee or trust sub-account created under this agreement. The TAC is entitled to view trust accounting records upon request to the extent reasonable to provide advice on trust distributions.
5. The TAC members shall be selected by the TRUSTEE and shall include individuals with knowledge and experience assisting persons with disabilities and/or individuals who are familiar with the beneficiary's needs specifically. Such individuals are likely to include some combination of the following: the beneficiary's legal representative, care providers, natural supports, representative(s) of the trustee, and when appropriate, the beneficiary. At least one member of the TAC must be familiar with Medicaid and other programs of public benefits as well as the BENEFICIARY's service needs.
6. Service on the TAC is an advisory capacity role only; it is not a fiduciary role. No TAC members will be compensated for services rendered in such capacity. However, every TAC member is entitled to reimbursement for reasonable costs and expenses incurred in connection with TAC duties under this agreement.
7. No member of the TAC may be held liable for the negligent or fraudulent action of any other committee member, nor for the negligent or fraudulent action of the TRUSTEE. And the TRUSTEE may not be held liable for the negligent or fraudulent action of any TAC member.

J. Trust Protector:

ESTABLISHOR may appoint a Trust Protector. The Trust Protector has the power to demand that TRUSTEE transfer BENEFCIARY's Trust Sub-Account to another pooled special needs trust that complies with 42 U.S.C. §1396p(d)(4)(C) or to an individual special needs trust that complies with 42 U.S.C. §1396p(d)(4)(A). Neither BENEFCIARY nor BENEFCIARY's spouse may be appointed as Trust Protector. An appointed Trust Protector is ESTABLISHOR's designee for purposes of receiving notices under N.C. Gen. Stat. § 36D.

1. Trust Protector

Name:

Address:

Phone:

Email:

Relationship to BENEFCIARY:

2. Successor Trust Protector

(to serve if named Trust Protector fails or ceases to serve)

Name:

Address:

Phone:

Email:

Relationship to BENEFCIARY:

3. Second Successor Trust Protector

(to serve if Successor Trust Protector fails or ceases to serve)

Name:

Address:

Phone:

Email:

Relationship to BENEFCIARY:

K. Fees and Expenses:

ESTABLISHOR agrees that the BENEFCIARY will be responsible for paying all fees in accordance with the TRUSTEE's published fee schedule at the time services are rendered. The current fee schedule is attached to this Joinder Agreement as Exhibit B and may be amended from time to time. Additionally, ESTABLISHOR agrees that the TRUSTEE can be reimbursed for any reasonable expenses incurred in the fulfillment of its duties. All fees and expenses may be paid from the Trust sub-account without prior notice to or approval of the BENEFCIARY.

L. Acknowledgments by ESTABLISHOR on behalf of the BENEFICIARY:

1. ESTABLISHOR acknowledges and confirms that any and all distributions from the Trust sub-account, whether from principal or income, will be distributed at the sole and absolute discretion of the TRUSTEE.
2. ESTABLISHOR acknowledges and confirms that the Trust sub-account is for the supplemental needs and supplemental care of the BENEFICIARY and is not a support trust.
3. ESTABLISHOR acknowledges and confirms that this Trust sub-account is for the sole benefit of the BENEFICIARY.
4. ESTABLISHOR acknowledges and confirms that this Joinder Agreement may be unilaterally amended by the TRUSTEE to comply with any changes in the law 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 Legal Representative.
5. ESTABLISHOR acknowledges and confirms that the TRUSTEE may conclusively rely upon the BENEFICIARY or his/her Legal Representative to identify and apply to programs that may be of social, financial, developmental or other assistance to the BENEFICIARY.
6. ESTABLISHOR acknowledges and confirms that the TRUSTEE, in its discretion, may engage professionals to assist the trustee in exercising its duties and may charge the BENEFICIARY's Trust sub-account for these services. Such professionals may include accountants, attorneys, health care professionals, social workers, life care planners, care managers, etc.
7. ESTABLISHOR recognizes and acknowledges the uncertainty and changing nature of the guidelines, laws, and regulations pertaining to governmental benefits and ESTABLISHOR confirms that the TRUSTEE will not in any event be liable to any Grantor, Beneficiary, or any other party for any loss of benefits as long as the TRUSTEE acts reasonably and in good faith.
8. ESTABLISHOR acknowledges and confirms that the TRUSTEE, its agents and employees, as well as their agents' and employees' heirs and legal and personal representatives, shall not in any event be liable to any Grantor, Beneficiary, or any other party for its acts as TRUSTEE so long as the TRUSTEE acts reasonably and in good faith.

- 9. ESTABLISHOR acknowledges and confirms that any modification of this Joinder Agreement does not change the irrevocable nature of the sub-account established for the BENEFICIARY in the Corporation of Guardianship, Inc. Umbrella Pooled Trust.
- 10. ESTABLISHOR acknowledges and confirms that the BENEFICIARY has no interest, rights, or control over any assets contributed to the Trust Sub- Account or any interest or income earned thereon.
- 11. ESTABLISHOR acknowledges that the BENEFICIARY has been advised to have Corporation of Guardianship, Inc. Umbrella Pooled Trust and this Joinder Agreement reviewed by his or her own attorney prior to the execution of this Joinder Agreement and that the BENEFICIARY or his/her Legal Representative has reviewed and understands to his or her satisfaction the legal, economic and tax effects of the Umbrella Pooled Trust and this Joinder Agreement.

M. Legal Counsel:

The attorney reviewing or advising the BENEFICIARY on executing this Joinder Agreement is: **ATTORNEY, NAME OF FIRM.**

IN WITNESS WHEREOF, the undersigned ESTABLISHOR and BENEFICIARY has reviewed and signed this Joinder Agreement, understands it and agrees to be bound by its terms, and the TRUSTEE has accepted this Joinder Agreement, and all parties declare the Joinder Agreement to be effective as of the date first above written.

ACKNOWLEDGMENT BY ESTABLISHOR / BENEFICIARY

By: _____
 Printed Name of Establisher

STATE OF NORTH CAROLINA

COUNTY OF _____

On this _____ day of _____, 2023, personally appeared before me, **ESTABLISHER** and being by me duly sworn, says that s/he executed the foregoing and annexed instrument.

(SEAL)

 Official Signature of Notary Public

My Commission Expires: _____

ACCEPTANCE BY TRUSTEE

Corporation of Guardianship, Trustee

By: _____
DORIAN SYLVESTER, Executive Director

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

On this _____ day of _____, 2023, personally appeared before me, DORIAN SYLVESTER, who acknowledged that she is the Executive Director of Corporation of Guardianship, and is authorized to execute this instrument accepting the position of Trustee.

(SEAL)

Official Signature of Notary Public
My Commission Expires: _____

SAMPLE