

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

*Top is For Office Use Only*

## **THE SOUTH FLORIDA 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 Arc of South Florida Pooled Trust, Inc. (the "Trustee"), and dated the \_\_\_\_ day of \_\_\_\_\_, 2007, establishing The South Florida 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.

### **Article I Definitions**

1.01 The term, "Trustee," means The Arc of South Florida Pooled Trust, Inc., or its successor or successors, and such term includes the Co-trustee appointed to administer the Trust, if any.

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

### **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. An individualized care plan may be established for the Beneficiary, which the Trustee shall consider, in its sole and absolute discretion, when reviewing a request for any distribution from the Beneficiary's Trust sub-account.

2.02 Benefit Solely for Beneficiary. The Beneficiary's Trust sub-account will be administered solely for the benefit of the Beneficiary.

2.03 Distributions Pending Preparation of an Individualized Care Plan. Pending the final

preparation of an individualized care plan established for the Beneficiary, if applicable, any nonsupport items that are required for maintaining the Beneficiary's health, safety, and welfare may be provided for the benefit of the Beneficiary when, in the sole and absolute discretion of the Trustee, such needs are not being met by any public agency, or are not otherwise being provided by any other source of income available to the Beneficiary.

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. Said expressions are contained in Exhibit "C" attached hereto and incorporated herein.

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 trust administrator at the address set forth on page 6 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 as a condition to receiving a disqualifying distribution.

### **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.

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 who are Beneficiaries, as defined in 42 U.S.C. § 1382c(a)(3), with equipment, medication, or services deemed suitable for such persons by the Trustee.

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.

3.03 The Trustee shall not allocate any amounts remaining in the Trust after a Beneficiary's death pursuant to section 3.02 above to the general operating fund of the Trustee which could be used for purposes unrelated to the Trust or Beneficiaries.

#### **Article IV Trustee Compensation**

The Trustee shall be entitled to a fee as compensation for its services as set forth in Exhibit "F" attached hereto and incorporated herein. Said fee may be amended from time to time by the Trustee upon notice to the beneficiaries.

#### **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. Under no circumstance shall an amendment defeat 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.

5.03 Additional Information Concerning Grantor and Beneficiary. Additional 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 such information 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 such information in performing their duties hereunder toward the Grantor and/or the Beneficiary without being required to make further inquiry as to the accuracy, veracity, authenticity, or completeness of such information. The sufficiency of such information shall be determined by the

Trustee in its sole and absolute discretion.

5.04 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 explicitly adopted and incorporated herein by reference.

5.05 Additional Information Concerning Distributions. Subject to the Trustee’s sole and absolute discretion, the Trustee may make distributions for the purpose of satisfying the Beneficiary’s funeral expenses, tax liabilities, and/or other such expenses relating to the Beneficiary’s last illness and death.

5.06 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 Miami, Florida, at a location to be designated by the arbitrator(s).

5.07 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.

5.08 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.

5.09 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.

5.10 Conflict Between Documents. To the extent that any conflicts may arise between this Agreement and the Declaration of Trust, the terms of the Declaration of Trust shall control. In the event any addenda to this Agreement are executed by the parties and a conflict arises between said addenda and the Declaration of Trust, the terms of the addenda shall control.

5.11 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.

5.12 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.

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

WITNESS SIGNATURES (2)

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

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

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

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

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

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

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

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

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

STATE OF FLORIDA                    ))  
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 Arc of South Florida Pooled Trust, Inc.,  
Trustee**

WITNESS SIGNATURES (2)

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

1. \_\_\_\_\_

Witness Signature

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

2. \_\_\_\_\_

Witness Signature

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

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

STATE OF FLORIDA                    ))  
COUNTY OF MIAMI-DADE        ))

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

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

Exhibit "A"

Declaration of Trust Goes Here

## Exhibit "B"

### Grantor and Beneficiary Information

Please be as thorough as possible when completing this section. This information is necessary for administering the Trust for the Beneficiary's best possible interest.

#### Grantor Information

(This is the person who will sign the Joinder Agreement)

Name:	
Address:	
Telephone:	(day) _____ (evening)
Birth date:	
Social Security Number:	
Relationship to Beneficiary:	

#### Beneficiary Information

(This is the person who will be a Beneficiary of the Pooled Trust)

Name:	
Address:	
Telephone:	(day) _____ (evening)
Birth date:	
Social Security Number: Medicaid Card Number:	
	<i>If the Beneficiary is a Minor, Please Provide:</i>
Mother's Name:	_____ SS#
Father's Name:	_____ SS#

Grantor's Initials \_\_\_\_\_

Does the Beneficiary have a legal representative? \_\_\_ Yes. \_\_\_ No. If yes, please provide the representative's name, address, telephone number, and relationship to the Beneficiary.

Name:	
Address:	
Telephone:	(day) _____ (evening) _____
Relationship:	

Please circle the description that best describes the correct legal relationship:

Legal Guardian	Conservator	Representative Payee	Power of Attorney	
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Other (please explain)

What is the specific nature of the Beneficiary's disability? Also, if the Beneficiary's condition has been medically diagnosed, what is that diagnosis?

What is the Beneficiary's current prognosis?

### Government Assistance

Please indicate all forms of government assistance that the beneficiary receives.

Social Security .....	Yes _____	No _____	Not Sure
Supplemental Security Income (SSI) .....	Yes _____	No _____	Not Sure
Institutional Care Program (Long Term Nursing Home Care) .....	Yes _____	No _____	Not Sure

Medically Needy Program ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure  
 MEDS-AD ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure  
 Medi-Kids ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure  
 Protected Medicaid ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure  
 Home or Community  
 Based Medicaid Waiver Programs ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure  
 Optional State Supplementation (OSS) ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure  
 Home Care for the  
 Elderly and Disabled (HCE/DA) ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure  
 Food Stamps ..... Yes \_\_\_\_\_ No \_\_\_\_\_ Not Sure

List any other government assistance that the Beneficiary receives or has applied for:

List all forms of government assistance which have been denied or discontinued to the Beneficiary, including the approximate dates:

**Insurance Information**

If the Beneficiary is covered under any policy of health care insurance, please provide the insurer's name, address, and the policy number.

Insurer:	
Address:	
Policy Number:	

If the Beneficiary is covered under any prepaid funeral or burial insurance, please provide the insurer's name, address, and the policy number.

Insurer:	
Address:	
Policy Number:	

## Exhibit "C"

### Desires of Grantor for Use of Distributions From Trust Sub-Account During Life of Beneficiary

Please be as thorough as possible when completing this section. This information is potentially very important when authorizing requests for distributions.

A) Please explain how you would like to see assets in the Beneficiary's Pooled Trust account used to improve the Beneficiary's quality of life. You may provide this explanation in any way that makes sense given your particular circumstances.

B) If possible, please provide the name and address of anyone who can be consulted if reassessing the Beneficiary's supplemental needs becomes useful or necessary in the future. Examples might include family members, a care manager, or even a care management company.

## Exhibit “D”

### Proof of Grantor’s Status to Establish Trust on Behalf of Beneficiary

Under current law, only the beneficiary’s parents, grandparents, legal guardian, the beneficiary himself or herself, or someone acting at the direction of a court may establish the Trust on behalf of the beneficiary. If you are anyone other than the beneficiary, then please include documents that verify that you fall within one of these permissible categories.

#### **ALL GRANTORS MUST PROVIDE A PHOTOCOPY OF THEIR DRIVER’S LICENSE OR OTHER PHOTO IDENTIFICATION**

**In addition to the Grantor’s photo I.D.**, the list below illustrates the types of documents that must be submitted to establish the Grantor’s relationship to the Beneficiary and/or the status to contribute to the Trust.

- |                                |   |
|--------------------------------|---|
| 1. Beneficiary as the Grantor. | Your photo I.D. will be enough.   |
| 2. Parent(s) as Grantors.      | Include a copy of your son or daughter’s birth certificate.   |
| 3. Grandparent(s) as Grantors. | Include a copy of your son or daughter’s birth certificate and a copy of your grandchild’s birth certificate.                       |
| 4. Legal Guardian as Grantor.  | Include copies of your Letters of Guardianship.   |
| 5. Court as Grantor.           | If you are acting at the direction of a Court, include a copy of the Court Order that directs you to execute the Joinder Agreement. |

The documents listed above are examples only and are not intended to be exhaustive or all inclusive. Any document that establishes the Grantor’s relationship to the Beneficiary, and the status to establish the Trust on behalf of the Beneficiary, will be sufficient. Please note, however, that the documents provided must clearly and unequivocally establish the Grantor’s status.

Exhibit "E"

Disclaimer Regarding Legal Advice

BY MY SIGNATURE below, I freely and openly acknowledge that:

1) Neither the Trustee, nor any of its employees and/or agents, including the Trust Administrator, have offered or given me any legal advice regarding the Joinder Agreement and/or the Trust;

2) neither the Trustee, nor any of its employees and/or agents, including the Trust Administrator, have offered or given me any legal advice regarding the Joinder Agreement and/or the Trust regarding the suitability of the Joinder Agreement and/or the Trust as it may apply to my particular circumstances;

3) neither the Trustee, nor any of its employees and/or agents, including the Trust Administrator, have offered or given me any legal advice regarding the Joinder Agreement and/or the Trust regarding the suitability of the Joinder Agreement and/or the Trust as it may apply to the particular circumstances of the Beneficiary; and,

4) I have been encouraged to, and have had a full, complete, and fair opportunity to seek independent legal counsel, whether or not I have chosen to do so.

Dated the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Grantor

## Exhibit "F" Trustee Fees

1. Annual Fee.

(A) The annual Trustee fee as of the date the Agreement is accepted and approved shall be a total of 3.15% of the assets held in the Beneficiary's Pooled Trust sub-account, and a prorated annual Trustee fee shall be deducted and earned upon creation of the Beneficiary's sub-account. Thereafter, the annual Trustee fee shall be calculated as of July 1 of each subsequent year. The annual Trustee fee shall be paid in advance each year (or portion thereof) and is deemed earned by the Trustee upon payment. Under those circumstances when income is assigned to, and/or deposited in, the Beneficiary's sub-account, the annual projected income shall be taken into account and used to value and arrive at the total assets held in the Beneficiary's sub-account, each year following payment of the initial annual Trustee fee.

(B) The annual Trustee fee covers administrative services, custodial services, and investment management services. The annual Trustee fee does not cover or include charges or fees for the following items which may be requested by and/or provided on behalf of beneficiaries: overnight delivery services; stop payment charges; early pay out charges; commissions or similar charges incurred incident the management of the assets of the trust; bill payment services; similar charges or fees to those set forth herein; and/or any and all other extraordinary charges which may be incurred by the Trustee, co-trustee, money manager and/or custodian. Said charges or fees may be incurred and/or authorized by the Trustee on behalf of a beneficiary or beneficiaries at the Trustee's sole and absolute discretion and shall be debited to a beneficiary's sub-account, as appropriate, at the direction of the Trustee and without requiring the authorization, consent or foreknowledge of the grantor and/or beneficiary affected.

2. Administrative Fee. A one-time administrative fee of TBD for setting up the Beneficiary's Trust sub-account.

3. Support Coordinator/Care Manager Fees. Hourly fees for such services will be paid out of the Beneficiary's sub-account, if, and only if, the Grantor requests that such payments be made. In no event will the sub-account of any Beneficiary be assessed for such fees when that Beneficiary has not received and requested such services.