

**AMENDED AND RESTATED
AS OF JUNE 8, 2007
UTAH SUPPLEMENTAL NEEDS ASSISTANCE POOLED FUND, INC.
MASTER POOLED TRUST**

THIS MASTER POOLED TRUST AGREEMENT ("Agreement"), as amended, is made this 8th day of June, 2007, by and between Utah Supplemental Needs Assistance Pooled Fund, Inc. ("Utah SNAP Fund"), as Settlor, and Utah Supplemental Needs Assistance Pooled Fund Inc., as Trustee (the "Trustee").

P R E A M B L E

WHEREAS, the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) provided that trusts established and managed by non-profit corporations and meeting certain other requirements may be established to pool funds for the benefit of persons with disabilities; and

WHEREAS, Utah SNAP Fund intends to establish and manage a master pooled trust (the "Trust") for the convenience of individual grantors ("Grantors") who qualify and who wish to establish a sub-account within the Trust; and

WHEREAS, a Grantor may designate a beneficiary of the Trust by executing a Joinder Agreement that is approved by Utah SNAP Fund that incorporates this Agreement by reference; and

WHEREAS, Utah SNAP Fund has transferred to the Trustee the assets listed on Appendix 1 and wishes to establish the Trust solely to further Utah SNAP Fund's program to provide benefits for persons with disabilities, as provided by this Agreement; and

WHEREAS, the Trustee agrees to hold, administer, and distribute the income and principal of the Trust in accordance with the terms and provisions of this Agreement.

NOW, THEREFORE, IT IS AGREED that the Utah Supplemental Needs Assistance Pooled Fund Master Pooled Trust is hereby established and that the Trustee shall receive, administer, and disburse assets of the Trust as set forth in this Agreement.

**ARTICLE I
NAME OF THE TRUST**

1.1 Name of Trust. The name of this Trust shall be the Utah Supplemental Needs Assistance Pooled Fund, Inc. Master Pooled Trust.

1.2 Other Terms Used. "Trust" shall mean the trust established by this agreement. "The Fund" or "Utah SNAP Fund" shall mean the Utah Supplemental Needs Assistance Pooled Fund, Inc., a Utah non-profit corporation.

ARTICLE II
DEFINITIONS

2.1 "Manager" shall mean the Utah Supplemental Needs Assistance Pooled Fund, Inc. or any successor as provided in § 8.4.

2.2 "Beneficiary" shall mean a person with disabilities for whom a sub-account is established within the Trust.

2.3 A "person with disabilities" shall mean 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, amended August 10, 1993, by OBRA '93, to be a recipient of services and benefits under this Trust. If the Social Security Administration or any authorized governmental entity has not made a determination that the Beneficiary is a disabled person, the Trustee is authorized to accept such Beneficiary within its discretion if the Manager has made a determination that the Beneficiary is a disabled person, as defined in 42 U.S.C. § 1382c(a)(3). Notwithstanding such a determination by the Manager the Beneficiary will still be required to qualify under the law when application for benefits is made.

2.4 "Grantor" shall mean a parent, grandparent, or Guardian of a Beneficiary, a Beneficiary himself or herself, any court, or any other person or entity that establishes a sub-account within the Trust for the benefit of a Beneficiary using the Beneficiary assets.

2.5 "Guardian" shall mean a legal 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 legal representative or fiduciary of a Beneficiary.

2.6 "Primary Representative" shall mean the person named in the Joinder Agreement with whom the Manager is authorized to communicate regarding the Beneficiaries' interests.

2.7 "Sub-Account" shall mean the financial account within the Trust maintained for the benefit of an individual Beneficiary and shall be equal to the initial value of the assets contributed on the Beneficiary's behalf by the Grantor less disbursements made on behalf of the Beneficiary, increased by the sub-account's proportionate share of trust earnings and appreciation, less the sub-account's allocable share of taxes, expenses, depreciation, and fees as set forth in the Joinder Agreement.

2.8 "Joinder Agreement" shall mean that document adopted by the Grantor which provides information about the Beneficiary, the Grantor, the Guardian (if any), and the Primary Representative of the Beneficiary, as well as information about disbursements from the Beneficiary's sub-account and annual costs associated with the Trust, and which sets forth other issues regarding the relationships between the Trustee, Manager, and Grantors.

2.9 "Trustee" shall mean the entity then serving as Trustee under Article VII of this Trust, and its successor or successors.

2.10 "Assets" of the Trust shall include both corpus and income of the Trust.

ARTICLE III
ESTABLISHMENT OF SUPPLEMENTAL NEEDS TRUST

3.1 Settlor's Intent. It is the intention of the Utah SNAP Fund, as Settlor of this Trust, to establish a supplemental needs trust fund pursuant to 42 U.S.C. § 1396p, amended August 10, 1993, by OBRA '93, for the benefit of Beneficiaries under this Trust. Public and private assistance benefits should not be made unavailable to a Beneficiary or be terminated because of the existence of this Trust. Assets of this Trust cannot be used to satisfy claims of any Beneficiary's creditors. Assets held in this Trust are not for any Beneficiary's support. The assets in this Trust are to be used only for supplemental needs and the supplemental care of the Beneficiaries. There is no obligation of support owing to the Beneficiaries by the Settlor or by the Trustee. The Beneficiaries have no entitlement to the income or corpus of this Trust and Trust assets that have not been disbursed are not available to the Beneficiaries. Income or corpus of the Trust shall be available to Beneficiaries only when the Trustee or the Manager in their complete and absolute discretion elects to disburse such funds. Any determination made by the Trustee or the Manager in good faith as to the manner in which or the extent to which the powers granted by this Trust shall be exercised shall be binding and conclusive upon all persons who might then or thereafter have or claim any interest in the Trust assets.

3.2 Purpose and Objective of the Trust. The principal purpose and objective of this Trust is to provide a system for the management, investment, and disbursement of Trust assets to promote the Beneficiaries' comfort and happiness by providing Beneficiaries with supplemental care. It is not the purpose nor objective of this Trust to provide for or to make expenditures for any Beneficiary's basic maintenance, support, medical, dental or therapeutic care, or any other appropriate care or service that may be paid for or provided by other sources. It is not the Trust's purpose or objective to provide disbursements for the support of any Beneficiary.

3.3 Special Needs Supplemental Needs and Supplemental Care. Disbursements for "special needs" or "supplemental needs" or "supplemental care" shall mean non-support disbursements. It is not the intention of the Fund as Settlor or of the Grantors to displace public or private financial assistance that may otherwise be available to any Beneficiary. It is the intention of The Fund as the Settlor and of the Grantor to limit the Trustee's disbursements to those for a Beneficiary's sole supplemental care only. The following examples are not exclusive, but are included merely to illustrate the types of special, supplemental, non-support disbursements that are appropriate for the Trustee to make from the Trust to or for the benefit of a Beneficiary when the Trustee or the Manager, in their sole discretion, consider such disbursements to be of value to the Beneficiary and in the Beneficiary's best interest:

Health and dental treatment and equipment for which there are not funds otherwise available, rehabilitative and occupational therapy services, medical procedures even though not medically necessary or lifesaving, medical insurance premiums, supplemental nursing care, supplemental dietary needs, eye glasses, travel, entertainment, companionship, private case management, cultural experiences, vacations, movies, telephone service, television and cable equipment and service, radios, stereos, programs of training and education, reading and educational materials, and items listed

by the Grantor on the Joinder Agreement, when the purchase of or payment for such items do not risk the Beneficiary's Government Assistance (as defined below in Section 3.7).

3.4 Discretionary Trust. The Trustee shall make disbursements as directed by the Manager within the Manager's sole discretion for the supplemental care of a Beneficiary, or may refuse to make disbursements, as directed by the Manager in the Manager's sole discretion. The Manager is under no obligation to direct the expenditures of income or principal for supplemental care or for any other purpose.

3.5 Limits on Use of Trust Assets. Notwithstanding the discretion of the Trustee and Manager as set forth in Section 3.4 or any other provision of this Trust, in order to achieve the expressed purpose and objective of this Trust, assets of the Trust shall not be used:

(a) In any way which would result in Government Assistance that would otherwise be available to a Beneficiary if this Trust did not exist being reduced, diminished, altered or denied;

(b) To make disbursements to or for the benefit of a Beneficiary in excess of resource and income limitations of any public benefit program to which the Beneficiary is entitled; and

(c) Except as provided in Section 12.2 after the death of the Beneficiary, to pay or to reimburse any amounts to the federal government, State of Utah, any other state, or to any subdivision, or to any other government agency for any purpose including for the care, health, support, maintenance, or education of the Beneficiary.

3.6 Disbursements. The Trustee, at the Manager's direction or in the absence of such direction in its sole discretion, may make any payments or disbursements under the Trust: (i) directly to a Beneficiary; (ii) in any form allowed by law; (iii) to any person deemed suitable by Trustee; or, (iv) by direct payment of a Beneficiary's expenses. Any regular payments made directly to a Beneficiary must be reported to Medicaid. Infrequent and irregular payments made must be reported within 10 days.

3.7 Government Assistance. To achieve the expressed purpose and objective of this Trust, the Manager will seek to preserve and enhance Government Assistance that would otherwise be available to a Beneficiary. "Government Assistance" shall mean all services, medical care, benefits and financial assistance that may be provided by any local, state, or federal agency, or private organization, to or on behalf of a Beneficiary. Government Assistance benefits include but are not limited to the Supplemental Security Income (SSI) program, the Old Age Survivor and Disability Insurance (OASDI) program, the Social Security Disability Insurance (SSDI) program, and the Medicaid program, together with any additional, similar, or successor public programs. Government Assistance services include but are not limited to the services of the Utah Department of Human Resource Management and Human Services, local or regional mental health and mental retardation agencies, and other state, county, or city programs to benefit persons with disabilities, together with any additional, similar, or successor public programs.

3.8 Sub-Accounts of the Trust. Assets contributed by a Grantor for a Beneficiary shall be invested, re-invested, and administered as a Sub-account in the name of and for the benefit of that Beneficiary. The Trustee shall pay or apply for the supplemental care of each Beneficiary such amounts from the principal or income, or both, of the Trust Sub-account maintained for such Beneficiary, up to the whole thereof, as the Trustee, at the direction of the Manager or in the absence of such direction in its sole discretion, may from time to time deem advisable for the satisfaction of that Beneficiary's supplemental needs, if any. Any income attributable to a Beneficiary's sub-account that is not distributed shall be added annually to the principal in the Trust sub-account maintained for such Beneficiary. Each Sub-account shall be treated as a non-grantor trust for income tax purposes pursuant to the rules and regulations promulgated under IRC §671 *et seq.*, unless grantor trust rules apply. Generally, a Sub-account will be treated as a grantor trust if the Beneficiary himself, his guardian or other authorized Primary Representative or any other person deposits assets or properties belonging to the Beneficiary to the Sub-account as Grantor. If the Sub-account is treated as a grantor trust for federal income tax purposes, the reporting of the income of the Sub-account and taxation thereon shall be subject to provisions of §6.3 of this Trust.

3.9 Spendthrift Trust. To the fullest extent permitted by law, this Trust shall be a spendthrift trust and no part of this Trust, whether principal or income, shall be subject to anticipation or assignment by any Beneficiary; nor shall it be subject to attachment or control by any public or private creditor of a Beneficiary; nor may it be subject to any judicial process or levy against any Beneficiary by any voluntary or involuntary creditor, including those that have provided for the Beneficiary's support and maintenance, before assets of this Trust have actually been paid or disbursed to such Beneficiary. Under no circumstance may any Beneficiary compel a disbursement from the Trust.

ARTICLE IV **TRUST FUNDING AND EFFECTIVE DATE**

4.1 Initial Funding. The Utah SNAP Fund as Settlor shall initially fund this Trust with a lump sum payment of One Hundred Dollars and No Cents (\$100.00), as set forth on Appendix 1. The Fund hereby assigns, conveys, transfers and delivers the above-described funds to the Trustee as of the day and year first written above.

4.2 Trust Estate. The Trust estate shall consist of the initial cash contribution by The Fund and any additional contributions made to the Trust estate at any time by any Grantor in accordance with the provisions of Article V.

4.3 Effective Date. This Trust is established by The Fund as of the day and year first written above. The Trust shall be effective as to any Grantor or Beneficiary upon: (i) execution of a Joinder Agreement by a Grantor or by a court order; (ii) certification of the Joinder Agreement by the Manager and approval by the Trustee; and, (iii) Grantor's delivery to the Trustee, and the Trustee's acceptance of assets. Grantors' contributions are discussed further in Article V, below.

ARTICLE V
GRANTORS' CONTRIBUTIONS

5.1 Trust Is Irrevocable Upon Acceptance of Assets by Trustee. Upon delivery to and acceptance by the Trustee of assets acceptable to the Trustee, the Trust, as to the Grantor of such assets and the designation of the respective Beneficiary, shall be irrevocable and the contributed assets shall not be refundable. By execution of the Joinder Agreement, Grantor acknowledges that upon the funding of a Sub-account of this Trust, Grantor shall have no further interest in and does thereby relinquish and release all rights in, control over, and all incidents of interest of any kind or nature in and to the contributed assets (including the original contribution to the Trust and any and all subsequent additions to the Trust) and all income thereon.

5.2 Assets Designated for Future Transfer. Assets or interests in assets can be designated for transfer by a Grantor as a contribution. Such designation may be revocable and can be revoked by the Grantor as to such assets at any time during that Grantor's life and continued capacity to revoke, upon prior written notice from the Grantor to the Trustee. Examples of such contributions include a policy of life insurance on a Grantor's life in which the Trust is designated as a beneficiary, or the Trust being named as a beneficiary of any future interest in assets, such as that which would pass under the terms of a Grantor's last will.

ARTICLE VI
ADMINISTRATIVE PROVISIONS

6.1 Sub-Accounts. A separate Trust Sub-account shall be maintained for each Beneficiary, but for purposes of investment and management of funds, the Trustee shall pool these Trust Sub-accounts. The Trustee or the Manager or their authorized agents, shall maintain records for each Trust Sub-account in the name of and showing the assets contributed for each Beneficiary, along with increases in and expenditures and costs of such Sub-account.

6.2 Fees and Expenses. The fees and expenses associated with each Sub-account shall be charged in the manner described in the Joinder Agreement and as set forth in Exhibit D to the Joinder Agreement.

6.3 Annual Reports to Grantor or Beneficiary. For accounting purposes, the Trust and each Sub-account thereof shall be operated on a calendar year basis. The Trustee shall provide periodic accountings, at least annually, to each Grantor while such Grantor is living, and thereafter to each Beneficiary (or to his or her Primary Representative), showing all receipts, disbursements and distributions to or from such Trust sub-account during the previous calendar year. The Trustee, the Manager, or their agents shall also cause to be prepared on behalf of each Sub-account appropriate federal income tax returns, all of the costs and expenses of which shall be charged to each Sub-account in accordance with the actual time and expense incurred for the preparation of such tax returns for that particular Sub-account. The federal income tax return for any Sub-account that is treated as a grantor trust shall be an informational return only. Such informational return shall report to Internal Revenue Service all allocable income, gains, or losses which are required to be reported on the Grantor or Beneficiary's federal income tax return. Any Sub-account, which is not a grantor trust, will file its own federal income tax return and any taxes assessed against the income of the Sub-

account shall be paid from and out of the Sub-account assets and properties. The Grantor or Beneficiary, by execution of the Joinder Agreement, indemnifies the Manager and the Trustee from any and all claims for income tax liabilities attributable to his or her Sub-account, which is taxed as a grantor trust under the rules of the Internal Revenue Code. The Beneficiary and the Primary Representative shall be responsible for completing, signing and mailing the annual income tax returns for the Beneficiary, which are applicable to any income of the Sub-account passed through and taxable directly to a Beneficiary under the rules and regulations of the Internal Revenue Code.

6.4 Sub-Account Records Available for Inspection. The Trust Sub-account records shall be available at all reasonable times for inspection by the Beneficiary, his or her Primary Representative, or the state Medicaid agency. The Trustee, except as required by law, shall not furnish Trust records or documentation to any individual, corporation, or other entity who is not the Beneficiary, or who does not have the express written approval of the Beneficiary to receive such information, or who is not the Primary Representative of the Beneficiary.

ARTICLE VII TRUSTEE

7.1 Trustee Reliance on Manager. The Trustee shall be authorized to rely on the Manager's directions.

7.2 Resignation or Removal. The Trustee may be removed without cause by the Manager at any time upon giving ninety (90) days advance notice to the Trustee. The Trustee may resign for any reason, at any time, provided that the Trustee gives ninety (90) days advance notice to the Manager of its intention to resign. No court approval is required for the Trustee's removal or resignation. If both the Manager and the Trustee agree, the notice requirement may be waived or reduced.

7.3 Successor Trustee. If the Trustee resigns or is removed, the Manager shall select and appoint a Successor Trustee. If the Manager does not appoint a Successor Trustee within sixty (60) days after removing a Trustee or within sixty (60) days after receiving notice of the Trustee's intent to resign, a successor Trustee shall be selected and appointed by a court of competent jurisdiction in Utah. Any successor Trustee shall act as such without any liability for the acts or omissions of any predecessor Trustee. Any corporation that shall succeed (by purchase, merger, consolidation or otherwise) to all or the greater part of the assets of any corporate Trustee shall succeed to all the rights, duties and powers of such corporate Trustee as Trustee of this Trust.

7.4 Trustee Powers. The Trustee shall have full power and authority in its absolute discretion, without recourse to any court or any notice whatsoever, to do all acts and things necessary to accomplish the purposes of this Trust, and to perform the Trustee's duties as such and to receive, hold, manage, and control all the income arising from such Trust and the corpus thereof and to do such other acts or things concerning the Trust as may be advisable; the Trustee's power and authority shall include, but not be limited to, all powers conferred upon fiduciaries by the Utah Uniform Probate Code or the Utah Uniform Trust Code, as amended from time to time, or the provisions of any successor trust laws of the State of Utah, and the

powers conferred upon the Trustee by said code are hereby incorporated into this Agreement by reference; provided, however, that the Trustee is specifically prohibited from making direct investments of the Trust assets in real estate or oil, gas and other mineral interests, leases, royalties, overriding royalties, production payments, and other oil, gas and mineral properties. The Trustee may invest the assets of the Trust in common trust funds. A Corporate Trustee may also borrow money, including from its own commercial banking department, for such period of time and upon such terms and conditions as it may consider to be proper and may mortgage and pledge assets as security for any such loan. If the Trustee accepts non-productive property contributed by a Grantor, the Trustee is authorized to retain such non-productive property as an asset of the Trust. The Trustee specifically has full authority and power to prosecute, defend, contest or otherwise litigate legal actions or other proceedings for the protection or benefit of this Trust and to pay, compromise, release, adjust, or submit to arbitration any debt, claim or controversy, and to insure the Trust against any risk, and to insure the Trustee and the Manager against liability with respect to third persons. The Trustee specifically has full authority and power to take any and all steps necessary, as directed by the Manager and in the absence of such direction in the Trustee's sole discretion, to obtain and maintain eligibility of any Beneficiary for any and all public benefits and entitlement programs, which programs may include but are not limited to Social Security, Supplemental Security Income, Medicare, Medicaid, services provided or authorized or licensed by the Utah Department of Health, other state services and other community services, including in home and family support services.

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

7.6 No Bond Required. The Trustee shall not be required to furnish any bond for the faithful performance of the Trustee's duties. If any law or court of competent jurisdiction requires bond, no surety shall be required on such bond.

7.7 No Court Supervision of Trust. The Trust established under this instrument shall be administered free from the active supervision of any court. Any proceedings to seek judicial instructions or a judicial determination may be initiated by the Trustee or by the Manager in any court having jurisdiction of these matters relating to the construction and administration of the Trust.

7.8 Trustee Compensation. The Trustee shall be entitled to reasonable compensation, commensurate with the services actually performed, and as from time to time agreed to by the Manager.

7.9 Trust's Defense Costs and Expenses. Costs and expenses of defending the Trust from any claim, demand, legal or equitable action, suit, or proceeding may, in the sole discretion of the Manager, either (i) be charged on a pro rata basis to all Trust Sub-accounts, or (ii) be charged only against the Trust Sub-accounts of the affected Beneficiaries. The Manager may,

but is not required to, rely on the advice of the Advisory Committee (as described in Article IX) in determining whether defense costs affect a substantial number of Trust Sub-accounts and warrant allocation among all Sub-accounts, or whether the issue requiring defense of the Trust is limited to a single Sub-account or to only certain Sub-accounts such that charges should be allocated solely to such accounts.

ARTICLE VIII MANAGER

8.1 Manager. In addition to its role as Settlor of this Trust, the Utah SNAP Fund shall initially be the Manager of the Trust. The Manager, whether The Fund or a successor manager as provided by Section 8.4, shall manage the Trust, as required by 42 U.S.C. § 1396p d(4)(C)(i), and shall perform such acts and duties as set forth in the Joinder Agreement, and otherwise as the Manager and the Trustee shall mutually agree. The Manager shall have full power and authority in its absolute discretion, without recourse to any court or any notice whatsoever, to do all acts and things necessary to accomplish the purposes of this Trust, and to perform the Manager's duties as such, and to do such other acts or things concerning the Trust as may be advisable.

8.2 The Manager May Seek Other Resources. The Manager may seek the advice and assistance of the Grantor, the Primary Representative, any Guardian or Guardians of the Beneficiaries, or others, including any federal, state and local agencies that are established to assist persons with disabilities. The Manager may use available resources to assist in identifying programs that may be of legal, social, financial, developmental, or other assistance to Beneficiaries.

8.3 The Manager Not Liable for Failure to Identify Resources. The Manager shall not, in any event, be liable to any Beneficiary for failure to identify all programs or resources that may be available to such Beneficiary because of his or her disabilities. As evidenced by Grantor's execution of the Joinder Agreement, Grantor recognizes and acknowledges the uncertainty and changing nature of the guidelines, laws, and regulations pertaining to governmental benefits and the Grantor agrees that the Manager will not in any event be liable for any loss of benefits as long as the Manager acts in good faith.

8.4 Appointment of Successor Manager. The Utah SNAP Fund may designate another non-profit corporation that meets the requirements of Utah law as a successor Manager of the Trust. In the event that The Fund names a successor Manager, then that successor shall succeed to all the rights, powers, and privileges accorded The Fund as Manager of the Trust, including the right to name a successor Manager. Such successor Manager will advise the Trustee pursuant to terms of this Agreement and shall manage the Trust as required by 42 U.S.C. § 1396 d(4)(C)(i).

8.5 Fees Paid to the Manager. The Manager shall charge fees to each Sub-account for Trustee and Manager fees as provided on Schedule D of the Joinder Agreement between the Manager and the respective Grantor(s). Unless a Grantor pays the fees, the fees will be charged against the funds in the applicable Sub-account. The Manager may from time to time establish or amend the schedule of fees applicable to Sub-accounts. The amount of the initial annual fee

applicable to each funded Sub-account shall be the fee amount in effect as of the date that the Grantor executes the Joinder Agreement.

ARTICLE IX **ADVISORY COMMITTEE**

9.1 Establishment of Advisory Committee. The Board of Directors of The Fund shall appoint members of an Advisory Committee to advise the Manager in the administration of the Trust. The Advisory Committee members shall not be Trustees and the Advisory Committee shall not constitute a Board of Trustees. The Manager may rely upon the Advisory Committee solely for advice and information. The Advisory Committee may provide advice on matters described in this Trust, or as the Board of Directors of The Fund shall request by board resolution.

9.2 Members of the Advisory Committee. There shall be a minimum of three and a maximum of seven members of the Advisory Committee, as such number is established from time to time by resolution of the Board of Directors of The Fund. The Fund shall appoint members of the Advisory Committee from interested organizations ("Stakeholder Organizations"), with such composition among the Stakeholder Organizations as The Fund determines to be appropriate by resolution of The Fund Directors.

9.3 Stakeholder Organizations. The organizations listed below may be included among The Fund's listing of Stakeholder Organization. Organizations may be added or deleted by resolution of The Fund Board of Directors.

Advocacy, Incorporated; Alzheimer's Association; The Arc of Utah; the local Arc chapters; Coalition of Utahns With Disabilities; Directors Association of Utah Centers for Independent Living; Epilepsy Coalition of Utah; Head Injury Foundation; The Institute for Disability Access; Mental Health Association In Utah; Planned Living Assistance Network of Utah; Spina Bifida Association of Utah; Utah Advocates; Utah Alliance for the Mentally Ill; Utah Association for Mental Retardation; Utah Association of the Deaf; Utah Council of Community MHMR Centers; Utah Deaf-Blind Association; Utah Head Injury Association; Utah Mental Health Consumers; Utah Multiple Sclerosis Coalition; Utah Planning Council for Developmental Disabilities; Utah Society for Autistic Citizens; and United Cerebral Palsy of Utah.

9.4 Meetings of the Advisory Committee. Meetings of the Advisory Committee shall take place in a location specified by the Manager, no less frequently than one time per year. Reasonable travel expenses for each member of the Advisory Committee to attend such meetings shall be an administrative charge of the Trust.

9.5 Full Indemnification of Advisory Committee Members. The provisions of Section 10.2 shall apply to members of the Advisory Committee as if incorporated into this section. Further, however, members of the Advisory Committee shall not have liability to the

Trust, the Trustee, the Fund as Settlor, the Manager, any Beneficiaries, or any Grantors for any reason. The purpose of the Advisory Committee is to provide advice, assistance, and information to the Manager as well as to provide Stakeholder Organizations with information about the Trust and its administration. Members of the Advisory Committee shall have no liability to any party for any omission or acts in providing such advice, assistance or information to the Manager.

ARTICLE X **INDEMNIFICATION**

10.1 Acknowledgement of Grantors. As evidenced by Grantors' execution of the Joinder Agreement, Grantors acknowledge that the Trustee may be a financial institution that is not licensed or skilled in the field of social services. The Trustee may conclusively rely upon the Manager to identify programs that may be of social, financial, developmental or other assistance to Beneficiaries. The Trustee, its agents and employees, as well as its agents' and employees' heirs and legal and personal representatives shall not in any event be liable to any Grantor or Beneficiary or any other party for its acts as Trustee so long as the Trustee acts in good faith.

10.2 Scope of Indemnification. The Trustee, The Fund, the Manager, the members of the Advisory Committee, and each of their respective agents, employees, officers, and directors as well as their heirs, successors, assigns, and personal representatives of such parties shall be and hereby are indemnified by the Trust and the Trust assets against all claims, demands, liabilities, fines, or penalties and against all costs and expenses (including attorney's fees and disbursements and the cost of reasonable settlements) and expressly including claims for the negligence of the indemnified parties and their agents, employees, officers and directors, imposed upon, asserted against or reasonably incurred thereby in connection with or arising out of any claim, demand, action, suit, or proceeding in which he, she, or it may be involved by reason of being or having been a Trustee or Manager or member of the Advisory Committee, whether or not he, she, or it shall have continued to serve as such at the time of incurring such claims, demands, liabilities, fines, penalties, costs, or expenses or at the time of being subjected to the same. This right of indemnification shall not be exclusive of, or prejudicial to, other rights to which the Trustee, The Fund, the Manager, members of the Advisory Committee, and their respective agents or employees may be entitled as a matter of law or otherwise.

10.3 Limits On Indemnification. The Trustee, The Fund, the Manager, and their respective agents and employees (and their heirs or personal representatives) 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 or gross negligence in the performance of any duty as such, by a court of competent jurisdiction.

ARTICLE XI **AMENDMENT OF TRUST**

11.1 Trust Is Irrevocable. As evidenced by Grantor's execution of the Joinder Agreement, the Grantor acknowledges that upon execution of the Joinder Agreement by Grantor

and the Manager, and the funding of a Sub-account for a Beneficiary, that this Trust, as to the Grantor and the Beneficiary, is irrevocable.

11.2 Trust May Be Amended. Notwithstanding Section 11.1 above, the Manager may amend this Agreement so that this Agreement conforms with any rules or regulations that are approved by any governing body or agency relating to 42 U.S.C. § 1396p or related statutes, including state statutes and regulations that are consistent with the provisions and purposes of OBRA '93. In addition, the Trustee or the Manager may amend this Trust with court approval in any manner the Manager deems to be appropriate and consistent with the purposes and objectives set forth in this Trust. Such amendments may be made and approved by any court of competent jurisdiction in Utah, provided that notice of such request for amendment is provided to the Trustee, the Manager, the Utah Department of Human Services, the Utah Department of Health, or their successor agencies, of the State of Utah, and to the Attorney General's Office of the State of Utah.

11.3 Amendments Limited. Notwithstanding Section 11.2 above, neither the Trustee nor the Manager shall seek a proposed amendment to this Agreement that would: (i) alter the purpose or objective of the Trust; (ii) make gifts revocable that are otherwise irrevocable under this Trust or the Joinder Agreement; or, (iii) change the duties of the Trustee without the Trustee's consent.

ARTICLE XII

TERMINATION OF SUB-ACCOUNTS OR OF ENTIRE TRUST

12.1 Sub-Account Terminations. Every reasonable attempt will be made to continue the Trust for the purposes for which it is established. However, the Manager and the Trustee do not and cannot know how future developments in the law, including administrative agency and judicial decisions, may affect the Trust or any Trust Sub-account. If the Manager and the Trustee have reasonable cause to believe that the assets of a Trust Sub-account are or will become liable for basic maintenance, support, or care that has been or that would otherwise be provided to such Beneficiary by local, state, or federal government, or an agency or department thereof, the Manager in its sole discretion, may direct the Trustee to:

- (a) Terminate the Trust Sub-account as to the affected Beneficiary as though he or she had died, and the Trustee shall then treat the assets in the Trust Sub-account according to the provisions of Section 12.2;
- (b) Determine the Trust has become impossible to implement for the affected Beneficiary, and the Trustee shall then treat the assets in the Trust Sub-account according to the provisions of Section 12.3; or,
- (c) Continue to administer the Trust sub-account under separate arrangement with the affected Beneficiary or his or her Primary Representative.

Before making any distribution of amounts retained in any Trust Sub-account, the Manager should consider the public benefits consequences to the Beneficiary of any particular disbursement.

12.2 Distribution of Remainder Interest Upon Death of Beneficiary. Upon the death of a Beneficiary, any amounts remaining in the Beneficiary's Trust Sub-account (the "Remainder") shall be distributed as follows:

(a) The Trustee shall distribute to Medicaid the lesser of Medicaid funds advanced or 50% of the funds in the sub-account. The remaining funds shall be retained by the Trustee for the purposes set forth in Article XIII.

(b) If the Sub-account was funded by a Grantor using the assets of the Grantor, then the entire Remainder Share may be retained by the Trust to be used as set forth in Section 13.1 or as provided in the Joinder Agreement.

12.3 Distribution of Remainder Interest Upon Termination of Sub-Account During Beneficiary's Life. The Trustee, at the Manager's direction or in the absence of such direction in the Trustee's sole discretion, may distribute all or any portion of the assets in a Trust Sub-account to such party designated by the Grantor to receive distributions in the event of an early termination if, in the Manager's sole discretion, it becomes impossible or impracticable to fulfill the conditions of the Trust with regard to the respective Beneficiary for reasons other than the death of the Beneficiary. In the event the Grantor has not designated such a recipient, the Manager may make or direct the distribution to or for the benefit of the Beneficiary. In such event, Medicaid will be notified and any funds previously advanced shall be paid to Medicaid.

12.4 Termination of Entire Trust. If it becomes impossible or impracticable to carry out the Trust's purposes with respect to all or substantially all Beneficiaries, the Trustee may, at the Manager's direction or in the absence of such direction in the Trustee's sole discretion, terminate the Trust and distribute the Trust assets in each Beneficiary's Sub-account as set forth in Article 12.3. The Trust's Remainder Share shall be paid to The Fund; provided, however, that if The Fund has ceased to exist or has been dissolved, then the Trust's Remainder Share shall be applied and paid over to such other non-profit organization or organizations as the Manager, in its sole discretion, may determine then to be serving the interests and needs of people with disabilities in a manner consistent with the purposes of this Trust. Before action is taken under this Section 12.4, a final accounting along with an application seeking approval of the action to be taken shall be filed in a court of competent jurisdiction in this state.

12.5 Perpetuities Savings Clause. The individual Sub-account for each Beneficiary shall be held for the lifetime of the Beneficiary. The sub-account of the Trust's Remainder Share (as defined below in Section 13.1) shall be distributed in the manner permitted by Section 13.1 within the period of time. The Trust may be extended by the Manager's written notice to the Trustee.

ARTICLE XIII **MISCELLANEOUS**

13.1 Trust's Remainder Share. The Trust's Remainder Share shall be retained by the Trust and, at the Manager's direction or in the absence of such direction in the Trustee's sole discretion, be used:

(a) For the benefit of other Beneficiaries who are indigent, disabled persons as defined in 42 U.S.C. § 1382 c(a)(3);

(b) To add indigent disabled persons, as 1382c(a)(3), to the Trust as Beneficiaries; or,

(c) To provide indigent disabled persons, as defined in 42 U.S.C. § 1382c(a)(3), with equipment, medication or services deemed suitable for such persons by the Manager or Trustee.

13.2 Utah Law Applies. The laws, including valid regulations, of the United States and the State of Utah, shall determine the validity of this Trust. Questions of construction and administration of this Trust shall be determined by the laws of the state of administration.

13.3 Headings. The headings above the various provisions of this Trust have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Trust or in ascertaining the parties' intentions.

IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective as of the day and year first written above.

TRUSTOR

Utah Supplemental Needs Assistance
Pooled Fund, Inc.

Margy Campbell - Director

Craig Standing - Director

TRUSTEE

Utah Supplemental Needs Assistance
Pooled Fund, Inc.

Margy Campbell - Director

Craig Standing - Director