

## THE 2014 OHIO COMMUNITY POOLED FLEXIBLE-SPENDING TRUST

THIS SECOND AMENDED AND RESTATED AGREEMENT OF TRUST (this "Agreement") is made this 16<sup>TH</sup> day of September, 2019, to be effective as of the 29<sup>th</sup> day of January, 2014 with respect to the original Agreement of Trust created on that date, by and between THE DISABILITY FOUNDATION, INC., an Ohio non profit corporation (the "Settlor" and the "Distribution Trustee"), and KEYBANK NATIONAL ASSOCIATION., an Ohio corporation (the "Trustee"). The Settlor hereby establishes and will manage the Trust, within the meaning of 42 U.S.C. §1396p(d)(4)(C), as follows.

### STATEMENT OF AGREEMENT

Section 1. Establishment of Trust. The Settlor has entered into this Agreement with the Trustee to establish a trust which is a Pooled Trust, pursuant to 42 U.S.C. §1396p(d)(4)(C) and Ohio Revised Code Annotated Section 5111.151(F)(3), and Ohio Administrative Code Section 5160: 1-3-27.1(C)(3)(c). The purposes of this trust are to promote the general well being of Individuals with Disabilities by providing for their Supplemental Needs, in addition to and not in lieu of and not to supplant benefits or services otherwise provided by any local, state or federal government, agency or department thereof, and to enable the Trustee to promote and administer Disability Programs and Services.

A. Pooled Trust. This trust is organized as a Pooled Trust in order to provide Qualified Donors the ability to transfer property to the Trustee in accordance with an executed and accepted Account Agreement to provide (i) use of the property so transferred for the Supplemental Needs of the Individual with Disabilities, and (ii) after the death of the Individual with Disabilities (A) for any remaining trust property and earnings of the Individual with Disabilities be distributed to the State in an amount equal to the total amount of medical assistance paid on behalf of the Individual with Disabilities by the State pursuant to Title XIX of the Social Security Act codified at 42 U.S.C. Section 1396 *et seq.*, and (B) for any remaining funds attributable to the Account of the Individual with Disabilities to be used by the Trustees for Disability Programs and Services.

B. Definitions. Certain capitalized terms used in this Agreement are defined in Section 3 of this Agreement.

C. Name of Trust. This trust shall be referred to as THE 2014 OHIO COMMUNITY POOLED FLEXIBLE-SPENDING TRUST.

D. Acceptance of Property. The Distribution Trustee may, but is not required, to accept property from any Qualified Donor upon completion of an Account Agreement, to be used and administered for the benefit of an Individual with Disabilities as provided in

this Agreement. An Account for each such Individual with Disabilities shall be established as provided in this Agreement. Each Account shall be evidenced by an Account Agreement entered into by the Distribution Trustee and the Qualified Donor.

Section 2. Establishment and Use of Separate Accounts for Individuals with Disabilities. The Distribution Trustee shall establish a separate Account for each Individual with Disabilities for whose benefit property is transferred to the Distribution Trustee pursuant to an Account Agreement. The Distribution Trustee shall use each Account established for an Individual with Disabilities as follows:

A. Use of Account During the Lifetime of the Individual with Disabilities. Until the termination of the Account for the Individual with Disabilities as provided in paragraph B below, the Distribution Trustee shall use the income and principal of the Account established for the Individual with Disabilities solely for the Supplemental Needs of the Individual with Disabilities as directed from time to time by the Distribution Trustee. If there is a Personal Representative for the Individual with Disabilities, then the Distribution Trustee shall consult with the Personal Representative as to the Supplemental Needs of the Individual with Disabilities. If there is no Personal Representative for the Individual with Disabilities, then the Distribution Trustee shall consult with the Individual with Disabilities as to his or her Supplemental Needs. The Distribution Trustee's decision as to the use of any income or principal of an Account for the Supplemental Needs of the Individual with Disabilities shall in all events be made as the Distribution Trustee may deem advisable. The Trustees shall not be liable in any manner with respect to any decision as to the use of any income or principal for the Supplemental Needs of any Individual with Disabilities.

B. Distribution of Account Following the Death of the Individual with Disabilities. From and after the death of the Individual with Disabilities, the Distribution Trustee shall (after payment of allowable expenses under applicable Medicaid and SSI provisions, including Programs Operations Manual System (POMS) §SI 01120.203) distribute the remaining property attributable to the Account of the Individual with Disabilities as directed by the Distribution Trustee as follows :

1. Twenty-Five percent (25%) of the amount remaining in the Account shall be retained by the Trust to be used for Disability Programs and Services as the Distribution Trustee from time to time may deem advisable.

2. Seventy-Five percent (75%) of the amount remaining in the Account shall be allocated as may be designated by the Qualified Donor in the Account Agreement to each/either of the following uses:

a. The Distribution Trustee shall distribute to each State which has provided medical assistance through Title XIX of the Social Security Act, to the Individual with Disabilities a proportionate share of the assets remaining in the Account of the Individual with Disabilities up to an amount equal to the total assistance paid on his behalf by such State under a State Plan pursuant to 42 U.S.C. §1396 *et. seq.*, to the extent permitted and required by law. The Distribution Trustee shall comply with all state and/or federal regulations in effect at the time of



the death of the Individual with Disabilities regarding notification and disbursement to the States. Any property remaining after such payback shall be distributed to the persons or entities named by the Qualified Donor in the Account Agreement.

b. The Distribution Trustee shall distribute the remaining property attributable to the Account of the Individual with Disabilities, to a separate share of the trust to be used for Disability Programs and Services as the Distribution Trustee from time to time may deem advisable.

3. If the Qualified Donor fails to make a designation in the Account Agreement, then the Distribution Trustee shall allocate the remaining property attributable to the Account to a separate account to be used for Disability Programs and Services as the Distribution Trustee from time to time may deem advisable.

Section 3. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

A. "Account" shall refer to the separate account of the trust established for an Individual with Disabilities. Each Account for an Individual with Disabilities shall be initially credited with the property transferred by a Qualified Donor for the benefit of such Individual with Disabilities pursuant to an Account Agreement. Each Account shall be established and maintained as a separate and independent share, within the meaning of Section 663 of The Code. Each Account shall be reflected as a separate account with respect to trust records, but the Trustee shall not be required to segregate the funds of each Account for investment purposes.

B. "Account Agreement" shall refer to the agreement executed by a Qualified Donor and accepted by The Distribution Trustee, under which the Qualified Donor agrees to establish an Account pursuant to this Agreement.

C. "Code" shall refer to the Internal Revenue Code of 1986, as amended.

D. "Disability Programs and Services" shall refer to those programs and services offered by The Disability Foundation, Inc. in furtherance of the purposes stated in its Articles of Organization, as amended.

E. "Distribution Trustee" shall refer to The Disability Foundation, Inc., an Ohio non-profit corporation, or its successor in interest that qualifies as a Qualified Sponsor.

F. "Distribution Committee" shall refer to the individual or individuals, jointly or collectively, serving as a member of the Distribution Committee under this Agreement. All members of the Distribution Committee must be members of the Board of Trustees for The Disability Foundation, Inc., and cannot be an employee or affiliate of the Trustee or any other for-profit entity with which funds of the Trust are invested.

G. "Individual with Disabilities" shall refer to an individual who is disabled within the meaning of 42 United States Code Section 1382c(a)(3).

H. "Personal Representative" shall refer to that person serving as the designated Personal Representative of an Individual with Disabilities pursuant to an Account Agreement as qualified to advise the Distribution Trustee as to distributions to be made for the Supplemental Needs of an Individual with Disabilities; provided, however any person subsequently authorized to act on behalf of an Individual with Disabilities pursuant to a judicial appointment as the legal guardian of an Individual with Disabilities shall succeed as the Personal Representative. If there is no person serving as the Personal Representative of an Individual with Disabilities, then the Distribution Trustee may take such action as the Distribution Trustee deems advisable to seek the appointment of a person as the legal guardian of such Individual with Disabilities. A person claiming to be the Personal Representative of an Individual with Disabilities, other than pursuant to an Account Agreement, shall be required to provide the Distribution Trustee written notice of the same which notice shall be accompanied by an original of the judicial appointment of guardianship evidencing such person's authority to act on behalf of the Individual with Disabilities. The Distribution Trustee shall not be required to conduct an independent investigation of the authority of any person claiming to be the Personal Representative of an Individual with Disabilities.

I. "Pooled Trust" shall refer to a trust for Individuals with Disabilities within the meaning of 42 United States Code Section 1396p(d)(4)(C); Ohio Revised Code Annotated Section 5111.151(F)(3); and Ohio Administrative Code Section 5160: 1-3-27.1(C)(3)(c).

J. "Qualified Donor" refers to a person authorized to establish an account for an Individual with Disabilities in a Pooled Trust pursuant to 42 United States Code Section 1396p(d)(4)(C); Ohio Revised Code Annotated Section 5111.151(F)(3); and Ohio Administrative Code Section 5160: 1-3-27.1(C)(3)(c), including an Individual with Disabilities, a parent, grandparent, or legal guardian of an Individual with Disabilities, or a court.

K. "Qualified Sponsor" shall refer to a non-profit association authorized to establish and/or manage a Pooled Trust pursuant to 42 U.S.C. §1396p(d)(4)(C), Ohio Revised Code Annotated Section 5111.151(F)(3), and Ohio Administrative Code Section 5101: 1-39-27.1(C)(3)(c).

L. "State" shall refer to the State of Ohio, or any agency or entity designated by the State of Ohio for the purpose of receiving reimbursement after the death of an Individual with Disabilities from the Account of an Individual with Disabilities in accordance with the payback requirements established pursuant to 42 United States Code 1396p(d)(4)(C); Ohio Revised Code Annotated Section 5111.151(F)(3); and Ohio Administrative Code Section 5101: 1-39-27.1(C)(3)(c). If an Individual with Disabilities has been the recipient of Medicaid benefits through another State, "State" may refer to such State, in context.

M. "Supplemental Needs" shall refer to those items or services that may be provided to an Individual with Disabilities, to supplement and not supplant services or benefits provided pursuant to federal or state law, which services/benefits are based on



financial need, in whole or in part. If an Individual with Disabilities is or becomes the recipient of such services, including Supplemental Security Income benefits or Medicaid benefits, then Supplemental Needs shall not include items or services for the support and maintenance (food or shelter) of the Individual with Disabilities, which would terminate such services or benefits. If the Personal Representative or Individual with Disabilities makes a request for an expenditure for support or maintenance, then the Distribution Trustee shall have the authority (but not the obligation) to review and approve such request as a Supplemental Need. The Trustees shall have no duty to inquire whether an Individual with Disabilities is receiving federal Supplemental Security Income or Medicaid benefits and shall only be deemed to have knowledge that an Individual with Disabilities is receiving such benefits if the Distribution Trustee has actual written notice that such Individual with Disabilities is receiving such benefits.

N. "Trustee" shall refer to KEYBANK NATIONAL ASSOCIATION, its representatives, directors, officers and employees, or to its successor in interest that qualifies as a Trustee under this trust.

O. "Trustees" shall refer to the Trustee and the Distribution Trustee.

P. A "trustee" shall refer to a specific person serving or designated to serve, as the context may require, as the Trustee or Distribution Trustee.

#### Section 4. Successor Trustees and Resignation of Trustees.

A. Successor Trustees. If KEYBANK NATIONAL ASSOCIATION, or any successor Trustee, shall resign or for any other reason cease to serve as the Trustee, then such successor as the Settlor shall designate shall, upon acceptance of the trust, serve as the Trustee. If The Disability Foundation, Inc., shall resign or for any other reason cease to serve as the Distribution Trustee, then before the effective date of such resignation/cessation, The Disability Foundation, Inc. shall appoint a Qualified Sponsor as the successor Distribution Trustee who shall, upon acceptance of the trust, serve as the Distribution Trustee.

Except as provided above, if the last named trustee serving as the Trustee shall resign or for any other reason cease to serve as the Trustee, and no successor is appointed, then such financial institution or trust company organized under the laws of the United States or any state thereof as may be appointed by the Senior Judge of the Probate Court of Montgomery County, Ohio, shall, upon acceptance of the trust, serve as the Trustee. The Judge appointing such successor shall be entitled to full immunity associated with his or her judicial status with respect to such appointment.

B. Removal of Trustees. The Settlor shall have the right at any time to remove any trustee serving or designated to serve as the Trustee or Distribution Trustee.

C. Exercise of Appointment or Removal Right. The right provided in the preceding provisions of this Section to designate a successor Trustee or Distribution Trustee shall be effected by delivering to the person to be so designated (i) written notice of such designation, and (ii) written acceptance thereof signed by the designee. The

appointment of a trustee shall be effective, in accordance with the terms of such appointment, upon such trustee's acceptance of the trust. The removal of any trustee shall be effected by the Settlor's written notice of removal to the trustee to be so removed, and such removal shall be effective at the time stated in such notice.

D. Merger or Consolidation of a Trustee. If any financial institution or trust company serving as a trustee, by sale, merger, consolidation, reorganization or otherwise, is merged or consolidated with any other financial institution or trust company authorized to do a trust business in a state in the United States, the merged or consolidated financial institution or trust company resulting therefrom shall serve as such trustee.

E. Resignation of Trustee. Any trustee may resign at any time as a trustee of any of the trusts created under this Agreement by delivering a written notice of such resignation prior to the effective date thereof to each other trustee then serving and to the Settlor. Such notice may be waived by the person or persons entitled to such notice.

Section 5 Exercise of Trustees' Powers. The Trustees shall exercise their respective powers and discretions provided to them under this Agreement as follows:

A. General Fiduciary Standards. All of the powers and discretions vested in each trustee shall be exercised by each trustee in a fiduciary manner.

B. Exercise of Trustees' Powers. The Trustees shall exercise the powers and discretions granted to the Trustees under this Agreement in the manner required to preserve the status of the trust as a Pooled Trust.

C. Exercise of Trustee's Powers. The powers of the Trustee are subordinate to the powers of the Distribution Trustee, and are subject to the review and approval of the Distribution Trustee. All of the powers and discretions vested in the Trustee under this Agreement shall be exercised in the Trustee's discretion, subject to the approval of the Distribution Trustee, in the manner provided under this Agreement, with the concurrence of all of the trustees then serving as Trustee.

D. Exercise of Distribution Trustee's Powers. The Distribution Trustee shall have the power and discretion to (i) accept and enter into an Account Agreement with a Qualified Donor for the establishment of an Account within this Trust, (ii) direct the Trustee as to the distribution of any funds in an Account of an Individual with Disabilities for his or her Supplemental Needs, (iii) direct the Trustee as to the distribution of any funds remaining in the Account of an Individual with Disabilities following his or her death, and (iv) direct the Trustee as to what portion of the accounts to invest. All of the powers and discretions vested in the Distribution Trustee shall be exercised in the Distribution Trustee's unrestricted discretion. The Distribution Trustee shall from time to time designate one or more individuals to serve as members of the Distribution Committee, so long as the individual complies with the requirements in Section 3(F) above, and may at any time remove any individual serving as a member of the Distribution Committee, with or without cause.



Section 6. Designation of Investment Managers. Anything in Section 7 of this Agreement to the contrary notwithstanding, the Trustee, subject to the approval of the Distribution Trustee, shall have the right to designate (and remove), one or more investment managers who is registered under the Investment Advisors Act of 1940 or is a financial institution or trust company to direct or act for the Trustee with respect to all of the powers, rights and investment discretions contained in Section 7 for those assets placed under the control and/or discretion of such investment manager. The investment manager shall receive from the trust reasonable compensation for the services of the investment manager.

Section 7. Trustees' Powers. In the administration of the trust created under this Agreement, the Trustees shall have the following powers and authority, in addition to the powers and authority granted to trustees generally by law or in other provisions of this Agreement, to be exercised, without order, decree, direction, approval or other action of any court and without notice to or the consent of any person (except that all authority of the Trustee is subordinate to, and subject to the review and approval of, the Distribution Trustee):

A. To hold property invested as the Trustee receives it regardless of the character of such property, or whether it is such as would be authorized by law for investment by trustees, or whether it leaves a disproportionately large part of the trust property invested in one type of property, for such time as the Trustee shall deem advisable;

B. To invest and reinvest the trust property, or any part thereof, at the direction of the Distribution Trustee, (i) in stocks, shares and obligations of corporations, of unincorporated associations or trust and investment companies, including, but not limited to, securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, as amended, and the fact that the Trustee, or any affiliate of the Trustee, is providing services to and/or receiving remuneration from such investment company or investment trust as investment advisor, custodian, transfer agent, registrar, or otherwise shall not preclude the Trustee from investing in the securities of such investment company or investment trust, (ii) in any other kind of personal or real property, without regard to any limitations or restrictions as to the investment of trust funds now in effect or hereafter effective, and (iii) in savings accounts, time deposit accounts, certificates of deposit, money market funds, or other evidences of deposit issued by the Trustee and/or any other national bank, savings and loan institution, state member bank, state non-member bank, or other depository institution which now or in the future is an affiliate or subsidiary of the Trustee;

C. To sell, convey, exchange or otherwise dispose of, or to contract to sell or grant options with respect to, any property, real or personal, at any time held by the Trustee hereunder, at public auction, by private contract, pursuant to option, or otherwise, upon such terms and conditions and at such times as the Trustee may see fit, but subject to the direction of the Distribution Trustee, and to make, execute and deliver all deeds, transfers, receipts, releases, agreements, options and other instruments deemed by the Trustee to be requisite or proper for any such purpose; to buy, sell, trade and deal in puts, calls, straddles and other options, covered and uncovered, of every kind and nature, and commodities of every nature, and contracts for the future delivery of commodities of every nature, on margin or otherwise; and, in connection therewith, to borrow money and



to pledge any and all stocks, bonds, securities, commodities and contracts for the future delivery thereof;

D. To hold in the Trustee's name, or the name of the Trustee's nominee or nominees, any security or property held in trust hereunder;

E. To exercise conversion or subscription rights appurtenant to any shares, bonds or other securities at any time held in trust hereunder, and to use such portion of the principal of the trust as may be necessary therefor, or, in the Trustee's unrestricted discretion, to sell any such rights;

F. To vote or refrain from voting all securities (including stock or other securities issued by any corporation or other organization which is acting as a trustee hereunder or any parent organization and/or affiliates of such corporation or other organization) in person or by proxy (including special, limited or general proxies, with or without power of substitution) and to execute proxies to one or more nominees, and, as a security holder, to consent to, approve, authorize and become a party to any reorganization, consolidation, merger, lease or sale of corporate property or other corporate readjustment of any corporation, or any dissolution or liquidation thereof, and to execute such instruments as may be necessary or appropriate therefor;

G. To improve, manage, protect and subdivide any real estate from time to time forming a part of the trust property; to dedicate parks, streets, highways or alleys and to vacate any subdivisions or parts thereof, as often as desired; to lease said property, or any part thereof, from time to time, in possession or reversion, by leases to commence immediately or in the future, and upon any terms and for any period or periods of time, irrespective of the terms of the trust, and to renew or extend leases upon any terms and for any period or periods of time; to amend, change, or modify leases and the terms and provisions thereof at any time or times hereafter; to consent to the assignment of leases; to contract to make leases and to grant options to lease and options to renew leases and options to purchase the whole or any part of the reversion and to contract respecting the manner of fixing the amount of present or future rentals; to partition said property or exchange it, or any part thereof for other real or personal property; to grant easements or charges of any kind; to release, convey or assign any right, title or interest in or about, or easement appurtenant to, said property or any part thereof; to purchase or hold real estate, improved or unimproved, or any reversion in real estate subject to lease; to exercise with respect to any real estate at any time forming a part of any trust estate created hereby any and all powers granted to the Trustee in this Agreement with respect to any other property held in trust hereunder; and to deal with said property and every part thereof in all other ways and for such other considerations as it would be lawful for any person owning the same to deal with the same, whether similar to or different from the ways above specified, at any time or times hereafter;

H. To (i) make secured or unsecured advances or loans to any person, firm or corporation upon such terms and conditions as the Trustee may deem desirable or proper in the exercise of its discretion; and (ii) borrow money from any trustee acting hereunder, or from any other person, firm or corporation upon such terms and conditions as the Trustee may deem desirable or proper in the exercise of the Trustee's discretion, and for



such sums so borrowed, to issue a promissory note or notes and to secure the repayment thereof by mortgaging, pledging or otherwise hypothecating any part or all of the trust property;

I. To abandon, adjust, arbitrate, compromise, sue on or defend, and otherwise deal with and settle claims in favor of or against the trust property as the Trustee shall deem best, and the Trustee's decision shall be final and binding upon all parties at interest;

J. To divide or distribute all or any part of the trust property whenever any such division or distribution is provided herein, in cash or in kind, or partly in cash and partly in kind, and, in connection therewith, to allocate to each of the separate shares so created by such division or to the property to be so distributed the whole or such undivided interests in such specific properties as the Trustee, in the Trustee's unrestricted discretion, may deem advisable. For purposes of any such allocation of property in kind or partly in kind, the value thereof at the time of such allocation as determined by the Trustee, in the Trustee's unrestricted discretion, shall be binding upon all persons interested in the trust established under this Agreement;

K. To extend the time of payment, reduce the interest rate, or otherwise modify the terms, of any obligation at any time comprising a part of the trust property, and to release any security for or guaranty of any such obligation; to foreclose any mortgage securing any such obligation, and purchase the mortgaged property at the foreclosure sale, or acquire the property by deed, conveyance or assignment from the mortgagor without foreclosure, and to retain property bought in or under foreclosure or taken over without foreclosure for such time as the Trustee shall deem best and dispose of the same by sale, exchange, or otherwise upon such terms and conditions as the Trustee shall deem best;

L. To employ and compensate, out of the principal or income of the trust as the Trustee shall deem proper, agents, custodians, accountants, brokers, attorneys, investment advisors and other assistants and advisors deemed by the Trustee to be necessary for the proper administration of the trust estate;

M. To set up reserves for taxes, assessments, insurance premiums, repairs, improvements, depreciation, obsolescence, and general maintenance of buildings and other property out of rents, profits, or other income received;

N. In general, at the direction of the Distribution Trustee, to do any and every act and thing and to enter into and carry out any and every agreement with respect to the trust property or any part thereof that the Trustee would have the right to do if it were the individual owner thereof, and as the Trustee may deem in the best interests of the trust, without being limited in any way by the grant of specific powers hereinabove made including, but not limited to, taking any action the Trustee deems necessary or advisable to carry out the purposes of the trust expressed in Section 1 of this Agreement; and

O. The Trustee shall not be required to establish any sinking fund to amortize the premium at which any investment or reinvestment may be purchased or sold.



The receipt of the Trustee for any money or things paid, transferred or delivered to the Trustee shall be a sufficient discharge and it shall not be the duty of any person making such payment, transfer or delivery to see to the application thereof for the purposes of any trust created hereby. The Trustee shall at all times have custody of all of the property held hereunder and all certificates, titles and other evidences of ownership of the same shall be registered in the name of the Trustee or a nominee or nominees selected by the Trustee.

Section 8. Use of Net Income or Principal. Whenever, under the provisions of this Agreement, the Trustee is authorized or directed by the Distribution Trustee to use any amount for the Supplemental Needs of an Individual with Disabilities, the Distribution Trustee shall pay the same to and/or apply the same for the benefit of such Individual with Disabilities in such manner as the Distribution Trustee may deem to be for the best interests of such Individual with Disabilities. Without limitation to the generality of the foregoing, the Distribution Trustee shall have power to direct the Trustee to pay such amount, even though such Individual with Disabilities is a minor or is otherwise incompetent, (i) directly to such Individual with Disabilities, without the intervention of any natural or legal guardian or the Personal Representative of such Individual with Disabilities; (ii) directly in payment of expenses for Supplemental Needs incurred by or for such Individual with Disabilities; and/or (iii) for the benefit of such Individual with Disabilities, to his or her Personal Representative or natural or legal guardian or custodian. The Trustees shall not be accountable for, or under any obligation to see to, the application of any payment so made, and the receipt of the recipient of any such payment shall fully and completely discharge the Trustees for the amount so paid even though such recipient is a minor or is otherwise incompetent. An Individual with Disabilities shall not have the right or power to assign, anticipate, alienate or otherwise transfer any right or interest in any Account Agreement.

Section 9. Common Funds. Although a separate Account is to be established for each Individual with Disabilities, the Trustee shall not be required to make an actual physical division of the trust property (except insofar as the Trustee may deem to be necessary or desirable), but may hold, administer and invest all or any part of the trust property in one or more common funds, and in such event the Trustee shall assign the appropriate interest in any such common fund to each separate Account from which property has been allocated to such common fund. In addition to the other powers with respect to the investment of the trust property granted to the Trustee in Section 7, the Trustee shall also have power, without order, decree, direction or other action of any court, to invest all or any part of any of the property of the trust created under this Agreement in participation in any common trust fund or funds established and maintained by the Trustee for the collective investment of property held by the Trustee (with or without a cofiduciary or fiduciaries), and any statute or rule of law now or hereafter in effect to the contrary notwithstanding, the Trustee shall not be required to give any notice to any person prior to making any such investment.

Section 10. The Trustees' Accounting.

A. Accountings. The Trustees shall not be required to make any returns or render any accounting to any court while acting hereunder, nor to secure any orders therefrom or file any appraisals or inventories therewith, but shall (i) within 90 days after the Settlor's



or the State's written request, and/or (ii) otherwise at such intervals as the Trustees may deem desirable, render an accounting with respect to the trust (covering the period from the date of the next preceding accounting) to the Settlor. No Individual with Disabilities or any other person shall have the right to require the Trustees to render an accounting of the trust except as otherwise required by law. Notwithstanding the preceding, the Distribution Trustee shall within 90 days after an Individual's with Disabilities or the Personal Representative of an Individual's with Disabilities written request, render to the Individual with Disabilities or such Personal Representative, as the case may be, an accounting of the amount(s) held by the Trustee and/or distributed by the Trustee for such Individual's with Disabilities Supplemental Needs covering the period from the date of the next preceding accounting.

B. Acceptance of Accountings. The written acceptance of any accounting rendered by the Trustees in accordance with the provisions of paragraph A above by all of the persons to whom such accounting is to be rendered under said provisions, shall fully and completely release and discharge the Trustees from any liability or accountability to anyone with respect to the propriety of the acts and transactions reflected in such accounting. If such written acceptance is not made by all of such persons, then upon the expiration of 90 days after the rendering of any such accounting, the Trustees shall be forever released or discharged from any liability or accountability to anyone with respect to the propriety of the transactions and actions reflected in such accounting, except with respect to any such transaction or act as to which any of the persons to whom such accounting is to be rendered shall have filed written exceptions with the Trustees within such 90 day period.

C. Judicial Review. If the person or persons entitled to notice of any accounting by the Trustees fail, without exception, to approve an accounting of the Trustees as provided in paragraph B above, the Trustee shall have the right to a judicial settlement of the Trustees' accounts in an action instituted by the Trustee in any court of competent jurisdiction, and in any such proceeding, the person or persons entitled to such notice and the Trustees shall be the proper parties and any such settlement shall be binding upon all persons having any interest in the trust.

#### Section 11. Concerning the Trustees.

A. Conflict of Interests. The fact that a trustee may (i) be beneficially interested in all or any part of any trust hereunder, (ii) be a partner, member, shareholder, officer or director of any partnership, limited liability company, or corporation with which the Trustees may deal, (iii) be a trustee of any other trust with which the Trustees may deal, (iv) have an interest, as partner, member, shareholder or otherwise, in any partnership, limited liability company, or corporation which may form a part of the trust property, or (v) be engaged by or have previously been engaged to render legal, financial, investment or other services to the Settlor, or to any corporation, limited liability company, or partnership which may form a part of the trust property, shall not bar or disqualify such trustee from acting as a trustee in all matters and decisions in which such trustee is authorized to act under the provisions of this Agreement, regardless of whether the interests of such trustee do or might conflict with those of any other person interested hereunder.



B. Bond. No bond shall be required of any trustee at any time serving hereunder.

C. The Trustees' Compensation. Each trustee may receive in each year a reasonable fee for the services rendered by such trustee under this Agreement during such year, and the Trustee shall have the right to pay such fee from the trust property. Fees attributable to individual Accounts may be directly debited and paid from such Accounts.

D. Liability. No trustee shall be responsible for loss which does not result from such trustee's own neglect or misconduct, and no trustee shall be responsible for loss which results from acts of any agent selected by a trustee with reasonable care.

Section 12. Irrevocability/Amendment. Subject to the provisions of this Section, this trust shall be irrevocable and the Settlor shall not have the right or power to alter, amend or terminate the trust created by this Agreement. However, the Settlor may amend the provisions of this trust, at any time and without notice to any person other than the Trustee, in such manner as the Settlor may deem advisable to further the purposes of the trust expressed in Section 1 of this Agreement including, but not limited to, ensuring that the trust complies with the requirements of the provisions of federal and state law applicable to a Pooled Trust. If the Settlor so amends the trust, then the Trustee shall notify such person or persons as the Trustee may deem advisable of any amendment to the provisions of this trust.

Section 13. General Provisions.

A. Liberal Construction. The Settlor has full confidence in the Trustees. The provisions of this Agreement shall therefore be construed liberally to permit the Trustees to exercise each of the powers, discretions, privileges, duties and immunities herein granted to the Trustees in the Trustees' free, uncontrolled and independent discretion.

B. Headings. The word headings of the Sections, paragraphs, subparagraphs and subparts of this Agreement are supplied solely for the purpose of facilitating reference to such Sections, paragraphs, subparagraphs and subparts, and shall not in any way alter, amend, supplement, subtract from or otherwise change this Agreement or any part thereof.

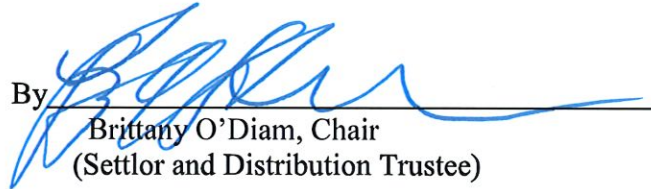
C. Legislative and Administrative References. All Section references in this Agreement to the Code, the United States Code, and the Ohio Revised Code shall refer to legislative enactments effective on the date of this Agreement and shall also refer to the corresponding provisions of any succeeding legislation amending or succeeding to the same. All references to Treasury Regulations or the Ohio Administrative Code shall refer to the provisions promulgated and in effect on the date of this Agreement and shall also refer to the corresponding provisions of any succeeding regulatory provisions succeeding to the same.

D. Construction. This trust has been accepted by the Trustees in the State of Ohio and under the laws of that state, and all questions pertaining to its validity, construction and administration shall at all times be determined under and in accordance with such laws.

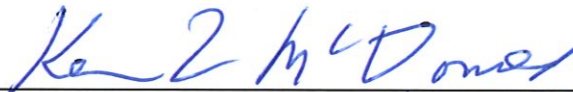


IN WITNESS WHEREOF, the Settlor and the Trustees have made this Agreement on the date above written.

THE DISABILITY FOUNDATION, INC.,  
an Ohio non profit corporation

By   
Brittany O'Diam, Chair  
(Settlor and Distribution Trustee)

KEY BANK NATIONAL ASSOCIATION

By   
(Trustee) KEVIN L. McDONALD

Position: SENIOR VICE PRESIDENT  
AND SENIOR FINANCIAL STRATEGIST