

MAINE POOLED DISABILITY TRUST II

(A TRUST FOR PERSONS WITH DISABILITIES)

THIS AGREEMENT OF TRUST, executed this 4th day of November, 2005, by and between the Wardwell, a non profit organization, whose principal office is at Saco, Maine (hereinafter called "Settlor" or "Wardwell"); and MARK PETERSON, 17 Thunder Road, Saco, ME 04072; THOMAS WELT, Biddeford Savings Bank, P.O. Box 525, Biddeford, Maine 04005; AGNES FLAHERTY, 757 Main Street, South Portland, ME 04106; KEVIN ROBERT, 14 Marshwood Circle, Saco, ME 04072; and ERIC COTE, 260 Beach Street, Saco, ME 04072 (hereinafter collectively called "Trustees").

1. Establishment of Trust

The Settlor does hereby irrevocably transfer and deliver to the Trustees the sum of One Hundred Dollars (\$100.00), the receipt of which is hereby acknowledged by the Trustees, to have and to hold the same and any cash, securities, or other trust property which the Trustees may, pursuant to any of the provisions hereof at any time hereafter, hold or acquire (all of such property hereinafter referred to collectively as the "Trust Estate"), for the uses and purposes and upon the terms and conditions herein set forth.

2. Definitions

2.1 "Beneficiary" 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 the Revenue Reconciliation Act of 1993, to be a recipient of services and benefits under this Trust.

2.2 "Government assistance" shall mean any and all services, benefits, medical care, or financial assistance paid or otherwise provided by any public agency, office, or department of the state where a Beneficiary lives or of the United States, to, for, or on behalf of the Beneficiary, including but not limited to the Supplemental Security Income (SSI) program, the Old Age, Survivors, and Disability Insurance (OASDI) program, the Medicaid program, and any additional, similar, or successor programs.

2.3 "Grantor" shall mean a parent, grandparent, or Guardian of a Beneficiary, a Beneficiary himself or herself, or any court. Grantor shall also include any person or entity which contributes his, her or its own assets or property to the Trust for the benefit of a Beneficiary, by gift, will, contract, or agreement.

2.4 "Guardian" shall mean a legal guardian, conservator, agent under a durable power of attorney, trustee, representative payee, or other legal representative or fiduciary of a Beneficiary.

2.5 “Sponsor” shall mean a parent, grandparent, guardian of a Beneficiary, a beneficiary himself or herself, or any court which establishes an account by completing a Sponsor Agreement for a Beneficiary.

2.6 “Supplemental needs” shall mean the requisites for maintaining a Beneficiary’s good health, safety and welfare when, in the discretion of the Trustee, such requisites are not being provided by any public agency, office, or department of the state where that Beneficiary lives or of the United States, or are not otherwise being provided by any other source of income available to that Beneficiary. Supplemental needs shall include, but shall not be limited to, medical or nursing not provided by programs of government assistance, supportive social services, education, training, case management services, private rehabilitative therapy, transportation, recreation, vacations or outings, telephone or television service, or other supplemental needs which will contribute to the good health, safety and welfare of a Beneficiary. Supplemental needs shall also include items of similar nature specified in a Sponsor Agreement if approved by the Trustee.

3. Name of Trust and Trust Purpose

3.1. This Trust shall be known as “The Maine Pooled Disability Trust II.”

3.2. It is the intention of the Wardwell to establish a supplemental fund pursuant to 42 U.S.C. §1396p (d)(4)(C) as amended from time to time and applicable state rules, for the benefit of Beneficiaries under this Trust, and not to displace assistance which may otherwise be available to those Beneficiaries. It is important that all Beneficiaries under this Trust maintain a level of human dignity and humane care. If this Trust were to be invaded by creditors, subject to any liens or encumbrances, or cause government assistance to not be initiated or to be terminated, it is likely that the Trust corpus would be depleted prior to the Beneficiaries’ deaths, especially if the cost of care for those beneficiaries would be high. In such event, there would not be coverage for emergencies or supplementation of basic needs.

The express purpose of this Trust is to provide for the collective management and distribution of the Trust Estate on behalf of eligible beneficiaries (hereinafter called “Designated Beneficiaries”) who are disabled as defined at 42 U.S.C. §1382c(a)(3)(or any successor statute) for whom trust accounts (hereinafter called “trust accounts”) are established.

The Designated Beneficiaries are the primary objects of this Trust, with the interest of persons (individuals or not-for-profit corporations) succeeding to the Trust Estate upon the death of the Designated Beneficiaries (such persons being hereinafter called “Remainder Beneficiaries”) being subordinate. This Trust is intended to provide, in the sole and absolute discretion of the Trustees, extra and supplemental services and benefits for the care, comfort, education, and training of the Designated Beneficiaries in addition to and over and above the benefits they already receive, are entitled to receive, or may receive or be entitled

to receive in the future as a result of their present or future mental retardation or physical, psychological, or developmental disability from any federal, state, or local government program, agency, or department.

3.3. This Trust is established pursuant to, and is intended to comply with the provisions of 42 U.S.C. §1396p(d)(4)(C) and rules and regulations promulgated thereunder and shall be construed accordingly. The trustees shall provide to the State of Maine Department of Human Services and/or the appropriate social services agency of the state such notices as are required by statute and regulation.

4. **Trust Accounts**

4.1. Establishment of Trust Accounts.

The Trust shall be effective as to any Beneficiary upon execution of a Sponsor Agreement by a Sponsor, or by court order, subject to the approval of Trustee. Upon delivery to and acceptance by the Trustee of property acceptable to the trustee, the Trust shall be irrevocable and said property shall be nonrefundable, except as otherwise provided in Article 6.5.

An individual desiring to establish a Trust account for an eligible beneficiary (hereinafter called "Sponsor") shall execute an agreement adopting the terms of this Trust (hereinafter called "Sponsor Agreement"). The Trust shall become effective with respect to such beneficiary upon execution of the Sponsor Agreement by the Sponsor and two or more of the Trustees. The Trustees in their discretion have the authority to decline to accept a Sponsor Agreement presented to them. Upon acceptance, a Trust account shall be established for the Designated Beneficiary named in the Sponsor Agreement which shall thereafter be held and administered in accordance with this Trust Agreement. By executing a Sponsor Agreement, a Sponsor agrees to be subject to all terms and conditions of this Trust Agreement and any amendments thereto.

4.2. Trust Account Beneficiaries.

Each Sponsor Agreement shall designate the Beneficiary for whom a Trust account is established, and the Sponsor shall also agree that any amounts remaining in the beneficiary's account upon the death of the beneficiary are to be disposed of as set forth in Article 7 of this Trust Agreement.

4.3 Funding.

a) *Additions to a Trust Account.* The Sponsor, or any other person desiring to make

a contribution to a Trust account, shall have the right at any time to add property acceptable in the absolute discretion of the Trustees to a Trust account on behalf of a Designated Beneficiary. Such property, upon acceptance by the Trustees, shall become part of the Trust Estate and shall be held for the benefit of a Designated Beneficiary as set forth herein. Additions to a Trust account on behalf of a Designated Beneficiary may be made by the Sponsor or other persons including, for example, lifetime direct transfers, by naming the Trust as beneficiary under a trust agreement, at death by devise or bequest under a will, or by naming the Trust as owner and/or beneficiary under an insurance contract, annuity contract, or retirement plan.

b) *Acceptance of property by Trustees.* The Trustees, in their absolute discretion, may decline to accept property which is offered for transfer to a Trust account, if the Trustees deem the property of a character which is inappropriate for addition to the trust Estate. If the trustees, in the exercise of such absolute discretion, decide not to accept a transfer of property, they shall advise this person making such a transfer or the personal representative of his or her estate within thirty (30) days of being notified of the nature of the property to be transferred. If the property has already been received or registered in the name of the trust, the Trustees shall have the right to cancel the transfer of the property, and the Trustees shall promptly have the property re-registered and returned to the person making the transfer or the personal representative of his or her estate on condition that such person or estate assume all costs of re-registration.

c) *Trust Account designation by transferor.* Any person desiring to make a contribution to the Trust Estate shall designate the specific Trust account to which the property is to be allocated. In the absence of a specific designation, the Trust account for which the transferor or his or her spouse is Sponsor shall be deemed to be their designated Trust account. If the transferor or his or her spouse is not a Sponsor of a Trust account, the Trustees, in their discretion, shall determine the Trust account(s) to which the property shall be allocated or may, in their discretion, establish one or more new Trust account(s) for an eligible beneficiary to which the property shall be allocated.

5. Administration of Trust Accounts

5.1. Administration for Exclusive Benefit of Designated Beneficiary.

Each trust account shall be held for the exclusive benefit of the Designated Beneficiary of that trust account during his or her lifetime, and during his or her lifetime, the Trustees shall not use assets in a trust account for the benefit of other trust Beneficiaries or at any time for any purposes not set forth in this Trust Agreement.

5.2. Joint Management of Trust Accounts.

The Trustees are authorized to pool the resources of all trust accounts and co-mingle the assets held by them. Each trust account shall be credited with its proportionate share of

the net income from the trust estate. The term “net income” shall mean the profits and income generated from investment of pooled investments less losses and expenses generally attributable to administration of the trust estate. Each trust account shall be charged separately with disbursements and distributions made on behalf of a Designated Beneficiary or directly attributable to that trust account.

5.3. Segregation of Assets Contributed in-Kind.

The Trustees, in their absolute discretion, shall have the authority to allocate assets received by them in-kind solely to the Trust account for which the assets have been contributed. In such cases, only the Trust account in question shall be credited or charged with its share of income, profits, gains, and losses derived from such segregated assets. The Trustees, in their sole discretion, shall have the right to charge the Trust account for administrative services and expenses attributable to such segregated assets in addition to general administrative services and expenses.

5.4. Accounting.

The Trustees shall report, at least annually, to each Beneficiary (or his or her Guardian, Conservator or attorney in fact) who is eligible to receive discretionary distributions of the net income or principal from a Trust sub-account maintained for such Beneficiary, all of the receipts, disbursements, and distributions to or from such Trust sub-account occurring during the reporting period, together with a complete statement of the trust sub-account property. In addition, the Trustees shall furnish, at least annually, to the State of Maine Medicaid Program and to each Beneficiary (or a beneficiary's Guardian, Conservator, or attorney in fact) a brief and concise financial statement of the Trust.

The Trust sub-account records of the Trustees, along with all Trust sub-account documentation, shall be available and open at all reasonable times for the inspection of the Beneficiary and his or her Guardian. The Trustees shall not be required to furnish Trust records or documentation to any individual, corporation, or other entity that is not a Beneficiary, or does not have the express written approval of the Beneficiary, or is not the Guardian of a Beneficiary.

5.5. Adequate Security Required.

No power enumerated in this instrument or accorded to trustees generally pursuant to law shall be construed to enable any person to purchase, exchange, or otherwise deal with or dispose of the principal or income of any Trust sub-account for less than adequate or full consideration in money or money's worth, or to enable any person to borrow the principal or income of any trust sub-account, directly or indirectly, without adequate interest or security.

5.6. Payment of Legal Defense Costs.

Costs and expenses of defending the Trust from any claim, demand, legal or equitable action, suit, or proceeding shall be apportioned on a pro rata basis to all Trust sub-accounts of all affected Beneficiaries; specific sub accounts shall be charged only if such costs and expenses affect the specified sub account.

5.7. Advisors to the Trust.

The Trustees may seek the advice and assistance of any guardian or guardians of Beneficiaries, or others, including any federal, state, and local agencies that are established to assist people with disabilities. The Trustees may use available resources to assist in identifying programs that may be of legal, social, financial, developmental, or other assistance to Beneficiaries. The Trustees 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. The Trustees shall charge the sub accounts of all affected Beneficiaries for such advice and assistance; the sub accounts shall be charged only if such advice and assistance affects the specified sub account.

6. Dispositive Provisions during the Lifetime of the Designated Beneficiary

6.1. Distributions on Behalf of a Designated Beneficiary.

During the life of the Designated Beneficiary, the Trustees shall use, apply, or expend as much of the net income and principal of the trust account for the benefit of the Designated Beneficiary of the Trust account as the Trustees, in their sole and uncontrolled discretion, shall deem advisable for the care, comfort, welfare, education, or training of the Designated Beneficiary, to supplement the benefits that the Designated Beneficiary otherwise receives as a result of his or her disability or medical need from any federal, state, or local government program, agency, or department, any of which provide services or benefits to disabled or medically needy persons. Any income not distributed shall be added annually to the principal in the Trust sub-account maintained for the respective Beneficiary. Without intending to limit the forgoing, but subject to the limitations on the exercise of discretionary authority set forth in this Agreement, the following is expressly included among the categories of permissible disbursements for the benefit of the Designated Beneficiaries:

1. Payments for any service or benefit provided by an agency affiliated with the Wardwell, including to the residential center at which a beneficiary may reside, for his or her support and maintenance, notwithstanding any conflict of interest that may exist by virtue of any relationship between the trustee and such agency.
2. Reimbursement of out-of-pocket expenses incurred by any caseworker or

social services provider for services rendered to or on behalf of a Designated Beneficiary.

3. Payment of any tax liability of the Designated Beneficiary attributable to any taxable income generated by income of the Trust Estate.
4. The Trustee, in its sole discretion, may make any payment under the Trust:
(a) directly to a Beneficiary; (b) in any form allowed by law; (c) to any person deemed suitable by Trustee, or (d) by direct payment of a Beneficiary's

expenses.

6.2. Limitations on Discretionary Authority.

Except as otherwise provided herein, no income or principal of a Trust account shall be paid or expended for the benefit of a Designated Beneficiary so long as there are sufficient monies available to the Designated Beneficiary for his or her care, medical care, support, comfort, welfare, education, and training from federal, state, and local governments, agencies, and departments unless the Trustees determine otherwise in the best interests of the Designated Beneficiary. The Trustees, in exercising or declining to exercise this discretionary power, shall consider any and all resources of any kind, including government benefits and entitlement, owned by or available to each Designated Beneficiary. Trust principal shall not be subject to any court directed invasion pursuant to the provisions of any statute of Maine or any other state of the United States of America. Any net income not so paid shall be added to the Trust sub-account of the Designated Beneficiary at the end of each fiscal year of the trust. It is the intent under this Trust Agreement that the Trustees in the administration of the Trust shall not exercise any discretionary powers herein granted to them in any manner which would disqualify a Designated Beneficiary from qualifying for federal, state, or local government benefits or programs which a Designated Beneficiary may be entitled to receive or programs which a Designated Beneficiary may be entitled to receive on account of his or her disability or medical condition, unless the Trustees in their sole discretion, determine that a distribution is otherwise in the best interests of the Designated Beneficiary, notwithstanding the consequent loss of such benefits, and other provisions of this Trust Agreement shall be subordinate to such intent and purpose. The determination of the Trustees with respect to the necessity for and the amounts of any payments to or for the benefit of any Designated Beneficiary pursuant to the terms of this Agreement concerning discretion of the Trustees shall be conclusive on all persons in any manner interested in any Trust account created pursuant to this Agreement except to the extent that the exercise of such discretion would limit the state's ability under statute and regulation to protect its remainder interest.

6.3. Additional Limitations on Discretionary Authority Where Trustee is Contributor.

No Trustee shall exercise or join in the exercise of any discretionary authority granted under this Trust Agreement over any trust account to which he or she has made a contribution. Whenever the exercise of any such power is under consideration, the Board of Trustees insofar as it concerns said consideration shall consist only of the remaining Trustees.

6.4. Binding Effect of Trustees' Determinations.

The exercise or non-exercise of any discretionary power granted hereunder to the Trustees and all actions taken by them with respect to making distributions hereunder shall be final and binding upon all persons except to the extent that the exercise of such discretion would limit the state's ability under statute and regulation to protect its remainder interest.

6.5. Property Refunds.

The Trustees, in their sole discretion, may refund all or any portion of the property in a trust sub-account to the party/parties who placed those funds into the trust, in proportion to the contributions, if it becomes impossible or impractical, in the sole discretion of Trustees, to fulfill the conditions of the Trust with regard to the respective Beneficiary. In the event such party/ parties are not living at the time a refund is to be made, payment may be made to the estate of such party/parties; provided, however, that if the funds to be refunded from a particular sub account were owned by the beneficiary immediately before the trust was funded or were subject to the direction of the beneficiary or his legal representative, then the Trustees shall first pay to the State of Maine an amount equal to the total medical assistance paid on behalf of such beneficiary after due payment of any legal obligations of the trust.

7. Dispositive Provisions after Death of Beneficiary

7.1. Amounts to Remain in the Trust.

The Trustees shall retain in the Trust such amounts remaining in the Designated Beneficiary's account upon the death of the Designated Beneficiary as are specified in the Sponsor Agreement. Said amounts that are retained in the Trust, in the Trustee's sole discretion, may be used (a) for the benefit of other Beneficiaries of the trust, (b) to add disabled persons, as defined in 42 U.S.C. §1382c(a)(3), to the Trust as beneficiaries (c) to be used for the benefit of other individuals who are disabled and who are not beneficiaries of the trust in any manner and in the absolute discretion of the Trustee; (d) used for the benefit of charitable organizations, that help disabled individuals and that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code (or corresponding

section or any future federal tax code), including but not limited to the Wardwell, a non profit association, whose principal office is located in Saco, Maine; provided, however, that any such uses are consistent with the provisions of the affected sponsor agreement; and/or (e) distributed to the State of Maine's Medicaid (MaineCare) Program. At least ten days before any distribution to charities is taken under this Article, the State of Maine Medicaid Program must be notified of the distribution in writing.

7.2. Election to Distribute Amounts to Others.

The Sponsor Agreement may provide that, after the Beneficiary's death, any amounts remaining in the Designated Beneficiary's account, are to be paid over to such individuals as are named in, or in the manner set forth in, the Sponsor Agreement, subject to any reimbursement of the State of Maine (or any other state which has paid medical assistance benefits on behalf of the beneficiary in an amount equal to the total medical assistance paid) as provided in the sponsor agreement. If more than one state has provided medical assistance to the Designated Beneficiary and there are insufficient funds to fully repay all such states, repayment will be apportioned among such states. Any sums to be paid to any state as required by law shall be paid and a release or certificate shall be obtained from each such state before the Trustees shall make a disbursement of the remainder of the sums to such other individuals as provided in the Sponsor Agreement.

8. Trustees and Appointment of Successors

8.1. Identification of the Initial Trustees.

The initial Trustees have been selected by The Wardwell. The identities of the initial Trustees are as follows:

Mark Peterson	17 Thunder Road, Saco, ME 04072
Thomas Welt	P.O. Box 525, Biddeford, ME 04005
Agnes Flaherty	7 Thunder Road, Saco, ME 04072
Kevin Robert	14 Marshwood Circle, Saco, ME 04072
Eric Cote	260 Beach Street, Saco, ME 04072

8.2. Term of Appointment.

The initial Trustees listed in Section 8.1 shall determine their initial terms of appointment, but in no event shall any period of appointment be longer than five (5) years. It is intended that the initial Trustees shall choose staggered terms of appointment so that the terms of appointment of the Trustee do not expire at the same time. Thereafter, all Trustees

shall be appointed for five (5) year terms, excluding any initial term of appointment described above or any term of appointment to fill a vacancy for an unexpired term described in Section 8.3 below. After a period of absence for at least five (5) years, the individual shall then become re-eligible for appointment as a Trustee.

8.3. Appointment of Successor Trustees.

Upon the expiration of the terms of appointment of a Trustee, or in the event of the resignation, removal, or inability of a Trustee to act or to continue to act as co-trustee of this Trust, the Board of Directors, or other governing body of The Wardwell, shall fill the vacancy thereby occasioned within one hundred and twenty days (120) of being notified of the vacancy. Such appointment shall become effective immediately upon the written acceptance of the appointment by the successor Trustee without obtaining approval from any court having jurisdiction over the Trust. A Trustee appointed to fill a vacancy on account of resignation, removal, or inability to act shall serve the unexpired term of the Trustee for whom the individual is appointed successor. All other appointments shall be for five (5) year terms.

8.4. Removal of Trustees.

Any Trustee serving hereunder can be removed by vote of the Board of Directors or other governing body of the Wardwell. In the event of such removal, the Board of Directors or other governing body of the Wardwell, shall appoint his or her successor in the manner provided for in Section 8.3 of this Trust Agreement.

8.5. Number of Trustees.

There shall always be at least five (5) Trustees hereunder.

8.6. Rights and Powers of Successor Trustees.

Any successor Trustees or additional Trustee appointed in this Agreement shall, upon such appointment, immediately succeed to all title of the prior Trustees and to all powers, rights, discretion, obligations, and immunities of a Trustee under this Agreement with the same effect as though such successor or additional Trustee were originally named as a Trustee in this Agreement.

9. Indemnification of Trustees

9.1. Indemnification.

None of the Trustees shall be liable for any act or omission in the administration of the Trust created by this instrument or for the loss or damage to any property, except for a Trustee's own actual fraud or gross negligence; nor shall they be personally liable for the

acts or omission of each other, or for the acts or omissions of any officer, agent, or servant elected or appointed by or acting for them. Upon the expiration of a Trustee's service hereunder, the Trustee and his or her estate shall be automatically released from any liability attributable to his or her services as co-trustee hereunder, except for the Trustee's own actual fraud or gross negligence.

9.2. Reliance upon Representations by Others.

The Trustees shall be fully protected in acting upon any instrument, certificate, paper, or presentation believed by them to be genuine and to be signed or presented by the proper person or persons, and the Trustees shall be under no duty to make any investigation

or inquiry as to any statement contained in such writing or representation, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

1. **Waiver of Potential Conflict of Interest**

The Trustees have a potential conflict of interest in their administration of this Trust since they are, and will be, appointed by the Board of Directors of The Wardwell; may also serve on the Board of Directors of the Wardwell; and because the Trust names the Wardwell as a potential remainder Beneficiary. Also, in making distributions from the Trust accounts in accordance with the provisions of this Trust Agreement, it is contemplated that the Trustees may make disbursements directly to the Wardwell or constituent agencies of The Wardwell on behalf of the designated Beneficiaries to cover the costs of services and benefits provided by the Wardwell or constituent agencies or entities. The Trustees are expressly authorized to make such disbursements, subject to the limitations on authority as set forth in this Agreement. The Sponsors, by executing Sponsor Agreements, have represented that they are aware of the potential conflicts of interest that exist in the Trustees' administration of the Trust. Any Sponsor executing a Sponsor Agreement to this Trust hereby waives any and all claims against the Trustees on account of self-dealing, conflict of interest, or any other act. The Trustees shall not be liable to the Sponsor or to any party for any act of self-dealing or conflict of interest resulting from their affiliations with The Wardwell or with any Beneficiary or constituent agencies.

10. Delegation of Authority

10.1. Delegation Among Trustees.

Except as otherwise expressly provided in the Trust Agreement, the Trustees shall have the authority to delegate to one or more Trustees all duties required of them or exercises of discretion granted to them under this Trust Agreement, including, but not limited to, disbursement of funds on behalf of a Designated Beneficiary, selection of investments for the Trust Estate, and performance of other administrative duties. Such

delegation shall become effective immediately upon approval of the same by the majority of the Trustees. All persons dealing with the Trustees are released from inquiry into the decision or authority of the Trustees or any one of them and from seeing to the application of any monies, securities, or other properties paid or delivered to the Trustees or any one of them or any agent acting on their behalf.

10.2. Authority to Hire Corporate Custodian and to Seek Advice.

The Trustees shall have the authority, but not the obligation, to hire a corporation to serve as a custodian for the Trust which is authorized in the state of Maine to serve as a custodian over Trust securities and assets. The duties of such custodian may include the safekeeping of securities and other Trust assets, maintenance of Trust records, payment of disbursements, and distributions from the Trust.

10.3. Authority to Seek Advice

The Trustee may seek the advice and assistance of any guardian(s) or conservator(s) of Beneficiaries, or others, including any federal, state and local agencies that are established to assist people with disabilities. The Trustees should use available resources to assist in identifying programs that may be of legal, social, financial, developmental, or other assistance to Beneficiaries.

10.4. Authority to Hire Investment Counsel and to Delegate Investment Authority.

The Trustees shall have the authority, if in their discretion they deem it advisable, to hire an investment advisor or investment counsel on behalf of the Trust, specifically including the right to delegate investment authority to such adviser who shall be authorized to make investments on behalf of the Trust without requiring prior approval from the Trustees.

10.5. Payment for Services.

The Trustees are authorized to pay the compensation of agents, accountants, custodians, legal counsel, and investment counsel which expenses, together with all other expenses attributable to administration of the trust estate, including reasonable administrative fees and repayment of expenditures and fees incurred by the Wardwell to set up and establish this trust, that may be charged by the Trust and the Wardwell, shall be charged generally against the Trust Estate. Such expenses shall be allocated to the Trust accounts in proportion to their relative values or in any other manner deemed appropriate by the Trustee.

11. Irrevocability of Transfer and Amendment of Trust

11.1. Irrevocable Transfer.

A Sponsor or other contributor to the trust shall not be permitted to revoke a Sponsor Agreement or withdraw any funds contributed to the trust Estate under such Agreement. However, a Sponsor or his or her personal representative, during the lifetime of the Designated Beneficiary, may amend the Sponsor Agreement by filing a written amendment in writing with the Trustees to nullify or change any or all dispositive provisions in the Sponsor Agreement. Notwithstanding the foregoing, a Sponsor or his or her personal representative cannot amend the dispositive provisions in the Sponsor Agreement so that any remaining funds in a Beneficiary's trust account are left to the sponsor's estate or to the creditors of the sponsor's estate; nor may the Sponsor, or his or her personal representative, amend any requirements set forth in a Sponsor Agreement, requiring reimbursement to the State of Maine (or any other state required by law). Before any amendment to a Sponsor Agreement may take effect, the State of Maine Medicaid Program (MaineCare) must be notified by Trustees 30 days before the effective date of the amendment.

11.2. Amendment of Trust.

This Declaration of Trust shall be irrevocable, except that it may be amended from time to time as to conform to Article 3 to effectuate the terms of this instrument. In addition, the Trustee may amend this instrument by a vote of 3/5 (three-fifths) of the Trustees, and such amendment shall become effective immediately upon approval of the requisite number of Trustees without action or approval of any court having jurisdiction over the Trust as follows: 1. So that it 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 the Revenue Reconciliation Act of 1993; 2. To amend any or all of the trustee provisions set out in Article 8 and Article 3. To enable the trust to obtain tax exempt status. Before any amendment may take effect, the State of Maine Medicaid Program (MaineCare) must be notified by Trustees 30 days before the effective date of the amendment.

12. Trustee Powers

In addition to all common law and statutory authority, the Trustees shall have the following powers in the administration of the Trust Estate:

- (a) The Trustees are authorized to retain in the Trust for such time as they may deem advisable any property received by them from a Sponsor or other contributor whether or not such property is of the character permitted by law for the investment of trust funds.
- (a) Except as otherwise provided in this instrument, in administering the Trust,

the Trustees, without bond, may exercise the following powers: hold, retain, invest, reinvest, and manage, without diversification as to kind, amount, or risk of non-productivity, in realty or personalty, and without limitation by statute or rule of law; partition, sell, exchange, grant, convey, deliver, assign, transfer, lease, option, mortgage, pledge, abandon, borrow, loan, contract, distribute in cash or kind or partly in each at fair market value on the date of distribution without requiring pro rata distribution of specific assets and without requiring pro rata allocation of the tax basis of such assets; hold in nominee form, continue business, carry out agreements, deal with itself, other fiduciaries, and business organizations in which the Trustees may have an interest; establish reserves, release powers, and abandon, settle, or contest claims. The Trustees shall have full power and authority, in their 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, to do such other acts or things concerning the Trust as may be advisable, and to have and exercise all powers conferred upon fiduciaries by law, including, but not limited to, all powers conferred upon fiduciaries by the Maine Probate Code, as that Act was amended on the date of this instrument, and the powers conferred upon the Trustees by said Act are hereby incorporated into this instrument by reference.

- (b) Except as otherwise specifically provided in this Agreement, the Trustees shall have full power and authority to determine, in their discretion, what shall constitute principal of the Trust Estate or any Trust account, gross income from the Trust Estate or any Trust account, and net income of the Trust Estate or any Trust account distributable under the terms of this Agreement. The determination by the Trustees as to what constitutes principal, gross income, or net income of the Trust Estate or of any Trust account shall be conclusive and binding on all persons in any manner interested in any Trust account created or to be created pursuant to this Agreement.
- (c) All property taxes, assessments, fees, charges, and other expenses incurred by the Trustees in the administration or protection of the trusts created by this Agreement, unless directly attributable to a specific Trust account, shall be a general charge on the Trust Estate and shall be paid by the Trustees prior to allocation of net income to any of the Trust accounts or out of the principal of the Trust accounts or partially out of the principal and partially out of the income in such manner and proportions as the Trustees may deem to be advisable.

13. General Matters

13.1 The Trustees shall not be required to furnish any bond for the faithful

performance of the Trustees' duties. If bond is required by any law or court of competent jurisdiction, no surety shall be required on such bond.

13.2. The State of Maine Medicaid program shall be notified of any proceedings concerning the trust that may be brought in any court of competent jurisdiction.

13.3. The Trust created by this Agreement has been accepted by the Trustees in the State of Maine and will be initially administered by the Trustees in the State of Maine. The validity, construction, and all rights under this Agreement shall be governed by the laws of the State of Maine. The situs of this Trust for administrative and accounting purposes shall be in York County, the County where the majority of meetings concerning establishment of the Trust have occurred.

13.4. The interest of any Beneficiary either as to income or principal shall not be anticipated, alienated, or in any manner assigned or pledged or promised by such Beneficiary, and shall not be reached by, or be subject to, any legal, equitable, or other process, including any bankruptcy proceeding, or be subject to the interference or control of

creditors or others in any way or manner, provided, however, that this provision shall not limit any right the State of Maine or any other state may have to recover from the account of the Designated Beneficiary as provided by law.

13.5. Should any provision of this Agreement be or become unenforceable, the remaining provisions of this Agreement shall be and continue to be fully effective, as long as the trust continues to meet its purpose, as defined in Article 3.

IN WITNESS WHEREOF, and intending to be legally bound, Settlor and the trustees have executed this instrument.

ATTEST

SETTLOR:

By: _____

Its: _____

WITNESS

TRUSTEES

Mark Peterson

Thomas Welt

Agnes Flaherty

Kevin Robert

Eric Cote

STATE OF MAINE
YORK, SS.

DATED: _____

Then personally appeared the above-named, Mark Peterson, and
acknowledged the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney-at-Law

Print name

STATE OF MAINE
YORK, SS.

DATED: _____

Then personally appeared the above-named, Thomas Welt, and
acknowledged the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney-at-Law

Print name

STATE OF MAINE
YORK, SS.

DATED:_____

Then personally appeared the above-named, Agnes Flaherty, and acknowledged the foregoing instrument as her free act and deed.

Before me,

Notary Public/Attorney-at-Law

STATE OF MAINE
YORK, SS.

DATED:_____

Then personally appeared the above-named, Kevin Robert, and acknowledged the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney-at-Law

Print name

STATE OF MAINE
YORK, SS.

DATED:_____

Then personally appeared the above-named, Eric Cote, and acknowledged

the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney-at-Law

Print name

**FIRST AMENDMENT
TO THE
MAINE POOLED DISABILITY TRUST II**

This FIRST AMENDMENT TO THE DECLARATION OF TRUST is made this ___ day of _____, 2007, by the trustees of the Maine Pooled Disability Trust II, under trust agreement, dated, November 4, 2005. This amendment is made pursuant to Article 11.2 of said Trust Agreement. The Trustees hereby amend the aforementioned Declaration of Trust, which shall become effective thirty days after notice to the State of Maine Medicaid Program (MaineCare), as follows:

FIRST: The Trustees hereby delete Paragraph 8.2 and insert the following in its stead:

8.2 Term of Appointment

The initial Trustees listed in Section 8.1 shall determine their initial terms of appointment. It is intended that the initial Trustees shall choose staggered terms of appointment so that the terms of appointment of the Trustee do not expire at the same time. Thereafter, all Trustees shall be appointed for five (5) year terms, excluding any initial term of appointment described above or any term of appointment to fill a vacancy for an unexpired term described in Section 8.3 below. Trustees may serve unlimited, consecutive terms, if appointed to serve again pursuant to Article 8.3 below.

SECOND: The Trustees hereby delete Paragraph 8.3 and insert the following in its stead:

8.3 Appointment of Successor Trustees.

Upon the expiration of the term of appointment of a Trustee, or in the event of the resignation, removal, or inability of a Trustee to act or to continue to act as co-trustee of this Trust, the then serving Trustees, by a majority vote, shall fill the vacancy thereby occasioned within one hundred and twenty days (120) of being notified of the vacancy. Such appointment shall become effective immediately upon the written acceptance of the appointment by the successor Trustee without obtaining approval from any court having jurisdiction over the Trust. A Trustee appointed to fill a vacancy on account of resignation, removal, or inability to act shall serve the unexpired term of the Trustee for whom the individual is appointed successor. All other appointments shall be for five (5) year terms.

THIRD: The Trustees hereby delete Paragraph 8.4 and insert the following in its stead:

8.4 Removal of Trustees.

Any Trustee serving hereunder can be removed by vote of the majority of the

other than serving Trustees. In the event of such removal, the successor trustee shall be appointed as provided in Section 8.3 of the Trust Agreement above.

FOURTH: The Trustees hereby delete the Paragraph entitled, “Waiver of Potential Conflict of Interest” which is set out in Article 9 and insert the following in its stead:

9.3 Waiver of Potential Conflict of Interest

The Trustees have a potential conflict of interest in their administration of this Trust since some of them have been appointed by the Board of Directors of The Wardwell; may also serve on the Board of Directors of the Wardwell; and because the Trust specifically names the Wardwell as a potential remainder Beneficiary. Also, in making distributions from the Trust accounts in accordance with the provisions of this Trust Agreement, it is contemplated that the Trustees may make disbursements directly to the Wardwell or constituent agencies of The Wardwell on behalf of the designated Beneficiaries to cover the costs of services and benefits provided by the Wardwell or constituent agencies or entities. The Trustees are expressly authorized to make such disbursements, subject to the limitations on authority as set forth in this Agreement. The Sponsors, by executing Sponsor Agreements, have represented that they are aware of the potential conflicts of interest that exist in the Trustees’ administration of the Trust. Any Sponsor executing a Sponsor Agreement to this Trust hereby waives any and all claims against the Trustees on account of self-dealing, conflict of interest, or any other act. The Trustees shall not be liable to the Sponsor or to any party for any act of self-dealing or conflict of interest resulting from their affiliations with The Wardwell or with any Beneficiary or constituent agencies.

Witness

Eric Cote, Trustee

STATE OF MAINE
YORK, SS

DATED

Then personally appeared the above-named **Eric Cote** and acknowledged the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney at Law

Print name

Witness

Veronica Sheehan, Trustee

STATE OF MAINE
YORK, SS

DATED

Then personally appeared the above-named **Veronica Sheehan** and acknowledged the foregoing instrument as her free act and deed.

Before me,

Notary Public/Attorney at Law

Print Name

Witness

Thomas Welt, Trustee

STATE OF MAINE
YORK, SS

DATED

Then personally appeared the above-named **Thomas Welt** and acknowledged the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney at Law

Print name

Witness

Joseph Daigneault, Trustee

STATE OF MAINE
YORK, SS

DATED

Then personally appeared the above-named **Joseph Daigneault** and acknowledged the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney at Law

Print name

Witness

Kevin Robert, Trustee

STATE OF MAINE
YORK, SS

DATED

Then personally appeared the above-named **Kevin Robert** and acknowledged the foregoing instrument as his free act and deed.

Before me,

Notary Public/Attorney at Law

Print name

Signed this 18th day of Jan, ²⁰¹³2012.

David Cook
Witness

Eric Cote

Eric Cote, Trustee

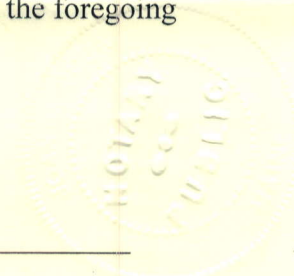
STATE OF MAINE
YORK, SS.

Dated: *January 18, 2013*

Then personally appeared the above-named **Eric Cote** and acknowledged the foregoing instrument as his free act and deed.

Before me,

David Cook
Notary Public/Attorney at Law



Signed this 18th day of Jan., ²⁰¹³ 2012.

[Signature]
Witness

[Signature]
Joseph R. Daigneault, Trustee

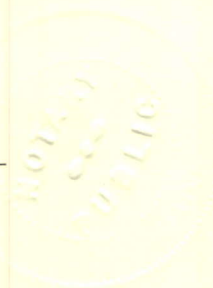
STATE OF MAINE
YORK, SS.

Dated: January 18, 2013

Then personally appeared the above-named **Joseph R. Daigneault** and acknowledged the foregoing instrument as his free act and deed.

Before me,

[Signature]
Notary Public/Attorney at Law



Dated this 18th day of Jan, ²⁰¹³~~2012~~

James M. Cook
Witness

Veronica M. Sheehan
Veronica M. Sheehan, Trustee

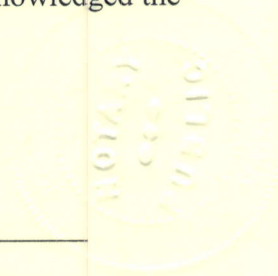
STATE OF MAINE
YORK, SS.

Dated: *January 18, 2013*

Then personally appeared the above-named **Veronica M. Sheehan** and acknowledged the foregoing instrument as her free act and deed.

Before me,

James M. Cook
Notary Public/Attorney at Law



Signed this 15th day of March, 2012³.

James Cook
Witness

Debra Thomas
Debra Thomas, Trustee

STATE OF MAINE
YORK, SS.

Dated: March 15, 2013

Then personally appeared the above-named **Debra Thomas** and acknowledged the foregoing instrument as her free act and deed.

Before me,

James Cook
Notary Public/Attorney at Law

