

Trust MSA sub-account number: _____ Beneficiary Name: _____

These Blanks to be Completed by the Trustee version 1.03

**ADDENDUM TO GUARDIAN POOLED TRUST JOINDER AGREEMENT
CREATING A MEDICARE SET ASIDE SUB-ACCOUNT**

On _____, 20_____, the undersigned Grantor executed an irrevocable Joinder Agreement for the Guardian Pooled Trust (the “Agreement”), to establish a Trust sub-account for the sole benefit of _____; and,

WHEREAS, The Grantor and Trustee recognize that there may be circumstances where it is necessary to establish a second beneficiary sub-account designated as a Medicare Set Aside Pooled Trust sub-account (MSA sub-account) for the sole benefit of the following named Beneficiary, in addition to the Beneficiary sub-account referenced in the Joinder Agreement;

NOW, THEREFORE, the Grantor and Trustee wish to create a second pooled trust sub-account that qualifies as a Medicare Set Aside Arrangement—It is the intention that this sub-account qualify and operate as a Medicare Set Aside Arrangement under the provisions of 42 U.S.C. §1395y and 42 C.F.R. §411.20 and all currently applicable Memoranda issued by the Centers for Medicare and Medicaid Services (CMS). The Medicare Set Aside pooled trust sub-account funds shall be held in an interest bearing account which is separate and distinct from other sub-accounts.

IT IS AGREED THAT assets that are held in the Beneficiary’s MSA sub-account shall be treated and administered as follows:

- 1.01 Trust sub-account. While the Beneficiary is living, the Beneficiary’s Trust sub-account will be administered solely for the benefit of the Beneficiary. The principal and income shall be administered as a Medicare Set Aside trust pursuant to 42 U.S.C. §1395y, *Exclusion From Coverage And Medicare As Secondary Payer*, (Section 1862 of the Social Security Act, as amended by the Medicare Prescription Drug, Modernization and Improvement Act of 2003) and the regulations and policy memoranda applicable to and interpreting the same, being 42 C.F.R. §411.20 *et seq.* and memoranda issued by the Centers for Medicare and Medicaid Services (CMS), which provision, regulations and policy are herein referred to collectively as the Medicare Secondary Payer Law. However, neither such segregation nor payment of medical expenses from the Medicare Set Aside Share shall limit or impair the absolute discretion provided Trustee herein, nor cause the Trust to be held other than for the sole benefit of the Beneficiary, nor cause any portion of the Trust to be considered available to the Beneficiary, or subject to the Beneficiary’s control.

- 1.02 Payments of Certain Medical Expenses If and As Required For Medicare Benefits. During the lifetime of the Beneficiary, both the corpus of and the income from the Medicare Set Aside Share shall be paid for medical services, prescription drug services and supplies that would otherwise be reimbursable under Medicare, if but only if (a) such payments by Medicare are precluded under the Medicare Secondary Payor Law, and (b)

such payments shall be prudent in the discretion of the Trustee after considering all other benefits to which the Beneficiary shall be entitled. Such medical and prescription drug services and supplies are herein referred to as “eligible injury related medical expenses.”

- 1.03 Engagement of Experts and Consultants. Trustee may engage the services of experts, including but not limited to Medicare claims and payments administrators, to advise and counsel the Trustee with respect to eligible injury related Medicare covered medical expenses. Trustee may rely upon the written instructions and advice of such experts regarding disposition of the Trust as to eligible injury related medical expenses, and payments and distributions from the Trust, made in accord with such instructions and advice of such experts, shall be conclusively deemed authorized and proper. The fees, costs and expenses of such experts and consultants, if any, as well as the fees, costs and expenses of the Trustee, accountants, attorneys or other professionals shall not be paid from the Medicare Set Aside sub-account. Administrative and/or fiduciary expenses shall be paid from other resources, including, but not limited to, a separate and distinct structured settlement annuity established for that purpose or the Beneficiary’s primary pooled trust sub-account.
- 1.04 Accounting. Trustee shall be required to account to the Centers for Medicare and Medicaid Services (CMS) for the Medicare Set Aside Share annually within thirty (30) days of the annual accounting period for the Medicare Set Aside Share, which period is the anniversary date of the funding of the Medicare Set Aside Share. The fees, costs and expenses of such accounting shall be paid from the separate non-Medicare Set Aside pooled trust sub-account.
- 1.05 Tax Attributable to Medicare Set Aside Share Payable From Such Share. Taxes applicable to the income generated by the Medicare Set Aside sub-account shall be paid from such sub-account to the extent permitted by the Medicare Secondary Payor Law including but not limited to the July 11, 2005 Policy Memorandum issued by the Centers for Medicare and Medicaid Services. Should such account be insufficient, such tax may be paid from a separate non-Medicare Set Aside pooled trust sub-account otherwise established for the sole benefit of the Beneficiary, or other special needs trust established for the sole benefit of the Beneficiary.
- 1.06 Allowable Expenses. Trustee, or their agent, shall pay expenses from this sub-account which are Injury-Related Medical and Prescription Drug Expenses that would otherwise be covered by Medicare, and other administrative expenses including but not limited to bank fees, income tax paid on interest income arising from Approved Investments, mailing fees/postage and document copying fees related to the account that are incurred during the term of this Agreement. At all times funds will be administered as if the Beneficiary were entitled to Medicare benefits, even if Beneficiary’s determination for benefits is pending, pursuant to CMS memorandum of July 11, 2005.
- 1.07 Death of the Beneficiary. The Medicare Set Aside Share shall be continued after the death of the Beneficiary for a reasonable period of time in the discretion of the Trustee for payment by the Trustee of medical expenses and prescription drug expenses otherwise payable by Medicare. Trustee shall have no liability to make any payment from the Medicare Set Aside Share as to any bill or account that has not been submitted in writing

to the Trustee within one (1) year of death of the Beneficiary. To the extent that there is remaining principal, and accrued income if any, in the Medicare Set Aside Share after payment of all such medical bills and prescription drug expenses any assets that remain in the Beneficiary's Trust sub-account at the Beneficiary's death shall be retained by the Trust pursuant to the requirements of 42 U.S.C. §1396p and shall be administered by the Trustee.

1.08 Trustees Compensation. The Trustee shall be entitled to compensation for its services according to its published MSA sub-account fee schedule in effect at the time services are rendered by the Trustee. However, the fees, costs and expenses of the Trustee shall not be paid from the Medicare Set Aside pooled trust sub-account. Administrative and/or fiduciary expenses shall be paid from other resources, including, but not limited to, a separate and distinct structured annuity established for that purpose or a separate pooled trust sub-account, where a minimum balance may be required. Fees and compensation paid to the Trustee are not refundable. Fees are earned when paid. The following fee schedule is included for reference only and is subject to change:

Trustee's MSA Sub-Account Fees

1. Administrative Fee. There is a one-time \$500 enrollment fee which will be paid from a separate annuity or from the non MSA Pooled Trust sub-account. Similarly, there shall be an annual administrative fee, paid in advance and in the same manner, based on the following schedule:

0.6 %	Greater than \$3,000,000
0.8 %	\$2,000,001 – \$3,000,000
1.0 %	\$1,000,001 – \$2,000,000
1.2 %	\$750,001 – \$1,000,000
1.5 %	\$500,001 - \$750,000
2.25 %	\$250,000 - \$500,000
3.0 %	Less than \$250,000

- a. Subsequent deposits will be assessed a fee corresponding to the account balance after the deposit is made.
- b. There will be an additional fee for the service of a Medicare claims payment representative. There may be additional administrative expenses as set forth in the Trust Agreement and in the Joinder Agreement. Such expenses will be deducted from the non-MSA sub-account. The Trustee may require minimum balances be kept in the non-MSA sub-account to meet these ongoing costs and administrative fees.

1.09 Complete Agreement. This Agreement, together with Guardian Pooled Trust Joinder Agreement and attached Exhibits thereto, which are incorporated herein by reference, constitutes the entire understanding between the parties. To the extent the Guardian Pooled Trust Joinder Agreement is inconsistent with this Addendum, regarding the MSA sub-account, this Addendum shall control. No promises, agreements or representations, expressed or implied, have been made, except those contained in this writing, and all

corrections and additions hereto shall be in writing, specifically designated as an addition or amendment to this Agreement, and signed by the parties.

IN WITNESS WHEREOF, the undersigned Grantor has signed this Agreement on this ____ day of _____, _____, and the Trustee has accepted and signed this Agreement on this ____ day of _____, _____ (to be completed by Trustee).

GRANTOR'S SIGNATURE

WITNESS SIGNATURES (2)

Grantor Signature

1. _____
Witness Signature

Grantor Printed Name

Witness 1 Printed Name

Address: _____

Address: _____

2. _____
Witness Signature

Witness 2 Printed Name

Address: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ____ day of _____, 20 ____, by _____ who [] is personally known by me, or who [] produced _____ as identification.

Notary Public

Guardian Trust Foundation, Inc.

WITNESS SIGNATURES (2)

By: _____

1. _____

Witness Signature

Printed Name

Print Name

Address:
Guardian Trust Foundation, Inc.
901 Chestnut Street, Suite C
Clearwater, FL 33756

Address:
901 Chestnut Street, Ste. C
Clearwater, FL 33756

2. _____

Witness Signature

Print Name

Address:
901 Chestnut Street, Ste. C
Clearwater, FL 33756

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20 ____, by _____ who is personally known by me, or who produced _____ as identification.

Notary Public