PLAN OF MASSACHUSETTS AND RHODE ISLAND, INC.
STANDALONE TRUST GUIDELINES

PLAN of Massachusetts and Rhode Island, Inc. (PLAN) serves as Trustee of standalone special needs trusts when there is at least $750,000 in anticipated liquid assets and no Inherited IRAs or real estate to be administered under the trust. In order for PLAN to serve as Trustee, it requires the standalone special needs trust to include the following provisions.

PLAN may be identified as Trustee in the standalone special needs trust as: "**Planned Lifetime Assistance Network (PLAN) of Massachusetts and Rhode Island, Inc., of Braintree, Massachusetts, Trustee"**

Once the standalone special needs trust is drafted to include the following provisions, please email the draft to tmoore@planofma-ri.org for review by PLAN's In-house Counsel who will contact you within one to two weeks with questions, comments and next steps.

TRUST PROVISION	PREFERRED COMPONENTS OF PROVISION
Trustee Authority to Make Administrative Amendments	Includes authority to make amendments to modify trust to meet objectives of supporting the beneficiary. Includes authority to make amendments to conform to benefits laws, regulations and sub-regulatory guidelines. **Note: Broad trustee amendment powers can, in most cases, be used to cure trusts that do not meet the below preferences.**
Payment of Professional Trustee's Fees	Allows payment of trustee's fees for services provided, either subject to a published fee schedule or not. Permits trustee discretion to pay fees to tax advisors and investment advisors for investment services, subject to a published fee schedule or not.
Trustee Authority to Hire Professionals	Specifically to allow for services to beneficiary, both from PLAN staff and external support services (including, but not limited to social workers, care/companionship providers, therapy and medical providers). Specifically to allow for advisors and support services to trustee (including, but not limited to accountants, attorneys).

PLAN
Special Needs Trusts

PLAN OF MASSACHUSETTS AND RHODE ISLAND, INC.
STANDALONE TRUST GUIDELINES

Trustee Authority to Resign or Appoint Successor	Trustee must be able to resign without assent of beneficiary or any third party. Trustee must be able to appoint an appropriate successor in the event of resignation.
Trustee to Serve Alone	No requirement for a co-trustee. Trustee does not need to rely on obtaining the resignation or declination by a named trustee or co-trustee.
Trustee Liability Protection	Trustee shall be protected from liability for any action or omission made in good faith. PLAN shall be fully released of liability for actions and omissions of past trustees. Outgoing trustee shall provide accounting of trust administration through the end of trustee's service.
Trustee Authority to Decant	Explicit authority to decant to a (d)(4)(A) trust or other appropriate special needs trust for the sole benefit of the beneficiary, including a pooled trust. Trust is in conformity with SSA POMS rule SI 01120.199 regarding early termination or any state law related to decanting. Massachusetts first party trusts must include decanting language conforming to requirement to report to MassHealth pursuant to early termination rules.
Trustee Not Subject to Oversight of Trust Protector or Trust Advisors	No beneficiary or third party shall have the authority to remove the trustee. Trustee shall have sole discretion with regard to investments and distributions, without oversight or direction from beneficiary or third parties.

PLAN
Special Needs Trusts

PLAN OF MASSACHUSETTS AND RHODE ISLAND, INC.
STANDALONE TRUST GUIDELINES

First Party Trust Taxed as Grantor Trust	If trust is already funded and administered, it must have been taxed to beneficiary as grantor trust. Explicit language identifying trust as a grantor trust. Trust language shall include authority of trustee to distribute income, accumulate income and/or other grantor trust powers in conformity with Internal Revenue Code s. 672 that do not disrupt benefits (regardless of whether the trustee will intend to exercise these powers).
Third Party Trust Taxed as Non-Grantor Trust	If trust is already funded and administered, it must have been taxed to beneficiary as a non-grantor trust. Explicit language identifying trust as non-grantor trust.
Trustee Discretion to Accumulate Income	Trustee must have explicit authority to accumulate undistributed income.
Trustee Discretion to Characterize Distributions as Income or Principal	Trustee must have explicit authority to exercise discretion as to whether to characterize trust property as income or principal for income tax and investment purposes.
Trust With Inherited IRA to Allow Maximum Stretch Out of Minimum Required Distributions	Trust shall conform to any guidelines or regulations related to required minimum distributions (including the SECURE Act).
Broad Trustee Investment Powers	Trustee must have broad investment powers. Trust should include explicit language referencing statutory powers, where appropriate.
Trust Situs	Trust must specify situs under Massachusetts or Rhode Island governing law. Trustee should have authority to change trust situs, if appropriate.

PLAN
Special Needs Trusts

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STANDALONE TRUST GUIDELINES

Trustee Authority to Make Distributions that May Interrupt Public Benefits	Trustee shall not be explicitly restricted from making distributions for housing or food. Trustee shall have the authority to make a distribution that will interrupt benefits, if the trustee determines in their sole and absolute discretion that such distribution is in the best interest of the beneficiary.
Trust Shall Not Hold Any Interest in Real Property	Trust shall not be current owner or future grantee of any interest in real property.
Robust Spendthrift Provision	Prohibits voluntary and involuntary transfer of beneficiary's interest. Makes explicit reference to "spendthrift" restrictions.
Required Accountings to Appropriate Parties	Accountings shall not be required more frequently than annually. Trustee should not be required to provide an accounting to any party other than the beneficiary and/or their legal representative (e.g. for third party trust, accountings to donor are not required). Massachusetts first party trusts should include language requiring accountings to MassHealth, if appropriate, pursuant to regulations.
Identifiable Remaindermen	If a second trust is an ultimate beneficiary of trust assets, that trust must be provided for review. If remaindermen are identified by class (e.g. donor's issue by right of representation), names, addresses and relationship of all class members must be provided by separate attachment or appendix.