



# NYSARC, INC. COMMUNITY TRUST

## JOINDER AGREEMENT

(COMMUNITY TRUSTS I & II)

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# **NYSARC, Inc. Community Trust Joinder Agreement**

**This is a legal document. It is an agreement pertaining to a supplemental needs trust created pursuant to 42 United States Code §1396. You are encouraged to seek independent, professional advice before signing this agreement.**

The undersigned hereby adopts, enrolls in and establishes a sub-trust account under the **NYSARC, INC. COMMUNITY TRUST I (“CT I”)** dated April 19, 1997 and as amended **OR** under the **NYSARC, INC. COMMUNITY TRUST II (“CT II”)** dated October 17, 2002 and as amended, both trusts incorporated herein by reference. The undersigned also consents to NYSARC, Inc.’s determination as to which Trust (CT I or CT II) the beneficiary may be assigned. **These Trusts are Irrevocable.**

*NOTE: All questions must be answered or your application will be delayed.*

**1. Disabled Beneficiary/Donor: \_\_\_\_\_**

(First Name, Middle Name, Last Name)

Social Security Number: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_ (mm/dd/yyyy)

Address: \_\_\_\_\_

Telephone Number of Donor: (\_\_\_\_) \_\_\_\_ - \_\_\_\_ (Home) (\_\_\_\_) \_\_\_\_ - \_\_\_\_ (Mobile)

Email Address: \_\_\_\_\_

County of Residence: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

Gender: \_\_\_\_\_ Citizenship: \_\_\_\_\_

Marital Status: \_\_\_\_\_ Spouse’s name if married: \_\_\_\_\_  
(First Name/Last Name)

**2. Beneficiary’s Qualifying Disability(ies): \_\_\_\_\_**

**3. Court Order:**

Is the Trust being established as the result of a Court Order? Yes  No

*If yes, please include a copy of the Court Order.*

**4. Funding: (indicate all that are applicable):**

Surplus monthly income/NAMI deposits

Indicate monthly deposit amount: \_\_\_\_\_

Lump Sum

Structured settlement payment (Please provide settlement order.)

Other (e.g. occasional resource deposits)

Describe: \_\_\_\_\_

***Note: This is supplemental information for NYSARC, Inc. purposes only. This amount may be changed at any time with no effect on the Joinder Agreement.***

**5. Beneficiary's Income:**

Indicate what sources of income the Beneficiary receives:

Social Security (Indicate Benefit Type)\*:

Social Security Retirement Income (SSA)?      Yes  No

Social Security Disability Income (SSDI)?      Yes  No

Supplemental Security Income (SSI)?      Yes  No

Social Security Survivor/Dependent Benefits?      Yes  No

***\*Provide copy of Social Security Award letter, indicating your claim number.***

Other income?      Yes  No

***If yes, please provide source, amount and frequency.***

\_\_\_\_\_

**6. Benefits:**

Does the Beneficiary receive Medicaid?      Yes  No  Pending

If yes, list Medicaid Case #: \_\_\_\_\_

Please list other monthly benefits that the Beneficiary receives, such as Food Stamps, HUD Section 8, etc.: \_\_\_\_\_

\_\_\_\_\_

**7. Living Arrangements: (indicate the living arrangement of the Beneficiary):**

Independently	<input type="checkbox"/>	CR/IRA/ICF (supervised)	<input type="checkbox"/>
With Spouse	<input type="checkbox"/>	CR/IRA (supportive)	<input type="checkbox"/>
With Family/Parents	<input type="checkbox"/>	Family Care Program	<input type="checkbox"/>
Assisted Living Facility	<input type="checkbox"/>	Nursing Home	<input type="checkbox"/>

Other (explain) \_\_\_\_\_

If in an OPWDD residential program, does the Beneficiary receive community funds (e.g. clothing allowance)?

Yes  No  If yes, how much and how often received? \_\_\_\_\_

**8. Beneficiary Services:**

List other services that the Beneficiary receives (include day services, service coordination, employment programs, etc.):

<u>Service</u>	<u>Name of Provider</u>
_____	_____
_____	_____

**If the Beneficiary has a Representative Payee**, please list their name and contact information. *Note: By listing a rep payee, you authorize NYSARC to communicate with this person regarding your trust account.*

\_\_\_\_\_  
\_\_\_\_\_

**9. Guardianship:**

Is there a court appointed Guardian for the Beneficiary? Yes  No

**If yes, attach copy of Decree and Letters of Guardianship (Art. 17A) OR Guardianship Order and Commission (Art. 81) and complete the following:**

Guardian of the:  Person  Property  Both

Please list name(s) and address(es) of Guardian(s):

\_\_\_\_\_

Are Standby and/or Alternate Standby Guardian(s) appointed? Yes  No

If yes, for the:  Person  Property  Both

Please list name(s) and address(es) of Standby and/or Alternate Standby Guardian(s):

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**10. Authorized Contacts:**

*Note: All authorized contacts listed can communicate with NYSARC and obtain information about your trust account from customer service, the automated phone system, and the Online Portal, including but not limited to, account activity, trust forms, and legal documents for reporting purposes. Only contacts who are specifically authorized below can submit disbursement requests on the Beneficiary's behalf.*

*You must list at least one authorized contact who can submit requests.*

Name: _____	Receive Monthly Statements <input type="checkbox"/>	Submit Requests for Disbursements <input type="checkbox"/>
Address: _____		
Telephone No.: (_____) _____ - _____		
Email Address: _____		
Relationship: _____		

Name: _____	Receive Monthly Statements <input type="checkbox"/>	Submit Requests for Disbursements <input type="checkbox"/>
Address: _____		
Telephone No.: (_____) _____ - _____		
Email Address: _____		
Relationship: _____		

Name: _____	Receive Monthly Statements <input type="checkbox"/>	Submit Requests for Disbursement <input type="checkbox"/>
Address: _____		
Telephone No.: (_____) _____ - _____		
Email Address: _____		
Relationship: _____		

**11. Supplemental Information:**

List one contact to receive the Beneficiary Welcome Packet: \_\_\_\_\_

List one contact to receive the annual tax information: \_\_\_\_\_

*Note: Must be the Beneficiary or an authorized contact listed above.*

**12. Monthly Statements:**

Should the Beneficiary receive a copy of the monthly statement? Yes  No

**13. Representative:**

List the individual/firm who is responsible for submitting the Trust documents to Medicaid, Social Security Administration, or other government agency on the Beneficiary’s behalf.

*Note: The individual listed below will receive a copy of the acceptance letter and a copy of the executed Joinder Agreement.*

Name: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Agency/Firm, etc.: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

**14. Referral Source: Same as Representative submitting documents**

*How did you hear about NYSARC Trust Services?*

Name: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Agency/Firm, etc.: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

**15. Funeral Provisions:**

Does the Beneficiary have funeral provisions in place? Yes  No

*If yes, please provide details (e.g. funeral home, plot location, etc.)*

\_\_\_\_\_

## **Information and Disclosures:**

### Assignment to Community Trust I or Community Trust II:

NYSARC, Inc. retains the right to assign an account under this Joinder Agreement to either Community Trust I or Community Trust II based upon its classification as a “Pass-Through” account. A “Pass-Through” account is defined as any account where the beneficiary will be depositing a monthly income spend-down.

### Community Trust I versus Community Trust II:

Donor understands that Community Trust I and Community Trust II are identical in all **material** respects with the exception of fees. Fees assessed under Community Trust II may be higher due to the greater administrative costs associated with administering “Pass-Through” accounts. Donor acknowledges that he/she has reviewed the respective fee schedules of Community Trust I and Community Trust II and has no objection to NYSARC, Inc. assigning him/her to Community Trust II if the account is determined by NYSARC, Inc. to be a “Pass-Through” account.

### Death of Beneficiary:

- a. **The Beneficiary’s sub-trust account terminates upon his or her death.** If, upon the death of the Beneficiary, funds remain in his or her sub-trust account, such funds shall be deemed to be property of the Trust and all funds that are remaining in the Beneficiary’s separate sub-trust account shall be retained by the applicable **NYSARC, Inc. Community Trust** to further the purposes of that Trust. However, to the extent that amounts remaining in the individual’s sub-trust account upon the death of the individual are not in fact retained by the Trust, the Trust shall pay to the State(s) from such remaining amounts in the sub-trust account an amount equal to the total amount of medical assistance paid on behalf of the individual under the State Medicaid plan(s). To the extent that the trust does not retain the funds in the account, the State(s) shall be the first payee(s) of any such funds and the State(s) shall have priority over payment of other debts and administrative expenses except as listed in the POMS [SI 01120.203.E](#).
- b. Funeral expenses can only be paid pursuant to a Medicaid eligible pre-need funeral arrangement established and funded prior to the Beneficiary’s death. **Funeral expenses cannot be paid after the Beneficiary’s death.**

### Contributions/Deposits:

- a. All contributions made to the sub-trust account will be held and administered pursuant to the provisions of the applicable **NYSARC, Inc. Community Trust I or II** which are incorporated by reference herein.
- b. The Trustees shall have the sole and absolute right to accept or refuse additional deposits to the sub-trust account.
- c. In the event that a Beneficiary has a zero (\$0) sub-trust account balance for sixty (60) or more consecutive days, the Trustee shall retain the right to close the Beneficiary’s sub-trust account. Please be advised that the Trustee may continue to charge administrative fees for the management of the sub-trust account prior to its closure. In the event that a Beneficiary wishes to re-open a sub-trust account, the Beneficiary may be required to pay any outstanding administrative fees stemming

from the prior sub-trust account. Additionally, the Beneficiary shall be required to pay a new enrollment fee when re-opening a sub-trust account.

Disbursements:

- a. All disbursement requests shall be reviewed and approved on an individual basis.
- b. Disbursements for expenses incurred more than ninety (90) days prior to submission of a disbursement request form shall not be paid.
- c. The Trustees, in their discretion, have determined that disbursements for the following items shall not be paid: purchases of firearms, alcohol or tobacco, items relating to illegal activity, bail, or restitution.
- d. All disbursements shall be made at the sole and absolute discretion of the Trustee.
- e. No disbursements can be made after the death of the Beneficiary, even for expenses incurred or due prior to death.

Disability Determination:

In the event that a determination of disability is required for Medicaid purposes, please be advised that administrative fees shall be incurred while the determination of disability is being made.

Taxes:

- a. The Donor acknowledges that contributions to the **NYSARC, Inc. Community Trusts** are not tax deductible as charitable gifts, or otherwise.
- b. Sub-trust account income may be taxable to the Beneficiary.

Disclosure of Potential Conflict of Interest:

There may be a potential conflict of interest in the administration of the Trust since the Trust retains those funds remaining in the sub-trust account at the time of death of the Beneficiary. Funds remaining in the Trust may be used to pay for ancillary and/or supplemental services for Beneficiaries and potential Beneficiaries for which services may be rendered by a **Chapter of NYSARC, Inc.** or by **NYSARC, Inc.** itself.

The Donor(s) executing this Joinder Agreement is/are aware of the potential conflicts of interest that exist in the Trustee's administration of the Trust. The Trustee shall not be liable to Donor or to any party for any act of self-dealing or conflict of interest resulting from their affiliations with **NYSARC, Inc.** or with any Beneficiary or constituent agencies and/or Chapters.

Situs:

The sub-trust account created by this Agreement has been accepted by the Trustee in the State of New York and will be administered by **NYSARC, Inc.** and a financial institution in the State of New York. The validity, construction, and all rights under this Agreement shall be governed by the laws of the State of New



York. The situs of this Trust for administrative, account and legal purposes shall be in the County of Albany, the County where the majority of meetings concerning establishment of the Trust occurred.

Invalidity of any Provision:

Should any provision of this Agreement be or become invalid or unenforceable, the remaining provisions of this Agreement shall be and continue to be fully effective.

**By signing below, you affirm that you understand and agree to the following:**

**I have received and read a copy of the applicable Master Trust prior to the signing of this *Joinder Agreement* and acknowledge that I understand the contents thereof. I also understand that said document may be amended from time to time. I have been provided with the applicable fee schedule and the Information & Procedures narrative and acknowledge that I understand the contents thereof. I also understand there may be changes from time to time.**

**I am entering into this Joinder Agreement voluntarily and acting on my own free accord.**

**The Donor acknowledges that the Beneficiary is disabled as defined in Social Security Law Section 1614(a)(3) [42 USC 1382c(a) (3)].**

**Under penalty of perjury, all statements made in this document are true and accurate to the best of my knowledge.**

**The NYSARC, Inc. Community Trust I and II are trusts authorized to be used by individuals with disabilities pursuant to federal and state law. By agreeing to accept a donor's property pursuant to this Joinder Agreement, NYSARC, Inc. agrees only to manage the trust funds in accordance with the terms of the Master Trust Agreement and in compliance with applicable federal and state law and regulation. It is the sole responsibility of the donor and/or the donor's representative to determine whether the donor is "disabled" as that term is defined under federal law, to determine whether they have the legal authority to transfer property to fund the trust, and the impact that a transfer of property to the NYSARC, Inc. Community Trust will have on the donor's continuing eligibility for government benefit programs.**

**NYSARC, Inc. is not assuming any responsibility as counsel for the donor or Beneficiary, or providing any legal advice as it relates to the consequences of a transfer of property to the NYSARC, Inc. Community Trust.**

**The Trustees in their discretion may require an intermediary to assist in the administration of the Beneficiary's sub-trust account. The cost of which may be charged to the sub-trust account.**

**The party authorized to speak with us on your behalf or the intermediary must notify NYSARC, Inc. immediately upon your death and will be required to provide us with a certified death certificate.**

**An individual requesting and/or receiving disbursements in contravention of the Master Trust Agreement and the Joinder Agreement will be required to repay the amount disbursed.**

**This Joinder Agreement and the participation of the Beneficiary in the NYSARC Community Trust is an important legal decision that may have significant and lasting consequences for the Beneficiary and as a result you may want to consider obtaining advice from an attorney or another professional adviser before entering into this Agreement. By signing this Agreement you are acknowledging that**

