IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the matter of:	:	
	:	
_____,	:	C.M. #: _____
A person with a disability	:	

Final Order for Appointment of Co-Guardians of the Person and Property

WHEREAS, on _____, a hearing was held on the guardianship petition;

WHEREAS, Petitioners _____ and _____ are the _____ and _____ of _____ (hereinafter called "person with a disability"), and the interested party(ies) has/have waived notice and consented (agreed) to or has/have received notice through certified mail on the appointment of _____ and _____ as co-guardians of the person and property of the person with a disability;

WHEREAS, _____, Esquire, the previously appointed attorney *ad litem* for the person with a disability, has filed his/her report;

WHEREAS, the Court having reviewed the petition and affidavits, considered the medical report, and considered the statements made and evidence presented at the hearing, finds that _____ is a person with a disability by reason of mental or physical incapacity. By reason thereof, such person is unable to properly manage and/or care for his/her person and property without a guardian and is in danger of substantially endangering his/her health,

becoming subject to abuse by other persons, becoming the victim of designing persons and/or is in danger of dissipating or losing such property by becoming the victim of designing persons.

IT IS HEREBY ORDERED, this _____ day of _____, 20__, as follows:

1. _____ and _____, acting jointly or individually, are hereby appointed co-guardians of the person and property of _____, a person with a disability.

2. Before entering upon their duties as guardians pursuant to this Order, _____ and _____ shall each execute a bond to be taken in the name of the State of Delaware in the amount of $_____ without surety as a condition for the faithful performance of their duties as guardians, and shall be filed within seven (7) days of the date of this Order. No copy of the final order will be released until the bonds are filed. Any person or entity presented with a valid order from the Court may use that order as proof that the bonds have been executed and filed.

3. The guardians appointed herein are granted such powers, rights and duties which are necessary to protect, manage and care for the person and property of the person with a disability as provided for in 12 Del. C., Ch. 39. Unless otherwise noted herein, these powers, rights and duties are plenary, and this appointment supersedes and supplants the authority previously exercised by, or entrusted to, any

individual or entity as surrogate decision maker or agent under a power of attorney or advance healthcare directive. In exercising these powers, rights and duties, the guardians must comply with the clear and unambiguous preferences and directions in the person with a disability's advance healthcare directive, if any, and must petition to act contrary thereto.

4. The guardians' authority to withdraw or withhold life-sustaining treatment is governed by 16 Del. C., § 2522(a). When a person with a disability has declared a code status, the guardians may not change it without a court order expressly permitting the guardians to refuse to comply with the person with a disability's advance healthcare directive. The guardians' authority to withdraw or withhold life sustaining treatment is governed, and limited, by Court of Chancery Rule 178A. Under Rule 178A, if a guardian for the person of a person with a disability desires to refuse to comply with a provision of, or to revoke, the person with a disability's advance healthcare directive, then the guardian must first petition the court for and obtain an order expressly permitting the acts sought to be undertaken by the guardian.

5. The guardians are authorized to apply to become, or continue to act, as the representative payee(s) for social security benefits.

6. The guardians shall file an annual update and medical statement with the Register in Chancery every year, which is due on or before the first business day of

the calendar quarter in which the guardians were appointed. The annual update and medical statement shall include the current mailing address of the person with a disability and the guardians, and a current medical statement from an approved medical practitioner setting forth the current medical status of the person with a disability and addressing the need for continued guardianship.

7. The petitioners are required to pay $ _____ to _____, Esquire, within thirty (30) days of the date of this order, for his/her services as the attorney *ad litem* for the person with a disability. The attorney *ad litem* is hereby discharged from further service as attorney for the person with a disability.

8. The Register in Chancery of this Court is appointed agent of the guardians to accept service of process on behalf of the guardians as to any claim arising out of the guardianship if, by reason of the guardians' absence from this State, they cannot be served.

9. Any powers of attorney previously executed by the person with a disability are invalidated by the guardianship pursuant to 12 Del. C. § 49A-108(a).

10. The guardians are authorized to prepare, sign, verify and file on behalf of the person with a disability all income and other Federal or State tax returns pursuant to 12 Del. C. § 3923(d)(8).

11. In the event of the death of the person with a disability, the guardians shall notify the Office of Register in Chancery within ten (10) days. The guardians

shall file a petition to terminate within ninety (90) days of the death of the person with a disability.

12. If the person with a disability becomes Medicaid qualified, the guardians shall provide proof of that qualification and a copy of any signed trust instrument with the Register in Chancery's Office within thirty (30) days.

13. An order from the Court of Chancery is required to authorize the opening of any safe deposit box, to sell a motor vehicle, or to sell or encumber any real property of the person with a disability.

14. The guardians are relieved of the requirement of opening a guardianship account, filing an inventory and filing annual accountings. However, if the person with a disability earns more than $1,000.00 in any given month, other than Social Security benefits, the guardians shall report the earnings to the Court within thirty days for further review. If, in the future, the guardians come into possession of additional funds or property belonging to the person with a disability or the person with a disability becomes gainfully employed, the guardians shall notify the Court and account for such funds or property as the Court may then direct.

_____

Magistrate in Chancery