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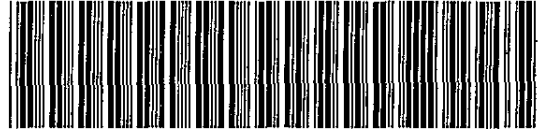
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## TRANSMITTAL LETTER

Department of State  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**SUBJECT:** LIFELINE SYSTEMS COMPANY

Enclosed is an original and one (1) copy of the Declaration of Trust and a check for:

**FEES:**

Declaration of Trust	\$350.00
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**OPTIONAL:**

Certified Copy	\$ 8.75
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FILED  
05 NOV 14 AM 10:27  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**FROM:** JEFFREY A BENSON

**Name (Printed or typed)**

111 LAWRENCE STREET

**Address**

FRAMINGHAM, MA 01702

**City, State & Zip**

508-988-1062

**Daytime Telephone number**

**AFFIDAVIT TO THE FLORIDA SECRETARY OF STATE  
TO FILE OR QUALIFY**

LIFELINE SYSTEMS COMPANY

A MASSACHUSETTS BUSINESS TRUST

In accordance with Section 609.02 of the Florida Statutes, pertaining to  
Common Law Declarations of Trust, the undersigned, the Chairman of the  
Board of Trustees of LIFELINE SYSTEMS COMPANY, a

(Name of Trust)

MASSACHUSETTS BUSINESS Trust hereby affirms in order to file or qualify

(State)

LIFELINE SYSTEMS COMPANY

(Name of Trust)

, in the State of Florida.

1. Two or more persons are named in the Trust.

2. The principal address is 111 LAWRENCE STREET: FRAMINGHAM, MA 01702

3. The registered agent and street address in the State of Florida is:

CI CORPORATION SYSTEMS

1200 SOUTH PINE ISLAND ROAD; PLANTATION, FL 33324

4. Acceptance by the registered agent: Having been named as registered  
agent to accept service of process for the above named Declaration of Trust  
at the place designated in this affidavit, I hereby accept the appointment as  
registered agent and agree to act in this capacity.

Barbara A. Burke

**BARBARA A. BURKE  
SPECIAL ASSISTANT SECRETARY**

(Signature of Registered Agent)

5. I certify that the attached is a true and correct copy of the Declaration of  
Trust under which the association proposes to conduct its business in  
Florida.

NOTARY

[Signature]  
Name: L. Dennis Shapiro  
Chairman of the Board of Trustees

Filing Fee: \$350.00  
Certified Copy: \$ 8.75 (optional)

CR2E063(3/00)

[Signature]  
My Commission Expires MAY 5, 2006

05 NOV 14 AM 10:27  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**DECLARATION OF TRUST  
OF  
LIFELINE SYSTEMS COMPANY  
111 LAWRENCE STREET  
FRAMINGHAM, MA 01702**

DECLARATION OF TRUST made effective as of the 28th day of December, 2004 by the undersigned (together with all other persons from time to time duly elected, qualified and serving as Trustees in accordance with the provisions of Article II hereof, the "Trustees");

**WHEREAS**, the Trustees desire to establish a trust to own and operate a business engaged in providing personal emergency response services and products to customers, either directly or through one or more subsidiaries or affiliated entities, to, among other things, provide greater administrative and organizational flexibility in complying with state business laws and to engage in all related activities;

**WHEREAS**, the Trustees desire to divide the beneficial interest in the trust assets into transferable shares of beneficial interest, as provided herein; and

**WHEREAS**, the Trustees hereby declare that all money and property contributed to the trust established hereunder be held and managed in trust for the benefit of the holders, from time to time, of the shares of beneficial interest issued hereunder and subject to the provisions hereof;

**NOW, THEREFORE**, in consideration of the foregoing premises and the agreements contained herein, the undersigned, being all of the Trustees of the trust, hereby declare as follows:

**ARTICLE I**

**NAME AND DEFINITIONS**

*Section 1.1. Name; Principal Place of Business.* The name of the trust created hereby is Lifeline Systems Company (the "Trust"). The principal place of business of the Trust initially shall be 111 Lawrence Street, Framingham, Massachusetts.

*Section 1.2. Definitions.* Wherever they are used herein, the following terms have the following respective meanings.

(a) *"Bylaws"* means the Bylaws referred to in Section 2.5 hereof, as from time to time amended and/or restated.

(b) *"Declaration"* means this Declaration of Trust, as amended from time to time. Reference in this Declaration of Trust to "Declaration," "hereof," and "hereunder" shall be deemed to refer to this Declaration rather than exclusively to the article or section in which such words appear.

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

(c) "*Outstanding Shares*" means those Shares shown from time to time on the books of the Trust as then issued and outstanding.

(d) "*Shareholder*" means a record owner of Outstanding Shares.

(e) "*Shares*" means the equal proportionate units of interest into which the beneficial interest in the Trust shall be divided from time to time.

(f) "*Trustees*" means the person or persons who have signed this Declaration, so long as they shall continue in office in accordance with the terms hereof, and all other persons who now serve or may from time to time be duly elected, qualified and serving as Trustees in accordance with the provisions of Article II hereof and the Bylaws of the Trust, and reference herein to a Trustee or the Trustees shall refer to such person or persons in this capacity or their capacities as Trustees hereunder.

(g) "*Trust Property*" means any and all property, real or personal, tangible or intangible, which is owned or held by or for the account of the Trust or the Trustees.

(h) Except as such term may be otherwise defined by the Trustees in connection with any meeting or other action of Shareholders, the term "*vote*" when used in connection with an action of Shareholders shall include a vote taken at a meeting of Shareholders or the consent or consents of Shareholders taken without such a meeting.

## ARTICLE II

### TRUSTEES

*Section 2.1. Management of the Trust.* The business and affairs of the Trust shall be managed by the Trustees, and they shall have all powers and authority necessary, appropriate or desirable to perform that function. The number, term of office, manner of election, resignation, filling of vacancies and procedures with respect to meetings and actions of the Trustees shall be as prescribed in the Bylaws.

*Section 2.2. General Powers.* The Trustees in all instances shall act as principals for and on behalf of the Trust, and their acts shall bind the Trust. The Trustees shall have full power and authority to do any and all acts and to make and execute any and all contracts and instruments that they may consider necessary, appropriate or desirable in connection with the management of the Trust. Any determination as to what is in the best interests of the Trust made by the Trustees in good faith shall be conclusive and binding upon all Shareholders.

In construing the provisions of this Declaration, the presumption shall be in favor of a grant of plenary power and authority to the Trustees. The enumeration of any specific power in this Declaration shall not be construed as limiting the aforesaid general and plenary powers.

No one dealing with the Trustees shall be under any obligation to make any inquiry concerning the authority of the Trustees, or to see to the application of any payments made or property transferred to the Trustees or upon their order.

*Section 2.3. Powers of Trustees.* The Trustees shall have the absolute control, management and disposition of the Trust property as if they are the absolute owners thereof, free from the control of the Shareholders, and, without the following enumeration limiting the generality of the foregoing or of any item in the enumeration, with full power and uncontrolled discretion, subject only to the limitation and conditions hereof, directly or indirectly:

(a) To operate and carry on the business of the Trust as described in the preamble of this Declaration, and to conduct any other business and activities that business trusts are not prohibited from engaging in under the laws of the Commonwealth of Massachusetts and exercise all the powers necessary and appropriate to the conduct of such business;

(b) To acquire or buy, and invest Trust Property in all types and kinds of securities and other assets including, but not limited to, stocks, profit-sharing interests or participations and all other contracts for or evidences of equity interests, bonds, debentures, warrants and rights to purchase securities, certificates of beneficial interest, bills, notes and all other contracts for or evidences of indebtedness, and to own, hold for investment or otherwise, and to sell or otherwise dispose of all such securities and other assets;

(c) To exercise all rights, powers and privileges of ownership or interest in all securities and other assets included in the Trust Property, including without limitation the right to vote thereon, and otherwise act with respect thereto; and to do all acts and things for the preservation, protection, improvement and enhancement in value of all such securities and assets;

(d) To carry on any other business in connection with or incidental to any of the foregoing powers referred to in this Declaration, to do everything necessary, appropriate or desirable for the accomplishment of any purpose or the attainment of any object or the furtherance of any power referred to in this Declaration, either alone or in association with others, and to do every other act or thing incidental or appurtenant to or arising out of or connected with such business or purposes, objects or powers; and

(e) The Trustees shall not in any way be bound or limited by present or future laws or customs in regard to trust investments, but shall have full authority and power to make any and all investments which they, in their uncontrolled discretion, shall deem proper to accomplish the purpose of this Trust, subject only to any applicable limitation in this Declaration or the Bylaws.

The foregoing clauses shall be construed both as objects and powers, and shall not be held to limit or restrict in any manner the general and plenary powers of the Trustees.

*Section 2.4. Legal Title.* Legal title to all the Trust Property shall be vested in the Trustees who from time to time shall be in office. The Trustees may hold any security or other Trust Property in a form not indicating any trust, whether in bearer, unregistered or other negotiable form, and may cause legal title to any security or other Trust Property to be held by or in the name of one or more of the Trustees, or in the name of the Trust, or in the name of a custodian, subcustodian, agent, securities depository, clearing agency, system for the central handling of securities or other book-entry system, or in the name of a nominee or nominees of the Trust, or in the name of a nominee or nominees of a custodian, subcustodian, agent, securities

depository, clearing agent, system for the central handling of securities or other book-entry system, or in the name of any other person as nominee. The right, title and interest of the Trustees in the Trust Property shall vest automatically in each person who may hereafter become a Trustee. Upon the termination of the term of office, resignation, removal or death of a Trustee, he or she shall automatically cease to have any right, title or interest in any of the Trust Property, and the right, title and interest of such Trustee in the Trust Property shall vest automatically in the remaining Trustees.

*Section 2.5. Bylaws.* The Trustees shall have full power and authority to adopt Bylaws providing for the conduct of the business of the Trust and containing such other provisions as they deem necessary, appropriate or desirable, and to amend, restate and repeal such Bylaws. Unless the Bylaws specifically require that Shareholders authorize or approve the amendment, restatement or repeal of a particular provision of the Bylaws, any provision of the Bylaws may be amended, restated or repealed by the Trustees without Shareholder authorization or approval.

*Section 2.6. Distribution and Repurchase of Shares.* The Trustees shall have full power and authority to issue, sell, repurchase, redeem, retire, cancel, acquire, hold, resell, reissue, dispose of, transfer, and otherwise deal in Shares. Shares may be sold for cash or property or other consideration whenever and in such amounts and manner as the Trustees deem desirable.

*Section 2.7. Delegation.* The Trustees shall have full power and authority to delegate from time to time to such of their number or to officers, employees or agents of the Trust or to other Persons the doing of such things and the execution of such agreements or other instruments either in the name of the Trust or the names of the Trustees or otherwise as the Trustees may deem desirable or expedient.

### **ARTICLE III**

#### **LIMITATIONS OF LIABILITY OF SHAREHOLDERS, TRUSTEES AND OTHERS**

*Section 3.1. Standard of Care.* A Trustee shall perform his or her duties as such, including his or her duties as a member of a committee of the board upon which he or she may serve, in good faith and in a manner he or she reasonably believes to be in the best interests of the Trust and with such care that a person in a like position would reasonably believe appropriate under similar circumstances. A Trustee who so performs his or her duties shall not be liable for errors of judgment or mistakes of law or fact. Except for the limitation on monetary damages set forth in Section 3.5, nothing contained in this Declaration shall protect a Trustee against any liability to which the Trustee would otherwise be subject by reason of the failure of his or her conduct to satisfy the standard of care set forth in this Section 3.1.

*Section 3.2. No Personal Liability of Shareholders, Trustees, Officers and Employees.* No Shareholder shall be subject to any personal liability whatsoever to any person in connection with Trust Property or the acts, obligations or affairs of the Trust. No Trustee hereunder shall have any power to bind personally either the Trust's officers or any Shareholder. All persons dealing or contracting with the Trustees as such or with the Trust shall have recourse only to the Trust for the payment of their claims or for the payment or satisfaction of claims, obligations or

liabilities arising out of such dealings or contracts. No Trustee, officer or employee of the Trust, whether past, present or future, shall be subject to any personal liability whatsoever to any person, and all persons shall look solely to the Trust Property, for satisfaction of claims of any nature arising in connection with the affairs of the Trust. If any Shareholder, Trustee, officer or employee, as such, of the Trust is made a party to any suit or proceeding to enforce any such liability of the Trust, he or she shall not, on account thereof, be held to any personal liability.

Every note, bond, contract, instrument, certificate or undertaking made or issued by the Trustees or by any officer or officers may give notice that this Declaration is on file with the Secretary of the Commonwealth of the Commonwealth of Massachusetts and shall recite that the same was executed or made by or on behalf of the Trust or by them as Trustee or Trustees or as officer or officers and not individually and that the obligations of such instrument are not binding upon any of them or the Shareholders individually but are binding only upon the assets and property of the Trust, and may contain such further recitals as he, she or they may deem appropriate, but the omission thereof shall not operate to bind any Trustee or Trustees or officer or officers or Shareholder or Shareholders individually.

*Section 3.3. Advice of Others; No Bond or Surety.* The Trustees shall not be responsible or liable in any event for any neglect or wrongdoing of any officer, agent, employee or consultant of the Trust; nor shall any Trustee be responsible for the act or omission of any other Trustee. The Trustees may take advice of counsel or other experts with respect to the meaning and operation of this Declaration and their duties as Trustees, and shall be under no liability for any act or omission in accordance with such advice or for failing to follow such advice. The Trustees as such shall not be required to give any bond, surety or other security for the performance of their duties.

*Section 3.4. Right to Contribution.* Any Trustee against whom a claim is successfully asserted shall be entitled to contribution from the other Trustees who participated in the action upon which the claim is asserted and who did not perform their duties in connection with the matters upon which the claim is asserted in accordance with the standards set forth in Section 3.1.

*Section 3.5. Same Protections as Directors of Corporations.* Notwithstanding anything to the contrary implied or expressed in this Declaration, no Trustee shall be personally liable for monetary damages with respect to any alleged breach of his or her duty of care as a Trustee. It is intended that the Trustees be protected from monetary damages to the same maximum extent as directors of business corporations may be protected under the Massachusetts Business Corporation Act by the inclusion of language to such effect in the Articles of Organization of a business corporation.

## ARTICLE IV

### INDEMNIFICATION

*Section 4.1. Definitions.* In this Article IV the following words shall have the following meanings unless the context requires otherwise:



"Trust" includes this Trust and any domestic or foreign predecessor entity of the Trust in a merger.

"Trustee" or "officer" is an individual who is or was a Trustee or officer, respectively, of the Trust or who, while a Trustee or officer of the Trust, is or was serving at the Trust's request as a director, officer, partner, trustee, employee or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan or other entity. A Trustee or officer is considered to be serving an employee benefit plan at the Trust's request if his or her duties to the Trust also impose duties on, or otherwise involve services by, him or her to the plan or to participants in or beneficiaries of the plan. "Trustee" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a Trustee or officer.

"Disinterested Trustee" is a Trustee who, at the time of a vote or selection referred to in Section 4.4 of this Declaration, is not (a) a party to the proceeding, or (b) an individual having a familial, financial, professional or employment relationship with the Trustee whose standard of conduct is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the Trustee's judgment when voting on the decision being made.

"Expenses" includes counsel fees.

"Liability" is the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred with respect to a proceeding.

"Party" is an individual who was, is or is threatened to be made, a defendant or respondent in a proceeding.

"Proceeding" is any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative and whether formal or informal.

#### Section 4.2. Indemnification of Trustees and Officers.

(a) Except as otherwise provided in this Section 4.2, the Trust shall indemnify to the fullest extent permitted by law an individual who is a party to a proceeding because he or she is a Trustee or officer against liability incurred in the proceeding if: (1) (i) he or she conducted himself or herself in good faith; and (ii) he or she reasonably believed that his or her conduct was in the best interests of the Trust or that his or her conduct was at least not opposed to the best interests of the Trust; and (iii) in the case of any criminal proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful; or (2) he or she engaged in conduct for which he or she shall not be liable pursuant to Section 3.5 hereof.

(b) A Trustee's or officer's conduct with respect to an employee benefit plan for a purpose he or she reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan is conduct that satisfies the requirement that his or her conduct was at least not opposed to the best interests of the Trust.

(c) The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the Trustee or officer did not meet the relevant standard of conduct described in this Section 4.2.

(d) Unless ordered by a court, the Trust may not indemnify a Trustee or officer under this Section 4.2 if his or her conduct did not satisfy the relevant standards set forth in subsection (a) or subsection (b) of this Section 4.2.

(e) Notwithstanding anything to the contrary in this Article IV, except as required by law, the Trust shall not indemnify a Trustee or officer to the extent such Trustee or officer is reimbursed from the proceeds of insurance, and in the event the Trust makes any indemnification payments to such Trustee or officer and such Trustee or officer is subsequently reimbursed from the proceeds of insurance, such Trustee or officer shall promptly refund such indemnification payments to the Trust to the extent of such insurance reimbursement.

**Section 4.3. Advance for Expenses.** The Trust shall, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a Trustee or officer who is a party to a proceeding because he or she is a Trustee or officer if he or she delivers to the Trust:

(a) a written affirmation of his or her good faith belief that he or she has met the relevant standard of conduct described in Section 4.2 of this Declaration or, if he or she is a Trustee and is a party to a proceeding because he or she is a Trustee, that the proceeding involves conduct for which liability has been eliminated pursuant to Section 3.5 hereof; and

(b) his or her written undertaking to repay any funds advanced if he or she is not wholly successful, on the merits or otherwise, in the defense of such proceeding and it is ultimately determined pursuant to Section 4.4 of this Declaration or by a court of competent jurisdiction that he or she has not met the relevant standard of conduct described in Section 4.2 of this Declaration.

Such undertaking must be an unlimited general obligation of the Trustee or officer but need not be secured and shall be accepted without reference to the financial ability of the Trustee or officer to make repayment.

**Section 4.4. Determination of Indemnification.**

(a) Except as set forth in subsection (b) of this Section 4.4, the determination of whether a Trustee has met the relevant standard of conduct set forth in Section 4.2 of this Declaration shall be made:

(i) if there are two or more disinterested Trustees, by the Board of Trustees by a majority vote of all the disinterested Trustees, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested Trustees appointed by vote;

(ii) by special legal counsel (i) selected in the manner prescribed in clause (1) of this subsection (a); or (ii) if there are fewer than two disinterested Trustees, selected by the Board of Trustees, in which selection Trustees who do not qualify as disinterested Trustees may participate; or

(iii) by the Shareholders, but Shares owned by or voted under the control of a Trustee who at the time does not qualify as a disinterested Trustee may not be voted on the determination.

(b) The determination of whether an officer has met the relevant standard of conduct set forth in Section 4.2 of this Declaration shall be made by the Board of Trustees. Notwithstanding the provisions of subsection (a) of this Section 4.4, the determination of whether a Trustee who is also an officer has met the relevant standard of conduct set forth in Section 4.2 of this declaration, shall be made in accordance with the provisions of this subsection (b) to the extent the basis on which he or she is made a party to a proceeding is an act or omission solely as an officer.

#### Section 4.5. Notification and Defense of Claim; Settlements.

(a) In addition to and without limiting the foregoing provisions of this Article IV and except to the extent otherwise required by law, it shall be a condition of the Trust's obligation to indemnify under Section 4.2 of this Declaration (in addition to any other condition provided in this Declaration, the Bylaws or by law) that the person asserting, or proposing to assert, the right to be indemnified (the "Indemnatee"), must notify the Trust in writing as soon as practicable of any proceeding involving the Indemnatee for which indemnity will or could be sought, but the failure to so notify shall not affect the Trust's objection to indemnify except to the extent the Trust is adversely affected thereby. With respect to any proceeding of which the Trust is so notified, the Trust will be entitled to participate therein at its own expense and/or to assume the defense thereof at its own expense, with legal counsel reasonably acceptable to the Indemnatee. After notice from the Trust to the Indemnatee of its election so to assume such defense, the Trust shall not be liable to the Indemnatee for any legal or other expenses subsequently incurred by the Indemnatee in connection with such proceeding, other than as provided below in this subsection (a). The Indemnatee shall have the right to employ his or her own counsel in connection with such proceeding, but the fees and expenses of such counsel incurred after notice from the Trust of its assumption of the defense thereof shall be at the expense of the Indemnatee unless (1) the employment of counsel by the Indemnatee has been authorized by the Trust, (2) counsel to the Indemnatee shall have reasonably concluded that there may be a conflict of interest or position on any significant issue between the Trust and the Indemnatee in the conduct of the defense of such proceeding or (3) the Trust shall not in fact have employed counsel to assume the defense of such proceeding, in each of which cases the reasonable fees and expenses of counsel for the Indemnatee shall be at the expense of the Trust, except as otherwise expressly provided by this Article IV. The Trust shall not be entitled, without the consent of the Indemnatee, to assume the defense of any claim brought by or in the right of the Trust or as to which counsel for the Indemnatee shall have reasonably made the conclusion provided for in clause (2) above.

(b) The Trust shall not be required to indemnify the Indemnitee under this Article IV for any amounts paid in settlement of any proceeding unless authorized in the same manner as the determination that indemnification is permissible under Section 4.4 of this Declaration; provided that, with respect to the authorization of indemnification for a Trustee for acts or omissions as a Trustee, if there are fewer than two disinterested Trustees, authorization of indemnification shall be made by the Board of Trustees, in which authorization Trustees who do not qualify as disinterested Trustees may participate; and provided further that special counsel shall have no authority to authorize payments. The Trust shall not settle any proceeding in any manner that would impose any penalty or limitation on the Indemnitee without the Indemnitee's written consent. Neither the Trust nor the Indemnitee will unreasonably withhold his, her or its consent to any proposed settlement.

**Section 4.6. Partial Indemnification.** If a Trustee or officer is entitled under any provision of this Article IV to indemnification by the Trust for a portion of the liabilities incurred by him or her or on his or her behalf in connection with any proceeding, but not for the total amount thereof, the Trust shall nevertheless indemnify such Trustee or officer for the portion of such liabilities to which such Trustee or officer is entitled.

**Section 4.7. Insurance.** The Trust may purchase and maintain insurance on behalf of an individual who is a Trustee or officer of the Trust, or who, while a Trustee or officer of the Trust, serves at the Trust's request as a director, officer, partner, trustee, employee or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan or other entity, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a Trustee or officer, whether or not the Trust would have power to indemnify or advance expenses to him or her against the same liability under this Article.

**Section 4.8. Merger or Consolidation.** If the Trust is merged into or consolidated with another entity and the Trust is not the surviving entity, the surviving entity shall assume the obligations of the Trust under this Article IV with respect to any proceeding arising out of or relating to any actions, transactions or facts occurring prior to the date of such merger or consolidation.

**Section 4.9. Application of this Article.**

(a) The Trust shall not be obligated to indemnify or advance expenses to a Trustee or officer of a predecessor of the Trust, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided.

(b) This Article IV shall not limit the Trust's power to (1) pay or reimburse expenses incurred by a Trustee or officer in connection with his or her appearance as a witness in a proceeding at a time when he or she is not a party or (2) indemnify, advance expenses to or provide or maintain insurance on behalf of an employee or agent.

(c) The indemnification and advancement of expenses provided by, or granted pursuant to, this Article IV shall not be considered exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled.

(d) Each person who is or becomes a Trustee or officer shall be deemed to have served or to have continued to serve in such capacity in reliance upon the indemnity provided for in this Article IV. All rights to indemnification under this Article IV shall be deemed to be provided by a contract between the Trust and the person who serves as a Trustee or officer of the Trust at any time while this Declaration and any applicable law are in effect. Any repeal or modification thereof shall not affect any rights or obligations then existing.

(e) If this Article IV or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the Trust shall nevertheless indemnify each Trustee or officer as to any liabilities in connection with a proceeding to the fullest extent permitted by any applicable portion of this Article IV that shall not have been invalidated and to the fullest extent permitted by applicable law.

(f) If the laws of the Commonwealth of Massachusetts are hereafter amended from time to time to increase the scope of permitted indemnification, indemnification hereunder shall be provided to the fullest extent permitted or required by any such amendment.

*Section 4.10. Shareholders.* In case any Shareholder or former Shareholder of the Trust shall be held to be liable solely by reason of his or her being or having been a Shareholder and not because of his or her acts or omissions or for some other reason, the Shareholder or former Shareholder (or his or her heirs, executors, administrators or other legal representatives or in the case of a corporation or other entity, its corporate or other general successor) shall be entitled out of the assets belonging to the Trust to be held harmless from and indemnified against all loss and expense arising from such liability. The Trust shall, upon request by the Shareholder, assume the defense of any claim made against the Shareholder for any act or obligation of the Trust and satisfy any judgment thereon.

## ARTICLE V

### SHARES OF BENEFICIAL INTEREST

*Section 5.1. Beneficial Interest.* The interest of the beneficiaries hereunder shall be divided into transferable Shares of beneficial interest without par value. The number of such Shares of beneficial interest authorized hereunder and the number of Shares that may be issued hereunder is unlimited. All Shares issued hereunder including, without limitation, Shares issued in connection with a dividend or distribution in Shares or a split in Shares, shall be fully paid and nonassessable.

*Section 5.2. Rights of Shareholders.* The ownership of the Trust Property of every description and the right to conduct any business of the Trust are vested exclusively in the Trustees, and the Shareholders shall have no interest therein other than the beneficial interest conferred by their Shares, and they shall have no right to call for any partition or division of any property, profits, rights or interests of the Trust nor can they be called upon to share or assume any losses of the Trust or suffer an assessment of any kind by virtue of their ownership of Shares. The Shares shall be personal property giving only the rights specifically set forth in this

Declaration. The Shares shall not entitle the holder to preference, preemptive, appraisal, conversion or exchange rights.

*Section 5.3. Trust Only.* It is the intention of the Trustees to create only the relationship of Trustee and beneficiary between the Trustees and each Shareholder from time to time. It is not the intention of the Trustees to create a general partnership, limited partnership, joint stock association, limited liability company, bailment or any form of legal relationship other than a Massachusetts business trust. Nothing in this Declaration shall be construed to make the Shareholders, either by themselves or with the Trustees, partners or members of a joint stock association.

*Section 5.4. Issuance of Shares.* The Trustees in their discretion may, from time to time and without any authorization or vote of the Shareholders, issue Shares, in addition to the then issued and outstanding Shares, to such party or parties and for such amount and type of consideration, including cash or property, at such time or times and on such terms as the Trustees may deem appropriate or desirable. The Trustees shall have the full power and authority, in their sole discretion and without obtaining any prior authorization or vote of the Shareholders of the Trust, to create and establish (and to change hereafter in any manner not materially adverse to the interests of the Shareholders of the Trust) Shares with such preferences, voting powers, rights and privileges as the Trustees may from time to time determine, to divide or combine the Shares into a greater or lesser number and to take such other action consistent with the foregoing with respect to the Shares as the Trustees may deem desirable. The Trustees may, but shall not be required to, authorize the issuance of certificates of beneficial interest to evidence the ownership of Shares.

*Section 5.5. Distributions.* The Trustees may from time to time declare and pay dividends and other distributions. The amount of such dividends and other distributions and the payment of them shall be wholly in the discretion of the Trustees.

*Section 5.6. Assent to Declaration of Trust and Bylaws.* Every Shareholder, by virtue of having become a Shareholder, shall be held to have expressly assented and agreed to all the terms and provisions of this Declaration and of the Bylaws.

## ARTICLE VI

### DURATION; TERMINATION OF TRUST; AMENDMENTS

*Section 6.1. Duration.* The Trust shall continue without limitation of time subject to the provisions of this Article VI. The death, declination, resignation, retirement, removal or incapacity of the Trustees, or any one of them, shall not operate to terminate or annul the Trust or to revoke any existing agency or delegation of authority pursuant to the terms of this Declaration or of the Bylaws.

*Section 6.2. Termination of the Trust.*

- (a) The Trust may be terminated by (1) the affirmative vote of the holders of not less

than two-thirds of the Shares outstanding and entitled to vote at any meeting of Shareholders of the Trust, or by an instrument or instruments in writing without a meeting, consented to by the holders of two-thirds of the Shares; provided, however, that if such termination is recommended by the Trustees, the vote of a majority of the Shares outstanding and entitled to vote thereon shall be sufficient authorization, or (2) by means of an instrument in writing signed by a majority of the Trustees, to be followed by a written notice to Shareholders stating that a majority of the Trustees has determined that the continuation of the Trust is not in the best interest of the Trust. Such determination may (but need not) be based on factors or events adversely affecting the ability of the Trust to conduct its business and operations in an economically viable manner. Upon the termination of the Trust:

(i) the Trust shall carry on no business except for the purpose of winding up its affairs;

(ii) the Trustees shall proceed to wind up the affairs of the Trust, and all of the powers of the Trustees under this Declaration shall continue until the affairs of the Trust shall have been wound up, including the power to fulfill or discharge the contracts of the Trust, collect its assets, sell, convey, assign, exchange, transfer or otherwise dispose of all or any part of the remaining Trust Property to one or more persons at public or private sale for the consideration which may consist in whole or in part of cash, securities or other property of any kind, discharge or pay its liabilities, and do all other acts appropriate to liquidate its business; and

(iii) after paying or adequately providing for the payment of all liabilities, and upon receipt of such releases, indemnities and refunding agreements as they deem necessary for their protection, the Trustees may distribute the remaining Trust property among the Shareholders of the Trust according to their respective rights.

(b) After termination of the Trust and distribution to the Shareholders as herein provided, a majority of the Trustees shall execute and file among the records of the Trust and file with the Secretary of the Commonwealth of the Commonwealth of Massachusetts an instrument in writing setting forth the fact of such termination, and the Trustees shall thereupon be discharged from all further liabilities and duties with respect to the Trust, and the rights and interests of all Shareholders of the Trust shall thereupon cease.

(c) Notwithstanding anything else herein, a majority of the Trustees may, to the extent permitted by applicable law and without Shareholder approval unless such approval is required by applicable law, (i) cause the Trust to merge or consolidate with or into one or more entities or be converted into a different form of entity, (ii) cause the Shares to be exchanged under or pursuant to any state or federal statute to the extent permitted by law or (iii) cause the Trust to incorporate under the laws of any U.S. jurisdiction. Any agreement of merger or consolidation or certificate of merger may be signed by a majority of Trustees and facsimile signatures conveyed by electronic or telecommunication means shall be valid. The Trustees may cause to be organized or assist in organizing a corporation or corporations under the laws of any jurisdiction or any other trust, partnership, association or other organization to take over all or a portion of the assets of the Trust or to carry on any business in which the Trust shall directly or

indirectly have any interest, or to sell, convey and transfer all or a portion of the assets of the Trust to any such corporation, trust, association or organization in exchange for the shares or securities thereof or otherwise, and to lend money to, subscribe for the shares or securities of, and enter into any contracts with any such corporation, trust, partnership, association or organization or any corporation, partnership, trust, association or organization in which the Trust holds or is about to acquire shares or any other interest. The Trustees may also cause a merger or consolidation between the Trust or any successor thereto and any such corporation, trust, partnership, association or other organization if and to the extent permitted by law, as provided under the law then in effect. Nothing contained herein shall be construed as requiring approval of Shareholders for the Trustees to organize or assist in organizing one or more corporations, trusts, partnerships, associations or other organizations and selling, conveying or transferring all or a portion of the assets of the Trust to such organization or entities.

### *Section 6.3. Amendments.*

(a) This Declaration may be amended (i) by vote of a majority of the Trustees and by vote of the holders of a majority of the Shares outstanding and entitled to vote, or (ii) by any instrument in writing, without a meeting, signed by a majority of the Trustees and consented to by the holders of a majority of the Shares outstanding and entitled to vote.

(b) A certificate signed by an officer of the Trustee setting forth an amendment and reciting that it was duly adopted by the Trustees or by the Shareholders as aforesaid or a copy of the Declaration, as amended, and executed by a majority of the Trustees, shall be conclusive evidence of such amendment when filed among the records of the Trust. Amendments having the purpose of changing the name of the Trust or supplying any omission, curing any ambiguity or curing, correcting or supplementing any defective or inconsistent provision contained herein shall not require authorization by Shareholder vote.

## **ARTICLE VII**

### **MISCELLANEOUS**

*Section 7.1. Filing of Copies, References, Headings and Counterparts.* The original or a copy of this instrument, of any amendment hereto and of each declaration of trust supplemental hereto, shall be kept at the office of the Trust. A copy (or, if required, the original) of this instrument, or any amendment hereto, and of each supplemental declaration of trust shall be filed with the Secretary of the Commonwealth of the Commonwealth of Massachusetts, the Clerk of the City of Framingham and with any other governmental office where such filing may from time to time be required. Anyone dealing with the Trust may rely on a certificate by a Trustee or an officer of the Trust as to whether or not any such amendments or supplemental declarations of trust have been made and as to any matters in connection with the Trust hereunder, and with the same effect as if it were the original, may rely on a copy certified by a Trustee or an officer of the Trust to be a copy of this instrument or of any such amendment hereto or supplemental declaration of trust. Headings are placed herein for convenience of reference only and in case of any conflict, the text of this instrument, rather than the headings, shall control. This Declaration may be executed in any number of counterparts each of which shall be deemed an original. In



the case of all terms used in this Declaration, the singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, as the context requires.

*Section 7.2. Applicable Law.* The Trust set forth in this instrument is made in the Commonwealth of Massachusetts, and it is created under and is to be governed by and construed and administered according to the laws of said Commonwealth. The Trust shall be of the type commonly called a Massachusetts business trust, and without limiting the provisions hereof, the Trust may exercise all powers which are ordinarily exercised by such a trust. This Declaration and the Bylaws referred to herein shall be interpreted and construed consistently with the treatment of the Trust as a "corporate trust" within the meaning of Sections 1(j) and 8 of Chapter 62 of the Massachusetts General Laws and any successor provisions thereof.

*Section 7.3. Provisions in Conflict with Law or Regulations.* If any provision of this Declaration shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect such provisions in any other jurisdiction or any other provision of this Declaration in any jurisdiction.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the undersigned, being the Trustees of the Trust, have executed this instrument as Trustees, and not individually, as of the date first written above.

  
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Ronald Feinstein

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L. Dennis Shapiro

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Everett N. Baldwin

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S. Ward Casscells, III, M.D.

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Ellen Feingold


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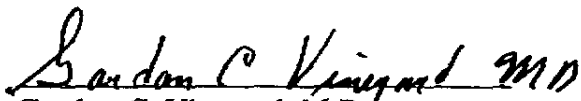
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