

RECORDING REQUESTED BY AND MAIL TO:



DURABLE POWER OF ATTORNEY FOR PROPERTY MANAGEMENT AND PERSONAL AFFAIRS

I, _____, a resident
(fill in full legal name)
of _____ County, California, intend to create a Durable Power of
(fill in county of domicile)

Attorney (herein referred to as "this Power") pursuant to Probate Code sections 4000-4948. This Power is effective immediately upon its execution and shall not be affected by my subsequent disability or incapacity. Unless this Power shall sooner be revoked, or I should die, my attorney in fact shall have and may exercise the powers hereby granted for an unlimited period of time. Should I lose my capacity prior to my revocation of this document, the powers herein granted shall remain in full force and effect until I regain my capacity. I give my attorney in fact the powers in Article One and elsewhere in this Power with the understanding that they will be used for my benefit and on my behalf and will be exercised only in a fiduciary capacity. I hereby appoint the following persons as my attorney in fact.

_____ <i>(Enter name of appointee Number 1, spouse if married)</i>
_____ <i>(Enter street address)</i>
_____ <i>(Enter City, State and Zip Code)</i>

_____ <i>(Enter name of appointee Number 2)</i>
_____ <i>(Enter street address)</i>
_____ <i>(Enter City, State and Zip Code)</i>

<hr/> <p><i>(Enter name of appointee Number 3)</i></p> <hr/> <p><i>(Enter street address)</i></p> <hr/> <p><i>(Enter City, State and Zip Code)</i></p>
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<hr/> <p><i>(Enter name of appointee Number 4)</i></p> <hr/> <p><i>(Enter street address)</i></p> <hr/> <p><i>(Enter City, State and Zip Code)</i></p>
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<hr/> <p><i>(Enter name of appointee Number 5 if married)</i></p> <hr/> <p><i>(Enter street address)</i></p> <hr/> <p><i>(Enter City, State and Zip Code)</i></p>

My appointees shall serve in the following manner: *(Initial one choice)*

[] **1. SEQUENTIAL ORDER.** My first named appointee shall act alone. If this appointee fails to act, or ceases to serve, the vacancy shall be filled in turn by the next named appointee, who shall serve alone as my sole attorney in fact.

[] **2. SOLE AGENT FOLLOWED BY CO-ATTORNEYS IN FACT.** The first appointee named shall act as my attorney in fact. In the event that my first appointee should fail to act or cease to serve, the vacancy shall be filled by the next []

(enter number of nominee(s))

nominees who shall each serve together as my attorney(s) in fact. If any successor nominee fails to act, or ceases to serve, the vacancy shall be filled by the next designated successor(s) in the order named, if any, and if no person is appointed to serve, the vacancy need not be filled. The remaining appointee may serve alone. In the event that I appoint a sole agent, followed by another sole agent (*only one nominee entered above*), the next [] appointee(s) shall serve as my attorney(s) in fact. Any further vacancy shall be filled by the remaining appointee(s), if any, who shall serve together, if applicable.

*(See Note)

] **3. TWO PERSONS AS CO-ATTORNEYS IN FACT.** Appointee Number 1 and Number 2 shall serve together as my co-attorneys in fact.

(choose)] **If either appointee fails**] **If both appointees fail** to act, or cease(s) to serve, the vacancy shall be filled by: (choose one of the following)

] Appointee Number 3, then Appointee Number 4, then Appointee 5, if named.

] Appointee Number 3 and Number 4, who shall both serve as co-attorneys in fact. Appointee Number 5, if named, shall fill any further vacancy. Any further vacancy need not be filled. The remaining appointee may act alone.

**Note: If your spouse is to serve alone use Choice Number 2, Sole Agent followed by co-attys..*

] **4. THREE PERSONS AS CO-ATTORNEYS IN FACT.** Appointees Number 1, 2 and 3 (any two acting together) shall all serve together as my co-attorneys in fact. If I have designated a fourth or fifth appointee, that appointee shall fill the first vacancy if any appointee fails to act, or ceases to serve. Any further vacancy need not be filled. The remaining appointee may serve alone. All decisions of the appointees shall be by a majority vote of the appointees.

Article One

Powers

1.1. **Powers Related to Property Management.** I give my attorney in fact the following powers that may be necessary for the management of my property:

(a) To collect and receive all sums of money, debts, interest, dividends, annuities, and demands whatsoever, that are now or shall hereafter become due, owing, payable, or belonging to me, and to take all lawful steps for the recovery thereof, and to give receipts or other sufficient discharges for the same.

(b) To lease, sublet, sell, transfer, release, convey, and mortgage any real property owned by me or in which I have an interest upon the terms and conditions, and under the covenants that my attorney in fact believes proper, including the sale of my residence, and to execute and deliver deeds and conveyances therefor.

(c) To collect rents, disburse funds, hire professional property managers, lease to tenants, negotiate and renegotiate leases, renew any loan, and borrow against any real property owned by me or in which I have an interest.

(d) To open, deposit into, withdraw from, and close any commercial, checking, savings, or savings and loan account in my name or opened for my benefit and to negotiate, endorse, or

transfer any instrument with respect to any such account.

(e) To have access to, and to remove the contents from, or to add to the contents of, any and all safe deposit boxes standing in my name.

(f) To collect, withdraw, and receive from any bank, corporation, or other person, moneys owing to me from or on deposit with such bank, corporation, or other person, and to sign checks, orders, drafts, and receipts therefor.

(g) To sign, execute, deliver, and acknowledge such deeds, deeds of trust, covenants, indentures, agreements, mortgages, pledge agreements, notes, receipts, checks, bills of exchange, evidences of debts, releases and satisfactions of mortgage debts, judgment debts and other debts, and such other instruments in writing, of every kind and nature, as may be necessary or proper in the premises.

(h) To collect on, compromise, endorse, borrow against, hypothecate, release, and recover any promissory note receivable, whether secured or unsecured, and any related deed of trust.

(i) To purchase, sell, and dispose of personal property of every kind and nature, including shares of stock, bonds, notes, and other securities, and to sign, execute, and deliver assignments and bills of sale therefor.

(j) To vote at all meetings of shareholders, whether general, regular, or special, of any corporation of whose shares or of any of whose shares I am the owner, the shares of stock of such corporation owned by me on any and all questions that may arise at or come before any such meeting, and to do each and every thing respecting such shares of stock, including the calling of meetings of directors or stockholders or making and giving consents and ratifications, and any and every other act or thing which I might or could do if personally present, intending hereby to confer upon my attorney in fact full power and authority to do, with reference to such shares of stock, any and everything whatsoever which I myself might or could do as owner of such shares.

(k) To open accounts with stockbrokers (cash only, margin prohibited); to buy, sell, endorse, transfer, hypothecate, and borrow against any shares of stock, bonds, or other securities defined as such under California law.

(l) To prosecute or to defend any legal actions to which I may be a party.

(m) To prepare or arrange to have prepared, execute, and file any tax returns (or other tax documents, including a power of attorney) for me, including without limitation any federal or state income tax returns or gift tax returns, and to exercise options and elections and claim exemptions on such returns under the applicable tax laws; and to pay, contest, and compromise taxes, penalties, and assessments upon my property or my income and any other taxes payable or claimed to be payable by me.

(n) To borrow money and give as security assets of mine.

(o) To cancel or continue use of my charge accounts and credit cards.

- (p) To open, read, and, as appropriate, redirect, answer, or dispose of my mail.
- (q) To take possession of all important personal documents, including but not limited to, my will, trust agreements, deeds, leases, policies of insurance on my life and property, contracts, and securities.
- (r) To enter into contracts, both oral and written, on my behalf.
- (s) To employ attorneys, investment counsel, accountants, and other persons to render services for and to my estate and to pay the reasonable fees and compensation of such persons for their services.
- (t) To take charge of and manage any business in which I am engaged, and to see to the orderly continuation of its affairs, including, but not limited to, the purchase of inventory materials and supplies, the employment and discharge of personnel, the acceptance of orders, for cash or for credit, and making, signing, issuing, endorsing, or accepting of checks, notes, or documents of title as appropriate in the opinion of my attorney in fact.
- (u) To make tuition and medical expense payments directly to providers of educational services or medical care for any of my children.
- (v) To convey or release any contingent or expectant interests in property, including marital property rights, and any rights of survivorship incident to joint tenancy or tenancy by entirety.
- (w) To transfer to the trustee of a revocable trust of which I am a grantor and a beneficiary, any of my assets or my interests in assets.
- (x) To create for my benefit and for the benefit of my issue, revocable or irrevocable trusts to hold property of my estate, which trusts may extend beyond my disability or lifetime and to transfer to such trust or trusts any of my assets or my interests in such assets.
- (y) To buy in my name any of those certain United States Treasury Bonds, sometimes referred to as “flower” bonds, that may be used to pay estate taxes at my death.
- (z) To apply for and receive any government, insurance, investment, and retirement benefits to which I may be entitled, including any IRA, KEOGH, or PERS retirement plan; and to exercise any right to elect benefits or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow or receive cash value in return for the surrender of any or all rights under any of the following: (i) life insurance policies or benefits; (ii) annuity policies, plans, or benefits; (iii) mutual fund and other dividend investment plans; and (iv) retirement, profit sharing, and employee welfare plans and benefits.
- (aa) To exercise any right to renounce or disclaim any interest acquired by testate or intestate succession or by inter vivos transfer. The agent is authorized to execute and deliver disclaimers under Internal Revenue Code section 2518 and California Probate Code sections 260 through 295 or any successor statute.

(ab) To make any election or election and agreement referred to in California Probate Code section 13502 or 13503.

(ac) To enter into any agreement pursuant to Internal Revenue Code section 2032A consenting to the application of special use value to property of which I am a beneficiary.

(ad) To sign, deliver, and record a deed that changes my interest in property from or to any of these designations: joint tenant, community property, tenant in common, and separate property.

(ae) To undertake any lawful action, make any election, and sign any return or extension that may be necessary or desirable to defer tax under available marital deduction provisions of the Internal Revenue Code.

(af) Authority to Make \$12,000 Annual Gifts. Where the principal has been making Annual Exclusion gifts as part of an ongoing plan of estate reduction, the Agent may continue to make annual exclusion gifts. If the principal has not embarked on a gift giving plan, and the marital deduction is not available (single person or last spouse to die) and the principal's estate is in excess of that amount which would pass free of Federal Estate tax by virtue of the Unified Credit then in effect, the agent is authorized to make gifts on the principal's behalf to a class composed of the principal's children, any of their issue, or both, provided that they be in equal amounts to each member of a specific class or generation of persons, and to extinguish or reduce specific gifts to those persons named as intended beneficiaries under the terms of the principal's will or revocable trust, to the full extent of the federal annual gift tax exclusion under Internal Revenue Code section 2503 (b) or any successor statute and, for such purposes, to remove the principal's assets from any grantor revocable trust of which the principal is a grantor. However, the agent shall have no power under this provision to make gifts to the attorney in fact, who is so acting, and to his or her issue in excess of the annual exclusion amount. The agent may also complete charitable pledges previously made by the principal. The agent is authorized to consent to split gifts made by the principal's spouse to third persons under Internal Revenue Code section 2513 or any successor statute, and similar provisions of any state or local gift tax laws.

(ag) Authority to Exercise Annual Withdrawal Rights. The agent is authorized to exercise on the principal's behalf and for the principal's benefit annual withdrawal rights from trusts that are limited to the greater of \$5,000 or 5 percent of trust assets, and to take possession of and utilize or distribute such withdrawn property to or for the benefit of the principal.--

1.2. **Restrictions on Property Management Powers.** My attorney in fact shall not have any of the following powers related to property management:

(a) To exercise any of the powers of the trustee under an irrevocable trust of which my attorney in fact is trustor and of which I am a trustee.

(b) To use my property to discharge the legal obligations of my attorney in fact, including but not limited to the support of the dependents of my attorney in fact.

(c) To exercise any incident of ownership over any insurance policy that I own and that insures the life of my attorney in fact.

1.3. **Powers Related to Personal Affairs.** I give my attorney in fact the following powers that may be necessary to provide for my health care and other personal affairs:

(a) To continue to support my immediate family in the same manner that I have supported each of them including, but not limited to, payments for their food, clothing, and shelter (including payment of real property taxes and payments on debts encumbering, and upkeep of, my residence), medical, dental, and hospital costs, and customary travel and vacation expenses.

(b) To provide for the education of my children (including training in a vocational or trade school, or in music, stage, handicrafts, and the arts, or special training for the mentally or physically handicapped, or secondary education at a public or private university, college, or other institutions of higher learning). My attorney in fact may pay expenses of tuition, room, board, books, incidental charges, or fees made by the educational institutions, travel costs to and from those institutions, and a reasonable allowance for incidental out-of-pocket expenses of my children.

(c) To house, or arrange for the housing, support, and maintenance of animals that I own or have custody of and pay reasonable boarding, kenneling, and veterinary fees for such animals, or if the support and maintenance of any such animal becomes unreasonably expensive, to dispose of such animal in a humane fashion, preferably by finding another home for such animal.

(d) To continue to discharge duties previously assumed by me to my parents, siblings, children, and friends.

(e) To maintain my membership in or affiliation with any club, society, order, church, or other organization, and pay customary and reasonable dues, fees, or other charges in connection therewith.

(f) To provide, in connection with my care, for the presence and involvement of church persons, clergy, or other persons to attend to my spiritual needs and permit them access to me, maintain or arrange for my membership in religious or spiritual organizations, and permit my access to their activities and publications, including books, tapes, and similar materials.

1.4. **Incidental Powers.** In connection with the exercise of any of the powers described in Article One or elsewhere in this Power, my attorney in fact shall have full power and authority to do and perform every act and thing whatsoever necessary, proper, or convenient to be done as fully to all intents and purposes as I might or could do for myself.

Article Two

Amplifying Provisions

2.1. **Determination of Incapacity.** For all purposes under this Power, I shall be deemed “incapacitated” if and so long as a guardian or conservator of my person or estate duly appointed by a court of competent jurisdiction is serving, or upon certification by two (2) physicians (licensed to practice under the laws of the state where I am domiciled at the time of the certification) that I am unable to properly care for myself or for my person

or property. A certified copy of the decree declaring incapacity or appointing a guardian or conservator, or the physicians' certificate shall be attached to the original of this document and recorded in the same county or counties as the original if the original is recorded.

2.2. **Capacity Regained.** After a determination of incapacity, I shall be deemed to have regained capacity by a finding of a court of competent jurisdiction to that effect, or when the guardianship or conservatorship for me has been judicially terminated, or upon certification by two (2) physicians (licensed to practice under the laws of the state where I am domiciled at the time of the certification) that I am capable of properly caring for myself or am able to manage my person or property. A certified copy of the decree declaring my regained capacity or terminating the guardianship or conservatorship, or the physicians' certificate, shall be attached to the original of this document and recorded in the same county or counties as the original if the original is recorded.

2.3. **Nomination of Conservator.** If at any time proceedings are initiated for the appointment of a conservator of my person or my estate or both, I hereby nominate the following person the same persons who I have appointed as my attorneys in fact, to serve in the same manner as I have directed. I request that, if any of my appointees are appointed conservator of my estate by a court of this state, the court make an order granting to such person(s) all or as many of those independent powers listed in Probate Code section 2591 as the court shall find appropriate.

2.4. **Reliance by Third Parties.** To induce third parties to act in accordance with the powers granted to my attorney in fact in this document, I represent and warrant that:

(a) If this document is revoked or amended for any reason, I, my estate, my heirs, successors, and assigns will hold any third party harmless from any loss suffered, or liability incurred, by the third party in acting in accordance with this document before the third party's receipt of written notice of termination or amendment.

(b) The powers conferred on my attorney in fact may be exercised alone and my attorney in fact's signature or act under the authority granted in this document may be accepted by third parties as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf.

(c) No person who acts in reliance upon any representation of my attorney in fact as to the scope of my attorney in fact's authority granted under this document shall incur any liability to me, my estate, my heirs, successors, or assigns for permitting my attorney in fact to exercise any such power, nor shall any person who deals with my attorney in fact be responsible to determine or ensure the proper application of funds or property.

(d) All third parties from whom my attorney in fact may request information regarding my personal affairs or my physical or mental health, including medical, dental, and hospital records, are hereby authorized to provide such information to my attorney in fact without limitation and are released from any legal liability whatsoever to me, my estate, my heirs, successors, or assigns for

complying with your requests. I authorize in advance all physicians, dentists, psychiatrists, and psychologists who have treated me, and all other providers of health care, including hospitals, to release to my attorney in fact all information or photocopies of any records which my attorney in fact may request. If I am able to confirm this authorization at the time of the request, third parties may seek such confirmation from me but this authorization shall not be conditional on that confirmation. Physicians, hospitals, and other health care providers may treat the request of my attorney in fact as that of a legal representative of an incompetent patient (as contemplated by section 56.11(c)(2) of the California Civil Code, or any successor section thereto) and to honor those requests on that basis. I waive any privilege applicable to such information and records, and to any communication pertaining to me and made in the course of a physician-patient or psychiatrist-patient relationship.

2.5. **Ratification**. I ratify and confirm all that my attorney in fact does or causes to be done under the authority granted in this Power of Attorney. All contracts, promissory notes, checks, or other bills of exchange, drafts, other obligations, stock powers, instruments, and other documents signed, endorsed, drawn, accepted, made, executed, or delivered by my attorney in fact shall bind me, my estate, my heirs, successors, and assigns.

2.6. **Exculpation of my Attorney in Fact**. My attorney in fact shall not be liable to me or any of my successors in interest for any action taken or not taken in good faith, but shall be liable for any willful misconduct or gross negligence.

2.7. **Revocation and Amendment**. I revoke all prior General Powers of Attorney that I may have executed and I retain the right to revoke or amend this document and to substitute other attorneys in fact in place of my attorney in fact. Amendments to this document shall be made in writing by me personally (not by my attorney in fact) and they shall be attached to the original of this document and recorded in the same county or counties as the original if the original is recorded.

Article Three

General Provisions

3.1. **Signature of Attorney in Fact**. My attorney in fact shall use the following form when signing on my behalf pursuant to this Power: “(MY NAME) by (APPOINTEE’S NAME), his/her attorney in fact.”

3.2. **Photostatic Copies**. Persons dealing with my attorney in fact may rely fully on a photostatic copy of this Power of Attorney.

3.3. **Severability**. If any of the provisions of this Power are found to be invalid for any reason, such invalidity shall not affect any of the other provisions of this Power, and all invalid provisions shall be wholly disregarded.

3.4. **Governing Law**. All questions pertaining to validity, interpretation, and administration of this power shall be determined in accordance with the laws of California.

3.5. **Explanation of Durable Power for Property Management**. I understand that this Power is an

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important legal document. Before executing this document, An attorney explained to me the following:

NOTICE TO PERSON EXECUTING THIS DOCUMENT:

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS.

1. THIS DOCUMENT MAY PROVIDE THE PERSON YOU DESIGNATE AS YOUR ATTORNEY-IN-FACT WITH BROAD POWERS TO MANAGE, DISPOSE OF, SELL, CONVEY, AND ENCUMBER YOUR REAL AND PERSONAL PROPERTY, AND TO USE YOUR PROPERTY AS SECURITY IF YOUR AGENT BORROWS MONEY ON YOUR BEHALF.

2. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOU.

3. THESE POWERS WILL EXIST FOR AN INDEFINITE PERIOD OF TIME UNLESS YOU LIMIT THEIR DURATION IN THIS DOCUMENT. THESE POWERS WILL CONTINUE TO EXIST NOTWITHSTANDING YOUR SUBSEQUENT DISABILITY OR INCAPACITY.

4. YOU HAVE THE RIGHT TO REVOKE OR TERMINATE THIS POWER AT ANY TIME.

5. YOUR AGENT HAS NO DUTY TO ACT UNLESS YOU AND YOUR AGENT AGREE OTHERWISE IN WRITING.

I declare that I have read the above warnings. This Durable Power of Attorney is executed by me on _____, 20____, in _____ County, California.

(signature)

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Notary Public