

## **DURABLE POWER OF ATTORNEY FOR FINANCIAL MANAGEMENT**

**NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, SUBTITLE P, TITLE 2, ESTATES CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.**

You should select someone you trust to serve as your agent (attorney in fact). Unless you specify otherwise, generally the agent's (attorney in fact's) authority will continue until:

1. you die or revoke the power of attorney;
2. your agent (attorney in fact) resigns or is unable to act for you; or
3. a guardian is appointed for your estate.

**THIS DURABLE POWER OF ATTORNEY for financial management** is given by me, \_\_\_\_\_ ("The Principal"), presently of \_\_\_\_\_, in the State of \_\_\_\_\_, on this \_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_.

### **Nature of Power**

1. This document is to be construed as a STATUTORY DURABLE POWER OF ATTORNEY and the authority of my Attorney-in-fact shall not terminate if I become disabled or incapacitated.

### **Previous Power of Attorney**

2. **I REVOKE** any previous durable power of attorney granted by me.

### **Attorney-in-fact**

3. **I APPOINT** \_\_\_\_\_, of \_\_\_\_\_, to act as my Attorney-in-fact.

### **Governing Law**

4. This document will be governed by the laws of the State of Texas. Further, my Attorney-in-fact is directed to act in accordance with the laws of the State of Texas at any time he or she may be acting on my behalf.

**Liability of Attorney-in-fact**

5. My Attorney-in-fact will not be liable to me, my estate, my heirs, successors or assigns for any action taken or not taken under this document, except for willful misconduct or gross negligence.

**Effective Date**

6. This Power of Attorney will not come into effect unless and until:
  - a. 12:01 AM local time on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and will continue notwithstanding a finding of my mental incapacity or mental infirmity which may occur after my execution of this Power of Attorney; or
  - b. I declare in writing that it is my wish that this Power of Attorney come into effect and will continue notwithstanding a finding of my mental incapacity or mental infirmity which may occur after my execution of this Power of Attorney.

**Powers of Attorney-in-fact**

7. My Attorney-in-fact has authority to do anything on my behalf that I may lawfully do by an attorney-in-fact (the "General Power").

**Specific Powers**

8. Without restricting its generality in any way, the following power(s) are specifically included within the foregoing General Power:

Initials

X \_\_\_ **Real Estate Transactions**

- a. To deal with any interest I may have in real property and sign all documents on my behalf concerning my interest, including, but not limited to, real property I may subsequently acquire or receive. These powers include, but are not limited to, the ability to:
  - i. Purchase, sell, exchange, accept as gift, place as security on loans, convey with or without covenants, rent, collect rent, sue for and receive rents, eject and remove

tenants or other persons, to pay or contest taxes or assessments, control any legal claim in favor of or against me, partition or consent to partitioning, mortgage, charge, lease, surrender, manage or otherwise deal with real estate and any interest therein; and

- ii. Execute and deliver deeds, transfers, mortgages, charges, leases, assignments, surrenders, releases and other instruments required for any such purpose.

**X\_\_\_ Maintain Property and Make Investments**

- b. To retain any assets owned by me at the date this Durable Power of Attorney becomes effective, and the power to reinvest those assets in similar investments. In addition, my Attorney-in-fact may invest my assets in any new investments, of his or her choosing, regardless of whether or not they are authorized by any applicable legislation.

**X\_\_\_ Banking Transactions**

- c. To do any act that I can do through an Attorney-in-fact with a bank or other financial institution. This power includes, but is not limited to, the power to:
  - i. Open, maintain or close bank accounts (including, but not limited to, checking accounts, savings accounts, and certificates of deposit), brokerage accounts, retirement plan accounts, and other similar accounts with financial institutions;
  - ii. Conduct any business with any banking or financial institution with respect to any of my accounts, including, but not limited to, making deposits and withdrawals, negotiating or endorsing any checks or other instruments with respect to any such accounts, obtaining bank statements, passbooks, drafts, money orders, warrants, and certificates or vouchers payable to me by any person, firm, corporation or political entity;
  - iii. Borrow money from any banking or financial institution if deemed necessary by my Attorney-in-fact, and to manage all aspects of the loan process, including the placement of security and the negotiation of terms;
  - iv. Perform any act necessary to deposit, negotiate, sell or transfer any note, security, or draft of the United States of America, including U.S. Treasury Securities;
  - v. Have access to any safe deposit box that I might own, including its contents; and

- vi. Create and deliver any financial statements necessary to or from any bank or financial institution.

**X\_\_\_ Business Operating Transactions**

- d. To take any action my Attorney-in-fact deems necessary with any business that I may own or have an interest in by doing any act which can be done through an Attorney-in-fact. This power includes, but is not limited to, the power to execute, seal and deliver any instrument; participate in any legal business of any kind; execute partnership agreements and amendments; to incorporate, reorganize, consolidate, merge, sell, or dissolve any business; to elect or employ officers, directors and agents; and to exercise voting rights with respect to any stock I may own, either in person or by proxy.

**X\_\_\_ Insurance Transactions**

- e. To do any act that I can do through an Attorney-in-fact with any insurance policy. This power includes, but is not limited to, the power to pay premiums, start, modify or terminate policies, manage all cash payouts, borrow from insurers and third parties using insurance policies as collateral, and to change the beneficiaries on any insurance policies on my life. Unless my Attorney-in-fact was already a beneficiary of any policy before the signing of this document, my Attorney-in-fact cannot name himself or herself as a beneficiary of such policy.

**X\_\_\_ Claims and Litigation Matters**

- f. To institute, maintain, defend, compromise, arbitrate or otherwise dispose of, any and all actions, suits, attachments or other legal proceedings for or against me. This power includes, but is not limited to, the power to: appear on my behalf, and the power to settle any claim against me in whichever forum or manner my Attorney-in-fact deems prudent, and to receive or pay any resulting settlement.

**X\_\_\_ Tax Matters**

- g. To act for me in all matters that affect my local, state and federal taxes and to prepare, sign, and file documents with any governmental body or agency, including, but not limited to, authority to:
  - i. Prepare, sign and file income and other tax returns with federal, state, local and other governmental bodies, and to receive any refund checks; and

- ii. Obtain information or documents from any government or its agencies, and represent me in all tax matters, including the authority to negotiate, compromise, or settle any matter with such government or agency.

**X\_\_\_ Government Benefits**

- h. To act on my behalf in all matters that affect my right to allowances, compensation and reimbursements properly payable to me by the Government of the United States or any agency or department thereof including, but not limited to, benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service. This power includes, but is not limited to, the power to prepare, file, claim, defend or settle any claim on my behalf and to receive and manage, as my Attorney-in-fact sees fit, any proceeds of any claim.

**X\_\_\_ Retirement Benefit Transactions**

- i. To act for me and represent my interests in all matters affecting any retirement savings or pension plans I may have. This power includes, but is not limited to, the power to continue contributions, change contribution amounts, change investment strategies and options, move assets to other plans, receive and manage payouts, and add or change existing beneficiaries. My Attorney-in-fact cannot add himself or herself as a beneficiary unless he or she is already a designated beneficiary as of the signing of this document.

**X\_\_\_ Family Care**

- j. To make whatever expenditures are required for the maintenance, education, benefit, medical care and general advancement of me, my spouse and dependent children, and other persons that I have chosen or which I am legally required to support, any of which may include my Attorney-in-fact. This power includes, but is not limited to, the power to pay for housing, clothing, food, travel and other living costs.

**X\_\_\_ Chattel and Goods Transactions**

- k. To purchase, sell or otherwise deal with any type of personal property I may currently or in the future have an interest in. This includes, but is not limited to, the power to purchase, sell, exchange, accept as gift, place as security on loans, rent, lease, to pay or contest taxes or assessments, mortgage or pledge.

**X\_\_\_ Estate Transactions**

- l. To do any act that I can do through an Attorney-in-fact with regard to all matters that affect any trust, probate estate, conservatorship, or other fund from which I may receive payment as a beneficiary. This power includes the power to disclaim any interest which might otherwise be transferred or distributed to me from any other person, estate, trust, or other entity, as may be appropriate. However, my Attorney-in-fact cannot disclaim assets to which I would be entitled, if the result is that the disclaimed assets pass directly or indirectly to my Attorney-in-fact or my Attorney-in-fact's estate.

**X\_\_\_ Living Trust Transactions**

- m. To transfer any of my assets to the trustee of any revocable trust created by me, if such trust is in existence at the time of such transfer. This property can include real property, stocks, bonds, accounts, insurance policies or other property.

**X\_\_\_ Gift Transactions**

- n. To make gifts to my spouse, children, grandchildren, great grandchildren, and other family members on special occasions, including birthdays and seasonal holidays, including cash gifts, and to such other persons with whom I have an established pattern of giving (or if it is appropriate to make such gifts for estate planning and/or tax purposes), in such amounts as my Attorney-in-fact may decide in his or her absolute discretion, having regard to all of the circumstances, including the gifts I made while I was capable of managing my own estate, the size of my estate and my income requirements.

**X\_\_\_ Charity Transactions**

- o. To continue to make gifts to charitable organizations with whom I have an established pattern of giving (or if it is appropriate to make such gifts for estate planning and/or tax purposes), in such amounts as my Attorney-in-fact may decide in his or her absolute discretion, having regard to all of the circumstances, including the gifts I made while I was capable of managing my own estate, the size of my estate and my income requirements.

**X\_\_\_ Employ Required Professionals**

- p. To appoint and employ any agents, servants, companions, or other persons, including nurses and other health care professionals for my care and the care of my spouse and dependent children, and accountants, attorneys, clerks, workers and others for the

management, preservation and protection of my property and estate, at such compensation and for such length of time as my Attorney-in-fact considers advisable.

**Attorney-in-fact Compensation**

9. My Attorney-in-fact will receive compensation as per the guidelines governing the compensation for agents or trustees or other such legislated rate in the State of Texas in addition to reimbursement of all out of pocket expenses associated with the carrying out my wishes. If no guidelines or usual practices exist for the compensation of an Attorney-in-fact then my Attorney-in-fact will be entitled to reimbursement for all out of pocket expenses associated with the carrying out of my wishes and may pay himself or herself a reasonable amount based on the size of my estate.

**Co-owning of Assets and Mixing of Funds**

10. My Attorney-in-fact may continue to co-own assets and have any funds owned by him or her mixed with my funds to the same extent that the co-owning of assets and mixing of funds existed before operation of this Power of Attorney.

**Personal Gain from Managing My Affairs**

11. My Attorney-in-fact is allowed to personally gain from any transaction he or she may complete on my behalf if the transaction is completed in good faith and with my Attorney-in-fact believing it is in my best interest.

**Delegation of Authority**

12. My Attorney-in-fact may delegate any authority granted under this document to a person of his or her choosing. Any delegation must be in writing and state the extent of the power delegated and the period of time in which the delegation will be effective.

**Nomination of Guardian or Conservator**

13. In the event that a court decides that it is necessary to appoint a guardian or conservator for me, I hereby nominate my Attorney-in-fact to be considered by the court for appointment to serve as my guardian or conservator, or in any similar representative capacity.

**Attorney-in-fact Restrictions**

14. This Power of Attorney is not subject to any conditions or restrictions other than those noted above.

**Notice to Third Parties**

15. Any third party who receives a valid copy of this Power of Attorney can rely on and act under it. A third party who relies on the reasonable representations of my Attorney-in-fact as to a matter relating to a power granted by this Power of Attorney will not incur any liability to the Principal or to the Principal's heirs, assigns, or estate as a result of permitting the Attorney-in-fact to exercise the authority granted by this Power of Attorney up to the point of revocation of this Power of Attorney. Revocation of this Power of Attorney will not be effective as to a third party until the third party receives notice and has actual knowledge of the revocation.

**Severability**

16. If any part of any provision of this document is ruled invalid or unenforceable under applicable law, such part will be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provisions or the remaining provisions of this document.

**Acknowledgment**

17. I, \_\_\_\_\_, being the Principal named in this Durable Power of Attorney hereby acknowledge:

- a. I have read and understand the nature and effect of this Durable Power of Attorney;
- b. I recognize that this document gives my Attorney-in-fact broad powers over my assets, and that these powers will continue past the point of my incapacity;
- c. I am of legal age in the State of Texas to grant a Durable Power of Attorney; and
- d. I am voluntarily giving this Durable Power of Attorney and recognize that the powers given in this document will become effective as of the date of my incapacity or as specified within.

**IN WITNESS WHEREOF** I hereunto set my hand and seal at the City of \_\_\_\_\_ in the State of \_\_\_\_\_, this \_\_\_th day of \_\_\_\_\_, \_\_\_\_\_.



\_\_\_\_\_

\_\_\_\_\_ (Principal)

**NOTARY ACKNOWLEDGMENT**

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

The instrument was acknowledged before me on the \_\_\_th day of \_\_\_\_\_, \_\_\_\_\_, by  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

## IMPORTANT INFORMATION FOR AGENT (ATTORNEY IN FACT)

### Agent's Duties

When you accept the authority granted under this power of attorney, you establish a "fiduciary" relationship with the principal. This is a special legal relationship that imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked by the principal or by operation of law. A fiduciary duty generally includes the duty to:

1. act in good faith;
2. do nothing beyond the authority granted in this power of attorney;
3. act loyally for the principal's benefit;
4. avoid conflicts that would impair your ability to act in the principal's best interest; and
5. disclose your identity as an agent or attorney in fact when you act for the principal by writing or printing the name of the principal and signing your own name as "agent" or "attorney in fact" in the following manner:

(Principal's Name) by (Your Signature) as Agent (or as Attorney in Fact)

In addition, the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code) requires you to:

1. maintain records of each action taken or decision made on behalf of the principal;
2. maintain all records until delivered to the principal, released by the principal, or discharged by a court.
3. if requested by the principal, provide an accounting to the principal that, unless otherwise directed by the principal or otherwise provided in the Special Instructions, must include:
  - a. the property belonging to the principal that has come to your knowledge or into your possession;
  - b. each action taken or decision made by you as agent or attorney in fact;

- c. a complete account of receipts, disbursements, and other actions of you as agent or attorney in fact that includes the source and nature of each receipt, disbursement, or action, with receipts of principal and income shown separately;
- d. a listing of all property over which you have exercised control that includes an adequate description of each asset and the asset's current value, if known to you;
- e. the cash balance on hand and the name and location of the depository at which the cash balance is kept;
- f. each known liability;
- g. any other information and facts known to you as necessary for a full and definite understanding of the exact condition of the property belonging to the principal; and
- h. all documentation regarding the principal's property.

### **Termination of Agent's Authority**

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. An event that terminates this power of attorney or your authority to act under this power of attorney includes:

1. the principal's death;
2. the principal's revocation of this power of attorney or your authority;
3. the occurrence of a termination event stated in this power of attorney;
4. if you are married to the principal, the dissolution of your marriage by court decree of divorce or annulment;
5. the appointment and qualification of a permanent guardian of the principal's estate; or
6. if ordered by a court, the suspension of this power of attorney on the appointment and qualification of a temporary guardian until the date the term of the temporary guardian expires.

### **Liability of Agent**

The authority granted to you under this power of attorney is specified in the Durable Power of Attorney (Subtitle P, Title 2, Estates Code). If you violate the Durable Power of Attorney Act or act beyond the authority granted, you may be liable for any damages caused by the violation or subject to prosecution for misapplication of property by a fiduciary under Chapter 32 of the Texas Penal Code.

THE ATTORNEY IN FACT OR AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.