

RECORDING REQUEST BY:

WHEN RECORDED, MAIL TO:

SAME AS ABOVE

SPACE ABOVE FOR RECORDER'S USE ONLY

Springing Durable Power of Attorney for Person and Asset Management of

Durable Power of Attorney for Asset Management

- A. Principal:** _____
If this instrument has been executed in multiple counterpart originals, each such counterpart original shall have equal force and effect.
- B. Attorney-in-Fact Appointed:** _____
My Attorney-in-Fact is authorized to make photocopies of this instrument as frequently and in such quantity as my Attorney-in-Fact shall deem appropriate. All photocopies shall have the same force and effect as any original.
- C. Effective date of Document:** _____
1. The powers hereby given by this Durable Power of Attorney shall become automatically effective only on the incapacitation¹

¹ **"Incapacity"** is partially defined as the inability to sign my name and/or make decisions by myself concerning my welfare and/or person.. The undersigned shall conclusively be deemed incapacitated for purposes of this instrument when the Attorney-In-Fact receives a written and signed opinion from a minimum of two (2) licensed physicians that the principal is physically or mentally incapable of managing his finances. Such written opinion when received shall be attached to this instrument. Third parties may rely on the Attorney-In-Fact's authority without further evidence of incapacity when this instrument is presented with such physicians' statements attached. No licensed physicians who execute medical opinions of incapacity shall be subject to

of the undersigned principal. For this power to be effective, it must be accompanied by two (2) physicians' statements indicating incapacity and should state that in the physicians' opinions I have become physically or mentally incapacitated. If accompanied by such physicians' statements; this Power of Attorney is to have full force and effect **whether or not** a court of competent jurisdiction has declared me incompetent, mentally ill, or has appointed a conservator.

(a) While the principal is not incapacitated, this Durable Power of Attorney may be modified by the principal at any time by written notice given by the principal to the Attorney-In-Fact and may be terminated at any time by either the principal or the Attorney-In-Fact by written notice given by the terminating party to the other party.

(b) This Durable Power of Attorney shall continue after the principal's incapacity in accordance with its terms. On the death of the principal, this Durable Power of Attorney shall terminate and the assets of the principal shall be distributed to the duly appointed personal representative of the principal's estate; or, if no estate is being administered, to the persons who lawfully take the assets without the necessity of administration when they have supplied the Attorney-In-Fact with satisfactory documents as provided by law.

D. Special Powers Given to Attorney-in-Fact by Principal:

This instrument is to be construed and interpreted as a limited power of attorney.

1. General Grant of Power.

(a) To exercise or perform any act, power, duty, right,

liability because of such execution. The principal hereby waives any privilege that may apply to the release of information included in such medical opinions. **Also see Footnote 2.**

or obligation whatsoever that I now have for property, real or personal, tangible or intangible, now owned or hereafter acquired by me, including, without limitation, the following specifically enumerated powers.

(b) I grant to my Attorney-In-Fact full power and authority to do everything necessary in exercising any of the powers herein granted as fully as I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all the power as my Attorney-In-Fact, shall lawfully do or cause to be done by virtue of this power of attorney and the powers herein granted;

2. Powers of Collection and Payment.

To forgive, request, demand, sue for, recover, collect, receive, hold all such sums of money, debts, dues, commercial paper, checks, drafts, accounts, deposits, legacies, bequests, devises, notes, interests, stock certificates, bonds, dividends, certificates of deposit, annuities, pension, profit sharing, retirement, social security, insurance, and other contractual benefits and proceeds, all documents of title, all property, real or personal, intangible and tangible property and property owned by, or due, owing, payable or belonging to me, or in which I have or may hereafter acquire as interest; to have, use, and take all lawful means and equitable and legal remedies and proceedings in my name for the collection and recovery thereof, and to adjust, sell, compromise, and agree for the same, and to execute and deliver for me, on my behalf, and in my name, all endorsements, releases, receipts, or other sufficient discharges for the same;

3. Power to Acquire and Sell.

To acquire, purchase, exchange, grant options to sell, and sell and convey real or personal property, tangible or intangible, or interests therein, on such terms and conditions as my Attorney-In-Fact shall deem proper;

4. Management Powers.

To maintain, repair, improve, invest, manage, insure, rent, lease, encumber, and in any manner deal with any real or personal property, tangible or intangible, or any interest therein, that I now or may hereafter acquire, in my name and for the benefit and upon such terms and conditions as my Attorney-In-Fact shall deem proper;

5. Banking Powers.

To make, receive, and endorse checks and drafts, deposit and withdraw funds; acquire and redeem certificates of deposit in banks, savings and loan associations and other institutions; execute or release such deeds of trust or other security agreements as may be necessary or proper in the exercise of the rights and powers herein granted; the use of any credit cards in my name to make purchases and to sign charge slips on behalf of me as may be required to use such credit cards; and to close my charge accounts and terminate my credit cards under circumstances where the Attorney-In-Fact considers such acts to be in my best interest;

6. Motor Vehicles.

To apply for a Certificate of Title upon, and endorse or transfer title thereto, for any automobile, truck, pickup, van, motorcycle or other motor vehicle, and to represent in such transfer assignment that the title to said motor vehicle is free and clear of all liens and encumbrances except those specifically set forth in such transfer

assignment;

7. Business Interests.

To conduct or participate in any lawful business of whatever nature, form, and in my name; execute partnership agreements and amendments thereto; incorporate, reorganize, merge, consolidate, recapitalize, sell, liquidate, or dissolve any business; elect or employ officers, directors, and Attorney-In-Fact; carry out the provisions of any agreement for the sale of any business interest or the stock therein; and exercise voting rights with respect to stock, either in person or by proxy, and exercise stock options;

8. Tax Powers.

To prepare, sign, and file federal, state, or local income, gift, other tax returns of all kinds, claims for refund, request for extensions of time petitions to the tax court or other courts regarding tax matters, and any and all other tax related documents, including, without limitation, receipts, offers, waivers, consents, powers for attorney, closing agreements; and generally to act in my behalf in all tax matters of all kinds and for all periods before all officers of the Internal Revenue Service and any other taxing authority, including receipt of confidential information, and to cause me to be represented in any and all such proceedings;

9. Safe Deposit Boxes.

To have access at any time or times to any safe deposit box rented to me, wheresoever located, and to remove all or any part of the contents thereof, and to surrender or relinquish any safe deposit box, and institution in which any such safe deposit box may be located shall not incur any liability to me or my estate as a result of permitting

my Attorney-In-Fact to exercise power;

10. Purchase of Bonds.

To purchase for my sole account United States of America Treasury Bonds of any kind which are redeemable at par in payment of federal estate [death] taxes, and to borrow money and obtain credit in my name from any source for such purpose; in connection therewith, to make, execute, endorse, and deliver any and all necessary or desirable promissory notes, bills or exchange, drafts, agreements, or other obligations; as security therefore to pledge, mortgage, and assign any stock, bonds, securities, insurance values, and other properties, real or personal, which I may own or in which I may have an interest; and to arrange for the safekeeping and custody of any such treasury bonds;

11. Transfer of Trust.

To transfer and convey to the trustee then acting under any trust agreement created by me any or all assets now or at any time or times hereafter standing in my name or representing my interest in assets owned jointly, policies of all kinds, cash checks (particularly government and insurance checks), stocks, bonds, securities, and properties of all kinds; and pursuant to such purpose to terminate savings, checking, safekeeping, agency, investment advisory, and custody accounts in my name alone or with others, at any bank or broker, by directing that all or any part of the balance therein, including all cash, stocks, bonds, and other securities and property, subject to any indebtedness secured thereby, be transferred and delivered to said trustee or trustees;

12. Enabling Powers.

In general, to enter into oral or written agreements, and

to execute, acknowledge, and deliver any agreement, stock power, deed, instrument, or other document of the accomplishment of, or relating to, any of the foregoing acts, giving and granting unto the said Attorney-In-Fact full power and authority to do and perform all, any, and every act and thing whatsoever required to be done as fully to all intents and purposes I might or could do if personally present.

13. Restrictions.

(a) Notwithstanding any other possible language to the contrary in this document, the Attorney-In-Fact is specifically NOT granted the following powers:

- i. To use my assets for the Attorney-In-Fact's own legal obligations, including but not limited to support the Attorney-In-Fact's dependents;
- ii. To exercise any trustee powers under an irrevocable trust of which the Attorney-In-Fact is a trustor and the principal is a trustee; and
- iii. To exercise incidents of ownership over any life insurance policies that I own on the Attorney-In-Fact's life.

14. Renouncing Powers.

a. To renounce any fiduciary position to which I have been or may be appointed or elected to, including but not limited to personal representative, trustee, guardian, attorney-in-fact, and officer or director of a corporation; and any governmental or political office or position to which I have been or may be elected or appointed; to resign any such positions in which capacity I am presently serving; to file an accounting with a court of

competent jurisdiction or settle on a receipt and release or such other informal method as my Attorney-in-Fact shall deem appropriate; with regards to this provision my Attorney-in-Fact shall be permitted to act only in the event that I am unable to do so myself, my agents affidavit that I am unable to act shall be sufficient proof of such inability;

b. To renounce and disclaim any property or interest in property or powers to which for any reason and by any means I may become entitled, whether by gift, testate or intestate succession; to release or abandon any property or interest in property or powers which I may now or hereafter own, including any interests in or rights over trusts (including the right to alter, amend, revoke or terminate) and to exercise any right to claim an elective share in any estate or under any will. In exercising such discretion, my Attorney-in-Fact may take into account such matters as shall include but shall not be limited to any reduction in estate or inheritance taxes on my estate, and the effect of such renunciation or disclaimer upon persons interested in my estate and persons who would receive the renounced or disclaimed property; provided, however, that my Attorney-in-Fact shall make no disclaimer that is expressly prohibited by other provisions of this instrument;

c. Notwithstanding any provision herein to the contrary, my Attorney-in-Fact shall take no action under the powers granted hereinabove in paragraphs 14a. and 14b., unless (i) I am deemed to be incapacitated², or (ii) I have

² An incapacity shall be deemed to exist when declared by a court of competent jurisdiction, or when a conservator, or guardian, has been appointed and is based upon my incapacity, or upon presentation to my herein appointed Attorney-in-Fact of a certificate

executed a certificate that from and after the date of execution thereof my Attorney-in-Fact is fully authorized to act with regards to such powers granted herein above in paragraphs 14a. and/or 14b;

15. Gifting Powers.

Gifts made under this authority to each donee in any calendar year shall not exceed the maximum amount that is excluded as a taxable gift under IRS Section 2503(b) and 2503(e), or any successor statute, effective as of the date of any gift. Although this amount is presently limited to \$10,000 (*\$20,000 for gifts split with Grantor's spouse*), and amounts for educational or medical expenses (*as defined under IRS Section 2503(e)*), Grantor understands that this amount may be changed by legislation and/or indexing following the execution of this Power of Attorney and Grantor intends to have the power herein limited or expanded as necessary to conform with the maximum amounts so permitted in the year of any gift. In addition, should Grantor qualify to make a contribution to an Education Investment Account (IRA) under IRS Section 530, Gifts may be made to such accounts on behalf of any Authorized Donee without reduction of the amounts permitted to be given above.

E. Ratification.

As Principal, I hereby ratify and confirm all that the said Attorney-In-Fact shall do or cause to be done under this power of attorney, and all such promissory notes, bills of exchange,

executed by a board of licensed physicians as outlined in my Living Trust testifying of said incapacity. The effective date of such incapacity shall be the date of the order, or decree, adjudicating the incapacity, the date of the order, or decree, appointing the guardian or conservator, or the date of the certificate of the board of physicians as described above, whichever first occurs.

drafts, other obligations, agreements, stock powers, instruments, and documents, signed, endorsed, drawn, accepted, made, executed, or delivered by the said attorney, or any substitute or substitutes of said attorney, which shall hereafter be received, shall bind me and my heirs, distributees, legal representatives, successors, and assigns.

F. Inducement.

For the purpose of inducing any bank, broker, custodian, insurer, lender, transfer agent, or other party to act in accordance with the powers granted in this power of attorney, I hereby represent, warrant, and agree that if this power of attorney is terminated for any reason whatsoever, I and my heirs, distributees, legal representatives, successors, and assigns will save such party or parties harmless from any loss suffered, or liability incurred, by such party or parties in acting in accordance with this power of attorney prior to that party's receipt of written notice of any such termination.

G. Durability.

This power of attorney shall not be affected by my subsequent disability or incapacity.

H. Severability.

If any provision of the power of attorney is not enforceable or is not valid, the remaining provisions shall remain effective.

I. Exculpation.

No Attorney-In-Fact named herein or substituted hereunder shall incur any liability to me for acting or refraining from acting hereunder, except for such attorney's own willful misconduct or gross negligence.

J. Nomination and Appointment of Conservator of the Person and Estate.

By executing this instrument I have carefully and deliberately created the means and manner by which I desire that my estate be managed, and the means and manner by which decisions relating to the management of my property shall be made in the event I shall become unable to execute such responsibilities myself. Accordingly, it is my intention and my desire that I herewith express in the strongest possible terms, that no guardian or conservator be appointed with regards to the management of my property so long as there is an Attorney-in-Fact named in this instrument who is willing and able to act and serve under this instrument. I request that any court of competent jurisdiction that receives and is asked to act upon a petition for the appointment of a guardian or conservator with regards to the management of my property give the greatest possible weight to my intention and desires as expressed herein.

If a **Conservator of the person** is to be appointed for me, I nominate and appoint the person named as agent or the alternative agent as designated in my Living Will. I revoke any prior Living Will. I further declare that I am aware of my rights under California Civil Code Section 2500 or domicile state equivalent. Any reference to this nomination of my Conservator must be read strictly in light of my Living Will, which I have already executed.

I nominate and appoint this person or the following persons in this order of succession as Conservator of my person:

1. _____
2. _____
3. _____
4. _____

If a **Conservator for the management of my estate** is to be appointed, then to the extent that I am permitted by law to do so, I herewith nominate, constitute and appoint the person named as my agent to serve as that conservator, guardian, or in any similar representative capacity; and if I am not permitted by law to so nominate, constitute and appoint, then I request in the strongest possible terms that any court of competent jurisdiction which may receive and be asked to act upon a petition by any person to appoint a conservator, guardian, or similar representative for me give the greatest possible weight to this request.

1. _____ 2. _____
3. _____ 4. _____

I further request that, in addition to the general powers, a Conservator of my estate be granted all additional powers specified in Section 2591 of the California Probate Code, or domicile state equivalent, as it may be amended from time to time, including the power to invest and reinvest my estate, such as accumulated income in every kind of property, real, or personal.

IN WITNESS WHEREOF, my Durable Power of Attorney for Person and Asset Management is subscribed by me, _____, on this ____ day of _____, 20____ at _____, California.

Witness 1

Witness 2

K. Governing Law.

This power of attorney shall be governed by the laws of the State of California, or domicile state equivalent, in all respects, including its validity, construction, interpretation, and termination.

I do hereby appoint the following person as my Attorney-In-Fact:

Name:

Street Address:

City/State/Zip Code:

Dated this _____ day of _____, 20_____

Principal's Signature: _____

If the above named person is not available or willing to make decisions for me, then I designate the following to serve as alternate agent, to make decisions for me as authorized in this document.

Name:

Street Address:

City/State/Zip Code:

Dated this _____ day of _____, 20_____

Principal's Signature: _____

If the above named person is not available or willing to make decisions for me, then I designate the following to serve as alternate agent, to make decisions for me as authorized in this document.

Name:

Street Address:

City/State/Zip Code:

Dated this _____ day of _____, 20_____

Principal's Signature: _____

If the above named person is not available or willing to make decisions for me, then I designate the following to serve as alternate agent, to make decisions for me as authorized in this document.

Name:

Street Address:

City/State/Zip Code:

Dated this _____ day of _____, 20_____

Principal's Signature: _____

If the above named person is not available or willing to make decisions for me, then I designate the following to serve as alternate agent, to make decisions for me as authorized in this document.

Name:

Street Address:

City/State/Zip Code:

Dated this _____ day of _____, 20_____

Principal's Signature: _____

State of California

County of _____ } S.S.

On this _____ day of _____, in the year of 20____, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed this instrument.

WITNESS my hand and official seal.

Notary Public, State of California

My Commission expires _____