

RDURABLE POWER OF ATTORNEY –

SPECIMEN DOCUMENT

IMPORTANT NOTICE - This specimen document is being provided to you for general education and discussion purposes only. It does not constitute legal advice, should not be used as a final and complete document and should only be used to assist your qualified legal counsel in preparing a final document. It is not designed to address your particular facts and circumstances and does not account for applicable federal and state law, including tax law, new developments in federal and state law or your individual goals and circumstances. Always consult with your qualified attorney for legal advice, including the drafting of all legal documents and advice on the use of a durable power of attorney in meeting your overall planning objectives.

I, _____, of _____, Massachusetts, hereby appoint my _____, _____, of _____, Massachusetts to serve as my agent and attorney in fact (hereinafter referred to as my “attorney”), for me and in my name and behalf to control and manage my property and affairs in all respects including full power and authority:

1. GENERAL GRANT OF POWER. To exercise or perform any act, power, duty, right or obligation whatsoever that I now have or may hereafter acquire, in relation to any person, matter, transaction, or property, real or personal, tangible or intangible, now owned or hereafter acquired by me, including, without limitation, the following specifically enumerated powers. I grant to my attorney 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 that my attorney shall lawfully do or cause to be done by virtue of this power of attorney and the powers herein granted.

(a) *Powers of Collection and Payment.* To pay my current bills and just debts; to collect, receive, request, demand, sue for, recover, and 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 and property rights and demands whatsoever, liquidated or unliquidated, now or hereafter owned by, or due, owing, payable or belonging to me, or in which I have or hereafter acquire an interest; to have, use, and take all lawful means 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;

(b) *Power to Acquire and Sell.* To acquire, purchase, exchange, grant options to sell, mortgage (including a reverse mortgage), pledge, lease, transfer, assign, deliver, convey or otherwise dispose of real and personal property, tangible or intangible, or interests therein, on such terms and conditions as my attorney shall deem proper, and in connection therewith to sign, seal, execute and deliver deeds, bills of sale, stock powers, and any other documents necessary or convenient to accomplish such action, and no purchaser, transferee or assignee shall be bound to see to the application of the proceeds;

(c) *Management Powers.* To invest and reinvest, maintain, repair, improve, manage, insure, rent, lease, encumber, and in any manner to deal with any real or personal property, tangible or intangible, or any interests therein, that I now own or may hereafter acquire, to enter any premises leased by me and to care for any such premises and its contents, all upon such terms and conditions as my attorney shall deem proper;

(d) *Banking Powers.* To make, receive, sign 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, to open and close checking and savings accounts, to certify my taxpayer identification number;

(e) *Voting Powers.* To exercise either in person or by proxy, any voting rights I have, with respect to any condominium, condominium association, condominium trust or real estate cooperative;

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(f) *Business Interests.* To conduct or participate in any lawful business of what-ever nature for me and in my name; to execute partnership agreements and amendments thereto; incorporate, reorganize, merge, consolidate, recapitalize, sell, liquidate, or dissolve any business; elect or employ officers, directors and agents; 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;

(g) *Investment Powers.* With respect to any investment accounts, whether presently opened or hereafter opened, to make purchases and sales (including short sales); to subscribe for and trade in stocks, bonds, options, or other securities, or limited partnership interests or investments and trust units, whether or not in negotiable form, issued or unissued, foreign exchange, commodities, and contracts relating to same (including commodity futures), on margin or otherwise, for my account and risk; to deliver or surrender securities on my account, or to instruct others to deliver or surrender securities to my attorney on my account; to order payment of moneys from my accounts and to receive and direct payments from my accounts; to sell, assign, endorse and transfer any stocks, bonds, options or other securities of any nature, at any time standing in my name and to execute any documents necessary to effectuate the foregoing; to receive statements of transactions made for my account; to approve and confirm the same; to receive any and all notices, calls for margin, or other demands with reference to my accounts; and to make any and all agreements with reference to such accounts on my behalf;

(h) *Tax Powers.* To prepare, sign and file joint, separate or single income tax returns or declarations of estimated tax for any year or years; to apply for and receive any refund due me, to receive any communications with respect to any tax, and to appear for me and represent me before any federal, state or municipal or other agency in connection with any tax matter; to prepare, sign and file gift tax returns with respect to gifts made by me or by my attorney hereunder for any year or years; to consent to any gift and to utilize any gift-splitting provisions or other tax election; and to execute any Power of Attorney designation on forms required by the Internal Revenue Service or any state department of revenue or taxation for three tax years prior to the date of this instrument and for all tax years hereafter;

(i) *Safe Deposit Boxes.* To have access at any time or times to (and to enter by force if necessary) any safe deposit box rented by me, wherever located, to remove all or any part of the contents thereof, and to surrender or relinquish said safe deposit box; and any 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 to exercise this power;

(j) *Gift Making Powers.* To make gifts, by deed or otherwise, to him or herself as my attorney hereunder and to my children, other relatives, friends, and trusts without restriction; to make gifts from my property to one or more charitable organizations, the choice of such organizations and the amount of such gifts to be determined in the sole discretion of my attorney, taking into account the desirability of income-tax deductions for the current year and my prior charitable-giving practices;

(k) *Powers Under Inter Vivos Trust.* To transfer, convey and deliver any and all of my property, real and personal, to the trustees of any revocable or irrevocable trust created by me as donor, and to do all things necessary or convenient to accomplish the same, including without limitation the power to sign, seal, execute and deliver deeds, bills of sale, and stock powers; to create and fund any trust, revocable or irrevocable, for the benefit of myself and issue that I may have power to create; to amend or revoke any such trust to the same extent that I am empowered to do so according to the terms of such trust and/or under applicable law;

(l) *Estate Planning Powers.* To take such action or to apply funds in a manner and for a purpose that is in keeping with my estate planning wishes, without petition to or leave of court, to conserve my property, benefit my descendants and other relatives, minimize current or prospective federal and state taxes, and maximize entitlement to or availability of federal and state medical, welfare, housing, and other public programs for myself or my descendants, including without limitation to make gifts to my children, relatives, friends or charities as would likely be the recipients of such gifts from me, to make revocable or irrevocable transfers of my property into trusts (whether established by me, my attorney or any other person) for the benefit of myself or others, to establish, fund or contribute to any education accounts such as so-called Coverdell IRA or 529 accounts. To the extent the powers conferred under this paragraph are inconsistent with the limits on gift-making powers conferred in paragraph (j) above, the provisions of this paragraph (l) shall take precedence;

(m) *Power to Make Statutory Elections and Disclaimers.* To make on my behalf any and all statutory elections and to disclaim any interest in property passing to me by gift, bequest, devise or other transfer if my attorney in the exercise of

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his or her sole discretion determines that such disclaimer is likely to increase the after-tax amount ultimately passing to my family after my decease without materially affecting my well-being;

(n) *Power to Act in Probate and All Other Court Proceedings.* To represent me and any interest I may have as an individual in connection with any estates or trusts, or any other matter before a court of law including the power to assent to accounts or other proceedings;

(o) *Retirement Plan Powers.* To deal with all retirement plans of which I have an interest, including, but not limited to, individual retirement accounts, Keogh plans, pension and profit-sharing plans, settlement options and distributions, rollovers and voluntary contributions; to change the beneficiary of such plans; to convert any such accounts to an annuity; to liquidate any such accounts;

(p) *Insurance Powers.* To exercise all rights I may have under policies of life insurance, whether on my life or that of another, including powers to borrow on the policy, name a new or additional beneficiary, assign the policy or name a new owner of the policy, elect settlement options, accumulate dividends or have dividends paid out, apply for waivers of premiums or disability income, and surrender the policy for cash value; and to exercise all such powers with respect to any Life Insurance policy under which I am entitled to benefits;

(q) *Motor Vehicles.* To apply for a Certificate of Title upon, and endorse and transfer title thereto, any automobile 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;

(r) *Governmental Entitlement Powers.* To deal with any and all state or federal agencies from whom I receive or am entitled to receive governmental benefits of any description or amount in order to: (i) prepare and file all documents required by such agencies; (ii) apply for any benefits to which I may be entitled; (iii) modify the amounts or terms of such entitlements; (iv) assert my rights against any curtailment or termination of benefits; (v) appeal or compromise any contested claim; (vi) effect a termination thereof;

(s) *Power to Designate a Substitute.* To appoint and substitute for my attorney and agents or attorneys for any or all of the purposes herein enumerated, and their authority at pleasure to revoke;

(t) *Powers to Provide for my Care.* To make such use of my personal and real property as is necessary to provide for my maintenance, transportation, and necessary medical, dental and surgical care, hospitalization and custodial care;

(u) *Reverse Mortgage Powers.* To negotiate, obtain and close a reverse mortgage for me and in my name to be secured by any real estate that I may now or hereafter own as my home and residence; to execute and deliver all documents in connection with such reverse mortgage; to execute an end of term plan for the ultimate disposition of my said residence; and to take any other action(s) necessary for this purpose, in order to satisfy the terms and conditions of the reverse mortgage loan;

(v) *To Change and Establish Domicile.* To maintain, change and/or establish my residence and domicile, including without limitation, the authority to express on my behalf an intent to return to a residence in order to preserve any home-stead or principal residence exemptions to which I may be entitled under federal or state law;

(w) *Authority to File Bankruptcy.* To file for any chapter of Bankruptcy available to me under Federal Law; whether to file as next friend or to file by signing my name indicating it was signed by the authority-in-fact acting on my behalf and submitting a copy of the power of attorney with the filings; or in any other manner permitted by law; to employ counsel to represent me in such filings; to select any and all exemptions available to me; to determine which if any debts to reaffirm; and to make any and all decisions regarding any plan or repayment/reorganization, if applicable; to discuss my affairs, and/or any debt re-counseling service; to discuss my affairs with a credit counseling service or a debtor education service;

(x) In addition to the foregoing, my attorney hereunder may act as my alter ego with respect to any and all possible matters and affairs not otherwise enumerated herein and which I as principal can do through an agent.

2. HEALTH CARE DECISIONS AND FUNERAL PLANS. To authorize my admission to a medical, nursing, residential or similar facility and to enter into agreements for my care; to enter contracts for my funeral, burial, or cremation and to pay

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advance for such funeral arrangements; to establish a bank account designated as a funeral account for purposes of my funeral arrangements.

3. COURT APPOINTED FIDUCIARIES. If it is deemed necessary to seek the appointment by a probate court of a guardian of my person or a conservator of my estate, I hereby nominate my _____, _____, for appointment by such court to serve as such fiduciary. If my _____, _____, dies, becomes legally disabled, resigns, or refuses to act, I hereby nominate my _____, _____, for appointment by such court to serve as fiduciary.

4. SUCCESSOR ATTORNEY. If the attorney named by me dies, becomes legally disabled, resigns, or refuses to act, I name my _____, _____ as successor to that attorney.

5. COMPENSATION FOR MY ATTORNEY. My attorney hereby waives all rights to any compensation for his or her time, effort and services as my attorney.

6. THIRD PARTY RELIANCE. Third parties may rely upon the representations of my attorney as to all matters pertaining to any power granted to my attorney, and no person who may act in reliance upon the representation of my attorney or the authority granted to my attorney shall incur any liability to me or my estate as a result of permitting my attorney to exercise any power. Failure to honor this appointment and to recognize the authority of my attorney hereunder shall be actionable.

7. EMPLOYMENT OF EXPERTS. To employ and compensate agents, accountants, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, licensed real estate brokers, licensed salesmen and other assistants and advisors deemed by my agent needful for the proper administration of my assets, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided he or she was selected and supervised with reasonable care. I authorize my agent to consult with my attorneys, physicians, accountants, financial advisors, and/or other professionals with respect to any issue regarding the management of my affairs, including but not limited to my physical or mental capacity to manage my affairs. I request my advisors cooperate with my agent and to the extent necessary to effectuate this purpose, I hereby waive in favor of my agent any and all privileges such as the attorney-client privilege, the patient-physician privilege, and/or other similar protections of a confidential relationship.

8. HIPAA AUTHORIZATION. My attorney appointed hereunder may release authority that applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d, as now in effect, and as such law may from time to time hereafter be amended. I intend that my attorney shall be treated as I would be, with respect to my rights regarding the use and disclosure of my individually identifiable health information or other medical records.

9. ATTORNEY-IN-FACT DISCLOSURE. Any person appointed hereunder as attorney-in-fact may request of any other duly appointed attorney-in-fact information and accountings of his or her acts or actions as such fiduciary, such information to be provided in writing or orally, as the parties may agree.

10. INTREPERTATION AND GOVERNING LAW. This instrument is executed and delivered in the Commonwealth of Massachusetts, and the laws of the Commonwealth of Massachusetts shall govern all questions as to the validity of this power and the construction of its provisions.

11. DISABILITY OR INCAPACITY OF PRINCIPAL. This Durable Power of Attorney shall not be affected by my subsequent disability or incapacity, and shall be binding not only upon me but also upon my heirs, executors and administrators up to the time of the receipt by my said attorney of a written revocation signed by me or of reliable intelligence of my death. This Durable Power of Attorney shall be exercisable notwithstanding the lapse of time since the execution of this instrument.

12. REVOCATION OF PRIOR INSTRUMENTS. If I have executed any Durable Powers of Attorney prior to the date of this instrument, I hereby revoke any such earlier documents and the powers conferred therein.

IN WITNESS WHEREOF, I have executed this Durable Power of Attorney this _____ day of _____, _____.

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_____, Principal

We, the undersigned, have witnessed the signing of this document by the Principal or at the direction of the Principal and state that the Principal appears to be at least eighteen years of age, of sound mind and under no constraint or undue influence. We have not been named as the Principal's agent or attorney-in-fact, or as successor agent or attorney-in-fact in this document.

Witness signature

Date

Witness signature

Date

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss:

Then personally appeared the above-named _____ as Principal of the within Durable Power of Attorney, personally known to me or proven to me by satisfactory evidence, namely: _____, to be the person whose name is subscribed to the within instrument and acknowledged that she/he executed the same as her/his free act and deed for the purposes therein expressed, before me.

Notary Public: _____

My commission expires: