

## GENERAL DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That I, \_\_\_\_\_, residing at \_\_\_\_\_, have made, constituted and appointed and by these presents do make, constitute and appoint \_\_\_\_\_ of \_\_\_\_\_ my true and lawful attorney-in-fact, for me and in my name, place and stead to exercise general powers in a fiduciary capacity on my behalf with respect to all lawful subjects and purposes in the event I am incapacitated as certified by two physicians. In the event he/she cannot serve, then I make, constitute and appoint \_\_\_\_\_ as my successor attorney-in-fact. I revoke all grants of a Power of Attorney which predate this instrument.

This Durable Power of Attorney is hereby constituted as a Durable Power of Attorney with general powers in reliance upon and in accordance with the provisions of the Durable Power of Attorney Law of Missouri, §404.700 R.S.Mo., *et seq.*, and particularly in accordance with §404.710 R.S.Mo. A true, correct and complete copy of §404.710 R.S.Mo. is hereto attached, made a part hereof, and incorporated herein by reference as fully as though set out at this point verbatim.

I hereby give and grant to my said attorney-in-fact full power and authority to do and perform all and every act and thing whatsoever necessary to be done in the premises herein granted, as fully to all intents and purposes as I might or could do if personally present and personally acting, and I hereby ratify and confirm all that my said attorney-in-fact may do pursuant to this power.

I further authorize and empower my said attorney-in-fact to substitute and appoint in the place and stead of my said attorney-in-fact one or more attorney-in-fact or attorneys-in-fact to exercise for me as my attorney-in-fact or attorneys-in-fact any or all of the powers and authorities hereby conferred (except as otherwise specifically herein provided); and to revoke such appointment or appointments from time to time, and to substitute and appoint any other or others in the place of such attorney-in-fact or attorneys-in-fact as my said attorney-in-fact herein named shall from time to time think fit.

My attorney-in-fact appointed pursuant to this Power of Attorney is specifically authorized to pay reasonable compensation to herself/himself and to persons assisting said attorney-in-fact, including reimbursement for expenses paid or incurred by my said attorney-in-fact. Such payment shall be made out of any of my funds which are under the control of my said attorney-in-fact.

**THIS IS A DURABLE POWER OF ATTORNEY, AND THE AUTHORITY OF MY ATTORNEY-IN-FACT SHALL NOT TERMINATE IF I BECOME DISABLED OR INCAPACITATED OR IN THE EVENT OF LATER UNCERTAINTY AS TO WHETHER I AM DEAD OR ALIVE.** I hereby direct that, to the extent authorized or permitted by applicable law, this Power of Attorney shall not be affected by my subsequent disability or incapacity, or by the lapse of time, or in the event I disappear or it may be uncertain as to whether I am alive or dead. It is my intent that the authority conferred hereby shall be exercisable notwithstanding my subsequent disability or incapacity, or by the lapse of time, and that this Power of Attorney shall be what is sometimes referred to as a "Durable" Power of Attorney, and shall be a General Durable Power of Attorney, as that term is defined in the Durable Power of Attorney Law of the State of Missouri. I hereby direct that the laws of the State of Missouri, specifically including the Durable Power of Attorney Law of Missouri, shall apply to

this General Durable Power of Attorney and that the interpretation, validity, durability, and/or operation of same shall be governed by said law, regardless of any subsequent change in my legal residence.

All persons dealing with my said attorney-in-fact shall be protected in relying upon a copy of this instrument certified by said Attorney to be a true copy hereof and shall be protected in relying upon the written certificate of said Attorney that said Attorney has not at such time received a written revocation of this instrument from me, and/or as to the identity and authority of any substitute or successor appointed pursuant to the terms hereof, and/or as to whether any of the persons authorized to act hereunder is unavailable to so act, so as to authorize some other person to act hereunder, and/or as to whether any conditions herein specified are then prevailing so as to authorize or permit my attorney-in-fact to act hereunder, and I hereby declare that as against me and all persons claiming under me everything which my attorney-in-fact shall do or cause to be done pursuant hereto shall be valid and effectual in favor of any person claiming the benefit thereof who at the time of the doing thereof shall have relied upon any such certification made by said Attorney. Said Attorney is authorized to provide such certification upon my request alone or upon the request of my attorney-in-fact acting alone. In the event that applicable law requires that a Power of Attorney, in order to be legally classified as "durable," be filed in the office of the Recorder of Deeds or any other public or governmental office, then I direct that an executed counterpart of this Power of Attorney shall be so filed for record. I authorize the attorney-in-fact (or either or any of them) herein designated to make such filing. I also authorize said Attorney to make such filing; and I further direct that if such filing has not been made by any attorney-in-fact hereunder within the time required by law, then said Attorney shall promptly make such filing. In the event that said Attorney shall hereafter receive from me a written revocation or modification of this instrument, then I hereby direct said Attorney to file an executed counterpart of such written instrument in the same office in which shall have been filed this original instrument.

I hereby agree, for myself, my estate, my heirs, successors, executors, administrators and/or assigns, to indemnify said Attorney, and exonerate the same from any or all liability, with respect to any claim that may be made or any action or cause of action that may be brought, against such Attorney, whether directly or indirectly, arising out of any action or withholding of action which said Attorney may take or refrain from taking under or with respect to the authorizations and/or directions set out in this paragraph with respect to said Attorney; and if any such claim is made or action or cause of action is filed, I agree to reimburse said Attorney and agree that it shall be reimbursed out of my assets, or, after my death, out of my estate, for any and all costs or expenses which it shall bear or incur in resisting or defending against any such claim or cause of action and, further, for the amount of any judgment rendered against such Attorney or the amount of any settlement that it may, in its sole discretion, pay in compromise settlement of any such claim or cause of action. The term "Attorney," as used herein, shall include any and all persons associated with said Attorney, against whom any claim may be made on account of actions or inactions in behalf of, or as an agent of, said Attorney.

This instrument may be executed in any number of counterparts, and all of said counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

This instrument was signed, published and declared by the maker, in the presence of us, who, at his/her request and in his/her presence, and in the presence of each other, do hereunto subscribe our names as witnesses on the day and year above written.

\_\_\_\_\_  
Witness

STATE OF MISSOURI        )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_  
Witness

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a notary public in and for the county and state aforesaid, personally appeared \_\_\_\_\_ and the witnesses listed above, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year last above written.

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

My commission expires:  
(Seal)

§404.710. Powers of Attorney With General Powers

1. A principal may delegate to an attorney-in-fact in a power of attorney general powers to act in a fiduciary capacity on the principal's behalf with respect to all lawful subjects and purposes or with respect to one or more express subjects or purposes. A power of attorney with general powers may be durable or not durable.

2. If the power of attorney states that general powers are granted to the attorney-in-fact and does not enumerate one or more express subjects or purposes for which general powers are conferred, then the authority of the attorney-in-fact acting under the power of attorney shall extend to and include each and every action or power which an adult who is nondisabled and nonincapacitated may carry out through an agent specifically authorized in the premises, with respect to any and all matters whatsoever, except as provided in Subsections 6 and 7 of this Section.

3. If the power of attorney states that general powers are granted to an attorney-in-fact with respect to one or more express subjects or purposes for which general powers are conferred, then the authority of the attorney-in-fact acting under the power of attorney shall extend to and include each and every action or power, but only with respect to the specific subjects or purposes expressed in the power of attorney that an adult who is nondisabled and nonincapacitated may carry out through an agent specifically authorized in the premise, with respect to any and all matters whatsoever, except as provided in Subsections 6 and 7 of this Section.

4. Except as provided in Subsections 6 and 7 of this Section, an attorney-in-fact with general powers has, with respect to the subjects or purposes for which the powers are conferred, all rights, power and authority to act for the principal that the principal would have with respect to his or her own person or property as a nondisabled and nonincapacitated adult; and without limiting the foregoing has with respect to the subjects or purposes of the power complete discretion to make a decision for the principal, to act or not act, to consent or not consent to, or withdraw consent for, any act, and to execute and deliver or accept any deed, bill of sale, bill of lading, assignment, contract, note, security instrument, consent, receipt, release, proof of claim, petition or other pleading, tax document, notice, application, acknowledgment or other document necessary or convenient to implement or confirm any act, transaction or decision. In addition, the attorney-in-fact has complete discretion to employ and compensate real estate agents, brokers, attorneys, accountants, and subagents of all types to represent and act for the principal in any and all matters, including tax matters involving the United States Government or any other government or taxing entity, and to deal with any or all third parties in the name of the principal without limitation.

5. An attorney-in-fact who is granted general powers for all subjects and purposes or with respect to any express subjects or purposes, shall exercise the powers conferred according to the principal's instructions, in the principal's best interest, in good faith, prudently, and in accordance with §§ 404.712 and 404.714.

6. No power of attorney, whether durable or not durable, and whether it grants general powers for all subjects and purposes or with respect to express subjects or purposes, shall be construed to grant power or authority to an attorney-in-fact to carry out any of the following actions unless the actions are expressly enumerated and authorized in the power of attorney:

- (1) To execute, amend or revoke any trust agreement;
- (2) To fund with the principal's assets any trust not created by the principal;
- (3) To make or revoke a gift of the principal's property in trust or otherwise;
- (4) To disclaim a gift or devise of property to or for the benefit of the principal;
- (5) To create or change survivorship interests in the principal's property or in property in which the principal may have an interest;

- (6) To designate or change the designation of beneficiaries to receive any property, benefit, or contract right on the principal's death;
- (7) To give consent to an autopsy or postmortem examination;
- (8) To make a gift of the principal's body parts under the Uniform Anatomical Gift Act; or
- (9) To nominate a guardian or conservator for the principal.

7. No power of attorney, whether durable or not durable and whether or not it delegates general powers, may delegate or grant power or authority to an attorney-in-fact to do or carry out any of the following actions for the principal:

- (1) To make, publish, declare, amend, or revoke a will for the principal;
- (2) To make, execute, modify or revoke a living will declaration for the principal;
- (3) To require the principal, against his or her will, to take any action or to refrain from taking any action; or
- (4) To carry out any actions specifically forbidden by the principal while not under any disability or incapacity.

8. A third person may freely rely on, contract and deal with an attorney-in-fact delegated general powers with respect to the subjects and purposes encompassed or expressed in the power of attorney without regard to whether the power of attorney expressly identifies the specific property, account, security, storage facility or matter as being within the scope of a subject or purpose contained in the power of attorney, and without regard to whether the power of attorney expressly authorizes the specific act, transaction or decision by the attorney-in-fact.

9. It is the policy of this state that an attorney-in-fact acting pursuant to the provisions of a power of attorney granting general powers shall be accorded the same rights and privileges with respect to the personal welfare, property and business interests of the principal, and if the power of attorney enumerates some express subjects or purposes, with respect to those subjects or purposes, as if the principal himself or herself were personally present and acting or seeking to act; and any provision of law and any purported waiver, consent or agreement executed or granted by the principal to the contrary shall be void and unenforceable, unless any deed, bill of sale, bill of lading, assignment, contract, note, security instrument, consent, receipt, release, proof of claim, petition or other pleading, tax document, notice, application, acknowledgment or other document necessary or convenient to implement or confirm any act, transaction, or decision, expressly modifies the provisions of the power of attorney pursuant to § 404.717.

10. Sections 404.700 to 404.735 shall not be construed to preclude any person or business enterprise from providing in a contract with the principal as to the procedure that thereafter must be followed by the principal or the principal's attorney-in-fact in order to give a valid notice to the person or business enterprise of any modification or termination of the appointment of an attorney-in-fact by the principal; and any such contractual provision for notice shall be valid and binding on the principal and the principal's successors so long as such provision is reasonably capable of being carried out.

(L.1989, H.B. No. 145, § A(§5).)