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New York Enacts Major Changes to the Law Governing Powers of Attorney

New York State has enacted significant amendments (the “Amendments”) to the law governing the establishment, interpretation and acceptance of a power of attorney (“POA”). The Amendments to the General Obligations Law are effective March 1, 2009 and, among other things:

- Create a new statutory short form POA;
- Require execution of a specific rider to a statutory short form POA in order for an agent to make major gifts and to open, modify or terminate certain bank accounts;
- Prohibit financial institutions and other third parties from refusing to honor a statutory short form POA unless there is reasonable cause for such refusal;
- Provide a mechanism to compel a financial institution and other third parties to accept a statutory short form POA and to resolve other issues relating to a POA;
- Provide authority to allow an agent to handle health care billing and payment matters;
- Specify how a POA is terminated or revoked;
- Set forth specific obligations of an agent acting under a POA; and
- Set forth rules applicable to co-agents acting under a POA.

I. New Statutory Short Form Power of Attorney

The Amendments create a new statutory short form POA. The wording of the new form as set forth in the Amendments is attached hereto.

The new statutory short form will replace the two statutory short forms currently in use (a durable statutory short form (which survives the disability of the principal) and a nondurable statutory short form (which terminates upon the disability of the principal)). The new form specifically states that it will not be affected by the principal’s subsequent incapacity unless the principal expressly states otherwise in the POA.

In order to qualify as a statutory short form POA, the POA must contain the exact wording set forth in the statute (subject to certain permitted modifications or additions) and be typed or printed using letters which are legible or of clear type no less than 12 point in size, or, if in writing, a reasonable equivalent thereof. In addition, the statutory short form POA must be signed and dated by the principal, and the principal’s signature must be properly acknowledged.

A significant change from the current law is that the agent must sign and date the form and the agent's signature must be properly acknowledged. It is not required that the principal and agent sign the POA at the same time, but they must sign the same document (counterparts are not permitted).

II. Statutory Major Gifts Rider

In order for a principal to authorize an agent to make major gifts and to take certain actions with respect to joint bank accounts and accounts with beneficiaries, the principal must check a special box on the statutory short form POA and also simultaneously execute a statutory major gifts rider ("SMGR") to the POA. The wording of the SMGR as set forth in the Amendments is attached hereto.

Under the revised law, an agent under a statutory short form POA (without an SMGR) has limited authority to make gifts and to make certain changes to bank accounts. This limited authority includes, for example, the right to make gifts that the principal customarily made to individuals and charities prior to the creation of the POA provided that no person or charity may be the recipient of gifts in any one calendar year which, in the aggregate, exceed \$500.

To make gifts beyond this limited authority, the principal must check the major gifts box on the statutory short form POA, and execute the SMGR at the same time as the POA. The principal may authorize an agent in the SMGR to make gifts up to specified dollar amounts or in unlimited amounts. In addition, the SMGR has a provision for the principal to indicate whether the agent may make gifts to himself or herself.

If a principal names his or her spouse as a permissible recipient of gifts or other transfers under an SMGR and the principal subsequently divorces or the marriage is annulled or declared a nullity, the authority of the agent to gift to the former spouse is deemed revoked, unless the SMGR provides otherwise.

The SMGR is also necessary for an agent under a statutory short form POA to, among other things:

- (1) open, modify or terminate a deposit account in the name of the principal and other joint tenants,
- (2) open, modify or terminate any other joint account in the name of the principal and other joint tenants,
- (3) open, modify or terminate certain bank accounts in trust form (commonly known as Totten Trust, "in trust for" or "payable on death" accounts).

Accordingly, an agent under a statutory short form POA cannot add, remove or otherwise change a joint tenant or a beneficiary on a bank account unless both the SMGR box on the statutory short form POA is checked and a valid SMGR is in place.

Although an agent cannot change a joint tenant or beneficiary on an account by use of a statutory short form POA without a valid SMGR, the agent may take certain actions without the SMGR that can significantly affect the interests of a joint tenant or beneficiary. For instance, the

agent can withdraw all or substantially all the funds in a joint account or Totten Trust account even if the POA does not have an SMGR (but the agent cannot terminate the account without an SMGR).

In order to be valid, an SMGR must be typed or printed using letters which are legible or of clear type no less than 12 point in size, or, if in writing, a reasonable equivalent thereof. In addition, the SMGR must be signed and dated by the principal and the principal's signature must be properly acknowledged. Furthermore, the principal's signature must be witnessed by two persons who are not named in the SMGR as permissible recipients of gifts or other transfers. The SMGR must be executed simultaneously with the statutory short form POA that it relates to (and the SMGR authority in the POA must be initialed by the principal). If the dates of the statutory short form POA and the SMGR are different, the SMGR is not effective.

III. Requirement for Third Parties to Accept Statutory Short Form

Pursuant to the Amendments, a third party may not, without reasonable cause, refuse to honor a statutory short form POA that is properly executed (or an SMGR that is properly executed). A "third party" is defined as a financial institution or any person.

The Amendments set forth a non-exclusive list of what is considered "reasonable cause" to refuse to honor a statutory short form POA:

- (1) The refusal by the agent to provide an original power of attorney or a copy certified by an attorney pursuant to Rule 2105 of the Civil Practice Law and Rules, or by a court or other government entity;
- (2) The third party's good faith referral of the principal and the agent to the local adult protective services unit;
- (3) Actual knowledge of a report having been made by any person to the local adult protective services unit alleging physical or financial abuse, neglect, exploitation or abandonment of the principal by the agent;
- (4) Actual knowledge of the principal's death or a reasonable basis for believing the principal has died;
- (5) Actual knowledge of the incapacity of the principal or a reasonable basis for believing that the principal is incapacitated where the power of attorney tendered is a nondurable power of attorney;
- (6) Actual knowledge or a reasonable basis for believing that the principal was incapacitated at the time the power of attorney was executed;
- (7) Actual knowledge or a reasonable basis for believing that the power of attorney was procured through fraud, duress or undue influence;
- (8) Actual notice of the termination or revocation of the power of attorney; or
- (9) The refusal by a title insurance company to underwrite title insurance for a transfer of real property made pursuant to a major gifts rider or non-statutory power of attorney that does not contain express instructions or purposes of the principal.

The Amendments also state that it shall not be deemed unreasonable for a third party to require the agent to execute an acknowledged affidavit that the POA is still in full force and effect.

The Amendments set forth three situations where it will be deemed unreasonable for a third party to refuse to honor a statutory short form POA or an SMGR (if these are the only reasons for the refusal):

- (1) The POA is not on a form prescribed by the third party;
- (2) There has been a lapse of time since the execution of the POA; and
- (3) On the face of the statutory short form POA there is a lapse of time between the date of the acknowledgment of the signature of the principal and the date of the acknowledgment of the signature of the agent.

It is deemed unlawful for a third party to refuse to accept a statutory short form POA or SMGR without reasonable cause. The remedy for a party seeking to enforce a statutory short form POA that has been refused is to commence a special proceeding in court to compel acceptance of the POA. A special proceeding is a shortened form of judicial action that is used to seek specific relief. The only relief that a court can grant in a special proceeding to compel acceptance of a statutory short form POA is an order compelling acceptance; the Amendments do not grant any authority to seek damages from a financial institution or other third party who refuses to accept a statutory short form POA. (A special proceeding is also available to seek other types of relief with respect to POAs. See Section IV below.)

The requirement to accept a statutory short form POA only applies to the extent the POA is deemed a “statutory short form” as defined in the law. As discussed in Section I above, that means the POA must use the exact wording of the form set forth in the law (subject to certain permitted modifications or additions) and must meet the technical requirements for a statutory short form (i.e., it must be legible, in at least 12 point type and properly executed and acknowledged). If the POA does not qualify as a statutory short form, the POA may still be valid but a third party is not required to accept the POA.

IV. Special Proceedings to Resolve POA Issues

The Amendments authorize a special proceeding to be brought in court to resolve certain issues relating to POAs. A special proceeding is authorized to compel an agent to make available a copy of a POA and any records relating to receipts, disbursements and transactions entered into by the agent on behalf of the principal. A special proceeding can also be brought to:

- (1) determine whether the power of attorney is valid;
- (2) determine whether the principal had capacity at the time the power of attorney was executed;
- (3) determine whether the power of attorney was procured through duress, fraud or undue influence;
- (4) determine whether the agent is entitled to receive compensation or whether the compensation received by the agent is reasonable for the responsibilities performed;
- (5) approve the record of all receipts, disbursements and transactions entered into by the agent on behalf of the principal;
- (6) remove the agent upon the grounds that the agent has violated, or is unfit, unable, or unwilling to perform, the fiduciary duties under the power of attorney;

- (7) determine how multiple agents must act;
- (8) construe any provision of a power of attorney; and
- (9) compel acceptance of the power of attorney in which event the relief to be granted is limited to an order compelling acceptance (discussed in Section III above).

V. Addition of Authority to Handle Health Care Billing and Payment Matters

The Amendments include additional authority in the statutory short form POA for an agent to handle health care billing and payment matters for the principal. If the principal grants this authority, the agent will be able to examine, question and pay medical bills without concern that federal privacy rules will prevent access to the principal's records.

VI. Provisions Relating to Agents

The Amendments state that an agent acting under a power of attorney has a fiduciary duty to the principal, which includes certain obligations such as following the principal's instructions or, where there are no instructions, to act in the best interest of the principal. The agent is also required to maintain certain records with respect to transactions entered into on the principal's behalf, and to produce such records upon the request of a co-agent, government entity, a guardian for the principal, and certain other designated people.

An agent is not entitled to receive compensation from the assets of a principal for responsibilities performed under the POA unless the principal specifically provides for such compensation in the POA.

In any transaction where an agent is acting pursuant to a POA and the hand-written signature of the principal or agent is required, the agent is required to disclose the principal and agent relationship by signing "(name of agent) as agent for (name of principal)" or "(name of principal) by (name of agent), as agent," or any similar written disclosure of the agency relationship. However, the Amendments state that a third party (including a financial institution) shall not incur any liability for accepting a signature that does not comply with these requirements.

VII. Co-Agents

A principal may designate one or more persons to act as co-agents under a POA. Unless the principal provides otherwise in the POA, the co-agents must act jointly. However, the Amendments provide that if "prompt action" is required to accomplish a purpose of the POA in order to avoid "irreparable injury to the principal's interest" and a co-agent is unavailable because of "absence, illness or other temporary incapacity," the other co-agent or co-agents may act for the principal.

This provision presents a potential problem for financial institutions and other third parties that are presented with a POA by one co-agent who claims he or she must act quickly due to an emergency and that the other co-agent is unavailable. Third parties presented with this situation should be cautious and consult with counsel before allowing a co-agent to act alone.

VIII. Termination or Revocation of a Power of Attorney

The Amendments add provisions specifically identifying when a POA terminates, when an agent's authority terminates, and when a principal may revoke a POA. A POA will terminate when, among other things, the principal dies, becomes incapacitated (and the POA is not durable), or revokes the POA, or if the agent dies, resigns or becomes incapacitated and there is no successor agent or co-agent who is willing or able to serve.

If the principal maintains an account at a financial institution and revokes a POA or the POA is otherwise terminated, the financial institution is not deemed to have actual notice of the revocation or termination until it has had a reasonable opportunity to act on a written notice of the revocation or termination following receipt of such notice at the office of the institution where the account is located.

The Amendments also state that a POA terminates when the "purpose of the power of attorney is accomplished." Accordingly, if a POA specifically states that it is being granted for a specific purpose (such as the closing of a deposit account or the payment of a particular bill), then the POA will terminate when that purpose is accomplished and a third party should not accept that POA any longer.

If a person has granted a POA and then executes a new POA, the new POA is deemed to revoke any and all prior POAs executed by the principal unless the new POA expressly provides otherwise.

IX. Effective Date

The Amendments were signed into law by Governor David Patterson on January 27, 2009 as Chapter 644 of the Laws of New York, and are effective on March 1, 2009. Any POAs executed on or after the effective date will be subject to the new requirements. However, the Amendments do not affect the validity of a POA executed prior to March 1, 2009 if the POA was valid when executed. Certain changes made by the Amendments do apply to POAs executed prior to March 1, 2009, such as the prohibition on refusing to accept a statutory short form POA without reasonable cause (see Section III).

The Legislature is considering an extension of the March 1, 2009 effective date, but no extension has been adopted as of yet.

X. Further Information

Please note that this advisory is a general overview of the Amendments and is not intended as a comprehensive explanation of all of the provisions of the Amendments or as formal legal advice. For further information regarding the Amendments or about POAs generally, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenanddykman.com.

01/30/09

**POWER OF ATTORNEY
NEW YORK STATUTORY SHORT FORM**

(A) CAUTION TO THE PRINCIPAL: YOUR POWER OF ATTORNEY IS AN IMPORTANT DOCUMENT. AS THE "PRINCIPAL," YOU GIVE THE PERSON WHOM YOU CHOOSE (YOUR "AGENT") AUTHORITY TO SPEND YOUR MONEY AND SELL OR DISPOSE OF YOUR PROPERTY DURING YOUR LIFETIME WITHOUT TELLING YOU. YOU DO NOT LOSE YOUR AUTHORITY TO ACT EVEN THOUGH YOU HAVE GIVEN YOUR AGENT SIMILAR AUTHORITY.

WHEN YOUR AGENT EXERCISES THIS AUTHORITY, HE OR SHE MUST ACT ACCORDING TO ANY INSTRUCTIONS YOU HAVE PROVIDED OR, WHERE THERE ARE NO SPECIFIC INSTRUCTIONS, IN YOUR BEST INTEREST. "IMPORTANT INFORMATION FOR THE AGENT" AT THE END OF THIS DOCUMENT DESCRIBES YOUR AGENT'S RESPONSIBILITIES.

YOUR AGENT CAN ACT ON YOUR BEHALF ONLY AFTER SIGNING THE POWER OF ATTORNEY BEFORE A NOTARY PUBLIC.

YOU CAN REQUEST INFORMATION FROM YOUR AGENT AT ANY TIME. IF YOU ARE REVOKING A PRIOR POWER OF ATTORNEY BY EXECUTING THIS POWER OF ATTORNEY, YOU SHOULD PROVIDE WRITTEN NOTICE OF THE REVOCATION TO YOUR PRIOR AGENT(S) AND TO THE FINANCIAL INSTITUTIONS WHERE YOUR ACCOUNTS ARE LOCATED.

YOU CAN REVOKE OR TERMINATE YOUR POWER OF ATTORNEY AT ANY TIME FOR ANY REASON AS LONG AS YOU ARE OF SOUND MIND. IF YOU ARE NO LONGER OF SOUND MIND, A COURT CAN REMOVE AN AGENT FOR ACTING IMPROPERLY.

YOUR AGENT CANNOT MAKE HEALTH CARE DECISIONS FOR YOU. YOU MAY EXECUTE A "HEALTH CARE PROXY" TO DO THIS.

THE LAW GOVERNING POWERS OF ATTORNEY IS CONTAINED IN THE NEW YORK GENERAL OBLIGATIONS LAW, ARTICLE 5, TITLE 15. THIS LAW IS AVAILABLE AT A LAW LIBRARY, OR ONLINE THROUGH THE NEW YORK STATE SENATE OR ASSEMBLY WEBSITES, WWW.SENATE.STATE.NY.US OR WWW.ASSEMBLY.STATE.NY.US.

IF THERE IS ANYTHING ABOUT THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER OF YOUR OWN CHOOSING TO EXPLAIN IT TO YOU.

(B) DESIGNATION OF AGENT(S):

I, _____, HEREBY APPOINT:
NAME AND ADDRESS OF PRINCIPAL

_____ AS MY AGENT(S)
NAME(S) AND ADDRESS(ES) OF AGENT(S)

IF YOU DESIGNATE MORE THAN ONE AGENT ABOVE, THEY MUST ACT TOGETHER UNLESS YOU INITIAL THE STATEMENT BELOW.

MY AGENTS MAY ACT SEPARATELY.

(C) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)

IF EVERY AGENT DESIGNATED ABOVE IS UNABLE OR UNWILLING TO SERVE, I APPOINT AS MY SUCCESSOR AGENT(S):

NAME(S) AND ADDRESS(ES) OF SUCCESSOR AGENT(S)

SUCCESSOR AGENTS DESIGNATED ABOVE MUST ACT TOGETHER UNLESS YOU INITIAL THE STATEMENT BELOW.

MY SUCCESSOR AGENTS MAY ACT SEPARATELY.

(D) THIS POWER OF ATTORNEY SHALL NOT BE AFFECTED BY MY SUBSEQUENT INCAPACITY UNLESS I HAVE STATED OTHERWISE BELOW, UNDER "MODIFICATIONS".

(E) THIS POWER OF ATTORNEY REVOKES ANY AND ALL PRIOR POWERS OF ATTORNEY EXECUTED BY ME UNLESS I HAVE STATED OTHERWISE BELOW, UNDER "MODIFICATIONS."

IF YOU ARE NOT REVOKING YOUR PRIOR POWERS OF ATTORNEY, AND IF YOU ARE GRANTING THE SAME AUTHORITY IN TWO OR MORE POWERS OF ATTORNEY, YOU MUST ALSO INDICATE UNDER "MODIFICATIONS" WHETHER THE AGENTS GIVEN THESE POWERS ARE TO ACT TOGETHER OR SEPARATELY.

(F) GRANT OF AUTHORITY:

TO GRANT YOUR AGENT SOME OR ALL OF THE AUTHORITY BELOW, EITHER (1) INITIAL THE BRACKET AT EACH AUTHORITY YOU GRANT, OR (2) WRITE OR TYPE THE LETTERS FOR EACH AUTHORITY YOU GRANT ON THE BLANK LINE AT (P), AND INITIAL THE BRACKET AT (P). IF YOU INITIAL (P), YOU DO NOT NEED TO INITIAL THE OTHER LINES.

I GRANT AUTHORITY TO MY AGENT(S) WITH RESPECT TO THE FOLLOWING SUBJECTS AS DEFINED IN SECTIONS 5-1502A THROUGH 5-1502N OF THE NEW YORK GENERAL OBLIGATIONS LAW:

- (A) REAL ESTATE TRANSACTIONS;
- (B) CHATTEL AND GOODS TRANSACTIONS;
- (C) BOND, SHARE, AND COMMODITY TRANSACTIONS;
- (D) BANKING TRANSACTIONS;
- (E) BUSINESS OPERATING TRANSACTIONS;
- (F) INSURANCE TRANSACTIONS;
- (G) ESTATE TRANSACTIONS;
- (H) CLAIMS AND LITIGATION;

- (I) PERSONAL AND FAMILY MAINTENANCE;
- (J) BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE;
- (K) HEALTH CARE BILLING AND PAYMENT MATTERS; RECORDS, REPORTS, AND STATEMENTS;
- (L) RETIREMENT BENEFIT TRANSACTIONS;
- (M) TAX MATTERS;
- (N) ALL OTHER MATTERS;
- (O) FULL AND UNQUALIFIED AUTHORITY TO MY AGENT(S) TO DELEGATE ANY OR ALL OF THE FOREGOING POWERS TO ANY PERSON OR PERSONS WHOM MY AGENT(S) SELECT;
- (P) EACH OF THE MATTERS IDENTIFIED BY THE FOLLOWING LETTERS_____.

YOU NEED NOT INITIAL THE OTHER LINES IF YOU INITIAL LINE (P).

(G) MODIFICATIONS: (OPTIONAL)

IN THIS SECTION, YOU MAY MAKE ADDITIONAL PROVISIONS, INCLUDING LANGUAGE TO LIMIT OR SUPPLEMENT AUTHORITY GRANTED TO YOUR AGENT.

HOWEVER, YOU CANNOT USE THIS MODIFICATIONS SECTION TO GRANT YOUR AGENT AUTHORITY TO MAKE MAJOR GIFTS OR CHANGES TO INTERESTS IN YOUR PROPERTY. IF YOU WISH TO GRANT YOUR AGENT SUCH AUTHORITY, YOU MUST COMPLETE THE STATUTORY MAJOR GIFTS RIDER.

(H) MAJOR GIFTS AND OTHER TRANSFERS: STATUTORY MAJOR GIFTS RIDER (OPTIONAL)

IN ORDER TO AUTHORIZE YOUR AGENT TO MAKE MAJOR GIFTS AND OTHER TRANSFERS OF YOUR PROPERTY, YOU MUST INITIAL THE STATEMENT BELOW AND EXECUTE A STATUTORY MAJOR GIFTS RIDER AT THE SAME TIME AS THIS INSTRUMENT. INITIALING THE STATEMENT BELOW BY ITSELF DOES NOT AUTHORIZE YOUR AGENT TO MAKE MAJOR GIFTS AND OTHER TRANSFERS. THE PREPARATION OF THE STATUTORY MAJOR GIFTS RIDER SHOULD BE SUPERVISED BY A LAWYER.

(SMGR) I GRANT MY AGENT AUTHORITY TO MAKE MAJOR GIFTS AND OTHER TRANSFERS OF MY PROPERTY, IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE STATUTORY MAJOR GIFTS RIDER THAT SUPPLEMENTS THIS POWER OF ATTORNEY.

(I) DESIGNATION OF MONITOR(S): (OPTIONAL)

I WISH TO DESIGNATE

_____, WHOSE ADDRESS(ES) IS (ARE) _____, AS MONITOR(S). UPON THE REQUEST OF THE MONITOR(S), MY AGENT(S) MUST PROVIDE THE MONITOR(S) WITH A COPY OF THE POWER OF ATTORNEY AND A RECORD OF ALL TRANSACTIONS DONE OR MADE ON MY BEHALF. THIRD PARTIES HOLDING RECORDS OF SUCH TRANSACTIONS SHALL PROVIDE THE RECORDS TO THE MONITOR(S) UPON REQUEST.

(J) COMPENSATION OF AGENT(S): (OPTIONAL)

YOUR AGENT IS ENTITLED TO BE REIMBURSED FROM YOUR ASSETS FOR REASONABLE EXPENSES INCURRED ON YOUR BEHALF. IF YOU ALSO WISH YOUR AGENT(S) TO BE COMPENSATED FROM YOUR ASSETS FOR SERVICES RENDERED ON YOUR BEHALF, INITIAL THE STATEMENT BELOW. IF YOU WISH TO DEFINE "REASONABLE COMPENSATION", YOU MAY DO SO ABOVE, UNDER "MODIFICATIONS".

(___) MY AGENT(S) SHALL BE ENTITLED TO REASONABLE COMPENSATION FOR SERVICES RENDERED.

(K) ACCEPTANCE BY THIRD PARTIES: I AGREE TO INDEMNIFY THE THIRD PARTY FOR ANY CLAIMS THAT MAY ARISE AGAINST THE THIRD PARTY BECAUSE OF RELIANCE ON THIS POWER OF ATTORNEY. I UNDERSTAND THAT ANY TERMINATION OF THIS POWER OF ATTORNEY, WHETHER THE RESULT OF MY REVOCATION OF THE POWER OF ATTORNEY OR OTHERWISE, IS NOT EFFECTIVE AS TO A THIRD PARTY UNTIL THE THIRD PARTY HAS ACTUAL NOTICE OR KNOWLEDGE OF THE TERMINATION.

(L) TERMINATION: THIS POWER OF ATTORNEY CONTINUES UNTIL I REVOKE IT OR IT IS TERMINATED BY MY DEATH OR OTHER EVENT DESCRIBED IN SECTION 5-1511 OF THE GENERAL OBLIGATIONS LAW.

SECTION 5-1511 OF THE GENERAL OBLIGATIONS LAW DESCRIBES THE MANNER IN WHICH YOU MAY REVOKE YOUR POWER OF ATTORNEY, AND THE EVENTS WHICH TERMINATE THE POWER OF ATTORNEY.

(M) SIGNATURE AND ACKNOWLEDGMENT:
IN WITNESS WHEREOF I HAVE HEREUNTO SIGNED MY NAME ON _____, 20____.

PRINCIPAL SIGNS HERE: ==> _____

(ACKNOWLEDGMENT)

(N) IMPORTANT INFORMATION FOR THE AGENT:

WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY, A SPECIAL LEGAL RELATIONSHIP IS CREATED BETWEEN YOU AND THE PRINCIPAL. THIS RELATIONSHIP IMPOSES ON YOU LEGAL RESPONSIBILITIES THAT CONTINUE UNTIL YOU RESIGN OR THE POWER OF ATTORNEY IS TERMINATED OR REVOKED. YOU MUST:

(1) ACT ACCORDING TO ANY INSTRUCTIONS FROM THE PRINCIPAL, OR, WHERE THERE ARE NO INSTRUCTIONS, IN THE PRINCIPAL'S BEST INTEREST;

(2) AVOID CONFLICTS THAT WOULD IMPAIR YOUR ABILITY TO ACT IN THE PRINCIPAL' S BEST INTEREST;

(3) KEEP THE PRINCIPAL'S PROPERTY SEPARATE AND DISTINCT FROM ANY ASSETS YOU OWN OR CONTROL, UNLESS OTHERWISE PERMITTED BY LAW;

(4) KEEP A RECORD OF ALL RECEIPTS, PAYMENTS, AND TRANSACTIONS CONDUCTED FOR THE PRINCIPAL; AND

(5) DISCLOSE YOUR IDENTITY AS AN AGENT WHENEVER YOU ACT FOR THE PRINCIPAL BY WRITING OR PRINTING THE PRINCIPAL'S NAME AND SIGNING YOUR OWN NAME AS "AGENT" IN EITHER OF THE FOLLOWING MANNER: (PRINCIPAL'S NAME) BY (YOUR SIGNATURE) AS AGENT, OR (YOUR SIGNATURE) AS AGENT FOR (PRINCIPAL'S NAME).

YOU MAY NOT USE THE PRINCIPAL'S ASSETS TO BENEFIT YOURSELF OR GIVE MAJOR GIFTS TO YOURSELF OR ANYONE ELSE UNLESS THE PRINCIPAL HAS SPECIFICALLY GRANTED YOU THAT AUTHORITY IN THIS POWER OF ATTORNEY OR IN A STATUTORY MAJOR GIFTS RIDER ATTACHED TO THIS POWER OF ATTORNEY. IF YOU HAVE THAT AUTHORITY, YOU MUST ACT ACCORDING TO ANY INSTRUCTIONS OF THE PRINCIPAL OR, WHERE THERE ARE NO SUCH INSTRUCTIONS, IN THE PRINCIPAL'S BEST INTEREST. YOU MAY RESIGN BY GIVING WRITTEN NOTICE TO THE PRINCIPAL AND TO ANY CO-AGENT, SUCCESSOR AGENT, MONITOR IF ONE HAS BEEN NAMED IN THIS DOCUMENT, OR THE PRINCIPAL'S GUARDIAN IF ONE HAS BEEN APPOINTED. IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR RESPONSIBILITIES THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE.

LIABILITY OF AGENT:

THE MEANING OF THE AUTHORITY GIVEN TO YOU IS DEFINED IN NEW YORK'S GENERAL OBLIGATIONS LAW, ARTICLE 5, TITLE 15. IF IT IS FOUND THAT YOU HAVE VIOLATED THE LAW OR ACTED OUTSIDE THE AUTHORITY GRANTED TO YOU IN THE POWER OF ATTORNEY, YOU MAY BE LIABLE UNDER THE LAW FOR YOUR VIOLATION.

(O) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

IT IS NOT REQUIRED THAT THE PRINCIPAL AND THE AGENT(S) SIGN AT THE SAME TIME, NOR THAT MULTIPLE AGENTS SIGN AT THE SAME TIME.

I/ WE, _____, HAVE READ THE FOREGOING POWER OF ATTORNEY. I AM/WE ARE THE PERSON(S) IDENTIFIED THEREIN AS AGENT(S) FOR THE PRINCIPAL NAMED THEREIN.

I/ WE ACKNOWLEDGE MY/OUR LEGAL RESPONSIBILITIES.

AGENT(S) SIGN(S) HERE:==> _____
(ACKNOWLEDGMENT(S))

POWER OF ATTORNEY

NEW YORK STATUTORY MAJOR GIFTS RIDER

AUTHORIZATION TO MAKE MAJOR GIFTS OR OTHER TRANSFERS

CAUTION TO THE PRINCIPAL: THIS OPTIONAL RIDER ALLOWS YOU TO AUTHORIZE YOUR AGENT TO MAKE MAJOR GIFTS OR OTHER TRANSFERS OF YOUR MONEY OR OTHER PROPERTY DURING YOUR LIFETIME. GRANTING ANY OF THE FOLLOWING AUTHORITY TO YOUR AGENT GIVES YOUR AGENT THE AUTHORITY TO TAKE ACTIONS WHICH COULD SIGNIFICANTLY REDUCE YOUR PROPERTY OR CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. "MAJOR GIFTS OR OTHER TRANSFERS" ARE DESCRIBED IN SECTION 5-1514 OF THE GENERAL OBLIGATIONS LAW. THIS MAJOR GIFTS RIDER DOES NOT REQUIRE YOUR AGENT TO EXERCISE GRANTED AUTHORITY, BUT WHEN HE OR SHE EXERCISES THIS AUTHORITY, HE OR SHE MUST ACT ACCORDING TO ANY INSTRUCTIONS YOU PROVIDE, OR OTHERWISE IN YOUR BEST INTEREST.

THIS MAJOR GIFTS RIDER AND THE POWER OF ATTORNEY IT SUPPLEMENTS MUST BE READ TOGETHER AS A SINGLE INSTRUMENT.

BEFORE SIGNING THIS DOCUMENT AUTHORIZING YOUR AGENT TO MAKE MAJOR GIFTS AND OTHER TRANSFERS, YOU SHOULD SEEK LEGAL ADVICE TO ENSURE THAT YOUR INTENTIONS ARE CLEARLY AND PROPERLY EXPRESSED.

(A) GRANT OF LIMITED AUTHORITY TO MAKE GIFTS

GRANTING GIFTING AUTHORITY TO YOUR AGENT GIVES YOUR AGENT THE AUTHORITY TO TAKE ACTIONS WHICH COULD SIGNIFICANTLY REDUCE YOUR PROPERTY.

IF YOU WISH TO ALLOW YOUR AGENT TO MAKE GIFTS TO HIMSELF OR HERSELF, YOU MUST SEPARATELY GRANT THAT AUTHORITY IN SUBDIVISION (C) BELOW.

TO GRANT YOUR AGENT THE GIFTING AUTHORITY PROVIDED BELOW, INITIAL THE BRACKET TO THE LEFT OF THE AUTHORITY.

() I GRANT AUTHORITY TO MY AGENT TO MAKE GIFTS TO MY SPOUSE, CHILDREN AND MORE REMOTE DESCENDANTS, AND PARENTS, NOT TO EXCEED, FOR EACH DONEE, THE ANNUAL FEDERAL GIFT TAX EXCLUSION AMOUNT PURSUANT TO THE INTERNAL REVENUE CODE. FOR GIFTS TO MY CHILDREN AND MORE REMOTE DESCENDANTS, AND PARENTS, THE MAXIMUM AMOUNT OF THE GIFT TO EACH DONEE SHALL NOT EXCEED TWICE THE GIFT TAX EXCLUSION AMOUNT, IF MY SPOUSE AGREES TO SPLIT GIFT TREATMENT PURSUANT TO THE INTERNAL REVENUE CODE. THIS AUTHORITY MUST BE EXERCISED PURSUANT TO MY INSTRUCTIONS, OR OTHERWISE FOR PURPOSES WHICH THE AGENT REASONABLY DEEMS TO BE IN MY BEST INTEREST.

(B) MODIFICATIONS:

USE THIS SECTION IF YOU WISH TO AUTHORIZE GIFTS IN EXCESS OF THE ABOVE AMOUNT, GIFTS TO OTHER BENEFICIARIES OR OTHER TYPES OF

TRANSFERS. GRANTING SUCH AUTHORITY TO YOUR AGENT GIVES YOUR AGENT THE AUTHORITY TO TAKE ACTIONS WHICH COULD SIGNIFICANTLY REDUCE YOUR PROPERTY AND/OR CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. IF YOU WISH TO AUTHORIZE YOUR AGENT TO MAKE GIFTS OR TRANSFERS TO HIMSELF OR HERSELF, YOU MUST SEPARATELY GRANT THAT AUTHORITY IN SUBDIVISION (C) BELOW.

() I GRANT THE FOLLOWING AUTHORITY TO MY AGENT TO MAKE GIFTS OR TRANSFERS PURSUANT TO MY INSTRUCTIONS, OR OTHERWISE FOR PURPOSES WHICH THE AGENT REASONABLY DEEMS TO BE IN MY BEST INTEREST.

(C) GRANT OF SPECIFIC AUTHORITY FOR AN AGENT TO MAKE MAJOR GIFTS OR OTHER TRANSFERS TO HIMSELF OR HERSELF: (OPTIONAL)

IF YOU WISH TO AUTHORIZE YOUR AGENT TO MAKE GIFTS OR TRANSFERS TO HIMSELF OR HERSELF, YOU MUST GRANT THAT AUTHORITY IN THIS SECTION, INDICATING TO WHICH AGENT(S) THE AUTHORIZATION IS GRANTED, AND ANY LIMITATIONS AND GUIDELINES.

() I GRANT SPECIFIC AUTHORITY FOR THE FOLLOWING AGENT(S) TO MAKE THE FOLLOWING MAJOR GIFTS OR OTHER TRANSFERS TO HIMSELF OR HERSELF:

THIS AUTHORITY MUST BE EXERCISED PURSUANT TO MY INSTRUCTIONS, OR OTHERWISE FOR PURPOSES WHICH THE AGENT REASONABLY DEEMS TO BE IN MY BEST INTEREST.

(D) ACCEPTANCE BY THIRD PARTIES: I AGREE TO INDEMNIFY THE THIRD PARTY FOR ANY CLAIMS THAT MAY ARISE AGAINST THE THIRD PARTY BECAUSE OF RELIANCE ON THIS MAJOR GIFTS RIDER.

(E) SIGNATURE OF PRINCIPAL AND ACKNOWLEDGMENT:
IN WITNESS WHEREOF I HAVE HEREUNTO SIGNED MY NAME ON

_____, 20____.

PRINCIPAL SIGNS HERE:

(ACKNOWLEDGEMENT)

(F) SIGNATURES OF WITNESSES: BY SIGNING AS A WITNESS, I ACKNOWLEDGE THAT THE PRINCIPAL SIGNED THE MAJOR GIFTS RIDER IN MY PRESENCE AND THE PRESENCE OF THE OTHER WITNESS, OR THAT THE PRINCIPAL ACKNOWLEDGED TO ME THAT THE PRINCIPAL'S SIGNATURE WAS AFFIXED BY HIM OR HER OR AT HIS OR HER DIRECTION. I ALSO ACKNOWLEDGE THAT THE PRINCIPAL HAS STATED THAT THIS MAJOR GIFTS RIDER REFLECTS HIS OR HER WISHES AND THAT HE OR SHE HAS SIGNED IT VOLUNTARILY. I AM NOT NAMED HEREIN AS A PERMISSIBLE RECIPIENT OF MAJOR GIFTS.

SIGNATURE OF WITNESS 1

SIGNATURE OF WITNESS 2

DATE

DATE

PRINT NAME

PRINT NAME

ADDRESS

ADDRESS

CITY, STATE, ZIP CODE

CITY, STATE, ZIP CODE

(G) THIS DOCUMENT PREPARED BY: _____