Prepared by Duke Health Justice Clinic, Box 90360, Durham, NC 27708

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| **STATE OF NORTH CAROLINA****COUNTY OF [COUNTY EXECUTED]** |  **DURABLE POWER OF ATTORNEY** **(SPRINGING POWERS)** |

**ARTICLE I**

**DESIGNATION OF AGENT**

1. **Designation of Agent.** I, [Name of principal] of [Principal’s County] County, North Carolina, name [Name of Agent] as my Agent to do the things listed below.

1. **Designation of Successor Agent.** If [Name of Agent] is unable or unwilling to serve as my Agent, I name the following person(s) as my successor Agent(s), each to act alone and successively in the order named:

**Successor Agent Name:**

**Second Successor Agent Name:**

I give my acting Agent the full power to appoint another Agent to act as my Agent, and full power to revoke such appointment, if no Agent named by me is willing or able to act.

**ARTICLE II
GRANT OF GENERAL AUTHORITY**

 I grant my Agent and any successor Agent general authority to act for me with respect to the following subjects as defined in North Carolina General Statutes Sections 32C-2-204 through 32C-2-216.

1. Real Property

2. Tangible Personal Property

3. Stocks and Bonds

4. Commodities and Options

5. Banks and Other Financial Institutions

6. Operation of Entity or Business

7. Insurance and Annuities

8. Estates, Trusts and Other Beneficial Interests

9. Claims and Litigation

10. Personal and Family Maintenance

11. Benefits from Governmental Programs or Civil or Military Service

12. Retirement Plans

13. Taxes

**ARTICLE III**

**GRANT OF SPECIFIC AUTHORITY**

 I expressly grant my Agent the authority to do the following specific acts:

1. **Gifts**.
2. Make gifts to or for the benefit of any one or more of the following:

	1. My spouse;
	2. My issue;
	3. The spouses of my issue;
	4. Any other family member;
	5. Any charitable, religious or educational organization described in Sections 170(c) and 2522(a) of the Internal Revenue.
3. Except as otherwise specified in this power of attorney, my Agent may make gifts only in amounts consistent with my history of making gifts.
4. Make gifts in any amount for the purpose of aiding in tax planning or government benefits planning. I understand that giving away my property may result in tax consequences or a period of ineligibility for some benefits, so I require that any such gift be made upon written advice of an attorney with knowledge and experience regarding these matters.
5. Make gifts to my Agent or a person to whom my Agent owes a legal obligation of support.
6. I do not authorize my Agent to make gifts or transfers of my assets.
7. **Create or Change Rights of Survivorship.** The power to create, change or terminate any ownership arrangement, including bank and brokerage accounts, in which I am a joint tenant owning an interest with one or more other persons with rights of survivorship. My Agent may exercise this power in favor my Agent or an individual to whom my Agent owes a legal obligation of support.
8. **Create or Change a Beneficiary Designation**. The power to create a new beneficiary designation or change an existing beneficiary designation of any retirement plan or insurance or annuity contract or other account at any financial institution in which I have an interest. My Agent may exercise this power in favor my Agent or an individual to whom my Agent owes a legal obligation of support.
9. **Delegate Authority Granted Under the Power of Attorney**. The power to delegate to another person any of the authority granted to my Agent or engage another person, such as an attorney, accountant or other professional on my behalf. If an appointment of another Agent is necessary, my Agent may appoint such person and revoke the appointment.
10. **Exercise Fiduciary Powers that I Have Authority to Delegate**. The power to exercise any fiduciary powers that I have authority to delegate.
11. **Disclaim or Refuse Property and Power of Appointment**. The power to renounce in accordance with Chapter 31B of the General Statutes any property or interest in property to which I may have succeeded as a person listed in subdivision (1) through (9e) of General Statutes Section 31B-1(a).
12. **Exercise Authority Over the Content of Electronic Communications**. The power to exercise authority and take control over and request an authorized disclosure of the contents of any of my electronic communications sent or received by me, any catalogue of electronic communications sent or received by me and any other digital asset of mine.

**ARTICLE IV**

**LIMITATIONS ON EXERCISE OF POWERS BY AGENT**

The following limitations shall apply to the exercise of the powers by my Agent, in addition to any other limitations stated elsewhere in this power of attorney:

1. **Exercise of Specific Authority:** Notwithstanding a grant of authority to do an act described in Article III of this power of attorney, my Agent may exercise such authority only as my Agent determines is consistent with my objectives if actually known by my Agent and, if unknown, as my Agent determines is consistent with my best interest based on all relevant factors which may include those set out in General Statutes Section 32C-2-201(b)(1) through (6).
2. **Exercise of Specific Authority in Favor of Agent:** Unless otherwise specifically provided in this power of attorney, my Agent may not exercise authority under this power of attorney to create in my Agent, or in an individual to whom my Agent owes a legal obligation of support, an interest in my property whether by gift, right of survivorship, beneficiary designation, disclaimer or otherwise.
3. **Use of Assets for Agent’s Personal Bills:** My Agent shall not have the power to use my assets to pay for my Agent’slegal obligations. My Agentshall be prohibited (except as specifically authorized in this instrument) from using my assets to discharge or secure any of my Agent’sobligations, including any obligation of support which my Agentmay owe to others (excluding those whom I am equally with my Agent legally obligated to support).

 **ARTICLE V**

**MISCELLANEOUS MATTERS RELATED TO MY AGENT**

1. **Records and Accountings:** My Agent shall keep a record of all receipts, disbursements, and transactions made on my behalf and shall provide such records to me upon request. If I am incapacitated, my Agent shall provide such records upon request to [person(s) who can request records after incapacity]
2. **Guardianship:** If it becomes necessary for a court to appoint a guardian of my estate or a general guardian, I nominate my Agent acting under this document to be the guardian to serve without bond or other security. If I have co-agents, I nominate [which co-agent is preferred as guardian?]
3. **Resignation of Agent:** My Agent shall have the right to resign by giving written notice of resignation to me if I am not incapacitated or if I am incapacitated to my guardian if one has been appointed and any coagent or, if none, the successor Agent next designated.
4. **Compensation of Agent:** My Agent shall serve without compensation, but shall be reimbursed for expenses properly incurred on my behalf.

**ARTICLE VI**

**RELIANCE ON THIS POWER OF ATTORNEY**

Any person, including my Agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

**ARTICLE VII**

**REVOCATION AND TERMINATION**

This power of attorney shall terminate upon (i) my death, (ii) my revocation of this power of attorney, (iii) my revocation of my Agent’s authority, or upon my Agent’s death, incapacity or resignation, if this power of attorney does not provide for another Agent to act, or (iv) upon termination by my general guardian or the guardian of my estate.

 **ARTICLE VIII**

**MEANING AND EFFECT**

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina

**ARTICLE IX**

**SPRINGING POWERS**

 This power of attorney shall become effective on upon one of more of the following dates:

Upon the date that I instruct my agent in writing to exercise the authority granted in this power of attorney, or

Upon the date that [name of person to determine incapacity] determines in writing that I am incapacitated, or

Upon the date that, after personal examination of me, two physicians determine that I am incapacitated.

 For purposes of this power of attorney, “incapacity” means my inability to manage property or business affairs because I have i) an impairment in the ability to receive and evaluated information or make or communicate decisions even with the use of technological assistance, OR ii) I am missing, detained, including incarceration in a penal system, or outside of the United States and unable to return.

 Signed this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [Principal’s Name]

STATE OF NORTH CAROLINA

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

 I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: [Principal’s name]

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature of Notary Public

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 Printed or Typed Name of Notary Public

My Commission Expires:

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