

# APPENDIX L

## WILL WORKSHEET

### THIS WORKSHEET ITSELF IS NOT A WILL

**FOR OFFICIAL USE ONLY – PRIVACY ACT SENSITIVE.** Any misuse or unauthorized disclosure may result in both civil and criminal penalties. **PRIVACY ACT STATEMENT:** AUTHORITY 5 USC 301, Departmental Regulations; 10 USC 1044. **SYSTEM OF RECORDS NOTICE:** MJA00002. **ROUTINE USE(S):** Information provided is used to provide an administrative record for use by attorneys and clerical personnel directly involved in providing legal assistance, to manage internal counsel assignment, and for internal management of the office, to include generating periodic workload productivity and statistical reports. **MANDATORY/VOLUNTARY DISCLOSURE CONSEQUENCES OF REFUSAL TO DISCLOSE:** Disclosure of requested information is voluntary, but failure to provide such information may limit the Legal Assistance Office's ability to provide assistance.

**NOTE:** Receiving services from a non-attorney at the Legal Assistance Office does not create an attorney-client relationship. In order to form an attorney-client relationship you must meet with an attorney.

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

**CLIENT NAME:** \_\_\_\_\_

**LEGAL ASSISTANCE ATTORNEY:** \_\_\_\_\_

**THIS WORKSHEET COVERS:** (1) a Will, (2) an Advance Medical Directive (also known as a Living Will), (3) a Health Care (Medical) Power of Attorney, and (4) a Springing Durable General Power of Attorney (both powers of attorney are only effective when you become disabled or incapacitated). *[Note: If you need a different type of Power of Attorney for present use, please inform the Legal Assistance office (i.e. child care, sell a car, handle financial affairs while deployed, etc.).]*

**FOR ACTIVE DUTY MILITARY:** Disposition of Remains/Unpaid Pay and Allowances/Death Gratuity Form (DD93), and Servicemembers Group Life Insurance (SGLI) Beneficiary Designation Form (SGLV 8286). Go to your unit Admin office to update/change beneficiaries on these forms. *(Note: The Servicemembers Group Life Insurance (SGLI) Online Enrollment System (SOES) may have been implemented in the Marine Corps)*

An initial appointment with an attorney is required to discuss your worksheet. After the initial meeting, your will and any accompanying documents will be prepared and a second appointment will be made for you to execute (sign) your documents.

If your spouse wishes to create a will, he/she must fill out a separate will questionnaire. If you wish, the same attorney may see you and your spouse together; however, you and your spouse will each have a separate will and you both must sign a dual representation waiver.

Please ensure that the following questionnaire is filled out completely and accurately prior to your appointment date with a legal assistance attorney. If your questionnaire is not properly filled out, your appointment may be rescheduled.

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1. **Name:** \_\_\_\_\_  Male  Female

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: Cell: (\_\_\_\_) \_\_\_\_-\_\_\_\_ Work: (\_\_\_\_) \_\_\_\_-\_\_\_\_

Email: \_\_\_\_\_

State of Domicile\*: \_\_\_\_\_

\* "Domicile"(also called "Legal Residence" in some states) refers to the place where a person intends to live and which he or she considers their permanent home. Indicia of a testator's domicile include having a residence in the state, owning real property in the state, registering to vote there, paying state income tax there, having a driver's license in the state, and other affirmative actions evidencing intent. Your Home of Record is not necessarily your domicile. If you are not sure, discuss it with your attorney.

2. **Military**  Active Duty Member (Rank \_\_\_\_\_)

**Status:**  Spouse of Active Duty Member  
 Dependent of Active Duty Member  
 Retired  
 Spouse of Retiree  
 Dependent of Retiree

3. Are you a U.S. citizen?  Yes  No

4. **Marital**  Married, and never previously married  
**Status:**  Married, but was previously married to another person  
 Civil Union  
 Widow(er)  
 Divorced  
 Single

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_-\_\_\_\_

Is your spouse a U.S. citizen?  Yes  No  N/A

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5. Enter the name(s) of your child(ren):

Name	Age	Gender	Natural	Step	Adopted
1) _____	_____	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) _____	_____	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) _____	_____	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) _____	_____	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5) _____	_____	M / F	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. If you have adopted children or stepchildren, do you wish to treat them the same as your natural children?    Yes    No

7. Do you own an interest in a family-owned business or farm that you intend to dispose of in your will?    Yes    No

8. What is the estimated combined value of you and your spouse's estate?

- Less than \$500,000
- \$500,000-\$1,000,000
- Over \$1,000,000
- Over \$2,000,000
- Over \$5,000,000

NOTE: If the value of your estate exceeds a certain amount, your estate may be subject to estate taxes, in which case you may need more complex estate planning.

**9. Specific Bequests.** You may elect to make specific bequests of cash, real estate, or personal property to specific people or charities in your will (e.g., wedding ring to daughter, 1957 Chevy to friend, etc.). These bequests will be distributed first and may deplete your estate. Also, specific bequests may complicate the probate of your estate if the property given cannot be found at your death. Therefore, if you make any specific bequests, you should only give property that you are reasonably sure you will possess at the time of your death. If you make no specific bequests, all of your property will pass to your primary beneficiaries.

a. **Real Property.** In most states, land that is titled as a joint tenancy or a tenancy by the entireties automatically passes to the surviving person(s) listed on the title in the event of your death, without regard to any disposition made in your will.

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Do you own any real property (i.e. land/house) that you intend to dispose of in your will?

Yes  No

(1) How is title to the real property held?

- Joint Tenancy (with \_\_\_\_\_)
- Tenancy in Common (with \_\_\_\_\_)
- Single Owner
- Other \_\_\_\_\_

(2) Address of Property:

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

(3) Description of Property

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

(4) How do you intend to devise (leave) the real property?

- All to my spouse
- As provided with regard to my residuary estate
- To one or more different beneficiaries

Real Property Beneficiary	Relationship	Amount (%)
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

b. **Personal Effects and Other Tangible Personal Property**. As an alternative to specific bequests through a will, you may wish to make a “personal property memorandum,” a separate writing in which you can give specific items of personal property to named beneficiaries. While in most states a “personal memorandum” is NOT legally binding, your executor would try to comply with your wishes to the extent that state law allows.

1. **How do you intend to devise your personal effects or other tangible property?**

- All to my spouse
- As provided with regard to my residuary estate

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- As per a schedule of specific bequests
  - Using a personal property memorandum
  - With items not listed passing to my spouse
  - With items not listed passing as part of my residuary estate

2. Indicate below any specific items you intend to give:

<b>Personal Property Beneficiary</b>	<b>Relationship</b>	<b>Gift</b>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

c. **Cash.** If you make a cash bequest and you do not possess the funds at your death, or your cash beneficiary predeceases you, such cash bequest would lapse. Additionally, if you possess joint bank accounts with your spouse, these accounts will NOT pass through your will; therefore, cash bequests from these accounts will lapse as well.

(1) Do you wish to make any cash bequests?  Yes  No

(2) Indicate below any cash bequests you intend to give?

<b>Cash Beneficiary</b>	<b>Relationship</b>	<b>Amount</b>
1. _____	_____	\$ _____
2. _____	_____	\$ _____
3. _____	_____	\$ _____

**10. Residuary Estate.** Your “residuary estate” is whatever property remains in your estate after your lawful debts, taxes, and expenses of administration have been paid, and any specific bequests have been given away.

a. **How do you intend to devise your residuary estate?**

- All to my spouse, then to my child(ren) if my spouse predeceases me
- A minimum to my spouse, with the balance going to my children
- Into a trust
- Other

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b. If you wish to give your residuary estate to more than one person, indicate below to whom and what percentage each beneficiary will receive. The percentages must add up to 100 percent. You may designate a dollar amount, but percentages are easier to implement.

<b>Residuary Estate Beneficiary</b>	<b>Relationship</b>	<b>Amount (%)</b>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

c. If all the beneficiaries listed above do not survive you, do you wish to name alternative beneficiaries?

Yes  No    If yes, list below:

<b>Successor Residuary Beneficiary</b>	<b>Relationship</b>	<b>Amount (%)</b>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

## 11. How are the bequests to your child(ren) to be made?

PER STIRPES     PER CAPITA

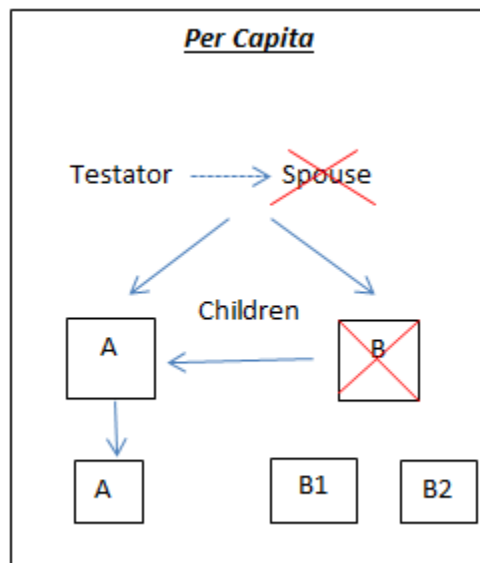
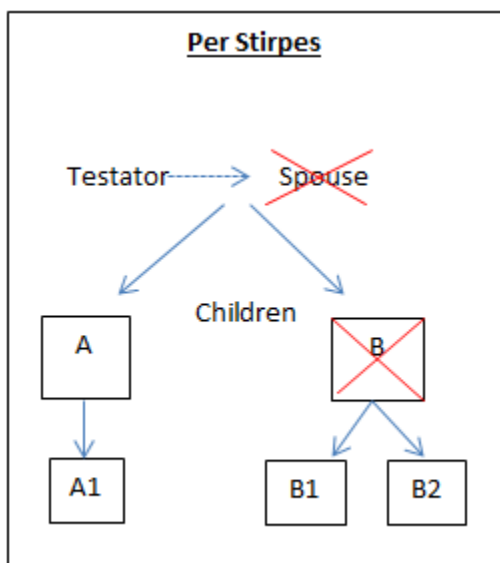
a. Generally, in a “per stirpes” (also known as “by right of representation”) distribution, the property is divided into as many equal shares as there are (i) surviving issue in the generation nearest to the deceased ancestor which contains one or more surviving issue, and (ii) deceased issue in the same generation who left surviving issue, if any. Each surviving member in such nearest generation is allocated one share. The share of a deceased issue in such nearest generation who left surviving issue shall be distributed in the same manner to such issue.

b. The terms “per capita” and “per stirpes” describe the way a bequest is to be divided among a person’s issue, as well as what happens with the bequest if a beneficiary had died. Generally, a disposition or distribution of property is “per capita” when it is made to class of persons (e.g., your children), each of whom is to take in his or her right and equal portion of such property—“share and share alike.” Note that in a “per capita” distribution, the surviving children of any deceased beneficiary will effectively be cut off.

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Illustrative Example:

- (1) “I leave all to my spouse but if she fails to survive me then to my children A and B in equal shares per stirpes.” [ $\frac{1}{2}$  goes to A and  $\frac{1}{2}$  to B, but if B is also deceased, then B’s share goes to B’s children B1 and B2 equally ( $\frac{1}{4}$ ;  $\frac{1}{4}$ )]
- (2) “I leave all to my spouse but if she fails to survive me then to my children A and B in equal shares per capita.” [ $\frac{1}{2}$  goes to A and  $\frac{1}{2}$  to B, but if B is also deceased, then all goes to A and B’s children receive nothing]



**12. Disinheriting.** Is there anyone who you specifically do not want to receive anything from your estate?    Yes    No

If yes, indicate the name and relation to you.

<b>Name of Person to be Disinherited</b>	<b>Relation to You</b>
1. _____	_____
_____	_____
2. _____	_____
_____	_____
3. _____	_____
_____	_____

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## 13. Estate Management

a. **Executor.** An “Executor” is the individual (or individuals) who will administer your estate upon your death. The Executor will be responsible for gathering all your belongings and assets, paying your debts and any taxes that you owe, and ensuring that the remainder of your estate is properly distributed to your intended beneficiaries. A successor is a person who will serve in the event that the first named individual is unable or unwilling to serve. Any adult (18 or older) may serve as your Executor, although many states have a preference for or require an Executor to be a legal resident of the state where the will is probated. Therefore, you should select family members or responsible friends who are residents of the same state where you claim to be your legal residence or the state where you own real property.

Who do you want to appoint as your Executor?

- My spouse  
 My spouse and a co-Executor  
 Other \_\_\_\_\_
- My spouse and a successor Executor  
 One Executor other than my spouse

b. Indicate the name(s) of your Executor(s).

Executor	Relationship	Co/Successor?
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

b. **Guardian.** If you and the other natural parent of your child(ren) die while your child(ren) are still minors, you may appoint a Guardian to take care of your minor child(ren).

(1) Do you want to appoint a guardian?

- Yes, one Guardian for any minor child(ren)  
 Yes, one Guardian and a successor guardian  
 Yes, two Guardians (with or without any successors)  
 No, I do not wish to appoint a Guardian under this will

*\*\*Parents should agree on the guardians for minor children to avoid conflicting designations\*\**



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(2) Indicate the name(s) of your Guardian(s).

Guardian	Relationship	Co/Successor?
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

c. **Conservator.** Some states allow you to appoint a Conservator (or Custodian), who will care for the property of a minor child until they turn 18 or a different age specified by you. The Conservator and the Guardian may be the same person, or they may be different individuals.

a. Do you wish to appoint a Conservator?  Yes  No

b. Indicate the name(s) of your Conservator(s).

Conservator	Relationship	Co/Successor?
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

NOTE: If there will be a testamentary minor's trust in the will (*discussed below*), the Conservator and/or the Guardian may be the same person as the Trustee or you can appoint a different person to serve as Trustee. [If different persons are named, consider whether they are likely to work well together for the benefit of the minor. Discuss this with your attorney].

**14. Gifts to Minors.** Minor children (defined as children under the age of 18 years, in most states) are not permitted to inherit property outright. Rather, property must be placed under the control of an adult either by way of a Living or Testamentary Trust or a Custodian Account administered under the relevant state Uniform Transfers to Minors Act (UTMA). Deciding which vehicle to use is a very important and personal decision and depends upon many factors, and should be discussed with your attorney.

a. UTMA and Trust accounts generally operate in the same manner. That is, an adult is responsible for safeguarding the property on behalf of the child until the child is entitled to receive it in their own right (the person is called a "Custodian" under the UTMA, and "Trustee" under a Trust). Generally, the Custodian or Trustee is permitted to use funds for the "health, education, maintenance and support" of the beneficiary until the account is terminated. They are

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also required to provide an annual accounting to the court to ensure that they have properly safeguarded the funds. As such, your Custodian or Trustee should be responsible, well organized, trustworthy, and experienced in maintaining books and records.

b. A major difference between the two entities is that a UTMA account is required by law to terminate when the child reaches 18 years of age, unless the state law provides for an extension of time to an older age (normally no later than 21). Living and Testamentary Trusts (those created by a will) do not have an age restriction and can last well into the beneficiary's life (e.g., 30, 40, or 50 years of age or longer). Additionally Trusts can be specially tailored to allow additional disbursements (e.g., "1/2 of the trust distributed at age 21 and 1/2 distributed at age 25").

c. If you wish to establish a trust, you may elect to have the bequests for your children held in a single trust or in separate trusts for each child. A single trust forces the oldest child to wait until all the other children reach the specified age before the oldest child may receive his/her share of the trust's principle. This may pose a problem if there is a large age disparity between the oldest child and youngest child. On the other hand, a separate trust for each child is cumbersome and likely to be expensive to maintain.

(1) If a child of yours is a minor at the time of your death, the bequests to that child shall be:

- Paid at the ELECTION of the EXECUTOR
- Held in trust by a TRUSTEE until the child attains majority
- Held in trust by the EXECUTOR until the child attains majority

(2) A beneficiary must have attained what age to be entitled to receive a bequest outright?

UTMA:        18    21  
Trust:        18    21    25    30    Other\_\_\_\_\_

(3) If you wish to establish a trust, answer the following:

a. Do you want to establish a single trust for all beneficiaries or separate trusts for each beneficiary?

- Single        Separate

b. Do you want to appoint:

- One Trustee                                    One Trustee and a successor Trustee
- Two Co-Trustees                            Other\_\_\_\_\_

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c. Do you want the Trustee to have the power to dissolve the trust if it becomes uneconomical to maintain?

Yes  No

d. Do you want the Trustee to have the power to dissolve the trust if the trust falls below a specific amount?

Yes  No

What amount? \$ \_\_\_\_\_

e. Indicate the name(s) of your Trustee(s).

Trustee	Relationship	Co/Successor?
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

f. Indicate the name(s) of the minors for which the testamentary trust is being created.

Beneficiary	Relationship
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____

**15. Life Insurance Trusts for Minors.** Life insurance does NOT pass through the will. The designated beneficiary on the life insurance/SGLI form is controlling and a will designation cannot override the life insurance contract. If a minor is listed as a beneficiary on a life insurance policy, the policy amount will generally be paid to the child's court ordered guardian. If you want to control who will receive and manage the funds for your children, you may create a testamentary life insurance trust for the benefit of your minor children.

A testamentary life insurance trust is a provision in your will that says, essentially, that if there are any life insurance policies existing that name the trust as the beneficiary, then the agent that

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you name in the will manages the funds for your minor child, spending the proceeds as he or she sees fit for the health, education, and welfare of the child. Such a trust is called “testamentary” because it is created by language in the last will and testament. The agent, or manager, is called the trustee. The trust ends when the child reaches a specific age that you choose. When the trust dissolves, any remaining funds in the trust are given to the child outright.

a. Do you want to create a testamentary life insurance trust?  Yes  No

b. If you wish to establish a trust, answer the following:

(1) Do you want to establish a single life insurance trust for all beneficiaries or separate trusts for each beneficiary?

Single  Separate

(2) Do you want to appoint:

One Trustee  One Trustee and a successor Trustee  
 Two Co-Trustees  Other \_\_\_\_\_

(3) Do you want the Trustee to have the power to dissolve the trust if it becomes uneconomical to maintain?  Yes  No

(4) Do you want the Trustee to have the power to dissolve the trust if the trust falls below a specific amount?  Yes  No

What amount? \$ \_\_\_\_\_

(5) Indicate the name(s) of your Trustee(s).

	<b>Trustee</b>	<b>Relationship</b>	<b>Co/Successor?</b>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

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(6) Indicate the name(s) of your minor life insurance beneficiaries.

<b>Beneficiary</b>	<b>Relationship</b>
1. _____	_____
2. _____	_____
3. _____	_____

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## **LIVING WILL AND HEALTH CARE POWER OF ATTORNEY**

A Living Will is a declaration that if you were terminally ill or in a vegetative state where your survival is not possible without the use of life support, certain medical treatment should NOT be given to prolong your life. A Living Will is often accompanied by a Durable Power of Attorney for Health Care (or Advanced Medical Directive), which permits you to appoint another person (or persons) to make health care decisions on your behalf when you can no longer make such decisions yourself. The scope of the health agent's powers may be very broad (e.g., changing doctors or hospitals, authorizing certain medical treatment, or terminating all medical treatment). You should note that a Living Will, although oftentimes prepared in conjunction with a will, is a separate document and is NOT a part of your will.

Do you want a living will?

- Yes
- No

Do you want a Durable Power of Attorney for Health Care?

- Yes, continue to fill this page out
- No, proceed to next page if you would only like a living will

Who do you want to designate as your health care agent?

- My spouse
- My spouse and a successor agent who is named below
- Someone who is not my spouse, and who is named below

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Relation of your agent to you: \_\_\_\_\_

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With regard to the appointment of a second agent to make health care decisions:

- A second agent is NOT to be designated
- A second agent is to be designated, and either agent can act independently
- A second agent is to be designated, and the agents must act jointly unless one is incapacitated
- A second agent is to be designated, and the second agent is to act as a successor only in the event the first is incapacitated

If you wish to designate a secondary agent, indicate below the name of your second agent.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Relation of your agent to you: \_\_\_\_\_

Is your agent authorized to donate your organs for transplant?

- Yes
- No

If yes, do you want to limit your agent's authority to only transplants, rather than giving your agent broad discretion to donate your organs or tissue for other medical, educational, or scientific purposes?

- Yes
- No

Do you want to exclude or limit the donation of particular organs?

- Yes \_\_\_\_\_ (limitation)
- No

Do you wish to express a preference to die at home rather than in a hospital?

- Yes
- No

Do you wish to be cremated?

- Yes
- No

Do you want to be buried with full military honors?

- Yes
- No
- No Preference
- N/A

Do you want to express a specific location to be buried?

- Yes
- No

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## DURABLE POWER OF ATTORNEY-FINANCIAL

(This is not the same document as the Durable Power of Attorney for Health Care)

A durable power of attorney is a reliable way to arrange for someone to make your financial decisions should you become unable to do so yourself. The durable power of attorney does not go into effect unless a doctor certifies that you have become incapacitated. This is called a “springing” durable power of attorney. It allows you to keep control over your affairs unless and until you become incapacitated, when it springs into effect.

Do you want a Power of Attorney for Finances?

- Yes, continue to fill this page out
- No, stop here

**1<sup>st</sup> CHOICE** (person who has the powers when you become incapacitated-usually your spouse):

Legal Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Relationship: \_\_\_\_\_

**2<sup>nd</sup> CHOICE** (if first choice is unwilling or unable to serve):

Full Legal Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Relationship: \_\_\_\_\_

**PLEASE INITIAL IN THE BRACKETS FOR EACH POWER YOU WISH TO GRANT TO YOUR AGENT OR INITIAL THE BOX FOR “ALL OF THE ABOVE”:**

- [       ] Real Property (acquires, transfer, change title)
- [       ] Tangible Persona Property (acquires, transfers, maintains sells)
- [       ] Securities (stocks, bonds, mutual funds)
- [       ] Commodity futures & options (commodity future contracts & put options)
- [       ] Financial Institutions (open account, write checks, borrow \$, safe deposit boxes)
- [       ] Business Operations (partnership, sole proprietorship, business ventures)
- [       ] Resignation from Fiduciary Positions (executor, trustee, attorney in fact guardian)
- [       ] Claims & Legal Proceedings (litigate, arbitrate, defend lawsuit, bankruptcy)
- [       ] Tax Matters (IRS proceeding, tax returns, refunds)
- [       ] Estate, Trust & Other Beneficiary Transactions
- [       ] Government Benefits (social security, civil benefits, military benefits)
- [       ] **All of the above**