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Att. 3919

**DURABLE POWER OF ATTORNEY**

**FOR MANAGEMENT OF PROPERTY AND PERSONAL AFFAIRS**

**Henry Borba . Principal to Mary Hansen. Attorney in Fact**

I, HENRY BORBA, a resident of Napa County, California, appoint my daughter MARY HANSEN as my agent and attorney in fact.

I intend to create a Durable Power of Attorney (herein referred to as "this Power") pursuant to California Law. I give my attorney in fact the power in Article One an elsewhere in this Power with the understanding that they will be used for my benefit and on my behalf and will be exercised only in a fiduciary capacity.

**ARTICLE ONE  
POWERS**

**1.1. Real Property Transactions.** I give my attorney in fact all of the powers listed below in this paragraph. All of the powers described in this paragraph are exercisable equally with respect to any interest in real property that I own when this Power is executed or that is acquired thereafter, whether the real property is located in this state or elsewhere.

**(a) Lease or rent.** Lease, rent, sublease, any property of mine.

**(b) Management.** Do an act of management or conservation with respect to an interest in real property, or a right incident to real property, owned or claimed to be owned by me, including all of the following:

(1) Insuring against a casualty, liability, or loss .

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(2) Obtaining or regaining possession, or protecting the interest or right, by litigation or otherwise.

(3) Paying, compromising, or contesting taxes or assessments, or applying for and receiving refunds in connection with taxes or assessments.

(4) Purchasing supplies, hiring assistance or labor, and making repairs or alteration in the real property.

(c) Improvements. Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which I have, or claim to have, an interest or right.

(d) Change in Form of Title. Change the form of title of an interest in or right incident to real property.

(h) Public use. Dedicate to public use, with or without consideration, easements or other real property in which I have, or claim to have, an interest or right.

(g) Power of sale. My attorney in fact shall have the power to sell any real property owned by me, or in which I have an interest, for my benefit

**1.2. Stock and Bond transactions.** I give my attorney in fact all of the powers listed below in this paragraph. All of the powers described in this paragraph are exercisable equally with respect to any interest in any stock, bond, mutual fund, and other type of security to which this paragraph refers, that I own when this Power is executed or that is acquired thereafter, whether located in this state or elsewhere.

(a) Acquisition and Transfer. Buy, sell, and exchange stocks, bonds, mutual funds, and all other types of securities and financial instruments except commodity futures contracts and call and put options on stocks and stock indexes.

b) Evidence of Ownership. Receive certificates and other evidence of ownership with respect to securities.

(c) Voting. Exercise voting rights with respect to securities, in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

**1.3. Banking and Other Financial Institution Transactions.**

I give my attorney in fact all of the powers listed below in this paragraph. All powers described in this paragraph are exercisable equally with respect to any financial transaction to which this paragraph refers, engaged in by me when this Power is executed or that is engaged in thereafter, whether conducted in this state or elsewhere.

**(a) Existing Accounts.** Continue, modify, and terminate an account or other banking arrangement made by me or on my behalf.

**(b) Opening of Accounts.** Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, industrial loan company, brokerage firm, or other financial institution selected by my attorney in fact.

**(c) Establishing and Closing Safe Deposit Boxes.** Hire or close a safe deposit box or space in a vault.

**(d) Contracting Services.** Contract to procure other services available from a financial institution as my attorney in fact considers desirable.

**(e) Making Withdrawals.** Withdraw by check, order, or otherwise my money or property deposited with or left in the custody of a financial institution.

**(f) Receiving Financial Statements.** Receive bank statements, vouchers, notices, and similar documents from a financial institution, and act with respect to them.

**(g) Entering Safe Deposit Boxes.** Enter a safe deposit box or vault and withdraw or add to the contents.

**(h) Borrowing Money.** Borrow money at an interest rate agreeable to my attorney in fact and pledge as security my personal property as necessary in order to borrow, pay, renew, or extend the time of payment of any of my debts.

**(i) Checks, Drafts, and Negotiable or Nonnegotiable Paper.** draw, endorse, discount, guarantee, and negotiate promissory note, checks, drafts, and other negotiable or nonnegotiable paper of mine, or payable to me or to my order, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon me and pay it when due.

**(j) Receiving Negotiable or Nonnegotiable Instruments.** Receive for me and act upon a sight draft, warehouse receipt, or other negotiable or nonnegotiable instrument.

**(k) Letters of Credit, Credit Cards, and Travelers Checks.** Apply for and receive letters of credit, credit cards, and traveler's checks from a financial institution, and give an indemnity or other agreement in connection with letters of credit.

**(l) Extensions to Pay.** Consent to an extension of time of payment with respect to commercial paper or financial transaction with a financial institution.

**1.4. Insurance and Annuity Transactions.** I give my attorney in fact all of the powers listed below in this paragraph. All powers described in this paragraph are exercisable with respect to any contract of insurance or annuity in which I am in any way interested, whether made in this state or elsewhere.

**(a) Existing Personal Coverage.** Continue, pay the premium or assessment on, modify, rescind, release, or terminate any contract procured by me or on my behalf that insures or provides an annuity to either me or another person, whether or not I am a beneficiary under the contract.

**(b) Procuring New Coverage.** Procure new, different, and additional contracts of insurance and annuities for me and my dependents. The attorney in fact shall not, however have the power or right to procure an insurance contract or annuity which benefits the attorney in fact.

**(c) Paying Premiums for New Coverage.** Pay the premium or assessment on, modify, rescind, release, or terminate a contract of insurance or annuity procured by my attorney in fact.

**(d) Beneficiary Designation.** Designate the beneficiary of the contract, or an extension, renewal, or substitute for the contract, regardless of whether the contract was procured by me or by my attorney in fact. The attorney in fact shall not have the right to designate the attorney in fact as a beneficiary of any insurance policy or annuity.

**(e) Borrowing.** Apply for and receive a loan on the security of the contract of insurance or annuity.

**(f) Surrendering.** Surrender and receive the cash surrender value.

**(g) Elections.** Exercise an election.

**(h) Manner of Paying Premiums.** Change the manner of paying premiums.

**(i) Conversion.** Change or convert the type of insurance contract or annuity as to any insurance contract or annuity to which I have or claim to have a power described in this paragraph.

**(j) Beneficiary Change.** Change the beneficiary of a contract of insurance or annuity, regardless of whether the contract of insurance or annuity was procured by me or by my attorney in fact. The attorney in fact shall not have the right or power to change a beneficiary in any manner such that the attorney in fact is benefitted by such change.

**(k) Governmental Aid.** Apply for and procure government aid to guarantee or pay premiums of a contract of insurance on my life.

**(l) Transfer.** Collect, sell, assign, hypothecate, borrow upon, or pledge my interest in a contract of insurance or annuity.

**(m) Taxes.** Pay from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

**1.5. Estate, Trust, or Other Beneficiary Transactions.** I give my attorney in fact all of the powers listed below in this paragraph so that my attorney in fact may act for me in all matters that affect a trust, probate estate, guardianship, conservatorship, escrow, custodianship, or other fund from which I am, may become, or claim to be entitled, as a beneficiary, to a share or payment, whether such matters deal with property located in this state or elsewhere.

**(a) Payments.** Accept, reject, disclaim, receive, receipt for, sell, assign, release, pledge, exchange, or consent to a reduction in or modification of a share in or payment from the fund.

**(b) Claims.** Demand or obtain by litigation or otherwise money or other thing of value to which I am, may become, or claim to be entitled by reason of the fund.

**(c) Participation in Proceedings.** Initiate, participate in, and oppose litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting my interest.

**(d) Removal of Fiduciary.** Initiate participate in, and oppose litigation to remove, substitute, or surcharge a fiduciary.

**(e) Investments and Disbursements.** Conserve, invest, disburse, and use anything received for an authorized purpose.

**(f) Transfer to Revocable Trust.** Transfer an interest of mine in real property, stocks, bonds, accounts with financial institutions, insurance, and other property to the trustee of a revocable trust created by me as settler.

**(g) Contingent Interests.** Convey or release any contingent or expectant interests in property, but not including marital property rights, and any rights of survivorship incident to joint tenancy or tenancy by the entirety.

**(h) Probate Code Section 13502 or 13503 Election.** Make any election or election and agreement referred to in California Probate Code Section 13502 or 13503.

**1.6. Claims and Litigation.** I give my attorney in fact all of the powers listed below in this paragraph. All power described in this paragraph are exercisable equally with respect to any claim or litigation existing when this Power is executed or arising thereafter, whether existing or arising in this state or elsewhere.

**(a) Actions.** Assert and prosecute before a court or administrative agency a claim, claim for relief, cause of action, counterclaim cross-complaint, or offset, and defend against an individual, a legal entity, or government, including suits to recover property or other thing of value, to recover damages sustained by me, to eliminate or modify tax liability, or to seek an injunction, specific performance, or other relief.

**(b) Intervention and Interpleader.** Bring an action to determine adverse claims, intervene in litigation, and act as amicus curiae.

**(c) Provisional Remedies Enforcement of Judgments and Participation in Proceedings.** In connection with litigation:

(1) Procure an attachment, garnishment, libel, order of arrest, or other preliminary, provisional, or intermediate relief, and use any available procedure to effect, enforce, or satisfy a judgment, order, or decree.

(2) Perform any lawful act, including acceptance of tender, offer of judgment, admission of facts, submission of a controversy on an agreed

statement of facts, consent to examination before trial, and binding me in litigation.

**(d) Settlement.** Submit to arbitration, settle, and propose or accept a compromise with respect to a claim or litigation.

**(e) Procedure.** Waive the issuance and service of process upon me; accept service of process; appear for me designate persons upon whom process directed to me may be served; execute and file or deliver stipulations on my behalf; verify pleadings; seek appellate review; procure and give surety and indemnity bonds; contract and pay for the preparation and printing of records and briefs; receive and execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation.

**(f) Bankruptcy.** Act for me with respect to bankruptcy or insolvency proceedings, whether voluntary or involuntary, concerning me or some other person, or with respect to a reorganization proceeding, or with respect to an assignment for the benefit of creditors, receivership, or application for the appointment of a receiver or trustee, that affects an interest of mine in property or other thing of value.

**(g) Payments.** Pay a judgment against me or a settlement made in connection with litigation, and receive and conserve money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

**1.7. Tax Matters.** I give my attorney in fact all of the powers listed below in this paragraph. My Social Security number is 554-07-1037

**(a) Preparation and Filing of Documents.** Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, FICA returns, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waiver, consents (including consents and agreements under Internal Revenue Code Section 2032A or any successor section), closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a year beginning with and including the year 1994 and ending with and including the year 2024.

**(b) Paying and Contesting Amounts.** Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority.

**(c) Exercising Elections.** Exercise any election I may have under federal, state, local, or foreign tax law.

**(d) Acting in Tax Matters.** Act for me in all tax matters before the Internal Revenue Service and any other taxing authority.

**1.8. Government Benefits.** I give my attorney in fact all of the powers listed below in this paragraph. All powers described in this paragraph are exercisable equally with respect to benefits from social security, Medicare, Medicaid, or other governmental programs, or civil or military service, existing when this Power is executed or accruing thereafter, whether existing or accruing in this state or elsewhere.

**(a) Execution of Vouchers.** Execute vouchers in my name for allowances and reimbursements payable to me by the United States or a foreign government or by a state or subdivision of a state, including allowances and reimbursements for my transportation and transportation of my spouse, my children, and other individuals customarily or legally entitled to my support, and for shipment of our household effects.

**(b) Possession of Property.** Take possession and order the removal and shipment of my property from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private; and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose.

**(c) Benefits.** Prepare, file, and prosecute my claim to a benefit or assistance, financial or otherwise, to which I claim to be entitled under a statute or governmental regulation.

**(d) Actions.** Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to any benefits I may be entitled to receive.

**(e) Receipt of Proceeds.** Receive the financial proceeds of a claim of the type described in this paragraph; conserve, invest, disburse, or use anything received for a lawful purpose.

**1.9. Incidental Powers.** In connection with the exercise of any of the powers described in the preceding paragraphs, I give my attorney in fact all of the powers listed below in this paragraph. All powers described in this paragraph are exercisable equally with respect to any of my interests, rights,



and obligations existing when this Power is executed or arising thereafter, whether in this state or elsewhere.

**(a) Claims.** Demand, receive, and obtain by litigation or otherwise, money or other thing of value to which I am, may become, or claim to be entitled; and conserve, invest, disburse, or use anything so received for the purpose intended

**(b) Contracts.** Contract in any manner with any person, on terms agreeable to my attorney in fact, to accomplish a purpose of a transaction, and perform, rescind, reform, release, or modify the contract or another contract made by me or on my behalf.

**(c) Execution, Acknowledgment and Delivery.** Execute, acknowledge, seal, and deliver a deed, revocation, mortgage, lease, notice, check, release, or other instrument my attorney in fact considers desirable to accomplish a purpose of a transaction.

**(d) Actions.** Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to a claim existing in my favor or against me or intervene in litigation relating to the claim.

**(e) Court Assistance.** Seek on my behalf the assistance of a court to carry out an act authorized by this Power.

**(f) Employment.** Engage, compensate, and discharge an attorney, accountant, expert witness, or other assistant.

**(g) Record keeping.** Keep appropriate records of each transaction, including an accounting of receipts and disbursements.

**(h) Preparation and Filing of Documents.** Prepare, execute, and file a record, report, or other document my attorney in fact considers desirable to safeguard or promote my interest under a statute or governmental regulation.

**(i) Other Lawful Acts.** In general, do any other lawful acts with respect to the power being exercised, it being my intention that, in connection with the exercise of that power, my attorney in fact shall have full authority, to the extent that a principal can act through an agent, to take all actions that it believes necessary, proper, or convenient, to the extent that I could take such actions myself.

**ARTICLE TWO**  
**AMPLIFYING PROVISIONS**

**2.1. Reimbursement for Costs and Expenses.** My attorney in fact shall be entitled to reimbursement from my property for expenditures properly made in the execution of any of the powers conferred by me in this Power. My attorney in fact shall keep records of any such expenditures and reimbursement.

**2.2. Compensation.** My attorney in fact shall be entitled to reasonable compensation for the service rendered in the execution of any of the powers conferred by me in this Power.

**2.3. Reliance by Third Parties.** To induce third parties to act in accordance with the powers granted to my attorney in fact in this document, I represent and warrant that:

(a) If this document is revoked or amended for any I, my estate, my heir, successors, and assigns will hold any third party harmless from any loss suffered, or liability incurred, by the third party in acting in accordance with this document before the third party's receipt of written notice of termination or amendment.

(b) The powers conferred on my attorney in fact may be exercised alone and my attorney in fact's signature or act under the authority granted in this document may be accepted by third parties as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf.

(c) No person who acts in reliance upon any representation of my attorney in fact as to the scope of my attorney in fact's authority granted under this document shall incur any liability to me, my estate, my heirs, successors, or assigns for permitting my attorney in fact to exercise any such power, nor shall any person who deals with my attorney in fact be responsible to determine or ensure the proper application of funds or property.

(d) All third parties from whom my attorney in fact may request information regarding my personal affairs or my physical or mental health, including medical, dental, and hospital records, are hereby authorized to provide such information to my attorney in fact without limitation and are released from any legal liability whatsoever to me, my estate, my heirs,

successors, or assigns for complying with those requests. I authorize in advance all physicians, dentists, psychiatrists, and psychologists who have treated me, and all other providers of health care, including hospitals, to release to my attorney in fact all information or photocopies of any records that my attorney in fact may request. If I am able to confirm this authorization at the time of the request, third parties may seek such confirmation from me, but this authorization shall not be conditional on that confirmation. Physicians, hospitals, and other providers of health care shall treat the request of my attorney in fact as that of a legal representative of an incompetent patient (as contemplated by California Civil Code Section 56.11(c)(2), or any successor section thereto) and shall honor that request on that basis. I waive any privilege applicable to such information and records, and to any communication pertaining to me and made in the course of a physician-patient or psychiatrist-patient relationship.

**2.4. Ratification.** I ratify and confirm all that my attorney in fact do or cause to be done under the authority granted in this Power. All contracts, promissory notes, checks, or other bills of exchange, drafts, other obligations, stock powers, instruments, and other documents signed, endorsed, drawn, accepted, made, executed, or delivered by my attorney in fact shall bind me, my estate, my heirs, successors, and assigns.

**2.5. Exculpation of My Attorney in Fact.** My attorney in fact shall not be liable to me or any of my successors in interest for any action taken or not taken in good faith, but shall be liable for any willful misconduct or gross negligence.

**2.6. Revocation and Amendment.** I revoke all prior General Powers of Attorney that I may have executed, in total (but not limited powers of attorney, such as a power of attorney for health care, and powers of attorney over specific accounts) and I retain the right to revoke or amend this document and to substitute other attorney in fact in place of my attorney in fact. Amendments to this document shall be made in writing by me personally (not by my attorney in fact) and they shall be attached to the original of this document and recorded in the same county or counties as the original if the original is recorded.

**ARTICLE THREE**  
**GENERAL PROVISIONS**

**3.1. Signature of Attorney in Fact.** My attorney in fact shall use the following form when signing on my behalf pursuant to this Power: "HENRY BORBA, by MARY HANSEN, attorney in fact."

**3.2. Photostatic Copies.** Persons dealing with my attorney in fact may rely fully on a photostatic copy of this Power.

**3.3. Severability.** If any of the provisions of this Power are found to be invalid for any reason, such invalidity shall not affect any of the other provisions of this Power, and all invalid provisions shall be wholly disregarded.

**3.4. Governing Law.** All questions pertaining to validity, interpretation, and administration of this Power shall be determined in accordance with the laws of California.

**3.5. Nomination of Conservator.** Should it be necessary to have a conservator appointed for my estate and/or my person, I nominate MARY HANSEN to act as conservator, without bond, and request that the court so appoint such person.

**3.6. Explanation of Durable Power for Property Management.**  
I understand that this Power is an important legal document. Before executing this document, my lawyer explained to me the following:

(a) This document provides my attorney in fact with broad powers to dispose of, sell, convey, and encumber my real and personal property.

(b) The powers granted in this Power will exist for an indefinite period of time unless I limit their duration by the terms of this Power or revoke this Power. These powers will continue to exist notwithstanding my subsequent disability or incapacity.

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(c) This document does not grant anyone the power to make health care or medical decisions for me.

(d) I have the right to revoke or terminate this Power at any time.

This Durable Power of Attorney is executed by me on March 23, 1999, at Calistoga, California.

Henry Borba  
Henry Borba

Acceptance by Attorney in Fact and signature exemplar. I hereby accept this power of attorney. Executed on March 23, 1999 at Novato, California

Mary Hansen  
Mary Hansen

STATE OF CALIFORNIA  
COUNTY OF ~~NAPA~~ Marin

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} SS.

On this 23<sup>rd</sup> day of March in the year 1999, before me M. Kriletich, a Notary Public, State of California, duly commissioned and sworn, personally appeared Henry Borba and Mary Hansen (personally known to me or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/capacities, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

M. Kriletich

