

SUGGESTED LANGUAGE FOR PERMISSIBLE MODIFICATIONS

Cut and paste the desired modifications into the Modification Section (h) of the Power of Attorney. If the modification involves gifting, then the principal must also initial Section (g) CERTAIN GIFT TRANSACTIONS.

GUARDIAN PROVISION

If it becomes necessary to appoint a guardian of my person or property, I hereby nominate pursuant to New York Mental Hygiene Law § 81.17 _____ to serve as guardian. If _____ is for any reason unable or unwilling to serve as guardian, I nominate _____ to serve as guardian.

GIFTING PROVISIONS

NB: If you're doing this for planning purposes for either health care coverage or for estate planning, please make the required provisions in the Modifications Section. Be aware that gift equalizing provisions could conflict with later planning requirements.

[Choose one provision only as they are inconsistent with each other]

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.

or

I grant the following authority to my agent to make gifts pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest:

- (a) make gifts up to a specified dollar amount \$ _____
- (b) make gifts unlimited in amount;
- (c) make gifts to any person or persons;
- (d) make gifts to the following persons and/or organizations;

Gift Recipient Name or Class

[Make sure to exclude the witnesses]

- (d) I grant specific authority for the following agent(s) to make the following gifts 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.

[Make sure to include the names of agents and successor agents that can make gifts to themselves]

Make gifts in any of the following ways (edit where necessary):

1. Gifting through banking transactions

Opening, modifying or terminating a deposit account in the name of the principal and other joint tenants; opening, modifying or terminating any other joint account in the name of the principal and other joint tenants; with respect to joint accounts existing at the creation of the agency, the authority granted hereby ***shall/shall not*** include the power to change the title of the account by the addition of a new joint tenant or the deletion of an existing joint tenant; opening, modifying or terminating a bank account in trust form as described in § 7-5.1 of the estates, powers and trusts law, and designate or change the beneficiary or beneficiaries of such account; with respect to totten trust accounts existing at the creation of the agency, the authority granted hereby ***shall/shall not*** include the power to add, delete, or otherwise change the designation of beneficiaries in effect for any such accounts; opening, modifying or terminating a transfer on death account as described in part four of article thirteen of the estates, powers and trusts law, and designate or change the beneficiary or beneficiaries of such account;

2. Gifting by changing beneficiary or modifying life insurance

Changing the beneficiary or beneficiaries of any contract of insurance on the life of the principal or annuity contract for the benefit of the principal; with respect to life insurance contracts existing at the creation of the agency, the authority granted hereby ***shall/shall not*** include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract; procuring new, different or additional contracts of insurance on the life of the principal or annuity contracts for the benefit of the principal and designate the beneficiary or beneficiaries of any such contract; to apply for and to receive any available loan on the security of the contract of insurance, whether for the payment of a premium or for the procuring of cash, to surrender and thereupon to receive the cash surrender value, to exercise an election as to beneficiary or mode of payment, to change the manner of paying premiums, and to change or to convert the type of insurance contract, with respect to any contract of life, accident, health, disability or liability insurance as to which the principal has, or claims to have, any one or more of the powers described in this section; the authority granted hereby with respect to the contract of insurance ***shall/shall not*** include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract;

3. Gifting by changing beneficiary or modifying retirement accounts

Designate or change the beneficiary or beneficiaries of any type of retirement benefit or plan; the authority granted hereby with respect to retirement benefits or plans ***shall/shall not*** include the authority to add, delete, or otherwise change the designation of beneficiaries in effect for any such

retirement benefit or plan; creating, amending, revoking or terminating an inter vivos trust; and; opening, modifying or terminating other property interests or rights of survivorship, and designate or change the beneficiary or beneficiaries therein.

4. Gifting by establishing and funding a revocable or irrevocable lifetime trust or joining and funding a pooled trust

Create trusts, whether revocable or irrevocable, on my behalf; fund such trusts on my behalf or make transfers and additions to any trusts already in existence; withdraw income or principal on my behalf from any trust; exercise whatever trust powers or elections which I may exercise; This grant of authority shall include the ability of my agent(s) to create trusts or accounts naming himself, herself, or themselves, as the case may be, as the beneficiary(ies) of such trusts.

5. Conveyance of specific real property or a cooperative apartment

Convey all of my right, title and interest in the real property known as _____ and the cooperative apartment known as _____, paying off any liens of the said premises, paying all expenses related to the sale of the said premises, including but not limited to filing fees, maintenance adjustments and legal fees, receiving all moneys resulting from the sale of the premises executing all documents necessary to accomplish the foregoing and doing all things necessary to effect the conveyance.

6. Making loans and executing promissory notes

Make loans and executing promissory notes.

A gift to an individual authorized by this subdivision may be made:

Outright, by exercise or release of a presently exercisable general or special power of appointment held by the principal; to a trust established or created for such individual; to a Uniform Transfers to Minors Act account for such individual (regardless of who is the custodian); or to a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Revenue Code for the benefit of such individual (without regard to who is the account owner or responsible individual for such account).

1. Grant specific authority for agent(s) to make the following gifts to himself or herself

I grant specific authority for the following agent(s) to make the following gifts to himself or herself:

Agents: _____

Gifts to the agents under this provision include all the powers, methods and manners as provided for gifting above.

2. Control over digital assets

The agent(s) shall have (a) the power to access, use, and control my digital devices, including but not limited to, desktops, laptops, tablets, storage devices, mobile telephones, smartphones, and any similar digital device that currently exists or may exist as technology develops for the purpose of accessing, modifying, deleting, controlling, or transferring my digital assets, including any content contained in an electronic communication therein, (b) the power to access, modify, delete, control, and transfer my

digital assets, including the content contained in any electronic communication therein, wherever located and including but not limited to, my emails received, email accounts, digital music, digital photographs, digital videos, software licenses, social network accounts, file sharing accounts, financial accounts, banking accounts, domain registrations, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts, and similar digital items which currently exist or may exist as technology develops, and (c) the power to obtain, access, modify, delete, and control my passwords and other electronic credentials associated with my digital devices and digital assets described above. This authority is intended to constitute "lawful consent" to a service provider to divulge the contents of any communication under The Stored Communications Act (currently codified as 18 U.S.C. §§ 2701 et seq.), to the extent such lawful consent is required, and as agent acting hereunder shall be an authorized user for purposes of applicable computer-fraud and unauthorized-computer-access laws.

COMPENSATION OF AGENT

The agent(s) shall be compensated for services in handling my financial affairs at the same rate as that of an executor or administrator of an estate and may pay said compensation from the funds in *his/her* hands following the close of each calendar year or more frequently. The commission shall be calculated upon the amount of money received by *him/her* as income and upon income paid out, whether such income is derived from the corpus of the estate or from any other source, and also a commission for receiving and paying out corpus of the estate paid out during the period. The commissions on income and principal shall commence each year at the initial bracket. If agent is an attorney and performs any legal services for me, agent shall be entitled to reasonable attorney's fees apart from and in addition to the compensation provided for herein.

or

The agent(s) shall be compensated at a rate of \$____/hr. for services rendered pursuant to this power of attorney.

MONITOR

Unless reasonable cause exists to require otherwise, the agent(s) shall not be obligated by the monitor to provide financial details or accountings more frequently than annually.