

GENERAL AND ENDURING POWER OF ATTORNEY

THIS GENERAL AND ENDURING POWER OF ATTORNEY is made pursuant to sections 5 and 6 of the *Powers of Attorney and Agency Act 1984* (SA), this [full date] by **[FULL NAME OF DONOR]** of [address, postcode and occupation]

1. **I APPOINT** [relationship if any] [full name of donee] of [address, postcode and occupation] to be my Attorney (“my Attorney”).
2. **I AUTHORISE** my Attorney, subject to clause 4, to do on my behalf anything that I can lawfully do by an Attorney and for the specific purpose of applying for and obtaining from the Supreme Court of South Australia a grant of administration [with the will dated [insert date of will] or without will] of the estate of [full name of deceased] late of [address and postcode] deceased (“the deceased”) for my use and benefit and until further representation be granted.
3. I further authorise my Attorney to undertake the administration of the estate of the deceased, once the said grant is obtained from the Court and until further representation be granted. *[Delete this clause 3 if not required and renumber subsequent paragraphs]*
4. The authority of my Attorney is subject to the following conditions, limitations or exclusions:

[Insert such conditions, limitations or exclusions as required. If none, insert “NIL”]
5. The authority of my Attorney is exercisable from the date on the attached Form of Acceptance and shall remain effective notwithstanding my subsequent legal incapacity.

EXECUTED AS A DEED

SIGNED AS A DEED by the said [full name of donor] at [suburb and postcode])
)

in the presence of

.....
 [signature of authorised witness]
 [print name of witness]
 [print title of authorised witness]
 [ID number of witness]

FORM OF ACCEPTANCE

I, [**FULL NAME OF DONEE**] of [address and postcode], the person appointed to be the donee of the power of attorney created by the instrument on which this acceptance is annexed **ACCEPT** the appointment and acknowledge:

- (a) that the power of attorney is an enduring power of attorney and as such may be exercised by me from the date of my acceptance and shall remain effective notwithstanding any subsequent legal incapacity of the donor; and
- (b) that I will, by accepting this power of attorney, be subject to the requirements of the *Powers of Attorney and Agency Act 1984* (SA).

Signed:

.....
[**FULL NAME OF DONEE**]

Dated: [Date]

Notes

- 1 This Form is not mandatory, but it must be at least an enduring power of attorney and must contain words to the effect of the specific purpose referred to in clause 2 of this Form. The Attorney can only perform functions of the donor as a personal representative when those functions are specifically provided for in an enduring power of attorney – see *Re Estate of Dudley (deceased) [2003] 115 SASR 328*; and section 5(4) of the *Powers of Attorney and Agency Act 1984* (SA).
- 2 The donee of the power of attorney must be within South Australia (see section 64 the *Succession Act 2023* (SA)).
- 3 When the person so entitled is an executor, administration will not be granted to the person's attorney without notice to the other executors, if any, unless the Court otherwise orders – rule 356.22(2) of Chapter 25 of the *Uniform Civil Rules 2020*.
- 4 **If more than one donee is to be appointed then:**
 - 4.1 Paragraph 1 of the power of attorney should specify the nature of the appointment between the donees (e.g. jointly / jointly and severally / severally) and
 - 4.2 An additional Form of Acceptance needs to be included for each additional donee and
 - 4.3 Consideration is to be given to the content in the body of the power of attorney to change singular into plural and in clause 5 of the power of attorney, to identify the correct date on which the power of attorney becomes operative.
- 5 The original power of attorney must be lodged in the Probate Registry with the application for the grant (see rule 356.22(4) of Chapter 25 of the *Uniform Civil Rules 2020*).