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## APPENDIX A1

### Power of Attorney Information Sheet

#### What is a power of attorney?

A power of attorney is a legal document that allows an individual, called the *principal*, to appoint another individual as an *agent* (also known as an *attorney-in-fact*). The agent may perform specified acts on behalf of the principal.

#### Why should I sign a power of attorney?

In the event you become unable to manage your property and financial matters, your agent can manage your affairs for you. By appointing your agent while you are competent, you can choose someone you trust to handle your property and/or financial affairs. If you become incapacitated and have not appointed an agent, a court may appoint a guardian to make any necessary decisions about your property, and you will have no control over the selection of the guardian.

#### Who can sign a power of attorney?

Any person over the age of 18, who has the capacity to understand the nature of the document he or she is signing and the powers it gives the designated agent.

#### Who should be named as an agent?

An agent should be a person *whom you trust* and believe will handle your property and affairs in your best interest. Usually family members and/or close friends are named as agents. Sometimes lawyers, accountants or other professionals are named. When you appoint an agent, a legal relationship is created between you, as the principal, and your agent. Your agent has a duty to act in your benefit and best interests in all transactions made under the power of attorney.

#### What is a durable power of attorney?

A durable power of attorney goes into effect immediately, which means the agent can immediately exercise the powers granted by the principal. The agent's power is not terminated by the disability or incapacity of the principal.

#### What is a nondurable power of attorney?

A nondurable power of attorney goes into effect immediately, but if the principal becomes mentally incapacitated, the power terminates. Therefore, if you are planning for your possible incapacity, you should sign a durable power of attorney instead.

#### What is a durable power of attorney effective at a future time (springing power)?

A durable power of attorney effective at a future time becomes effective only when a certain event occurs. Generally, this event will be when the principal becomes incapacitated and cannot make decisions about property matters. The principal may also specify any other event that will make the power of attorney effective. A physician or other person you designate must certify that the specified event has occurred, which “springs” the document into effect. The durable power of attorney effective at a future time is more commonly known as a *springing power of attorney*. The 2009 legislation eliminated the separate statutory short form springing power of attorney and provided that a statutory short form power of attorney can be made a springing power of attorney only through section (g) modifications.

#### Can a principal appoint more than one agent?

A principal may appoint one or more agents by naming them on the power of attorney form. When two or more agents are appointed, the principal can choose whether the agents are to act separately or together. If the principal