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REVOCABLE LIVING TRUST

and

ESTATE PLAN DOCUMENTS

OF

JOSEPH P. COLLIGAN
and
LETTY O. COLLIGAN

Prepared By:
THOMAS R. PORT
Attorney at Law
931 Hartz Way #200
Danville, California 94526
(925)-855-1910

Return to:
* Christine Joy Colligan
1635 Jefferson Davis Cove
Nesbit, MS
38651

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DURABLE POWER OF ATTORNEY FOR MANAGEMENT OF PROPERTY AND PERSONAL AFFAIRS FOR LETTY O. COLLIGAN

I, **LETTY O. COLLIGAN**, a resident of Alameda County, California, appoint my Husband, **JOSEPH P. COLLIGAN** as my attorney in fact. If for any reason **JOSEPH P. COLLIGAN** is or becomes unable or unwilling to serve, I appoint my Daughter, **CHRISTINE J. COLLIGAN**, and my Son, **MICHAEL J. COLLIGAN**, to be my attorney in fact, one at a time in the order listed.

All references herein to "my attorney in fact" refer to the attorney in fact acting at the pertinent time.

In the event a successor is required, one of the following documents must be obtained and attached to this durable power of attorney: a resignation or declination to serve signed by the original agent; a written and signed opinion (or declaration under penalty of perjury) from a licensed physician that the original agent is physically or mentally incapable of serving; a certified court order as to the incapacity or inability of the original agent to serve; or a certified death certificate of the original agent. Third parties who deal with the successor agent shall be entitled to rely on the original power of attorney instrument with any such document attached.

I intend to create a durable power of attorney (herein referred to as "this power") pursuant to California Probate Code section 4000 and following, but specifically not including section 4700 and following relating to health care.

This power shall become effective upon my incapacity as determined in accordance with that Paragraph entitled **Determination of Incapacity** below. If after being determined incapacitated I should regain my capacity as determined in accordance with that Paragraph entitled **Capacity Regained** below, the powers granted herein to my attorney in fact shall cease.

I give my attorney in fact the powers specified 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.

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ARTICLE 1

POWERS

1.1. **Real and Personal Property.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable for the management or maintenance of any real or personal property in which I own an interest when this power is executed, or in which I later acquire an interest, including the power to acquire and convey ownership of property; control the manner in which property is managed, maintained, and used; change the form of title in which property is held; satisfy and grant security interests and other encumbrances on property; obtain and make claims on insurance policies covering risks of loss or damage to property; accept or remove tenants; collect proceeds generated by property; ensure that any needed repairs are made to property; exercise rights of participation in real estate syndicates or other real estate ventures; make improvements to property; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

1.2. **Securities.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable with respect to any securities that I own when this power becomes effective, or that are acquired thereafter, including the power to purchase and sell securities; exercise voting rights with respect to securities; collect dividends, interest, and any other proceeds generated by securities; transfer title to securities; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power. For the purposes of this paragraph, the term "securities" includes 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.

1.3. **Commodity Futures and Options.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable with respect to any commodity futures contracts and options that I own when this power becomes effective, or that are acquired thereafter, including the power to purchase, sell, or exercise commodity futures contracts and options; establish, modify, and terminate option accounts with a broker; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power. For the purposes of this paragraph, the term "options" means call and put options on stocks and stock indexes traded on a regulated option exchange.

1.4. **Financial Institutions.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable in connection with any financial institution in which I have an account or an interest in an account when this power is executed, or in which I later acquire an account or an interest in an account, including the power to continue, modify, or terminate existing accounts; open new accounts; draw, endorse, and deposit checks, drafts, and other negotiable instruments; prepare, receive, and deliver financial

statements; maintain or close safe deposit boxes; borrow money; apply for and receive travelers checks and letters of credit; extend payment periods with respect to commercial paper; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power. For the purposes of this paragraph, the term "financial institution" includes, but is not limited to, banks, trust companies, savings banks, commercial banks, building and loan associations, savings and loan companies or associations, credit unions, industrial loan companies, thrift companies, and brokerage firms.

1.5. **Business Operations.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable in connection with any business venture in which I have an interest when this power is executed, or in which I later acquire an interest, including the power to execute and enforce my obligations and rights as a partner in any general or limited partnership to the extent permitted by law and any applicable partnership agreement; enforce my rights as the holder of a bond or similar instrument issued by any business in which I have an interest; discharge my duties and enforce my rights in any sole proprietorship; expand, recapitalize, or reorganize any business to the extent my interest in that business allows; collect proceeds generated by any business in which I have an interest and to which I am entitled; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

1.6. **Insurance and Annuities.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable with respect to any insurance or annuity contracts in which I have an interest when this power is executed, or in which I later acquire an interest, including the power to acquire additional insurance coverage of any type or additional annuities; continue existing insurance or annuity contracts; agree to modifications in the terms of insurance or annuity contracts in which I have an interest; borrow against insurance or annuity contracts in which I have an interest, to the extent allowed under the contract terms; change beneficiaries under existing contracts and name beneficiaries under new contracts, including the power to designate himself or herself as the beneficiary; receive dividends, proceeds, and other benefits generated by the contracts; transfer interests in insurance or annuity contracts to the extent permitted under the terms of those contracts; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

1.7. **Retirement Plans.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable in order to maintain or participate in any retirement plan in which I have an interest when this power is executed, or in which I later acquire an interest, including the power to select the manner in which benefits under the plan are to be paid; designate beneficiaries under the plan, including the power to designate himself or herself as the beneficiary; make voluntary contributions to the plan; make rollovers from one plan into another; to the extent authorized by the plan, borrow from the plan and sell the assets of the plan; and perform any other acts described in

California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

1.8. **Estate, Trust, and Other Beneficiary Transactions.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable in order to act, to the extent an agent is permitted to do so by law and by any controlling instrument, with respect to any estate or trust in which I have an interest when this power is executed, or in which I later acquire an interest, including the power to receive payments to which I am entitled from any estate or trust; participate in all proceedings concerning any estate or trust in which I have an interest; execute disclaimers of any interests I may have in any estate or trust; convey or release any contingent interests I may have in any estate or trust; make any election available to a surviving spouse under California Probate Code sections 13502 or 13503; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power. For the purposes of this paragraph, the term "estate or trust" means all matters that affect a trust, probate estate, guardianship, conservatorship, escrow, custodianship, or other fund from which the principal is, may become, or claims to be entitled, as a beneficiary, to a share or payment. The powers described in this paragraph do not include the power to create, modify, or revoke trusts.

1.9. **Power to Create, Modify, and Revoke Trusts.** I give my attorney in fact the power to take any action he or she believes necessary or desirable with respect to trusts that exist when this power is executed or that are established thereafter (other than powers that I hold in a fiduciary capacity or solely by virtue of being a beneficiary of any trust), including the power to establish trusts for my benefit or the benefit of my dependents; contribute or transfer assets to any trust in which I have an interest; and exercise any power I may have as an individual (not as a fiduciary), other than as a trust beneficiary, such as borrowing trust assets, amending or revoking a trust agreement, and voting shares of stock, but subject to the limitation that any trust I have created may be modified or revoked by my attorney in fact only if expressly permitted by the trust instrument. This paragraph shall not be construed as limiting the authority of my attorney in fact to exercise any power, with respect to trusts, that I may hold in a fiduciary capacity or as a trust beneficiary, to the extent that such authority is specifically given elsewhere in this power.

1.10. **Powers Regarding Special Trusts.** The agent is authorized to execute and deliver revocable living trust agreements for the benefit of the principal or a class consisting of the principal's children, their issue, or both; to transfer assets to any existing or future revocable trust of which the principal is or becomes, either directly or through an attorney in fact, the settlor; and to amend, revoke or terminate such trusts as provided in the trust instrument, all so long as such acts do not substantially alter distribution of the principal's estate during the principal's lifetime or on the principal's death, and so long as all such acts do not cause adverse tax consequences for the principal's estate or the agent's estate.

The agent is authorized to establish any trust with the principal's assets for the benefit of a class consisting of the principal's children, their issue, or both.

The agent is authorized to transfer assets to any existing or future discretionary trust established by the principal, the principal's spouse, or any other person, for the benefit of the principal's child or children under a disability, so long as such transfers do not substantially alter distribution of the principal's estate during the principal's lifetime or on the principal's death, and so long as all such acts do not cause adverse tax consequences for the principal's estate or the agent's estate.

If the principal is in a long-term care facility, or if the attorney in fact believes in good faith that the principal's entry into such a facility is both necessary and imminent, the attorney in fact shall have the power to take any or all of the actions specified in Article 2, "POWERS RELATED TO LONG TERM CARE AND MEDI-CAL."

1.11. **Claims and Litigation.** I give my attorney in fact the power to take any actions he or she believes necessary or desirable with respect to any claim that I may have or that has been asserted against me and with respect to any legal proceeding in which I have an interest when this power is executed, or in which I later acquire an interest, including the power to institute, prosecute, and defend legal proceedings and claims on my behalf; file actions to determine adverse claims, intervene in litigation, and act as amicus curiae in any proceedings affecting my interests; seek preliminary, provisional, or intermediate relief on my behalf; apply for the enforcement or satisfaction of judgments that have been rendered in my favor; participate fully in the development of claims and proceedings; submit any dispute in which I have an interest to arbitration; submit and accept settlement offers and participate in settlement negotiations; handle all procedural aspects, such as service of process, filing of appeals, stipulations, verifications, waivers, and all other matters in any way affecting the process of any claim or litigation; fully participate in any voluntary or involuntary bankruptcy proceeding involving me or in which I am a claimant; satisfy judgments that have been rendered against me; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

1.12. **Tax Matters.** For any tax year beginning with and including the year 2000, I give my attorney in fact the power to prepare and file any and all documents and take all actions that are necessary or that he or she believes to be desirable with respect to my local, state, or federal tax liability, including the power to participate in audits; exercise my rights to protest and appeal assessments; pay amounts due to the appropriate taxing authority; execute waivers, consents, closing agreements, and similar documents related to my tax liability; participate in all procedural matters connected with my tax liability; exercise any elections that may be available to me under applicable state or federal tax laws or regulations; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

1.13. Personal and Family Maintenance. I give my attorney in fact the power to take any actions he or she believes necessary or desirable in order to effectively conduct my personal affairs and to discharge any and all obligations I may owe to myself and to family members and other third persons who are customarily or legally entitled to my support when this power is executed, or that are undertaken thereafter, including the power to take steps to ensure that our customary standard of living is maintained; arrange for medical and dental care; continue existing charge accounts, open new charge accounts, and make payments thereon; provide for transportation; maintain correspondence; prepare, maintain, and preserve personal records and documents; maintain membership in any social, religious, or professional organization and make contributions thereto; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

1.14. Pets. With respect to any animal that I own when this power is executed or that is acquired thereafter, I give my attorney in fact the power to take any actions he or she believes necessary or desirable in order to effectively maintain the animal, including the power to house, or to arrange for the housing, support, and maintenance of the animal, and to pay reasonable boarding, kenneling, and veterinary fees, or if the support and maintenance of the animal becomes unreasonably expensive, to dispose of the animal in a humane fashion, preferably by finding another home for the animal.

1.15. Gifts. I give my attorney in fact the power to make gifts, grants, or other transfers without consideration, of cash or other property, either outright or in trust, including the power to forgive indebtedness and consent to gift splitting under Internal Revenue Code section 2513 or successor sections. The powers granted under this paragraph shall be exercised, if at all, in favor of my spouse, any child of mine, or other dependents. Any gifts made pursuant to this paragraph shall not be future interests within the meaning of Internal Revenue Code section 2503, and the aggregate amount of any gifts made in any one calendar year to any one individual shall not exceed the amount that may be made free of federal gift tax to a person. The limitations in the preceding sentence shall not apply to any gifts that incur no federal gift tax, such as, for example, gifts that qualify for the unlimited federal gift tax marital deduction or charitable deduction.

1.16. Government Benefits. With respect to any government benefits either existing when this power is executed or accruing thereafter, whether in this state or elsewhere, I give my attorney in fact the power to take all actions he or she believes necessary or desirable, including the power to execute and deliver vouchers related to government benefits; take possession of and store property as allowed under any government benefit program in which I have an interest; prepare and submit claims for government benefits to which I may be entitled; collect proceeds due to me under any government benefit plan; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power. For the purposes of this paragraph, the term "government benefits" means benefits from social security, medicare, medicaid, or other governmental programs, or from civil or military service.

1.17. **Power to Nominate Conservator.** If proceedings are initiated for the appointment of a conservator of my person or my estate or both, I authorize my attorney in fact to nominate whatever individual in his or her discretion he or she believes appropriate as conservator of my person or my estate or both, including himself or herself. I authorize my attorney in fact to waive the requirement of a bond for any person appointed, if he or she believes such a waiver is appropriate.

1.18. **All Other Matters.** Except for those actions that conflict with or are limited by another provision in this power, I give my attorney in fact the power to act as my alter ego with respect to all matters and affairs that are not included in the other provisions in this power, to the extent that a principal can act through an agent. This paragraph does not authorize my attorney in fact to make health care decisions, as defined in California Probate Code section 4450 and following.

1.19. **Authority Under HIPAA and CMIA.** My agent shall be a personal representative of mine under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). As such, my agent has the same rights to inspect and obtain copies of any medical or other health information as I would have. My agent also has the right to authorize disclosure of my patient records and other medical or health information subject to and protected under HIPAA. Pursuant to the California Confidentiality of Medical Information Act (CMIA) and Section 4678 of the California Probate Code, my agent has the same rights to request, receive, examine, copy and consent to the disclosure of my medical or other health care information as I would have.

By creating this Durable Power of Attorney and by including this language, it is my specific intent that above authority is interpreted to the fullest extent to apply to any individually identifiable health or medical information, health care information or other medical records under the jurisdiction of HIPAA, CMIA or Section 4678 of the Probate Code.

1.20. **Incidental Powers.** In connection with the exercise of any of the powers described in the preceding paragraphs, I give my attorney in fact full authority, to the extent that a principal can act through an agent, to take all actions that he or she believes necessary, proper, or convenient, to the extent that I could take such actions myself, including the power to prepare, execute, and file all documents and maintain records; enter into contracts; hire, discharge, and pay reasonable compensation to attorneys, accountants, expert witnesses, or other assistants; engage in litigation regarding a claim in favor of or against the principal; execute, acknowledge, seal, and deliver any instrument; and perform any other acts described in California Probate Code section 4450 and following, except those acts that conflict with or are limited by a more specific provision in this power.

ARTICLE 2

POWERS RELATED TO LONG TERM CARE AND MEDI-CAL

2.1. **Long Term Care.** If the principal is in a long-term care facility, or if the attorney in fact believes in good faith that the principal's entry into such a facility is both necessary and imminent, the attorney in fact shall have the power to take any or all of the following actions:

(a) transfer all or a portion of the principal's assets to the principal's spouse who is not residing in or entering into a long-term care facility, or in the sound discretion of the attorney in fact, to the attorney in fact, for the purpose of making gifts. Such gifts are to be made when, in the discretion of the attorney in fact, (i) they would not interfere with entry to the long-term care facility which is most appropriate and comfortable for the principal and (ii) they are to receive it on the principal's death. Such gifts, if made, shall be made to the same persons, in the same portion, and on the same terms as the estate would be distributed upon the principal's death under the terms of the principal's Will or Revocable Trust.

(b) make any changes and/or amendments to any revocable trust of which the principal is a settlor, to effect the transfer of the principal's interest in the principal's personal residence to the principal's spouse. Such transfer is to take place in a manner and for reasons that are consistent with the provisions of California Welfare and Institutions Code Section 14006.2 or any replacement statute pertaining to such transfers of real property without jeopardizing the principal's existing or potential eligibility for Medi-Cal or any other form of governmental aid or assistance.

2.2. **Intent to Return to Principal Residence.** In the event I should be hospitalized or confined in a long term care facility, it is my intent that I will not indefinitely remain in said hospital or long term care facility, but that I will return to my principal residence upon termination of my stay at such facility.

2.3. **Power to Create an Irrevocable Life Estate.** In the event of the transfer of my residence to my spouse or my attorney in fact as provided above, my attorney in fact shall have the power to retain or reserve for me the right to occupy, use, and otherwise enjoy possession of said residence for the duration of my life, by a writing delivered to my spouse, the Trustee of my Trust, the Executor of my Will, or other person or persons requiring or benefiting from said notice.

2.4. **Self Dealing Authorized.** I give my attorney in fact the power to purchase any of my assets at fair market value, and to engage in any transaction he or she considers to be in my best interest, irrespective of any concurrent interest or benefit to him or her personally.

ARTICLE 3

AMPLIFYING PROVISIONS

3.1. **Determination of Incapacity.** For all purposes under this power, I shall be deemed "incapacitated" if and so long as a court of competent jurisdiction has made a finding to that effect or a guardian or conservator of my person or estate duly appointed by a court of competent jurisdiction is serving, or upon certification by two physicians (licensed to practice under the laws of the state where I am domiciled at the time of the certification) that I am unable properly to care for myself or for my person or property, which certification shall be made by each physician in a written declaration under penalty of perjury. A certified copy of the decree declaring incapacity or appointing a guardian or conservator, or the physicians' certificate 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.

3.2. **Capacity Regained.** After a determination of incapacity, I shall be deemed to have regained capacity by a finding of a court of competent jurisdiction to that effect, or when the guardianship or conservatorship for me has been judicially terminated, or upon certification by two physicians (licensed to practice under the laws of the state where I am domiciled at the time of the certification) that I am capable of properly caring for myself or am able to manage my person or property, which certification shall be made by each physician in a written declaration under penalty of perjury. A certified copy of the decree declaring my regained capacity or terminating the guardianship or conservatorship, or the physicians' certificate, 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.

3.3. **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 the powers conferred by me in this power. My attorney in fact shall keep records of any such expenditures and reimbursement.

3.4. **Reliance by Third Parties.** To induce third parties to rely upon the provisions of this power, I, for myself and on behalf of my heirs, successors, and assigns, hereby waive any privilege that may attach to information requested by my attorney in fact in the exercise of any of the powers described herein. Moreover, on behalf of my heirs, successors, and assigns, I hereby agree to hold harmless any third party who acts in reliance upon this power for damages or liability incurred as a result of that reliance. Revocation of this power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation.

3.5. **Release of Medical Information.** I authorize in advance all 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 requests. 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 my confirmation. All providers of health care may 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, and may honor that request on such a basis. I hereby 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, and I hold the provider of health care harmless for any liability for the release of such information.

3.6. **Ratification.** I ratify and confirm all that my attorney in fact does or causes to be done under the authority granted in this power. All instruments of any sort entered into in any manner by my attorney in fact shall bind me, my estate, my heirs, successors, and assigns.

3.7. **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.

3.8. **Revocation and Amendment.** I revoke all prior General Powers of Attorney that I may have executed and I retain the right to revoke or amend this document and to substitute other attorneys 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 4

GENERAL PROVISIONS

4.1. **Signature of Attorney in fact.** My attorney in fact shall use the following form when signing on my behalf pursuant to this power: "**LETTY O. COLLIGAN, by JOSEPH P. COLLIGAN**, her attorney in fact," or similar wording for any and all successors to that person named as the initial attorney in fact.

4.2. **Death, Renunciation, or Incapacity of Agent.** None of the following events shall be deemed to terminate this durable power of attorney:

4.2.1. The death of the agent or successor agent named herein.

4.2.2. The agent's or successor agent's renunciation of the agency granted by this document.

4.2.3. The agent's or successor agent's incapacity to act as agent under this durable power of attorney.

4.2.4. A vacancy in the office of the agent.

If any of the above events occurs, the authority of the agent or successor agent is suspended until a new, or successor agent is in office and acting as agent or successor agent under this instrument.

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

4.4. **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.

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

4.6. **Explanation of Durable Power for Property Management.** I understand that this power is an important legal document. Before executing this document, I declare that I understand: (1) this document provides my attorney in fact with broad powers to dispose, sell, convey, and encumber my real and personal property; (2) 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, and they will continue to exist notwithstanding my subsequent disability or incapacity; and (3) I have the right to revoke or terminate this power.

4.7. **Spousal Consent.** My agent shall have the power to give consents in accordance with California Probate Code section 3000-3154.

This durable power of attorney is executed by me on SEP 8 2004, 2004, in the City of Hayward, County of Alameda, State of California.

Letty O. Colligan
LETTY O. COLLIGAN

ACKNOWLEDGMENT

State of California)
) ss
County of Alameda)

On SEP 8 2004, 2004, before me, Edward J Pallat, Notary Public, personally appeared **LETTY O. COLLIGAN**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

EDWARD JAY PALLAT
Commission # 1338797
Notary Public - California
Alameda County
My Comm. Expires Jan 11, 2008

[SEAL]

Edward J Pallat
Signature of Notary Public