

Personal Services Contract

THIS AGREEMENT is made by and between RONALD R. OLSZAK (hereinafter called "RONALD") and JOHN J. OLSZAK, RONALD's son (hereinafter called "CAREGIVER").

WHEREAS, RONALD is suffering from a number of age related infirmities which substantially impact his ability to perform daily personal and financial management tasks; and

WHEREAS, RONALD desires that someone supervise his care at the nursing home on a regular basis to support his independence, autonomy, and well-being, and to provide advocacy in ways that will preserve RONALD's dignity; and

WHEREAS, the care provided pursuant to this Personal Services Contract is intended to supplement, and not duplicate the care and services already included in the Medicaid daily rate paid to the nursing home; and

WHEREAS, RONALD desires assistance with financial management including, but not limited to, investments, banking, insurance, financing, contracts, bill payment, and taxes; and

WHEREAS, without securing necessary assistance with the aforementioned services, RONALD will be at risk and may suffer harm; and

WHEREAS, RONALD has requested and CAREGIVER has agreed to provide such services, for compensation, as more particularly set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions of this Agreement, the parties agree as follows:

Article One Statement of Intent and Purpose

Section 1.01 Intent of Agreement

The parties expressly intend that the compensation paid for the services rendered hereunder be for reasonable fair market value in compliance with the Health Care Financing Administration ("HCFA") Transmittal No. 64, Section 3258.1.A.1. HCFA Transmittal No. 64 provides that relatives and family members can be paid for care provided to loved ones and that such payment shall not result in a penalty period provided that fair market value compensation has been paid for the services rendered. The parties declare that this agreement and the compensation hereunder are for valuable consideration and is not a transfer for "love and affection" or "love and consideration." Given the clear intent of this agreement, the parties shall take any action required to ensure that the compensation paid,

and the services rendered hereunder, are not deemed a transfer of assets that results in any period of Medicaid ineligibility under 42 U.S.C. 1396p(c).

In the event that any governmental agency challenges the reasonableness of the fair market value consideration paid hereunder, the parties shall submit this agreement as evidence to demonstrate that the compensation paid hereunder was for reasonable fair market value. In recognition of the difficulties and challenges that confront families needing to address long term care issues, the parties acknowledge the seriousness of this agreement, and shall take any and all steps necessary to prove its validity before any governmental agency, including attending a Medicaid Agency Conference, Fair Hearing and/or filing appeals through the courts.

Section 1.02 Purpose of Agreement

The purpose of this agreement is to memorialize the terms and conditions pursuant to which CAREGIVER shall plan, coordinate, supervise, monitor, perform, and advocate for the services identified in Article Two, entitled "Scope of Services," for the term stated in Section 3.01.

Article Two Scope of Services

For the term of this agreement, CAREGIVER shall furnish and provide the following services to RONALD:

Section 2.01 Health and Medical Care

CAREGIVER shall monitor and oversee RONALD's mental and physical health, and shall obtain and advocate for the services and care identified in this Section. It is CAREGIVER's responsibility to secure the services and treatment by qualified health care professionals to ensure RONALD's continuum of care. It is agreed, however, that CAREGIVER shall not perform medical care.

(a) Obtain Qualified Medical Care

CAREGIVER shall arrange, manage, and assist RONALD to obtain diagnoses and treatments by appropriate and qualified health care providers, including, but not limited to, doctors, dentists, ophthalmologists, audiologists, chiropractors, osteopathy providers, nurses, aides, hospitals, skilled nursing providers, custodial service providers, mental and physical health specialists, and rehabilitation therapists, which CAREGIVER deems necessary and reasonable to treat any physical and mental health ailments of RONALD.

(b) Costs of Medical Care

CAREGIVER shall not be personally liable for any costs of RONALD's medical care. All such expenses shall be the sole responsibility of RONALD.

Section 2.02 Personal Needs

CAREGIVER will assess and evaluate the personal needs and desires of RONALD, including, but not limited to, social, physical, entertainment, hobby, personal hygiene, and other personal factors. CAREGIVER shall provide or acquire such services, equipment, apparatus, supplies, goods, and wares, to meet the needs of RONALD.

(a) Personal Services

CAREGIVER shall provide services to assist with RONALD's personal hygiene including hair care, shaving, shopping for personal items, using and applying such personal items, finger nail and toe nail care, and incidental services as may be necessary.

(1) Shopping

CAREGIVER will shop (with RONALD's funds) to secure personal hygiene, clothing, shoes, hobby, entertainment, and other goods, wares, and services for RONALD's use and enjoyment.

(b) Laundry

CAREGIVER shall ensure that RONALD's clothes are washed, dried, folded, and hung or placed in the appropriate place within RONALD's personal living space.

Section 2.03 Visitation, Socialization & Entertainment

CAREGIVER shall visit with RONALD to facilitate RONALD's social interaction and entertainment. CAREGIVER will encourage, arrange, and coordinate visitations with RONALD's family members and friends. CAREGIVER will act as a conduit for communication by and to RONALD and RONALD's family, friends, and others. To accomplish this objective, CAREGIVER will assure that RONALD has access to the appropriate means of communication. In addition, CAREGIVER will provide transportation (at RONALD's expense) to take RONALD to visit relatives and friends, if feasible. CAREGIVER will also arrange for outings, at RONALD's expense, consistent with RONALD's lifestyle, hobbies, and desires, if feasible.

Section 2.04 Advocacy

(a) Social Services

At the appropriate time, CAREGIVER will advocate for social services to RONALD by qualified public and quasi-public social service personnel.

(b) Spokesperson

CAREGIVER shall act as RONALD's spokesperson and aid RONALD's attorney-in-fact as spokesperson to health care providers, nursing facility administrators and personnel, social service personnel, insurance companies, governmental personnel, and quasi-governmental staffs to secure benefits, services, funds, and resources.

(c) Advocate

CAREGIVER will advocate for and safeguard RONALD's rights under the law. This shall include, but is not limited to, advocacy with respect to the number of home care hours RONALD is entitled to receive under the state Medicaid program, appropriate placement in an assisted living facility or nursing home, or maintaining RONALD's independence in a less restrictive setting in the event others are forcing RONALD into a higher level of care unnecessarily.

Section 2.05 Financial Management

CAREGIVER will assist RONALD with investments, banking, insurance, financing, contracts, bill payment, taxes, and daily money management for the term of this agreement. To perform this service, CAREGIVER shall communicate and work with RONALD's attorney-in-fact under his Power of Attorney.

Article Three

Term and Compensation

Section 3.01 Term of Agreement

The services under this agreement shall be rendered on an as-needed basis over the lifetime of RONALD.

Section 3.02 Life Expectancy of RONALD

RONALD is presently 85 years of age. The life expectancy of RONALD as set forth by the Chief Actuary of the Social Security Administration is 6 years.

Section 3.03 Compensation

RONALD agrees to pay CAREGIVER the compensation as computed in this Section which is deemed reasonable fair market value for the services to be rendered by CAREGIVER for the term of this agreement.

Per Florida Statute § 709.2120:
The unreasonable refusal of a third party to allow an attorney-in-fact to act pursuant to the power granted herein, and challenges to the proper exercise of authority by the attorney-in-fact, may entitle the attorney-in-fact to damages and costs, including reasonable attorney's fees.

General Durable Power of Attorney

I, RONALD R. OLSZAK, of Fort White, Columbia County, Florida, am creating a durable power of attorney intended to comply with the Florida Power of Attorney Act (part II of chapter 709, Florida Statutes) as amended from time to time. I hereby revoke all powers of attorney previously granted by me as Principal and terminate all Agency relationships created by me except:

- (i) powers granted by me under any Designation of Health Care Surrogate;
- (ii) powers granted by me on forms provided by financial institutions granting the right to write checks on, deposit funds to and withdraw funds from accounts to which I am a signatory; and
- (iii) powers granting access to a safe deposit box.

Article One Appointment of Attorney-in-Fact

Section 1.01 Attorney-in-Fact

I appoint my son, JOHN J. OLSZAK, to serve as my Attorney-in-Fact (also referred to herein as "my Agent").

If JOHN J. OLSZAK resigns, dies, becomes incapacitated, is not qualified to serve, or declines or otherwise fails to serve, I appoint my daughter, MARLA ANN HOLCOMB, to serve as my successor Attorney-in-Fact.

Section 1.02 Authority to Delegate

Any serving Attorney-in-Fact may delegate, in writing, any of the Attorney-in-Fact's authority to any other Attorney-in-Fact that I have designated in this General Durable Power of Attorney to serve with the delegating Attorney-in-Fact or as a successor Attorney-in-Fact. The serving Attorney-in-Fact making a delegation under this provision may revoke the delegation at any time.

Section 1.03 Self-Dealing by Descendant

My descendant who is serving as my Attorney-in-Fact may engage in acts of self-dealing, even if state law restricts acts of self-dealing. Unless expressly prohibited by another provision of this Durable Power of Attorney, the Attorney-in-Fact may enter into and profit from transactions on my behalf in which my Attorney-in-Fact is personally interested, so long as the terms of the transaction are fair to me. For example, the Attorney-in-Fact may purchase property from me at its fair market value without court approval.

Section 1.04 Prior or Joint Attorney-in-Fact Unable to Act

A successor Attorney-in-Fact, or an Attorney-in-Fact serving jointly with another Attorney-in-Fact, may establish that the acting Attorney-in-Fact or joint Attorney-in-Fact has resigned, died, become incapacitated, is no longer qualified to serve, or declined or otherwise failed to serve as Attorney-in-Fact by signing an affidavit to that effect. The affidavit may (but need not) be supported by a death certificate of the Attorney-in-Fact, a certificate showing that a guardian or conservator has been appointed for the Attorney-in-Fact, a letter from a physician stating that the Attorney-in-Fact is incapable of managing his or her own affairs, or a letter from the Attorney-in-Fact stating his or her unwillingness to act or delegating his or her power to the successor Attorney-in-Fact.

Article Two

Effectiveness of Appointment - Durability Provision

Section 2.01 Effectiveness and Durability

The authority granted to my Attorney-in-Fact under this General Durable Power of Attorney shall be effective immediately upon signing.

This General Durable Power of Attorney is not terminated by lapse of time or my subsequent incapacity, except as provided in section 709.2109, Florida Statutes.

Section 2.02 Termination of General Durable Power of Attorney

This General Durable Power of Attorney shall expire at the earlier of:

- divorce or annulment of my marriage if my spouse is named as the as Attorney-in-Fact and I have made no provision for the naming of a successor Attorney-in-Fact;

- adjudication that I am totally or partially incapacitated by a court, unless the court determines that certain authority granted by this Durable Power of Attorney is to be exercisable by my Attorney-in-Fact;

- my death (except for post-death matters allowed under state law); or

- my revocation of this Durable Power of Attorney.

Section 2.03 Suspension of Attorney-in-Fact's Authority

If any person initiates judicial proceedings to determine my incapacity or for the appointment of a guardian advocate, the authority granted under this General Durable Power of Attorney is suspended until the petition is dismissed or withdrawn or the court enters an order authorizing my Attorney-in-Fact to exercise one or more powers granted under this General Durable Power of Attorney.

Article Three General Powers

I grant my Attorney-in-Fact the powers described in this Article so that my Attorney-in-Fact may act on my behalf. In addition, my Attorney-in-Fact may do everything necessary to exercise the powers listed below.

My Attorney-in-Fact may exercise any power described in this General Durable Power of Attorney on my behalf with respect to any real property I now own or may acquire in the future.

Section 3.01 Real and Personal Property Sales and Purchases

Unless specifically limited by the other provisions of this General Durable Power of Attorney, my Attorney-in-Fact may:

- (i) sell, exchange, and convey any interest I own in any kind of property, real or personal, including homestead property under Florida law or the laws of any other state, and determine the terms of sale and grant options with regard to sales;
- (ii) dispose of sales proceeds on my behalf as my Attorney-in-Fact determines is appropriate;
- (iii) buy any kind of property, real or personal, including homestead property under Florida law or the laws of any other state, and determine the terms for buying property and may obtain options to buy property;
- (iv) arrange to insure purchased property, and otherwise arrange for its safekeeping;
- (v) borrow money for the purposes described in this Section and to secure the loan in any manner my Attorney-in-Fact determines is appropriate, and repay the loan from my funds;
- (vi) pay for any purchases made; and
- (vii) repay any cash advanced from my credit cards.

Section 3.02 Real Property Management

My Attorney-in-Fact may manage any real property I now own or may acquire in the future, including my personal residence and homestead property under Florida law or the laws of any other state. Unless specifically limited by the other provisions of this General Durable Power of Attorney, my Attorney-in-Fact may:

- (i) declare, create, or execute a homestead on my personal residence under Florida law or the laws of any other state; and terminate, abandon, release, or give a waiver on any interest I have in a homestead;
- (ii) lease and sublease property for any period, and grant options to lease or subdivide property, even if the term of the lease, sublease or option extends beyond the term of this General Durable Power of Attorney;
- (iii) eject and remove tenants or other persons from property, and recover the property by all lawful means;
- (iv) collect and sue for rents;
- (v) execute occupancy agreements on my behalf;
- (vi) pay, compromise, or contest tax assessments and apply for tax assessment refunds;
- (vii) subdivide, partition, develop, dedicate property to public use without consideration, and grant or release easements over my real property;
- (viii) maintain, protect, repair, preserve, insure, build upon, improve, demolish, abandon, and alter all or any part of my real property;
- (ix) employ laborers;
- (x) obtain or vacate plats and adjust boundaries;
- (xi) adjust differences in the property's value on exchange or partition by giving or receiving consideration;
- (xii) release or partially release real property from a lien;
- (xiii) enter into any contracts, covenants, and warranty agreements regarding my real property that my Attorney-in-Fact considers appropriate; and
- (xiv) encumber property, including homestead property under Florida law or the laws of any other state, by mortgage or deed of trust.

Section 3.03 Homestead Property Limitation

In accordance with Section 709.2201(2)(b), Florida Statutes, unless there is waiver, consent or other valid and binding pre- or post-nuptial agreement in place, my Attorney-in-Fact may not mortgage or convey homestead property without joinder of my spouse or my spouse's guardian. Joinder by my spouse may be accomplished by the exercise of authority in a power of attorney executed by my spouse, and either my spouse or I may appoint the other as his or her Attorney-in-Fact.

Section 3.04 Residence and Tangible Personal Property

Without limiting any other authority granted in this General Durable Power of Attorney, if my Attorney-in-Fact determines that I will never be able to return to my residence from a hospital, hospice, nursing home, convalescent home, or similar facility, my Attorney-in-Fact may sell, lease,

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- (iii) eject and remove tenants or other persons from property, and recover the property by all lawful means;
- (iv) collect and sue for rents;
- (v) execute occupancy agreements on my behalf;
- (vi) pay, compromise, or contest tax assessments and apply for tax assessment refunds;
- (vii) subdivide, partition, develop, dedicate property to public use without consideration, and grant or release easements over my real property;
- (viii) maintain, protect, repair, preserve, insure, build upon, improve, demolish, abandon, and alter all or any part of my real property;
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