

## DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I  
[[Grantor]], of [[Grantor's Address]] do hereby make,  
constitute and appoint [[Attorney]] of [[Attorney's Address]]  
my true and lawful attorney for me and in my name, place  
and stead, and in my behalf, and for my use and benefit:

1. To exercise or perform any act, power, duty, right or  
obligation whatsoever that I now have, or may hereafter  
acquire the legal right, power, or capacity to exercise or  
perform, in connection with, arising from, or relating to any  
person, item, transaction, thing, business, property, real or  
personal, tangible or intangible, or matter whatsoever.

2. To request, ask, demand, sue for, recover, collect,  
receive, and hold, possess and invest all sums of money,  
debts, commercial paper, checks, drafts, accounts, deposits,  
bequests, devises, notes, interests, bonds, dividends,  
certificates of deposit, any and all documents of title,  
choses in action, and demands whatsoever, whether agreed  
to or disputed, as now are, or shall hereafter become,  
owned by, or due, owing payable, or belonging to, me or in  
which I have or may hereafter acquire any interest, to have,  
or use; and take all lawful means and equitable and legal  
remedies, procedures, and writs in my name for the  
collection and recovery thereof, and to adjust, sell,  
compromise, and agree for the same; and to make, execute,  
and deliver for me, on my behalf, and in my name, all  
endorsements, releases, receipts, or other proper discharges  
for the same as if done by me personally.

3. To maintain, repair, improve, manage, insure, rent,  
lease, grant, bargain, sell, exchange, pledge and contract for  
all of the foregoing, and in any way or manner deal with all  
or any part of any real or personal property whatsoever,  
tangible or intangible, or any interest therein, that I now  
own or may hereafter acquire, in my behalf, and in my  
name; and to effect any or all of the above-described  
transactions to any entities on such terms and at prices my  
attorney-in-fact may deem proper, and in my name to  
make, execute, acknowledge and deliver any deed of  
conveyance or other instrument, necessary to effect such  
transactions; and to ask for, demand, sue for, collect,  
recover and receive all monies which may become due and  
owing to me by reason of such transaction.

### Commented [sjm1]: WHO

The Grantor is the person appointing the Attorney to act on his or her behalf. The grantor should have the legal capacity to make a contract. This means the grantor should be at least 18 years old, cannot have not been judged incompetent, and cannot be subject to fraud or duress in granting the power of attorney.

... [1]

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... [2]

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The Attorney is the person being appointed by the Grantor. The Attorney will have the authority to act on the Grantor's behalf. Note that the word "attorney" is not used here to mean "lawyer". Almost anyone can be appointed an attorney by a power of attorney. The person does not need to be a lawyer.

... [3]

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... [4]

**Commented [sjm5]:** This first section of the Durable Power of Attorney includes a general broad grant of authority to the person acting as attorney.

The sections which follow serve to make clear that the specific authority mentioned in each section is included within the general broad grant. Read each of the subse...

... [5]

**Commented [sjm6]:** This provision gives your attorney authority to deal with a number of financial matters. In particular, your attorney may collect amounts owed to you, pursue claims and settle claims in dispute. After collecting amounts owed to you, the attorney may invest those funds for your benefit.

**Commented [sjm7]:** "Choses" is not a misspelling.

"Choses in action" is a legal phrase that basically refers to any claims the Grantor could sue for, but hasn't sued for yet. In other words, if the Grantor has a case for a lawsuit, but hasn't sued yet, the Attorney may sue on behalf of the Grantor.

**Commented [sjm8]:** This provision enables your attorney to deal with a broad range of real estate matters. The authority covers both real estate you own when creating the Durable Power of Attorney or acquire after the authority is granted. For example, your attorney may mortgage your real estate or lease it to someone else. Your attorney may also exchange your real estate, for other real estate.

4. To conduct, engage in, and transact any and all lawful business of whatever nature or kind for me, on my behalf and in my name.

**Commented [sjm9]:** This provision includes a general statement of a attorney's authority to deal with all business matters.

5. To receive, deposit, hold, invest or cash all payments which I receive from Social Security, Medicare or any other government program or agency, annuities, pension and retirement benefits, insurance benefits and proceeds and to request, ask, demand, sue for and recover same.

**Commented [sjm10]:** This section grants the attorney the power to deal with Social Security claims and other similar issues. One of the key benefits of a durable power of attorney is to make sure that, if you are incapacitated, your attorney can help you arrange Social Security, Medicare or other similar benefits.

6. To make, receive, sign, endorse, execute, acknowledge, deliver, and possess such applications, contracts, agreements, options, covenants, conveyances, deeds, trust deeds, security agreements, bills of sale, leases, mortgages, assignments, insurance policies, bills of lading, warehouse receipts, documents of title, bonds, debentures, checks, drafts, bills of exchange, letters of credit, notes, stock certificates, proxies, warrants, commercial paper, receipts, withdrawal receipts and deposit instruments relating to accounts or deposits in, certificates of deposit of, or investments with or through banks, savings and loan brokers, mutual fund companies or other institutions or associations, proofs of loss, evidences of debts, releases, and satisfaction of mortgages, lien, judgments, security agreements and other debts and obligations and such other instruments in writing of whatever kind and nature as may be necessary or proper in the exercise of the rights and powers herein granted.

**Commented [sjm11]:** This power permits your attorney to sign and deliver a variety of documents on your behalf. In addition to contracts, the attorney is authorized to sign deeds, checks, notes, stock certificates and many other documents and instruments. While it is likely that this power covers any documents your attorney will need to sign, review the language carefully to make sure the power granted is appropriate for your situation.

7. To enter any safe deposit box, vault or other storage area leased by me alone or in conjunction with any other person, to sign such documents as may be necessary to gain access to same, and to examine, remove and keep the contents of same fully as I could if I were present.

**Commented [sjm12]:** With this provision, your attorney is authorized to enter your safe deposit boxes and other private storage areas. Your attorney may remove the contents you have stored.

8. To prepare, or cause to be prepared, federal, state and local tax returns and Internal Revenue Service, state and local powers of attorney; to execute and file federal, state and local tax returns on my behalf and in my name; to respond to notices and audit inquiries and to settle tax disputes.

**Commented [sjm13]:** This section authorizes the attorney to act on your behalf in dealing with tax matters.

Note that the Internal Revenue Service, and often state taxing authorities, have their own unique power of attorney forms. The Internal Revenue Service may not be required to accept your power of attorney, and may demand that you execute an IRS approved form before it will deal with your representative.

9. To deal with and elect options under retirement plans including but not limited to annuities, pension plans, profit sharing plans, individual retirement accounts, rollovers,

**Commented [sjm14]:** This section authorizes your attorney to deal with matters involving your retirement plans, life insurance and other similar matters. This authority is common with durable powers, as you may need for your attorney to deal with these matters if you are incapacitated.

transfer and voluntary contributions of same; to apply for and maintain life insurance; to complete charitable contributions; to make statutory elections and disclaimers; and to settle, pursue, or appeal litigation on my behalf and in my name.

10. To make, execute, deliver and complete gifts of my property, whether real or personal, tangible or intangible, and without regard to whether such gifts are a part of estate planning or otherwise, and regardless of whether such gifts are a part of a pattern begun by me.

11. I grant to said attorney full power and authority to do, take, and perform, all and every act and thing whatsoever requisite, proper, or necessary to be done, in the exercise of any of the rights and powers herein granted, as fully for all intents and purposes as I might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that said attorney, or his substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted.

12. No person shall be required to inquire as to the circumstances of the issuance or use of this instrument or as to the disposition of any proceeds paid to my attorney based on this instrument.

#### [When Effective]

As used herein, "disability" or "incapacity" shall mean that my ability to receive and evaluate information effectively or to communicate decisions, or both, is impaired to such an extent that I lack the capacity to manage my financial resources as determined by the certification of one licensed physician, and shall include by inability to take actions due to involuntary detention or disappearance, as determined by affidavit of one party with knowledge regarding the same. I hereby waive any physician-client privilege for this limited purpose and authorize the disclosure or such certification by the physician to my agent for use by that person as necessary hereunder.

#### [Compensation of Agent]

If this Durable Power of Attorney is terminated by operation of law, any person acting in reliance upon it without notice of such termination shall be held harmless. The enumeration of specific terms, rights, acts or powers is not intended to limit the definition or scope of powers granted herein.

IN WITNESS WHEREOF, [Grantor] has executed this Durable Power of Attorney on \_\_\_\_\_ at \_\_\_\_\_.

[Grantor] \_\_\_\_\_

Notary's Acknowledgment

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

On this \_\_\_\_\_, before me personally appeared [Grantor], to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that [Grantor] executed the same as [His/Her] free act and deed.

\_\_\_\_\_  
Notary Public

**Commented [sjm20]: WHO**

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**IMPORTANT TIP**

When filling in the Grantor's address, be sure to include the street address, city, county and state. This will help to ensure that there is no confusion about the identity of the person granting the power of attorney. For example: "5000 Peachtree, Atlanta, County of Fulton, Georgia".

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**Commented [sjm22]:** It may be necessary for your Durable Power of Attorney to be notarized to be effective in your state. If the law does not require notarization and you do not intend to record a copy, it probably does not need to be notarized. In that case, you may delete the notary form following the line for the grantor's signature.

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**Commented [sjm25]: WHAT**

Enter the appropriate pronoun for the Grantor.

**WHY**

While the distinction between "his" and "her" is usually trivial (using "his/her" is often acceptable), a notary public may feel uncomfortable with an acknowledgment containing "his/her". Notaries take their public responsibilities ve... [6]

**Page 1: [1] Commented [sjm1] User**

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**HOW**

These fields allow you to enter or change information on the Grantor. %AppName% will use this information to complete several Decision Points throughout the document.

**Page 1: [2] Commented [sjm2] User**

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Take care in selecting your attorney. The person you choose should be someone you trust and can rely on to use good judgment. If you have given the person specific instructions, you should be confident that the person will act within your instructions. Be aware that if the attorney exceeds his or her authority, and signs a contract that you did not desire, you may be bound to the contract anyway. If the person dealing with your attorney had no reason to believe that he or she was exceeding the authority you granted, the contract is binding. You may still have the right to sue your attorney for exceeding his or her authority, but this is usually a very unattractive option.

**IMPORTANT TIP**

When filling in the Attorney's address, be sure to include the street address, city, county and state. For example: "1500 Main Street, Detroit, County of Wayne, Michigan".

**Page 1: [4] Commented [sjm4] User**

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#### IMPORTANT TIP

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#### Page 1: [5] Commented [sjm5] User

This first section of the Durable Power of Attorney includes a general broad grant of authority to the person acting as attorney.

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#### Page 4: [6] Commented [sjm25] User

##### WHAT

Enter the appropriate pronoun for the Grantor.

##### WHY

While the distinction between "his" and "her" is usually trivial (using "his/her" is often acceptable), a notary public may feel uncomfortable with an acknowledgment containing "his/her". Notaries take their public responsibilities very seriously, and will tend to prefer a document where the pronoun is specific.