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# Delaware Durable Personal Power of Attorney

## **Notice to Principal**

As the person signing this durable power of attorney, you are the Principal. The purpose of this power of attorney is to give the person you designate (your "Agent") broad powers to handle your property, which may include powers to sell, dispose of, or encumber any real or personal property without advance notice to you or approval by you.

This power of attorney does not authorize your Agent to make health-care decisions for you.

Unless you specify otherwise, your Agent's authority will continue even if you become incapacitated, or until you die or revoke the power of attorney, or until your Agent resigns or is unable to act for you. You should select someone you trust to serve as your Agent.

This power of attorney does not impose a duty on your Agent to exercise granted powers, but when powers are exercised, your Agent must use due care to act for your benefit and in accordance with this power of attorney.

Your Agent must keep your funds and other property separate from your Agent's funds and other property.

A court can take away the powers of your Agent if it finds your Agent is not acting properly.

The powers and duties of an Agent under a durable power of attorney are explained more fully in Delaware Code, Title 12, Chapter 49A, Section 49A-114 and Sections 49A-201 through 49A-217.

If there is anything about this form that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

I have read or had explained to me this notice and I understand its contents.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Date

## Durable Personal Power of Attorney Form

As the person completing this form, you are the Principal. This form gives another person the power to act on your behalf. The other person is your Agent.

This form allows you to designate:

- (1) one Agent at a time and up to two Agents in succession;
- (2) two or more Agents who may act independently of each other (Concurrent Agents); or
- (3) two or more Agents who must act together (Joint Agents).

If your Agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor Agent(s).

IF YOU HAVE QUESTIONS ABOUT THIS POWER OF ATTORNEY OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT(S), YOU SHOULD SEEK LEGAL ADVICE BEFORE COMPLETING AND SIGNING THIS FORM.

### *Designation of Agent*

I, \_\_\_\_\_, name the following person(s) as my  
(Name of Principal)

#### **Agent(s):**

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

#### DESIGNATION OF ADDITIONAL OR SUCCESSOR AGENTS (OPTIONAL)

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

If more than one Agent has been named above, I intend for those Agents to:

- \_\_\_\_\_ Act successively, one after the other.
- \_\_\_\_\_ Act concurrently, independent of each other.
- \_\_\_\_\_ Act jointly, such that neither may act alone.

You must sign ONE of these two choices:

\_\_\_\_\_ This power of attorney is effective immediately, and shall not be affected by my subsequent incapacity.  
Sign here if this is your choice

\_\_\_\_\_ This power of attorney is effective only if and while I am incapacitated as determined under 12 Del. C. § 49A-109(c).  
Sign here if this is your choice

#### *Grant of General Authority*

You should READ the terms of each category of power or authority listed below before granting any of them to your Agent(s). A full explanation of each power or authority is in the Delaware Code. The Delaware Code is available online.

Search: Delaware Code, Title 12, Chapter 49A, and then go to the number next to the category. Example: Real Property, Section (§) 49A-204. The Delaware Code may also be available at your local library.

I grant my Agent(s) general authority to act for me with respect to the following categories of powers. INITIAL each category you want to include in the Agent's general authority. CROSS OUT each category you do not want to include in the Agent's general authority.

If you do not initial a category listed below, powers associated with that category will NOT be included as part of your Agent's general authority.

- \_\_\_\_\_ Real Property § 49A-204
- \_\_\_\_\_ Tangible Personal Property § 49A-205
- \_\_\_\_\_ Stocks and Bonds § 49A-206
- \_\_\_\_\_ Commodities and Options § 49A-207
- \_\_\_\_\_ Banks and Other Financial Institutions § 49A-208
- \_\_\_\_\_ Operation of Entity or Business § 49A-209
- \_\_\_\_\_ Insurance and Annuities § 49A-210
- \_\_\_\_\_ Estates, Trusts, and Other Beneficial Interests § 49A-211
- \_\_\_\_\_ Claims and Litigation § 49A-212
- \_\_\_\_\_ Personal and Family Maintenance § 49A-213
- \_\_\_\_\_ Benefits from Governmental Programs or Civil or Military Service § 49A-214
- \_\_\_\_\_ Retirement Plans § 49A-215
- \_\_\_\_\_ Taxes § 49A-216
- \_\_\_\_\_ Gifts § 49A-217

*Grant of Specific Authority*

Giving your Agent(s) any of the following powers will give your Agent(s) the authority to take actions that could significantly reduce your property or change how and to whom your property is distributed at your death.

You should READ the terms describing each power before granting any of them to your Agent(s). INITIAL each power you want to include in the Agent's authority. CROSS OUT each power you do not want to include in the Agent's authority.

If you do not initial a power listed below, it will NOT be included as part of your Agent's specific authority.

- \_\_\_\_ Create, amend, revoke, or terminate an inter vivos trust
- \_\_\_\_ Make a gift in excess of the limitations provided in the Durable Personal Power of Attorney Act, 12 Del. C. § 49A-217
- \_\_\_\_ Create or change rights of survivorship
- \_\_\_\_ Create or change a beneficiary designation
- \_\_\_\_ Delegate authority granted under the power of attorney when all successor Agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve
- \_\_\_\_ Exercise fiduciary powers that the Principal has authority to delegate
- \_\_\_\_ Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from estate, trust, or other beneficial interest

Any person, including my Agent(s), may rely upon this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

*Revocation of Prior Power of Attorney*

If you have previously executed a power of attorney granting authority covered in this document, indicate below whether or not you wish to revoke the prior power of attorney. **Initial** your selection below:

- \_\_\_\_\_ All my previously executed powers of attorney are hereby revoked.
- \_\_\_\_\_ My previously executed powers of attorney hereby remain in effect.
- \_\_\_\_\_ Other. Explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IF YOU HAVE QUESTIONS ABOUT THIS POWER OF ATTORNEY OR THE AUTHORITY YOU ARE GRANTING TO YOUR AGENT(S), YOU SHOULD SEEK LEGAL ADVICE BEFORE SIGNING THIS FORM.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
Principal's Signature

\_\_\_\_\_  
Print Principal's Name

SIGNED, SEALED, AND DECLARED by the Principal, \_\_\_\_\_, as his/her Durable Personal Power of Attorney in the presence of the following witness, who has signed in the presence of and at the request of the Principal on the day and year appearing above.

I, the witness, swear that I am not related to the Principal by blood, marriage, civil union, or adoption; and that I am not entitled to any portion of the estate of the Principal under the Principal's current will or codicil, or under any current trust instrument of the Principal.

\_\_\_\_\_ of \_\_\_\_\_  
(Seal) Witness Signature

\_\_\_\_\_  
Print name

STATE OF DELAWARE :: SS.

COUNTY OF \_\_\_\_\_ :

This Durable Power of Attorney was signed by the Principal, witnessed by the person aforesaid, and acknowledged before me, the Subscriber, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

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

## Statement to Agent

### *Agent's Duties*

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the Principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

- (1) do what you know the Principal reasonably expects you to do with the Principal's property or, if you do not know the Principal's expectations, act in the Principal's best interest;
- (2) act in good faith;
- (3) do nothing beyond the authority granted in this power of attorney;
- (4) disclose your identity as an Agent whenever you act for the Principal by writing or printing the name of the Principal and signing your own name as "Agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

and

- (5) to the extent reasonably practicable under the circumstances, keep in regular contact and communication with the principal.

Except as otherwise provided in the power of attorney, you must also:

- (1) not act for your own benefit;
- (2) avoid conflicts that would impair your ability to act in the Principal's best interest;
- (3) act with care, competence, and diligence;
- (4) keep a record of all receipts, disbursements, and transactions made on behalf of the Principal;
- (5) cooperate with any person who has authority to make health-care decisions for the Principal; and
- (6) not act in a manner inconsistent with the Principal's testamentary plan.

### *Termination of Agent's Authority*

You must stop acting on behalf of the Principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate this power of attorney or your authority to act under it include:

- (1) death of the Principal;
- (2) the Principal's revocation of the power of attorney or your authority;
- (3) the occurrence of a termination event stated in the power of attorney;
- (4) the purpose of the power of attorney is fully accomplished; or
- (5) an action is filed with a court for your separation, annulment, or divorce from the Principal, unless the Principal otherwise provided in the power of attorney that such action will not terminate your authority.

*Liability of Agent*

The authority granted to you is specified in the Durable Personal Power of Attorney Act, Delaware Code, Title 12, Chapter 49A. If you violate the Act, or act outside the scope of the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your powers, authority, or duties as Agent that you do not understand, you should seek legal advice.

*Agent's Certification*

I, \_\_\_\_\_, have read the attached durable power of attorney and the foregoing statement, and I am the person identified as the Agent for the Principal. To the best of my knowledge, this power has not been revoked. I hereby acknowledge that, in the absence of a specific provision to the contrary in the durable power of attorney, when I act as Agent:

- I shall exercise my powers for the benefit of the Principal.
- I shall keep the assets of the Principal separate from my assets.
- I shall exercise reasonable caution and prudence.
- I shall keep a full and accurate record of all actions, receipts and disbursements on behalf of the Principal.
- I shall, to the extent reasonably practicable under the circumstances, keep in regular contact with the Principal and communicate with the Principal.

\_\_\_\_\_  
Agent Signature

\_\_\_\_\_  
Date

Effective October 1, 2010