Delaware | Statutory financial power of attorney

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Read the source statute

DURABLE

PERSONAL POWER OF ATTORNEY FORM NOTICE

NOTICE

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

INSTRUCTIONS

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.

The following form may, but need not, be used to create a durable personal power of attorney. The other sections of this chapter govern the effect of this or any other writing used to create a durable personal power of attorney. A durable personal power of attorney that varies from the following form shall not be deemed to be invalid based solely upon such variance.

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 I have named more than one Agent above, I intend for those Agents to:

_____

_____ Act successively, one after the other

_____ Act concurrently, independent of each other

_____ Act jointly, not independent of each other

EFFECTIVE DATE

You must sign ONE of these two choices:

_____(Sign here if this is your choice) This power of attorney is effective immediately, and shall not be effected 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).

GRANT OF GENERAL AUTHORITY

I grant my Agent and any successor Agent general authority to act for me with respect to the following powers described in more detail as defined in the Durable Personal Power of Attorney Act, Delaware Code, Title 12, Chapter 49A.

You should READ the terms of each category of power or authority before granting any of them to your Agent. 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.

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

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

PROCEED WITH CAUTION

Giving your Agent any of the following powers will give your Agent 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.

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 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

RELIANCE ON THIS POWER OF ATTORNEY

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

SIGNATURE AND ACKNOWLEDGMENT

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_____ .

_____ (SEAL)

Witness Signature_____Your Signature

_____

Print Your Name_____Print Your Name

I, the witness, swear that I am not related to the Principal by blood, marriage, 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

STATE OF DELAWARE :

: SS.

COUNTY OF _____ :

This Durable Power of Attorney was acknowledged before me by _____ this _____ day of _____ 20_____ .

_____ Notarial Office

IMPORTANT INFORMATION FOR 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; and

(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

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 meaning of the authority granted to you is defined in the Durable Personal Power of Attorney Act, Delaware Code, Title 12, Chapter 49A. If you violate the Durable Personal

Power of Attorney Act, Delaware Code, Title 12, Chapter 49A, or act outside 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, (Name of Agent), have read the attached durable personal power of attorney and I am the person identified as the Agent or identified as the Agent for the Principal. To the best of my knowledge this power has not been revoked. I hereby acknowledge that, when I act as Agent, I shall:

Act in accordance with the principal's reasonable expectations to the extent actually known to me and, otherwise, in the Principal's best interest;

Act in good faith;

Act only within the scope of authority granted in the personal power of attorney; and

To the extent reasonably practicable under the circumstances, keep in regular contact with the principal and communicate with the principal.

In addition, in the absence of a specific provision to the contrary in the durable personal power of attorney, when I act as Agent, I shall:

Keep the assets of the Principal separate from my assets;

Exercise reasonable caution and prudence; and

Keep a full and accurate record of all actions, receipts and disbursements

on behalf of the Principal.

_____

_____Agent_____Date