

## POWERS OF ATTORNEY

A Power of Attorney is a written document in which you authorize someone (known as your “attorney-in-fact” or “agent”) to conduct certain business on your behalf. The business conducted by the agent is legally binding upon you, meaning you will be responsible for the cost of any contract or expense that person incurs while acting under your authorization. There are two types of powers of attorney: **General** and **Special**. While General powers entail a broad grant of authority to act on your behalf, Special powers only permit your agent to perform specific actions and make specific decisions.

For example, you may authorize your agent to:

- Buy and sell real or personal property.
- Ship your household goods.
- Cash your paychecks.
- Authorize medical care for your children.
- Deal with Life Insurance policies.
- Create or amend Trusts.

It is important to note that third parties, such as banks and other businesses, do not have to accept your power of attorney. Some institutions have their own power of attorney form, which they could require you to use. Remember to check with the business where your agent will use the power of attorney to ensure that it will be accepted.

Since a power of attorney is such a powerful document, you should only give it to a trustworthy person, and only when necessary. Your local legal assistance office can advise you on whether a power of attorney is appropriate for your situation and, if so, can prepare the appropriate power of attorney for you.

### **General Power of Attorney**

A General power of attorney gives your agent the authority to do almost anything you could do if you were present, such as write checks, borrow money, and enter into contracts *in your name*. Along with broad authority, this type of power of attorney carries a broader potential for abuse. With a General power of attorney, your agent could empty your bank account or sell your most cherished possessions. For this reason, it is particularly important that the person whom you select as your agent be trustworthy.

### **Special Power of Attorney**

A Special power of attorney grants limited authority to your agent, empowering that person to do only acts which are specified in the document. The agent’s actions are restricted to those which you have specifically designated in your power of attorney document; this carries a much lower potential for abuse than a General power of attorney. Additionally, Special powers of attorney are often considered to be more indicative of your actual intent than General powers, and as such they are more likely to be accepted by businesses and government agencies.

### **Durable Power of Attorney**

A Durable power of attorney may be either General **or** Special. Durable powers of attorney allow agents to act on your behalf, even after you’ve suffered an incapacitating illness or accident. For example, the agent can use your funds to pay your bills and contract for nursing home services for your benefit.

## Frequently Asked Questions

### Why would I want to give someone power of attorney?

Convenience is one reason. If you do not wish to (or cannot) appear in person to close a transaction, you may want to create a power of attorney. In addition, you can create powers of attorney to prepare for situations when you may not be able to act on your own behalf due to absence or incapacity, which may be temporary (e.g., due to travel, accident, or illness) or permanent.

### Who should I select as my agent?

While many people choose a spouse, adult child, or other family member, there are no special requirements for someone to act as an agent, provided that the person is not a minor or otherwise incapacitated. The best choice is someone you trust.

### When does my agent's authority to act begin?

You can indicate in your power of attorney document when you want the agent's power to begin or end. You can select a certain date, or condition the authority on the occurrence of a particular event (e.g., deployment). If you do not specify a date or event that will trigger the power of attorney, your agent will have authority once you sign the document and give it to him or her.

### How should my attorney-in-fact demonstrate that he or she is acting on my behalf?

When signing or endorsing any instrument on your behalf, your attorney-in-fact should use the following signature: **Your Name by Attorney-In-Fact's Name, Attorney-In-Fact.** Example: George W. Bush by Laura Bush, Attorney-In-Fact.

### When does my agent's authority end?

- On the date indicated in the power of attorney
- On the occurrence of an event described in the power of attorney
- When you die
- When you become incompetent (provided that the power is not Durable)
- When you revoke the power, either by: (a.) destroying the original document; or (b.) signing a statement that the power is revoked and providing that statement to your agent, as well as to any institutions where the power of attorney may have been used.
- When your agent resigns or dies
- When a court invalidates the power of attorney

### How can I protect myself against abuse of my power of attorney?

Do not give someone a power of attorney unless there is a need to do so. One suggestion is to keep an unsigned power of attorney and then sign it when you deploy, assuming you still need it. Also, never use a General power of attorney when a Special power of attorney would be sufficient.