

# **STATUTORY DURABLE POWER OF ATTORNEY**

(Texas Probate Code § 490)

**SPECIAL NOTE:** Texas Probate Code § 489 provides "A durable power of attorney for a real property transaction requiring the execution and delivery of an instrument that is to be recorded, including a release, assignment, satisfaction, mortgage, security agreement, deed of trust, encumbrance, deed of conveyance, oil, gas, or other mineral lease, memorandum of a lease, lien, or other claim or right to real property, shall be recorded in the office of the county clerk of the county in which the property is located.

**NOTICE:** *THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, CHAPTER XII, TEXAS PROBATE CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.*

I, \_\_\_\_\_,  
(insert your name and address)

appoint \_\_\_\_\_  
(insert the name and address of the person appointed)

as my agent (attorney-in-fact) to act for me in any lawful way with respect to all of the following powers except for a power that I have crossed out below.

**TO WITHHOLD A POWER, YOU MUST CROSS OUT EACH POWER WITHHELD:**

- \_\_\_\_\_ Real property transactions;
- \_\_\_\_\_ Tangible personal property transactions;
- \_\_\_\_\_ Stock and bond transactions;
- \_\_\_\_\_ Commodity and option transactions;
- \_\_\_\_\_ Banking and other financial institution transactions;
- \_\_\_\_\_ Business operating transactions;
- \_\_\_\_\_ Insurance and annuity transactions;
- \_\_\_\_\_ Estate, trust, and other beneficiary transactions;
- \_\_\_\_\_ Claims and litigation;
- \_\_\_\_\_ Personal and family maintenance;
- \_\_\_\_\_ Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;
- \_\_\_\_\_ Retirement plan transactions;
- \_\_\_\_\_ Tax matters.

**IF NO POWER LISTED ABOVE IS CROSSED OUT, THIS DOCUMENT SHALL BE CONSTRUED AND INTERPRETED AS A GENERAL POWER OF ATTORNEY AND MY AGENT (ATTORNEY IN FACT) SHALL HAVE THE POWER AND AUTHORITY TO PERFORM OR UNDERTAKE ANY ACTION I COULD PERFORM OR UNDERTAKE IF I WERE PERSONALLY PRESENT.**

**SPECIAL INSTRUCTIONS:**

Special instructions applicable to gifts (initial in front of the following sentence to have it apply):

\_\_\_\_\_ I grant my agent (attorney in fact) the power to apply my property to make gifts, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.

**ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.**

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**UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.**

**CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE ALTERNATIVE NOT CHOSEN:**

- (A) This power of attorney is not affected by my subsequent disability or incapacity.
- (B) This power of attorney becomes effective upon my disability or incapacity.

**YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED.**

**IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT YOU CHOSE ALTERNATIVE (A).**

If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or mental condition to

another person for purposes of this power of attorney. A third party who accepts this power of attorney is fully protected from any action taken under this power of attorney that is based on the determination made by a physician of my disability or incapacity.

I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

If any agent named by me dies, becomes legally disabled, resigns, or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Signature of Principal)

\_\_\_\_\_  
(City, County, and State of Residence)

STATE OF TEXAS

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

This document was acknowledged before me on \_\_\_\_\_ by  
(Date)

\_\_\_\_\_  
(Name of Principal)

\_\_\_\_\_  
(Signature of Notarial Officer)

(Seal, if any, of notary)

\_\_\_\_\_  
(Printed Name)

My commission expires: \_\_\_\_\_ (Date)

THE ATTORNEY IN FACT OR AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.