

# POWERS OF ATTORNEY

**A Power of Attorney (POA) is a legal document whereby an adult appoints one or more people to look after his/her legal and financial affairs. As such, the POA is a very powerful document and should only be granted to trusted individuals after careful consideration.**

Why should you consider appointing someone as your Attorney?

- As a precaution in the event that you experience an illness (i.e. stroke, Alzheimer's disease) or have an accident that incapacitates you and prevents you from acting on your own behalf.
- If you may be out of town when a legal or financial transaction takes place.

## **What is an "enduring" Power of Attorney?**

- A POA is "enduring" when the attorney appointed may continue to act for the adult even if the adult becomes mentally incompetent. For POAs made before September 1, 2011 the document contains the declaration: *I declare that this Power of Attorney may be exercised during any subsequent mental infirmity on my part.*

**Most POAs written for estate planning are enduring and they take effect from the minute that the POA is signed.** If you are not comfortable with giving this authority right away you may determine under which circumstances the POA may be used. The Power of Attorney Act changed Sept. 1, 2011 and allows more flexibility in drafting. POAs written before Sept. 1, 2011 are grandfathered and continue to be valid despite the new Act.

What happens if you have not appointed someone as your Attorney and you become mentally incapacitated?

- Without appointing someone with an enduring POA, no one has the legal right to act on your behalf (not even your spouse!). Unless your finances are all held jointly with someone else, your finances cannot be used to pay your rent, utilities and other expenses. If you have assets like a home or a vehicle, they cannot be sold even if you no longer live in the home or drive the vehicle. Of particular importance, a home or land held jointly by two or more individuals requires the signatures of all individuals to sell, mortgage or otherwise deal with.
- Once an individual has become incapacitated he/she can no longer appoint an Attorney. In this instance the Public Guardian and Trustee will administer his/her affairs. If a family member or friend would like to take control of a loved one's affairs he/she must hire a lawyer and apply to the courts for legal appointment called *Committee*. This is a costly and lengthy process as opposed to giving a POA. Furthermore, the person named as Committee will have to report to the Public Guardian and Trustee as to what decisions they have made and how money has been spent. Most people find the obligations of a Committee onerous and intrusive.

**A POA is a revocable document. If you decide that the person you have appointed is no longer suitable, you may cancel or revoke his/her appointment. A POA ceases upon death and that is when your Last Will and Testament takes over.**

*Compliments of:*

## **FEDEWICH & WITT**

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## ENDURING POWER OF ATTORNEY

Date: \_\_\_\_\_ Appointment to sign: \_\_\_\_\_

**FULL NAME OF ADULT (PERSON GIVING POWER OF ATTORNEY) (include any aliases)**

(1) \_\_\_\_\_

(2) \_\_\_\_\_

Address: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Email: \_\_\_\_\_

Consent from client to e-mail drafts? [ ] Yes [ ] No

Tel (res): \_\_\_\_\_ (bus/cell): \_\_\_\_\_

Occupation: (1) \_\_\_\_\_ (2) \_\_\_\_\_

Prior Powers of Attorney? **Y / N** Are they being revoked? **Y / N**

Details of prior PoA: \_\_\_\_\_

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### 1<sup>st</sup> Document

Attorney

Attorney

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

Relationship: \_\_\_\_\_ Relationship: \_\_\_\_\_

*To act: together / separate / 1<sup>st</sup> to act & 2<sup>nd</sup> if 1<sup>st</sup> is unable*

*Need to prove that Adult is unable? Y / N If yes, by what test? \_\_\_\_\_*

*Need to prove 1<sup>st</sup> Attorney is unable? Y / N If yes, by what test? \_\_\_\_\_*

May the Attorney invest in investments outside of Trustee Act? **Y / N**

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### 2<sup>nd</sup> Document

Attorney

Attorney

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

Relationship: \_\_\_\_\_ Relationship: \_\_\_\_\_

*To act: together / separate / 1<sup>st</sup> to act & 2<sup>nd</sup> if 1<sup>st</sup> is unable*

*Compensation for Attorney? Y / N If yes, at what rate? \_\_\_\_\_*

**ASSETS:** What does your personal property consist of?

Life Insurance? \_\_\_\_\_ Who is named beneficiary? \_\_\_\_\_

RRSP / RRIF? \_\_\_\_\_ Who is named beneficiary? \_\_\_\_\_

Pension / Annuity? \_\_\_\_\_ Who is named beneficiary? \_\_\_\_\_

Tax Free Savings Account? \_\_\_\_\_ Who is named beneficiary? \_\_\_\_\_

Bank Accounts: Own name or jointly held? \_\_\_\_\_

GIC / Term Deposits: Own name or jointly held? \_\_\_\_\_

Stocks, bonds, segregated funds, RESPs: Own name or jointly held? \_\_\_\_\_

Vehicle / RV / Boat: Own name or jointly held? \_\_\_\_\_

Do you own a business, professional practice, or other similar asset? Who owns the shares, is there a shareholders agreement?

\_\_\_\_\_

Do you own anything outside of the province or country? \_\_\_\_\_

\_\_\_\_\_

Do you have a Last Will & Testament in another jurisdiction (province/state)? \_\_\_\_\_

Other Assets? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**DEBTS / LIABILITIES**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**LOCATION OF POWER OF ATTORNEY:** Where will you keep the original POA?

Safety Deposit Box: Yes / No \_\_\_\_\_ If yes, which bank & branch: \_\_\_\_\_

If no SDB then keep at home or ? \_\_\_\_\_ Specify where in home? \_\_\_\_\_

Appointment to sign: \_\_\_\_\_

Were you referred to us? \_\_\_\_\_