

OHIO DURABLE POWER OF ATTORNEY  
FOR REAL PROPERTY

of

\_\_\_\_\_  
(Principal's name)

IMPORTANT INFORMATION

- This power of attorney authorizes another person (your agent) to make decisions concerning your real property for you (the principal). Your agent will be able to make decisions and act with respect to your real property whether or not you are able to act for yourself.
- This document attempts to be self-contained and is limited to real property matters, but is, nonetheless, controlled by Ohio's version of the Uniform Power of Attorney Act (sections 1337.21 to 1337.64 of the Ohio Revised Code.)
- This document mirrors the provisions regarding real property of a General Power of Attorney executed by the principal on or about the same time as this document. This document was created to avoid the costs of recording the lengthy General Power of Attorney as part of a real estate transaction.

DESIGNATION OF AGENT

I, \_\_\_\_\_, (Name of Principal)  
designate the following person as my agent:

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

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

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

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

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I designate the following person as my successor agent:

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

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

Successor Agent's Telephone Number(s): \_\_\_\_\_

Successor Agent's Email Address: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I designate the following person as my second successor agent:

Name of Second Successor Agent: \_\_\_\_\_

Second Successor Agent's Address: \_\_\_\_\_

Second Successor Agent's Telephone Number(s): \_\_\_\_\_

Second Successor Agent's Email Address: \_\_\_\_\_

If I have not named a successor agent under this Power of Attorney, or if that successor for any reason is unable to assume the duties of Agent, I name the first of the following persons to serve as agent with authority to exercise such of those powers and authorities as he or she may specify.

1. Any appointee nominated in writing by the previously-acting Agent(s), acting jointly or severally.

2. My Attorney at Law: \_\_\_\_\_

3. My Accountant: \_\_\_\_\_

4. By majority vote or nomination of my adult children.

NO APPOINTMENT OR DESIGNATION OF MY ORIGINAL OR ANY SUCCESSOR AGENT WILL TAKE EFFECT UNLESS THE AGENT SIGNS THE ACKNOWLEDGEMENT ATTACHED HERETO.

#### GRANT OF AUTHORITY REGARDING REAL PROPERTY

I grant my agent and any successor agent authority to act for me with respect to REAL PROPERTY:

- (A) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;
- (B) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;
- (C) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;
- (D) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;
- (E) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including all of the following:
  - (1) Insure against liability or casualty or other loss;
  - (2) Obtain or regain possession of or protect the interest or right by litigation or otherwise;
  - (3) Pay, assess, compromise, or contest taxes or assessments or apply for and receive refunds in connection with taxes;
  - (4) Purchase supplies, hire assistance or labor, and make repairs or alterations to the real property.

- (F) Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;
- (G) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including all of the following:
- (1) Sell or otherwise dispose of them;
  - (2) Exercise or sell an option, right of conversion, or similar right with respect to them;
  - (3) Exercise any voting rights in person or by proxy.
- (H) Change the form of title of an interest in or right incident to real property;
- (I) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.
- (J) To make a gift or gifts of real property subject to the following conditions:
- (1) Make outright to, or for the benefit of, a person, a gift or gifts of any of my real property, including by the exercise of a presently exercisable general power of appointment held by the principal, in any amount (without regard to the federal gift tax and without regard to section 1337.58 of the Ohio Revised Code);  
As used in this document, a gift "for the benefit of" a person includes (without limitation) a gift to an account or to the trustee of a trust benefitting any of my or my spouse's lineal descendants:
    - under the Uniform Transfers to Minors Act; a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Revenue Code of 1986, 26 U.S.C. § 529 (and any amendment or successor law);
    - a Special Needs Trust as defined under 42 U.S.C. §§ 1396p(c)(2)(B)(iii) and (iv) (and any amendment or successor laws);
    - an ABLE account as defined under 26 U.S.C. § 529 (and any amendment or successor law); and/or
    - a Wholly Discretionary Trust as defined under R.C. 4801.01(Y) (and any amendment or successor law) (or its equivalent as set forth in the laws of the recipient trust's state situs.)
  - (2) Consent, pursuant to section 2513 of the Internal Revenue Code of 1986, 26 U.S.C. § 2513, to the splitting of a gift made by my spouse, if any, in an amount per donee not to exceed the aggregate annual gift

tax exclusions for both spouses, if my spouse wishes to make a gift or gifts.

- (3) Make gifts in any amount to any person (including the Agent) to whom my Agent believes (in the Agent's sole discretion) I would make a gift.
- (4) Make gifts in unequal amounts to any donee even if my likely, legal, natural, and/or logical heirs receive gifts in disparate amounts.

### Potential Options regarding Gifts

(Place initials on the appropriate line to choose one or both options)

\_\_\_\_\_ The consent of the following people (or a majority of them who are then alive and competent) is required to enable my Agent(s) (whether original or successor) to exercise authority hereunder to make gifts to or for the benefit of themselves, their spouse(s), or any lineal descendants of themselves and/or their spouse(s) in an aggregate amount of \$5,000 or more.

_____	_____
_____	_____

\_\_\_\_\_ To provide options for gifting to prevent some of my assets from being used up because of my or my spouse's health care and/or disability costs, my Agent may make gifts of such amounts as my Agent determines appropriate, in my Agent's sole discretion, to my or my spouse's lineal descendants (including, without limitation, the Agent), provided, that such gifts shall be made solely as to achieve financial eligibility for public benefits for myself or my spouse when either of us (1) resides, or are reasonably anticipated to reside in, a long-term care facility, or require a level of care (as that term is used in Ohio law) that would trigger eligibility for government benefits to pay health care costs and/or (2) have not yet reached Full Retirement Age and cannot perform Substantial Gainful Activity (as those terms are used in Social Security law.)

LIMITATIONS ON AGENT'S AUTHORITY

- (A) An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions. (If an agent is my ancestor, spouse, or descendant, he or she may benefit himself or herself and/or a person to whom he or she owes an obligation of support.)
- (B) This document does not empower my agent (or successor agent) to exercise authority over an agreement or instrument if such exercise of the authority is prohibited by that agreement or instrument.
- (C) This document does not empower my agent (or successor agent) to accept a binding arbitration clause in or in conjunction with a contract for goods and/or services. (Ed. Note: This paragraph C was not taken from the Ohio Revised Code.)

\_\_\_\_\_ My Agent (original or successor) must use a real estate agent when selling real property.

SPECIAL INSTRUCTIONS

You may give special instructions on the following lines.  
(Write your initials next to each special instruction.)

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RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my Agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Any party who relies on this power of attorney will be held harmless for reliance.

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

CONTROLLING LAW

This power of attorney was prepared according to, and should be interpreted according to, Ohio law.

Prepared by:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Form written by:

James L Koewler Jr  
The Koewler Law Firm  
PO Box 443  
Richfield, OH 44286  
330-659-3579  
jkoewler@protectingseniors.com

SIGNATURE

Your Signature \_\_\_\_\_

Date \_\_\_\_\_

Your Name Printed \_\_\_\_\_

Your Address \_\_\_\_\_  
\_\_\_\_\_

Your Telephone Number \_\_\_\_\_

**Your signature must be confirmed by witnesses or notarized on the next page.  
(You don't need both witnesses and notarization.)**



## ACKNOWLEDGEMENT BY AGENT

I acknowledge when I accept the authority granted under this power of attorney, a special legal relationship was created between me and the principal. This relationship imposes upon me legal duties that continue until I resign or the power of attorney is terminated or revoked. I agree to:

- (1) do what I know the principal reasonably expects me to do with the principal's property or, if I 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 my identity as an agent whenever I act for the principal by writing or printing the name of the principal and signing my own name as "agent" in the following manner:

Unless the Special Instructions in this power of attorney state otherwise, I agree to:

- (1) act loyally for the principal's benefit;
- (2) avoid conflicts that would impair my 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 that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if I do not know the principal's expectations, to act in the principal's best interest; and
- (6) attempt to preserve the principal's estate plan if I know the plan and preserving the plan is consistent with the principal's best interest.
- (7) report to the office of Adult Protective Services if I have reasonable cause to believe the principal is abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation.
- (8) If authorized, appoint or designate a successor agent and notify the Principal, Principal's spouse, and Principal's adult children of that designation.

### **Termination of Agent's Authority**

I agree to stop acting on behalf of the principal if I learn of any event that terminates this power of attorney or my authority under this power of attorney. Events that terminate a power of attorney or my authority to act under a power of attorney include:

- (1) death of the principal;
- (2) the principal's revocation of the power of attorney or my 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) if I am married to the principal, a legal action is filed with a court to end my marriage, or for my legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate my authority.

### **Liability of Agent**

The meaning of the authority granted to me is defined in the Uniform Power of Attorney Act (Uniform Law Commission, Uniform Power of Attorney Act (2006), as amended). If I violate

the Uniform Power of Attorney Act or act outside the authority granted, I acknowledge I may be liable for any damages caused by my violation.

**SIGNATURE**

I, the person signing this document as Agent, have read the foregoing Power of Attorney. I am the person identified therein as agent for the principal named therein.

**I have been advised to seek legal advice if I have any questions, and I agree to act as required by this Power of Attorney.**

\_\_\_\_\_ Date: \_\_\_\_\_  
Agent's Signature

Agent's Printed name: \_\_\_\_\_

**Your signature must be confirmed by witnesses (on this page)  
or notarized (on the next page.)  
(You don't need both witnesses and notarization.)**

WITNESSED BY

\_\_\_\_\_  
Witness 1 Signature

\_\_\_\_\_  
Witness 2 Signature

\_\_\_\_\_  
Witness 1 Printed Name

\_\_\_\_\_  
Witness 2 Printed Name

\_\_\_\_\_  
Witness 1 Address (below)

\_\_\_\_\_  
Witness 2 Address (below)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NOTARIZED ACKNOWLEDGEMENT

State of Ohio )  
 ) ss:  
County of \_\_\_\_\_ )

Acknowledged (without oath or affirmation) before me on \_\_\_\_\_,  
(Date),

by \_\_\_\_\_  
(Name of Agent).

\_\_\_\_\_  
Signature of Notary

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