

# Power of Attorney (CT)

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A power of attorney used by an individual residing in Connecticut to authorize a third party to manage the individual's property and financial matters. This Standard Document has integrated notes and drafting tips.

## DRAFTING NOTE: READ THIS BEFORE USING DOCUMENT

An individual uses a Connecticut statutory power of attorney form to authorize a third party to manage the individual's property and financial matters (Conn. Gen. Stat. Ann. § 1-350a).

Connecticut statutory powers of attorney are governed by the Connecticut Uniform Power of Attorney Act, which became effective on October 1, 2016, was amended effective July 1, 2017, and applies to all powers of attorney created before, on, or after October 1, 2016 (Conn. Gen. Stat. Ann. § 1-353b(1)).

The individual who executes the power of attorney is known as the principal. The individual named to act on the principal's behalf is known as the agent. (Conn. Gen. Stat. Ann. § 1-350a.)

The Connecticut Uniform Power of Attorney Act does not apply to a power to make health care decisions (Conn. Gen. Stat. Ann. § 1-350(b)(2)). An individual wishing to name a health care representative to make medical decisions must execute an advance health care directive or appointment of

health care representative (Conn. Gen. Stat. Ann. §§ 19a575, 19a575a, and 19a577, and see Standard Documents, Living Will and Appointment of Health Care Representative (CT) ([w-009-0161](#)) and Advance Health Care Directive (CT) ([w-007-9231](#))).

## TWO STATUTORY FORM POWERS OF ATTORNEY

The Connecticut Uniform Power of Attorney Act includes two statutory form powers of attorney, including:

- A short form power of attorney (Conn. Gen. Stat. Ann. § 1-352(a)(2)).
- A long form power of attorney (Conn. Gen. Stat. Ann. § 1-352(a)(3)).

The long form includes all of the powers in the short form, and also contains extended estate planning powers that are not found in the short form.

A document substantially in the form of either the short form or the long form may be used to create a statutory power of attorney

that has the meaning and effect prescribed in Connecticut General Statutes Sections 1-350 to 1-353b (Conn. Gen. Stat. Ann. § 1-352(a)(1)). However, individuals can also use any other form of power of attorney (Conn. Gen. Stat. Ann. § 1-352(a)(1)). This power of attorney form includes optional text so that counsel can create either a short form or a long form power of attorney.

#### **OTHER FORMS OF POWERS OF ATTORNEY**

Individuals may need to execute other forms of powers of attorney depending on their circumstances. For example, an individual may need separate powers of attorney for specific matters, such as real estate transactions, tax matters, health care decisions, or corporate voting or management rights.

#### **COMPLETING THE POWER OF ATTORNEY FORM**

Counsel should use care to follow all directions in the form to ensure that blanks are filled in appropriately and as necessary. Failure to do so may result in inadvertent consequences, such as unintentionally bestowing powers on the principal's agents.

#### **BRACKETED ITEMS**

The drafting party should replace bracketed language in ALL CAPS with case-specific facts or other information. Bracketed language in sentence case is optional language that the drafting party may include, modify, or delete in its discretion. A forward slash between words or phrases indicates that the drafting party should include one of the words or phrases contained in the brackets.

### **DURABLE STATUTORY POWER OF ATTORNEY – [SHORT/LONG] FORM**

#### **DRAFTING NOTE: DOCUMENT TITLE**

If the principal wants to extend some or all of the long form's additional estate planning powers to his agent, counsel should choose the second option in the brackets to draft a long form power of attorney (see Drafting

Note, Optional Estate Planning Powers). Otherwise, counsel should choose the first option in the brackets to draft a short form power of attorney.

**NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN THE CONNECTICUT UNIFORM POWER OF ATTORNEY ACT, WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES CONCERNED. THE GRANTOR OF ANY POWER OF ATTORNEY [OR THE AGENT/, THE AGENT, OR SUCH OTHER PERSON OR ENTITIES AS AUTHORIZED BY STATUTE] MAY MAKE APPLICATION TO A PROBATE COURT FOR AN ACCOUNTING AS PROVIDED IN SUBSECTION (d) OF SECTION 45a-175 OF THE GENERAL STATUTES. THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.**

#### **DRAFTING NOTE: NOTICE TO THE PRINCIPAL**

The notice appears at the beginning of the statutory power of attorney and warns the principal that the statutory power of attorney

is a comprehensive document granting the agent broad and sweeping powers. It makes clear that the statutory form is not the

exclusive method of appointing an agent for these matters. Both the principal and agent have the power to petition the probate court for an accounting as provided in Section 45a-175(d) of the Connecticut General Statutes (Conn. Gen. Stat. Ann. § 1-352(a)(2)).

The notice also states that this power of attorney does not authorize an agent to make health care decisions for the principal. For a form to appoint an agent to make health care decisions for a principal, see Standard Documents, Living Will and Appointment of Health Care Representative (CT) ([w-009-0161](#)) and Advance Health Care Directive (CT) ([w-007-9231](#)).

If the principal is creating a short form power of attorney, counsel should select the first option in the brackets. If the principal is creating a long form power of attorney, counsel should select the second option in the brackets.

It is important that the principal understand the broad scope of the power of attorney and the power given to the agent. The potential for abuse by the agent should be discussed, together with suggestions for safeguarding the power of attorney until needed.

Know All Persons By These Presents, which are intended to constitute a GENERAL POWER OF ATTORNEY pursuant to the Connecticut Uniform Power of Attorney Act:

That I, [PRINCIPAL NAME], [PRINCIPAL ADDRESS], do hereby appoint [AGENT NAME(S)], [AGENT ADDRESS(ES)] as my agent(s) TO ACT [severally/jointly]:

If more than one agent is designated and the principal wishes each agent alone to be able to exercise the power conferred, insert in this blank the word "severally." Failure to make any insertion or the insertion of the word "jointly" shall require the agents to act jointly.

### DRAFTING NOTE: APPOINTING THE AGENT OR CO-AGENTS

Counsel should assist the principal in choosing the correct agent or agents based on the principal's personal circumstances. If the principal wishes to name two or more individuals as co-agents, the principal should:

- Include all of their names.
- Decide if the co-agents are to act:
  - severally (separately); or
  - jointly (together).

Counsel should assist the principal in weighing the pros and cons of this selection based on the persons named to serve as co-agents. Appointing co-agents to act:

- Severally allows the co-agents to decide among themselves which tasks each of them will handle, which provides flexibility, but, depending on the persons named, may risk the agents making conflicting decisions.

- Jointly requires that the agents agree on all decisions and act together on all tasks, which eliminates the risk of conflicting decisions, but it can be cumbersome in practice to obtain multiple signatures or get multiple individuals to appear when needed.

If the principal wants the co-agents to act separately, counsel should select the word "severally" in the brackets. If the principal wants the co-agents to act together, counsel should select the word "jointly" in the brackets. If the principal fails to specify whether the co-agents are to work jointly or severally, the co-agents must act jointly (Conn. Gen. Stat. Ann. § 1350j).

The principal may also appoint successor agents (see Drafting Note, Appointing Successor Agents).

**DUTIES OF THE AGENT**

The actions the agent may take varies based on the power of attorney document itself (see Drafting Note, Granting Specific Powers). The duties the agent owes to the principal, however, remain constant.

The agent should be aware that he is deemed to accept his appointment as soon as he:

- Exercises authority.
- Performs duties as an agent.
- Makes any other assertion or engages in conduct indicating acceptance of his appointment.

(Conn. Gen. Stat. Ann. § 1-350l.)

Any person who has accepted the position as agent must act:

- According to the principal’s reasonable expectations. If the principal’s expectations are unknown, the agent must make reasonable efforts to ascertain the principal’s expectations and act, otherwise, in the principal’s best interest.
- In good faith.
- Only within the scope of authority granted in the power of attorney document.

(Conn. Gen. Stat. Ann. § 1-350m(a).)

Unless the power of attorney document states otherwise, any person who has accepted his position as agent must:

- Act loyally for the principal’s benefit.
- Actively avoid creating any conflict of interest that impairs the agent’s ability to act impartially in the principal’s best interest.
- Use care, competence, and diligence.
- Keep records of all receipts, disbursements, and transactions.
- Cooperate with any person who has been appointed to make health care decisions for the principal (see Standard Documents, Living Will and Appointment of Health Care Representative (CT) ([w-009-0161](#)) and Advance Health Care Directive (CT) ([w-007-9231](#))).
- Attempt to preserve the principal’s estate plan to the extent known by the agent if preserving the plan is in the principal’s best interest.

(Conn. Gen. Stat. Ann. § 1-350m(b).)

As long as the agent acts in good faith, he is not liable to any beneficiary of the principal’s estate plan for failing to preserve the estate plan (Conn. Gen. Stat. Ann. § 1-350m(c)). If the agent acts with care, competence, and diligence for the best interest of the principal, he is not liable for an act solely because the agent also benefits from the act (Conn. Gen. Stat. Ann. § 1-350m(d)).

First: In my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in the Connecticut Uniform Power of Attorney Act to the extent that I am permitted by law to act through an agent:

(Strike out and initial in the opposite box any one or more of the subparagraphs as to which the principal does NOT desire to give the agent authority. Such elimination of any one or more of subparagraphs (A) to (M), inclusive, shall automatically constitute an elimination also of subparagraph (N).)

To strike out any subparagraph the principal must draw a line through the text of that subparagraph AND write his initials in the box opposite.

- (A) Real property; [ ]
- (B) Tangible personal property; [ ]
- (C) Stocks and bonds; [ ]
- (D) Commodities and options; [ ]
- (E) Banks and other financial institutions; [ ]

- |   |     |
|---|-----|
| (F) Operation of entity or business;                                  | [ ] |
| (G) Insurance and annuities;  | [ ] |
| (H) Estates, trusts and other beneficial interests;                   | [ ] |
| (I) Claims and litigation;  | [ ] |
| (J) Personal and family maintenance;                                  | [ ] |
| (K) Benefits from governmental programs or civil or military service; | [ ] |
| (L) Retirement plans;   | [ ] |
| (M) Taxes;  | [ ] |
| (N) All other matters;  | [ ] |

(Special provisions and limitations may be included in the statutory form power of attorney only if they conform to the requirements of the Connecticut Uniform Power of Attorney Act.)

#### DRAFTING NOTE: GRANTING SPECIFIC POWERS

The statutory power of attorney form itemizes the subjects over which the principal grants authority. These subjects are broad and are intended to include the most common financial and property transactions.

In this section of the statutory power of attorney, the principal is deemed to have authorized his agent or agents to act on his behalf regarding the listed powers unless otherwise stated. If the principal does **not** want to give the agent authority over a certain power, the principal must strike out that power and initial in the corresponding box. If the principal eliminates any of the specific powers listed in subparagraphs (A) through (M) of the form, this automatically eliminates subparagraph (N).

#### REAL PROPERTY

This power authorizes the agent to manage the principal's real estate, including the purchase, sale, lease, pledge or mortgage, and improvement of real property (Conn. Gen. Stat. Ann. § 1-351c).

#### TANGIBLE PERSONAL PROPERTY

This power authorizes the agent to manage the principal's tangible personal property, including jewelry, furniture, household items, and vehicles (Conn. Gen. Stat. Ann. § 1-351d).

#### STOCKS AND BONDS

This power authorizes the agent to act broadly regarding the principal's stocks, bonds, mutual funds, and all other types of securities and financial instruments (not including commodity futures contracts and call or put options), including the power to:

- Buy, sell, or pledge stock.
- Exercise voting rights regarding stock.

(Conn. Gen. Stat. Ann. § 1-351e.)

#### COMMODITIES AND OPTIONS

This power authorizes the agent to act regarding the principal's commodities and options, including the power to buy, sell, and execute contracts and options (Conn. Gen. Stat. Ann. § 1-351f).

#### BANKS AND OTHER FINANCIAL INSTITUTIONS

This power authorizes the agent to conduct transactions on the principal's behalf at banks and other financial institutions in connection with the principal's financial accounts and safe deposit boxes (Conn. Gen. Stat. Ann. § 1-351g). However, the agent may not create or change rights of survivorship on an account without specific authorization from the principal (Conn. Gen. Stat. Ann. § 1-351h).

§ 1-351(a)(3)). This power is included in the statutory long form (see Drafting Note, Additional Powers: Statutory Long Form).

### **OPERATION OF ENTITY OR BUSINESS**

This power authorizes the agent to operate and manage the principal's business activities (Conn. Gen. Stat. Ann. § 1-351h).

### **INSURANCE AND ANNUITIES**

This power authorizes the agent to manage the principal's insurance policies and annuities, including payment of premiums, procurement of new policies or annuities, conversion of an existing policy or annuity, and surrender of a policy or annuity (Conn. Gen. Stat. Ann. § 1-351i). However, the agent may not create or change a beneficiary designation or waive the principal's right to be a beneficiary of a joint and survivor annuity without specific authorization from the principal (Conn. Gen. Stat. Ann. § 1-351(a)(4), (5)). These powers are included in the statutory long form (see Drafting Note, Additional Powers: Statutory Long Form).

### **ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS**

This power authorizes the agent to act in connection with any trust, probate estate, guardianship, conservatorship, escrow, or custodianship or fund from which the principal is or may become entitled to a share or payment, including the power to:

- Accept or demand payment.
- Exercise a presently exercisable general power of appointment (other than one exercisable only by will).
- Transfer an interest in property to the trustee of a revocable trust created by the principal as settlor.

(Conn. Gen. Stat. Ann. § 1-351j.)

### **CLAIMS AND LITIGATION**

This power generally authorizes the agent to participate in and manage all of the principal's legal actions, including bringing actions, settling actions, and paying and collecting judgments (Conn. Gen. Stat. Ann. § 1-351k).

### **PERSONAL AND FAMILY MAINTENANCE**

This power authorizes the agent to generally perform the acts necessary to maintain the customary standard of living of:

- The principal.
- The principal's spouse and children.
- Other family members whom the principal has customarily supported.

(Conn. Gen. Stat. Ann. § 1-351l.)

### **BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE**

This power authorizes the agent to manage any benefit, program, or assistance provided to the principal under a federal or state statute or regulation, including Social Security, Medicare, and Medicaid (Conn. Gen. Stat. Ann. § 1-351m).

### **RETIREMENT PLANS**

This power authorizes the agent to manage all retirement plans. A retirement plan is defined as a plan or account:

- Of which the principal is a participant, beneficiary, or owner.
- Created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation.

(Conn. Gen. Stat. Ann. § 1351n(a).)

The agent may, for example, establish a plan, contribute to a plan, make a rollover from one plan to another, and schedule payments to and from a plan (Conn. Gen. Stat. Ann. § 1-351n(b)).

However, the agent may not create or change a beneficiary designation without specific authorization from the principal (Conn. Gen. Stat. Ann. § 1-351(a)(4)). This power is included in the statutory long form (see Drafting Note, Additional Powers: Statutory Long Form).

### **TAXES**

This power authorizes the agent to manage all matters related to the principal's taxes (Conn. Gen. Stat. Ann. § 1-351o).

**ALL OTHER MATTERS**

This power is intended to capture all other powers to enable the agent to act

in connection with all necessary matters, subject to the powers that are either not covered by a power of attorney or require specific authorization from the principal.

**[OPTIONAL ESTATE PLANNING POWERS****YOU SHOULD SEEK LEGAL ADVICE BEFORE INCLUDING THE FOLLOWING POWERS:**

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death.)

My agent MAY NOT do any of the following specific acts UNLESS I HAVE INITIALED the specific authority listed below:

- (O) Create, amend, revoke or terminate an inter vivos trust, provided in the case of a trust established for a disabled person pursuant to 42 U.S.C. § 1396p(d)(4)(A) or 42 U.S.C. § 1396p(d)(4)(C), the creation of such trust by an agent shall be only as permitted by federal law;
- (P) Make a gift, subject to the limitations of the Connecticut Uniform Power of Attorney Act and any special instructions in this power of attorney. Unless otherwise provided in the special instructions, gifts per recipient may not exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, in an amount per recipient not to exceed twice the annual federal gift tax exclusion limit. In addition, an agent must determine that gifts are consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interests based on all relevant factors;
- (Q) Create or change rights of survivorship;
- (R) Create or change a beneficiary designation;
- (S) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
- (T) Exercise fiduciary powers that the principal has authority to delegate;
- (U) Disclaim or refuse an interest in property, including a power of appointment.
- (V) Exercise all powers I may have over any digital device, digital asset, user account and electronically stored information, including any user account and digital asset that currently exists or may exist as technology develops, whether the same is in my own name or that I own or lawfully use jointly with any other individual; such powers include, but are not limited to, changing and circumventing my username and password to gain access to such user accounts and information; transferring or withdrawing funds or other digital assets among or from such user accounts; opening new user accounts in my name; all as my agent determines is necessary or advisable. I hereby give my lawful consent and fully authorize my agent to access, manage, control, delete and terminate any electronically stored information and communications of mine to the fullest extent allowable under the federal Electronic Communications Privacy Act of 1986, 18 U.S.C.

§ 2510 et seq., as amended from time to time, the Connecticut Revised Uniform Fiduciary Access to Digital Assets Act and any other federal, state or international privacy law or other law and to take any actions I am authorized to take under all applicable terms of service, terms of use, licensing and other account agreements or laws. To the extent a specific reference to any federal, state, local or international law is required in order to give effect to this provision, I specifically provide that my intention is to so reference such law, whether such law is now in existence or comes into existence or is amended after the date of this document.

- (W) With respect to any intellectual property interests of mine, including, [ ] without limitation, copyrights, contracts for payments of royalties and trademarks, act in all ways with respect to such interests as if my agent were the owner thereof, including, without limitation, registering ownership, transferring ownership and recording documents to effectuate or memorialize such transfer, granting and revoking licenses, entering, terminating and enforcing agreements, defending ownership and conferring agency upon professionals to represent my interests before governmental agencies, and in general, to exercise all powers with respect to the intellectual property that I could exercise if present.

#### DRAFTING NOTE: OPTIONAL ESTATE PLANNING POWERS

Counsel should include this section if the principal wants to execute a long form statutory power of attorney.

##### ADDITIONAL POWERS: STATUTORY LONG FORM

The statutory long form power of attorney includes additional estate planning powers not listed in the short form. The principal is deemed to have authorized his agent or agents to act on his behalf in connection with the listed powers **only if** the principal has placed his initials in the brackets next to the corresponding power.

##### Power over Inter Vivos Trusts

This power authorizes the agent to create, amend, revoke, or terminate an inter vivos trust (except for a trust established for a disabled person under 42 U.S.C. Section 1396p(d)(4)(A) or (C), which must comply with federal law) (Conn. Gen. Stat. Ann. § 1-351(a)(1)).

##### Power to Make Gifts

This power authorizes the agent to make a gift of the principal's property either outright to or for the benefit of a person, which includes a gift to:

- A trust.
- An account established under the Uniform Transfers to Minors Act.
- A tuition savings account established under Section 529 of the Internal Revenue Code.

(Conn. Gen. Stat. Ann. §§ 1-351(a)(2), (d) and 1351p.)

The agent is only authorized to make gifts in amounts up to the federal gift tax exclusion limit (currently \$14,000 per donee). However, if the principal is married and the principal's spouse consents to split gifts, the agent is authorized to make gifts in amounts up to twice the limit. (Conn. Gen. Stat. Ann. § 1-351p(b)(1).) The agent may only make a gift of the principal's property if the gift is consistent with the principal's objectives, if known, or if unknown, if the gift is consistent with the principal's best interests (Conn. Gen. Stat. Ann. § 1-351p(c)).

##### Power to Create or Change Rights of Survivorship

This power authorizes the agent to create or change rights of survivorship, such as adding or removing a joint tenant (Conn. Gen. Stat. Ann. § 1-351(a)(3)).

**Power to Create or Change Beneficiary Designations**

This power authorizes the agent to create or change a beneficiary designation (Conn. Gen. Stat. Ann. § 1-351(a)(4)). This authorizes the agent to, for example, make or alter a beneficiary designation on the principal's retirement account or life insurance policy.

**Power to Waive the Principal's Right to Be a Beneficiary**

This power authorizes the agent to waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan (Conn. Gen. Stat. Ann. § 1-351(a)(5)).

**Power to Exercise Fiduciary Powers**

This power authorizes the agent to exercise fiduciary powers that the principal has the authority to delegate (Conn. Gen. Stat. Ann. § 1-351(a)(6)).

**Power to Disclaim Property**

This power authorizes the agent to disclaim property, including a power of appointment (Conn. Gen. Stat. Ann. § 1-351(a)(7)).

**Power over Digital Devices, Assets, and Accounts**

This broad power authorizes the agent to exercise all powers over the principal's digital devices, digital assets, user accounts, and electronically stored information. This power covers not only assets and technology that exist when the power of attorney

is executed, but also all future assets and technology that is developed as the technology continues to advance. The agent is authorized to access, manage, control, delete, and terminate any or all of the principal's electronically stored information and communications if allowed under:

- The Electronic Communications Privacy Act of 1986 (18 U.S.C. §§ 2510 to 2522, as amended).
- The Connecticut Revised Uniform Fiduciary Access to Digital Assets Act (Conn. Gen. Stat. Ann. §§ 45a-334b to 45a-334s).
- Any other federal, state, or international privacy law or other applicable law.

The agent is authorized to take any actions the principal is authorized to take under all applicable terms of service, terms of use, licensing, and other account agreements or laws. (Conn. Gen. Stat. Ann. § 1-351(a)(8).)

**Power over Intellectual Property**

This power authorizes the agent to act in connection with all of the principal's intellectual property interests and to exercise all powers in connection with the intellectual property that the principal could exercise if he were able, including the principal's:

- Copyrights.
- Contracts for payments of royalties.
- Trademarks.

(Conn. Gen. Stat. Ann. § 1-351(a)(9).)

Second: LIMITATION ON AGENT'S AUTHORITY. An agent MAY NOT use my property to benefit the agent or a dependent of the agent [unless I have included that authority in any special instructions below/except to the extent that I have included such authority elsewhere in this document].

Third: [Hereby ratifying and confirming all that said agent(s) or substitute(s) do or cause to be done/With full and unqualified authority to exercise or delegate any or all of the foregoing powers granted under this power of attorney to any person or persons whom my agent(s) shall select].

Fourth: [With full and unqualified authority to exercise or delegate any or all of the foregoing powers granted under this power of attorney to any person or persons whom my agent(s) shall select/Hereby ratifying and confirming all that said agent(s) or substitute(s) do or cause to be done].

**DRAFTING NOTE: LIMITATION ON AGENT'S AUTHORITY**

Despite the grant of the additional powers in the long form, the agent cannot use any portion of the principal's property to benefit himself or his dependent (Conn. Gen. Stat. Ann. § 1-351(b)).

This may pose an issue if the principal chooses an agent and still wants the agent to be able to gift to or otherwise benefit himself or his dependent. Counsel should confer with the principal to determine whether the language in this section or, more narrowly, in one of the specific estate planning powers, should be altered to allow actions that benefit the agent or his dependent (see Drafting Note, Additional Powers: Statutory Long Form).

If the principal is creating a short form power of attorney, counsel should select

the first option in the brackets in paragraph Second. If the principal is creating a long form power of attorney, counsel should select the second option in the brackets in paragraph Second.

**DELEGATION OF AUTHORITY**

The agent can authorize another individual to exercise the authority granted under the power of attorney (Conn. Gen. Stat. Ann. § 1-351(c)).

If the principal is creating a short form power of attorney, counsel should select the first option in the brackets in paragraphs Third and Fourth. If the principal is creating a long form power of attorney, counsel should select the second option in the brackets in paragraphs Third and Fourth.

[Fifth: DESIGNATION OF SUCCESSOR AGENT(S). If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent:

Successor Agent's Address:

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

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

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

**DRAFTING NOTE: APPOINTING SUCCESSOR AGENTS**

The principal can designate a successor agent or cosuccessor agents and a second successor agent or cosuccessor agents in section Fifth. The successor agent acts if an agent resigns, dies, becomes incapacitated, becomes unqualified to serve, or declines to serve.

Unless the principal states otherwise, the successor agent has the same authority as was granted to the original agent (Conn. Gen. Stat. Ann. § 1-350j(b)). Counsel should advise the principal that without a named successor agent, the probate court may need to appoint a conservator of the

principal's estate if the primary agent or agents become unable to serve (Conn. Gen. Stat. Ann. §§ 45a-644 to 45a-666).

As with primary coagents, the successor coagents must act jointly unless the

principal includes language that the successor coagents may act severally (Conn. Gen. Stat. Ann. § 1-350j and see Drafting Note, Appointing Agents and Co-Agents).

[Sixth: **DESIGNATION OF CONSERVATOR OF ESTATE.** If a conservator of my estate should be appointed, I designate that [DESIGNATED CONSERVATOR NAME] be appointed to serve as conservator of my estate. If [DESIGNATED CONSERVATOR NAME] is unable to serve or ceases to serve as conservator of my estate, I designate that [DESIGNATED SUCCESSOR CONSERVATOR NAME] be appointed to serve as conservator of my estate.

I direct that bond for the conservator of my estate, including any sureties thereon \_\_\_\_ be required \_\_\_\_ not be required.]

#### **DRAFTING NOTE: DESIGNATING A CONSERVATOR OF THE ESTATE**

The principal can designate a conservator or co-conservators of the principal's estate should a probate court later need to appoint conservators. A conservator of the estate is generally appointed to supervise the principal's financial affairs, including caring

for property, managing bank accounts, and ensuring the safe handling of the principal's income (Conn. Gen. Stat. Ann. § 45a-655). Counsel should advise the principal on the prudence of adding this optional section to the power of attorney.

Seventh: **EFFECTIVE DATE.** This power of attorney is effective immediately unless I have stated otherwise in the special instructions.

The execution of this statutory [short/long] form power of attorney shall be duly acknowledged by the principal in the manner prescribed for the acknowledgment of a conveyance of real property.

#### **DRAFTING NOTE: EFFECTIVE DATE AND DURABILITY**

A power of attorney is effective when executed unless the principal explicitly provides in the power of attorney that it becomes effective on a future date or on the occurrence of a future event or contingency (Conn. Gen. Stat. Ann. § 1-350h(a)).

If the power of attorney is only to be effective on the occurrence of a future event or contingency (a springing power of attorney), the principal may authorize in the power of attorney one or more persons to determine in a writing or other record

that the event or contingency has occurred (Conn. Gen. Stat. Ann. § 1-350h(b)). For example, the principal may wish for the power of attorney to become effective on the principal's incapacity. If the principal wishes that a written affidavit be used to make this determination, then the Connecticut Uniform Power of Attorney Act provides a sample affidavit (Conn. Gen. Stat. Ann. § 1-350h(e)).

If the power of attorney becomes effective only after the principal becomes incapacitated and the principal has

not authorized a person to make the determination of incapacity, the power of attorney becomes effective on a determination in writing by:

- Two independent physicians that the principal has a mental, emotional, or physical condition that results in the individual being unable to receive and evaluate information or make or communicate decisions.
- A judge that the principal is:
  - missing;
  - detained (including incarcerated in a penal system); or

- outside of the US and unable to return. (Conn. Gen. Stat. Ann. §§ 1-350a(5)(B) and 1-350h(c).)

A power of attorney is not durable if it terminates on the principal's incapacity. A power of attorney is durable if it continues to be effective on the principal's incapacity. A Connecticut statutory form power of attorney is durable unless it expressly provides that it is terminated by the principal's incapacity (Conn. Gen. Stat. Ann. § 1-350c).

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my seal this [DAY] day of [MONTH], [YEAR].

\_\_\_\_\_  
[PRINCIPAL NAME], Principal

\_\_\_\_\_ of \_\_\_\_\_  
Signature of Witness Address of Witness

\_\_\_\_\_ of \_\_\_\_\_  
Signature of Witness Address of Witness

STATE OF [STATE] )  
COUNTY OF [COUNTY] )ss.  
)

On this the [DAY] day of [MONTH], [YEAR], before me, [PRINCIPAL NAME], signer of the foregoing instrument, personally appeared, and acknowledged the execution of such instrument to be [his/her] free act and deed.

\_\_\_\_\_  
Commissioner of the Superior Court  
Notary Public  
My commission expires: \_\_\_\_\_

## DRAFTING NOTE: EXECUTING A POWER OF ATTORNEY

Before executing the power of attorney, counsel should ensure that all places throughout the document that require additional information or acknowledgment have been completed, including that:

- The principal's name has been inserted (see Drafting Note, Appointing Agents and Co-Agents).
- One or more initial agents have been named in the power of attorney and, if more than one initial agent has been named, the document indicates whether the agents should act jointly or severally (see Drafting Note, Appointing Agents and Co-Agents).
- The principal has stricken any power listed in subparagraphs (A) through (N) that he does **not** wish to grant to the agent and has added his initials to the corresponding box next to the stricken power (see Drafting Note, Granting Specific Powers).
- If desired, any special instructions or limitations have been inserted after the listed powers.
- If executing a long form power of attorney, the principal has placed his initials next to the corresponding estate planning power that he **wishes** to grant to his agents (see Drafting Note, Optional Estate Planning Powers).
- If desired, any successor agents have been inserted into the section titled "Designation of Successor Agents," and, if more than one, indicate whether the agents should act jointly or severally (see Drafting Note, Appointing Successor Agents).

### REQUIREMENTS FOR EXECUTING A POWER OF ATTORNEY

To be valid, a power of attorney must be:

- Dated and signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney.
- Witnessed by two witnesses.  
(Conn. Gen. Stat. Ann. § 1-350d.)

While not required, the power of attorney may be acknowledged by the principal

before a notary public, a commissioner of the superior court, or another individual authorized by law to take acknowledgments. Acknowledgment creates a presumption that the principal's signature is genuine (Conn. Gen. Stat. Ann. § 1-350d). This presumption allows third parties to rely on the power of attorney (Conn. Gen. Stat. Ann. § 1-350r). Therefore, the acknowledgment of the principal's signature on a power of attorney is recommended and both the short form and long form include notary blocks.

### REVOKING A PRIOR POWER OF ATTORNEY

A principal may revoke a power of attorney at any time as long as the principal is not incapacitated (Conn. Gen. Stat. Ann. § 1-350i(a)(3)). The execution of a new power of attorney does not revoke a prior power of attorney unless the subsequent power of attorney provides that the prior power of attorney is revoked or that all other powers of attorney are revoked (Conn. Gen. Stat. Ann. § 1-350i(f)).

A separate revocation document is commonly used. However, termination of an agent's authority is ineffective if the agent:

- Acts in good faith under the power of attorney.
- Does not have actual knowledge of that termination.

(Conn. Gen. Stat. Ann. § 1-350i(d).)

Therefore, to completely revoke of a power of attorney, counsel should ensure that all previously appointed agents and all third parties are given notice that the agent's authority has been revoked.

### COMPENSATING THE AGENT

Unless the power of attorney provides otherwise, an agent is entitled to:

- Reimbursement of expenses reasonably incurred on the principal's behalf.
- Compensation that is reasonable under the circumstances.

(Conn. Gen. Stat. Ann. § 1-350k.)

### THIRD-PARTY ACCEPTANCE OF AND RELIANCE ON THE POWER OF ATTORNEY

Third parties who are presented with an executed power of attorney generally must honor the power of attorney. A third party may rely on the power of attorney if it:

- Accepts an acknowledged power of attorney in good faith.
- Has no knowledge of issues affecting the validity of the power of attorney.

(Conn. Gen. Stat. Ann. § 1-350r.)

A third party who is asked to accept an acknowledged power of attorney may request and rely on:

- A certification by the agent of any factual matter concerning the principal, agent, or power of attorney.
- An English translation of the power of attorney.
- An opinion of counsel regarding issues of law related to the power of attorney.

(Conn. Gen. Stat. Ann. § 1-350r.)

The third party must either accept an acknowledged power of attorney or request this additional information within seven days of being presented with the power of attorney. If additional information is requested, then the third party must accept the power of attorney within five days of receiving the additional information. The third party is not required to accept the power of attorney if any of the following are true:

- The principal is not eligible to enter into the transaction or the transaction would be illegal.
- The third party has actual knowledge of the termination of the agent's authority or of the power of attorney.

- The third party has a good faith belief that:
  - the power of attorney is not valid; or
  - the agent does not have the authority to perform the act requested.
- The agent refuses to provide a requested certification, translation, or opinion.
- The third party makes a report of suspected abuse, neglect, exploitation, or abandonment of the principal by the agent.

(Conn. Gen. Stat. Ann. § 1-350s(a), (b).)

The probate court and the superior court may issue an order mandating acceptance of the power of attorney and may award reasonable attorneys' fees and costs to the prevailing party (Conn. Gen. Stat. Ann. § 1-350s(c)).

### TERMINATION OF THE POWER OF ATTORNEY

The power of attorney terminates when:

- The principal dies.
- The principal becomes incapacitated, if the power of attorney is not durable.
- The principal revokes the power of attorney.
- The power of attorney provides that it terminates.
- The purpose of the power of attorney is accomplished.
- The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns and the power of attorney does not provide for another agent to act under the power of attorney.
- The power of attorney is terminated by a court under the appointment of a conservator of the estate.

(Conn. Gen. Stat. Ann. § 1-350i(a).)

If the power of attorney is terminated, the principal, if able, should provide notice of the termination to the agent and third parties.

## [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 continues 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.

Unless the special instructions in this power of attorney state otherwise, you must also:

- (1) Act loyally for the principal's 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 that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you 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 you know the plan and preserving the plan is consistent with the principal's best interest.

#### **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 a power of attorney or your 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 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) If you are married to the principal, a legal action is filed with a court to end your marriage through divorce or annulment, or for your legal separation, unless the special instructions in this power of attorney state that such an action will not terminate your authority.

#### **Liability of Agent**

The meaning of the authority granted to you is defined in the Connecticut Uniform Power of Attorney Act, sections 1-350 to 1-353b, inclusive. If you violate the Connecticut Uniform Power of Attorney Act, sections 1-350 to 1-353b, inclusive, 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 duties that you do not understand, you should seek legal advice.]

**DRAFTING NOTE: IMPORTANT INFORMATION FOR THE AGENT**

This informational form is optional and can be used as part of the statutory form or as a separate document, if desired. The form gives the agents guidance on exercising

their duties and information regarding the scope of their powers under the power of attorney (Conn. Gen. Stat. Ann. § 1-352(e)).

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