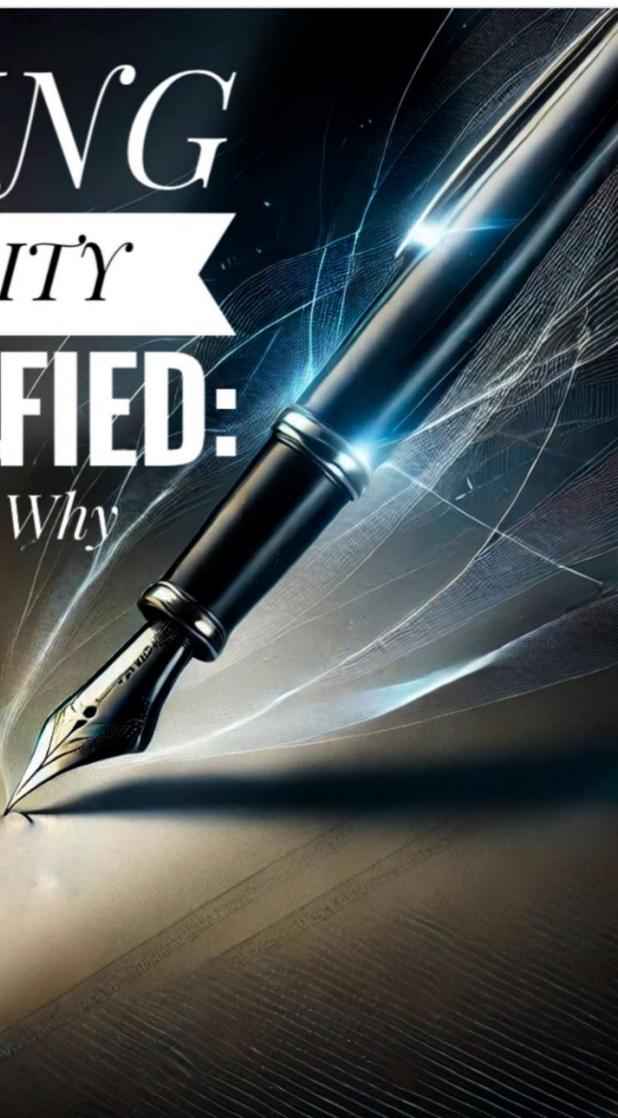




## 2025 Spring Summit

A dramatic graphic of a fountain pen nib, which is the central focus, is shown in a dynamic, glowing blue light that radiates outwards, creating a sense of motion and energy. The pen is positioned diagonally, with the nib pointing towards the bottom left. The background is a dark, textured surface that looks like aged paper or leather, with the pen resting on it. The overall composition is artistic and professional.

**SIGNING  
AUTHORITY  
DEMYSTIFIED:**

*Who Signs and Why*

PRESENTED BY:

*Gregg A.  
Nathanson*

*March 4 & 5, 2025  
Crowne Plaza—Lansing, Michigan*

## Introduction

Understanding signatory authority is essential for title agents to identify potential red flags, mitigate risks, and navigate transactions with confidence. The following provides an overview of key topics that impact signatory authority in real estate transactions, including who can sign on behalf of entities such as corporations, limited liability companies, and partnerships. It also addresses how typos and drafting errors can affect signatory authority, explores common issues related to certificates of trust, highlights Michigan's recent adoption of the Uniform Power of Attorney Act and its implications, and discusses probate considerations, including the authority of personal representatives in estate matters.

### Can Typos Negate Signing Authority? Maybe.

- Misspellings and other drafting errors may call into question whether the signatory has proper authority.
- **Rule of *Idem Sonans* (Sounding the Same):**
  - Differently spelled names are presumed to identify the same person if they sound alike or if common usage or abbreviation has made their pronunciation identical (Michigan Land Title Standard 2.1).
  - The presence or absence of a middle initial does not inherently create a question of identity. (Standard 2.2) However, the addition of suffixes like "Jr." or "III" can rebut the presumption that the grantor and the grantee of a prior conveyance are the same person (Standard 2.5).
  - Variations in a corporate name may be disregarded unless the title examiner has reason to question the corporate identity. (Standard 2.7)
- **Avoid discrepancies in the signature line and acknowledgment:** A misspelled name in the body of a deed may normally be disregarded as long as the name in the signature line is identical to the name in the acknowledgment. An error in the signature line or acknowledgment may call the signatory's authority into question. (Standard 2.6).
- **Examples:**
  - Property was deeded to "Donald Q. Duck." A deed for the same property was later executed by "Don Duk" as the grantor. May the grantee of the first deed be presumed to be the same person as the grantor of the second deed? Yes (Standard 2.1 and 2.2).
  - Property was deeded to "Donald Duck, whose address is 123 Mouse Street, Orlando, Florida". The same property was later conveyed by "Donald Q. Duck, whose address is 555 Minnie Lane, Detroit, Michigan". May the grantee of the first deed be presumed to be the same person as the grantor of the second deed? No—the disparity in the stated address requires further inquiry into the identity of the grantor and the grantee (Standard 2.2).
  - A deed was signed by "Minnie Mouse;" however, the acknowledgment identified the grantor as "Minnie Moose" is not proof of a conveyance by Minnie Mouse unless evidence is submitted that the grantor was known by both names (Standard 2.6).



- “Goofy & Sons, Incorporated” may be presumed to be the same entity as “Goofy and Sons, Inc.” However, deeds involving “Goofy & Sons, Incorporated, a Delaware corporation” and “Goofy and Sons, Inc., a Nevada corporation” would merit further inquiry (Standard 2.7).

## Power of Attorney

- Uniform Power of Attorney Act, MCL 556.201 et seq. (the “POA Act”) adopted effective July 1, 2024.
- **New Execution Rules:**

If Signed By	If Notarized	If Witnessed	Then Durable	Then Principal's Signature Presumed Genuine by Court if POA is Disputed
Principal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Principal	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Individual on Principal's Behalf and in Principal's Conscious Presence	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Individual on Principal's Behalf and in Principal's Conscious Presence	<input type="checkbox"/>	<input checked="" type="checkbox"/> x2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Individual on Principal's Behalf and in Principal's Conscious Presence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Individual on Principal's Behalf and in Principal's Conscious Presence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Durable “means not terminated by the principal’s incapacity.” MCL 556.202(d).
- **New limited presumption of durability:** A POA created on or after July, 1, 2024 that is executed in accordance with the POA Act’s requirements is durable unless it expressly provides that it is terminated by the principal’s incapacity.
- **Acknowledgement.** The agent must sign an acknowledgment that contains all the substantive statements contained in the statutory acknowledgment. If a power of attorney that is durable is presented for acceptance without an agent’s signed acknowledgment, a person that is asked to accept the power may require that the agent provide the acknowledgment before accepting the power.
- **Acceptance of POA.** A person that is asked to accept an acknowledged power of attorney may request and may rely, without further investigation, upon any of the following:
  - A certification under penalty of perjury, including, as may be appropriate for the intended purpose, an affidavit in recordable form, by an agent or an attorney at law who represents either the agent or the principal of any factual matter concerning the principal, agent, or power of attorney.
  - An English translation of the power of attorney if the power contains, in whole or in part, language other than English and the translation’s accuracy is the subject of either a certification or an opinion of counsel.

- An opinion of counsel as to any matter of law concerning the power of attorney if the person requesting the opinion explains the reason for the request in a record.
- If a person that is asked to accept an acknowledged power of attorney requests an opinion of counsel, and a court finds that the reason for the request as stated in the required record is frivolous, the person making the request is subject to liability for attorney fees and costs incurred in providing the requested opinion. In deciding whether the stated reason for the request is frivolous, the court shall consider, in addition to other relevant factors, whether, in light of the language of the power, the provisions of the POA Act, and the surrounding circumstances, there is arguable merit to the legal concern that the request addresses.
- A person that refuses to accept an acknowledged power of attorney is subject to a court order mandating acceptance of the power and liability for reasonable attorney fees and costs incurred in any action or proceeding that confirms the validity of the power or mandates acceptance of the power.
- In addition, a person that refuses to accept an acknowledged power of attorney after having requested and received a certification, a translation, or an opinion of counsel is subject to liability for reasonable attorney fees and costs incurred in providing the requested certification, translation, or opinion of counsel.
- **Termination of Agent's Authority.** An agent's authority under a durable or non-durable POA terminates upon the death of the principal. However, the termination is not effective as to the agent or third party who does not have actual knowledge of the principal's death.

- **Examples:**

- Goofy executed a durable power of attorney appointing Scrooge as his agent and authorized Scrooge to sell real property. Scrooge went to the closing and signed the deed, unaware that Goofy died the day before. Scrooge had authority to sign and sell the property as long as neither he nor any third party involved (the buyer, title company) knew Goofy had died.
  - Likewise, the authority of the agent of a durable power of attorney is not revoked or terminated by the principal's incapacity. Until the agent has actual knowledge of the incapacity, the agent can bind the principal if the agent acts in good faith in reliance on the power.

- **New Rules for Agent's Authority**

- **Old Rule:** An interest in real property may be conveyed or encumbered by an instrument executed pursuant to a power of attorney **only if** the power of attorney specifically authorizes the attorney in fact to convey or encumber the interest on behalf of the principal. (Standard 3.17).
  - **New Rule:** Unless the power of attorney provides otherwise, granting general authority with respect to real property gives the agent broad authority to deal with the principal's real property, including the authority to buy, sell, lease, mortgage or otherwise encumber the property (MCL 556.304).
  - The power of attorney does not need to contain the real property's legal description.

- **Example:**

- Aladdin executed a mortgage on The Cave of Wonders in favor of Jasmine. The mortgage stated that it was executed under a power of attorney granted to Aladdin by Abu, the owner of the Cave. The power of attorney authorized Aladdin to manage and handle all real property owned by Abu, including the Cave, but it did not explicitly mention the authority to mortgage

real property. Under prior law, the Cave would not be bound by the mortgage; however, under the new law, the Cave would be subject to the mortgage.

## **Certificates of Trust**

- Unless the trust document specifically denies the trustee the power to sell real estate, the Michigan Trust Code grants such power. MCL 700.7817(y).
- **Certificate of Trust must be in the form of an affidavit and contain statutorily required information per MCL 700.7913:**
  - The name of the trust, the date of the trust, and the date of each operative trust instrument.
  - The name and address of each current trustee.
  - The powers of the trustee relating to the purposes for which the certificate of trust is being offered.
  - The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust.
  - The authority of co-trustees to sign on behalf of the trust or otherwise authenticate on behalf of the trust and whether all or less than all of the co-trustees are required to exercise powers of the trustee.
  - State that the trust has not been revoked, modified, or amended in any manner that would cause the representations included in the certificate of trust to be incorrect.
- **Certificate of Trust must contain the legal description of the affected real estate to support an instrument that conveys, encumbers, or otherwise affects real property (MCL 565.431).**
- A certificate of trust need not include the dispositive terms of the trust instrument.
- A person that acts in reliance on a certificate of trust without knowledge that the representations included in the certificate of trust are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the trust and other facts included in the certificate of trust.
- A person that makes a demand for the trust instrument in addition to a certificate of trust or excerpts of the trust instrument is liable for damages, costs, expenses, and legal fees if the court determines that the person that made the demand did not act pursuant to a legal requirement to demand the trust instrument.
- **Who has authority to sign the Certificate of Trust?**
  - the settlor,
  - any trustee, or
  - an attorney for the settlor or trustee.
- **Examples:**
  - Mickey Mouse deeded property to "Donald Duck in Trust for Minnie Mouse." The deed contained no other reference to a Trust. Investigation establishes that there is no will, trust or other instrument in which Donald is named as Trustee for Minnie. Later, Minnie deeds the property to Goofy. Donald

did not join in the deed, either individually or as Trustee. Did Goofy acquire marketable title to the property? Yes—a conveyance to a Trustee who has no power of actual disposition or management or upon whom no Trust duties are imposed, vests title in the beneficiary, if living, and not in the named Trustee (Standard 8.1).

**Practice tip:** The prudent Title Examiner should consider requiring a deed from the named Trustee (Donald) in addition to a deed from the beneficiary (Minnie), because of the difficulty in establishing with certainty that no valid trust exists.

- Mickey Mouse deeded property to “Donald Duck as Trustee to collect rents and pay to Porky Pig for his life.” There is no recorded Trust instrument or Certificate of Trust. Donald, as Trustee, deeded the property to Tiny Tim. Did Tiny acquire marketable title to the property? No—there was no recorded trust instrument or Certificate of Trust. A deed by a Trustee does not vest marketable title of record in the Grantee unless the Trust Agreement or Certificate of Trust: is of record, establishes a valid trust, and contains a valid authority for the conveyance (Standard 8.3).

## ***Corporations, Limited Liability Companies & Other Entities***



- **General Rule:** An interest in real property held by a legal entity may be conveyed by an instrument executed by a person authorized to act on behalf of the legal entity.
- **Examples:**
  - Yosemite Sam represented to title company that he was the sole member of Jellystone, LLC, which owned Jellystone Park, and certified that the company did not have an operating agreement. Based on these representations, Jellystone, LLC obtained a mortgage on Jellystone Park and the title company issued a lender's policy. Later it was revealed that Yosemite was not a member of Jellystone, LLC and had no ownership interest in Jellystone Park. Did the lender's mortgage encumber Jellystone Park? No—Yosemite was not authorized to act on behalf of the legal entity. (Standard 10.6).
  - By a duly executed resolution, the board of directors of Carrot Corp., a Michigan corporation, authorized Bugs Bunny, its president, to execute a deed of Looney Land to Elmer Fudd. Carrot Corp. then conveyed Looney Land to Elmer Fudd pursuant to a deed executed by “Bugs Bunny, president, of Carrot Corp.” Did Elmer acquire marketable title to Looney Land? Yes (Standard 10.6).
  - By a duly executed resolution, the board of directors of Carrot Corp., a Michigan corporation, authorized Bugs Bunny, its president, to execute a deed of Looney Land to Elmer Fudd. Carrot Corp. then conveyed Looney Land to Elmer Fudd pursuant to a deed executed by “Bugs Bunny, president,

of *Carrot Crop*." Did Elmer acquire marketable title to Looney Land? No—Under Standard 2.7 only a variation in a corporate name arising through the use or non-use of a commonly recognized abbreviation such as "Co.," "Inc.," "Corp.," "LTD," "P.C.," or "&," and the omission or inclusion of the word "the" may be disregarded unless the examiner is put on inquiry.

- Daisy Duck, as Manager of Quack, LLC, signs a warranty deed for Paradise Pond to Donald Duck. Daisy also signed a written consent as the sole manager of the LLC that approved the sale of Paradise Pond and authorized her, as manager of the LLC, to sign all documents necessary to complete the transaction. The LLC's operating agreement stated that the business of the LLC shall be managed by one or more managers; however, the articles of organization did not contain a statement that the LLC was manager-managed. Did Donald acquire marketable title to Paradise Pond? No—the authorizing resolution and operating agreement were inconsistent with the LLC's articles of organization, which controls (Standard 10.6).

## ***Personal Representatives***

- Power to sell real property is granted to the personal representative by statute—even if the will itself does not grant such a power. MCL 700.3715(f).
- BUT- the probate court has authority to restrict personal representative's authority. A common restriction is no sale of real property without a court order. See SCAO Letters of Authority
- Two probate court orders may be required to sell real property: (1) order appointing a personal representative, and (2) if the court restricts the personal representative's authority to sell real property, an order approving the sale of a particular parcel.
- If the personal representative's letters of authority are restricted, a petition must be filed asking for court approval before the estate's real property can be sold. Because it may take several weeks or more to schedule a hearing and obtain the probate court order, a personal representative selling real estate may not have authority to accept an offer and enter into a binding purchase agreement before the court approves the sale.
- A personal representative should convey the property by a fiduciary or covenant deed (not a warranty deed).
- A non-occupant fiduciary is not required to provide a Seller's Disclosure Statement. MCL 565.953(d).
- For probate estates less than \$51,000 (2025 amount, increases annually by cost of living), a Petition and Order for Assignment (small estates procedure) may be used to transfer property, including real property, to person(s) who paid funeral costs of the decedent, the decedent's spouse, or other heirs of the decedent without opening a full probate.

## **References**

1. Statutory Form—Power of Attorney
2. Statutory Form – Agent Acknowledgment
3. Sample Certificate of Trust
4. SCAO – Letters of Authority

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The information contained herein does not attempt to give specific legal advice. For advice in particular situations, the services of a competent real estate attorney should be obtained. These materials are the exclusive property of Couzens Lansky and no reprint or other use of the information contained herein is permitted without express, prior written authorization

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**Bar Admissions:** 1985, New York; 1986, Michigan and U.S. District Court, Southern District of New York and Eastern District of New York; 1988, U.S. District Court, Eastern District of Michigan and Western District of Michigan. Licensed Real Estate Broker.

**Education:** University of Michigan (B.A., with distinction 1980); New York University School of Law (J.D. 1984). **Practice Areas:** Real Estate, Environmental, Corporate, Finance and Business Law.

**Editor:** MICHIGAN RESIDENTIAL REAL ESTATE TRANSACTIONS (2000, 2009 and 2016), Institute of Continuing Legal Education (ICLE).

**Author:** *Michigan Court of Appeals Upholds Implied Covenant of Good Faith and Fair Dealing in Land Contract Dispute*, Commercial Board of Realtors (2024); *Lady Bird Dees: Key Features and Uses*, Michigan Bar Journal (2024); *Must All Commission Agreements Be in Writing?*, Commercial Board of Realtors (2022); *Sweeping Change to Michigan's Marketable Title Act Could Affect Most Commercial Properties*, Commercial Board of Realtors (2019); *Court Finds Oral Commission Agreement May Be Enforceable*, Commercial Board of Realtors and Michigan Land Title Association (2017); *Michigan Court of Appeals Upholds Lease Termination but Not Applicability of Full Credit Bid Rule in Judicial Foreclosure Action*, MLTA Title Bytes Newsletter (2016); *U.S. Appeals Court Upholds IRS Forced Sale of Entireties Property Over Innocent Spouse's Objections*, Commercial Board of Realtors (2016); *Michigan Court of Appeals Decides Broker Lien Case*, Commercial Board of Realtors (2015); *Michigan Court Determines Condominium Association Lien Has Priority Over Prior Recorded Mortgage*, The Title Examiner (2014); *Court Of Appeals Upholds Uncapping in Pre-2014 Parent-Child Transfer*, Michigan State Bar Real Property Law Section eNewsletter (2014); *A "Relatively" New Way to Avoid Uncapping Taxable Value*, The Title Examiner (2013); *Transfer Taxes and New Construction: A Legal Update*, Building Business & Apartment Management (2012); *Can Commercial Builders and Developers (Legally) Avoid Paying Michigan State Real Estate Transfer Tax on New Construction?*, Commercial Board of Realtors News (2012); *6th Circuit Court Confirms Underwriter Not Liable for Agent's Actions*, The Title Examiner (2011); *What's Michigan's New Commercial Real Estate Broker Lien Act All About?*, Michigan Lawyers Weekly (2011); *Michigan's Commercial Real Estate Broker's Lien Act*, Commercial Board of Realtors (2011).

**Speaker:** International Council of Shopping Centers; CCIM Institute; The Institute of Continuing Legal Education; State Bar of Michigan; Michigan Land Title Association; Building Industry Association of Southeastern Michigan; Michigan Association of Certified Public Accountants; Independent Accountants Association of Michigan; Commercial Board of Realtors; Realtors Land Institute; Real Estate One; Keller Williams Realty.

**Member:** State Bar of Michigan: Real Property Law Section, former Member of Governing Council; Former Chair, Residential Transactions Committee; Member, Sections on Environmental Law and Business Law; New York State Bar; American Bar Association; Oakland County Bar Association; Michigan Land Title Association: former Chair, Membership Committee; Former Member, ICLE Real

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**Honors:** Robert J. Jay award for outstanding leadership and contribution to the Michigan Land Title Association; selected by *Super Lawyers* magazine in 2006 - 2024 as one of the 5% best attorneys in Michigan; named a Top Business Attorney in 2023 by *Crain's Detroit Business*; selected as a 2013 'Top Rated Lawyer in Real Estate' by *The American Lawyer & Corporate Counsel* magazine; named one of Top Lawyers in Metro Detroit in 2010-2011, 2016-2018 and 2021-2025 by *dbusiness*, Detroit's premier business journal, in the fields of real estate, environmental law and/or business law; selected as a Leading Lawyer by *Leading Lawyers* magazine in 2019 and 2020.

- (c) The desirability of minimizing taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes.
- (d) Eligibility for a benefit, a program, or assistance under a statute or regulation, including eligibility for assistance with nursing or assisted-living care in a facility or at home.
- (e) The principal's personal history of making gifts.

(2) As used in this section, a gift "for the benefit of" a person includes, without limitation, a gift in trust, an account under the Michigan uniform transfers to minors act, 1998 PA 433, MCL 554.521 to 554.552, a tuition savings account or prepaid tuition plan as described under section 529 of the internal revenue code of 1986, 26 USC 529, and an ABLE account as defined under section 529A of the internal revenue code of 1986, 26 USC 529A.

**History:** 2023, Act 187, Eff. July 1, 2024.

## ARTICLE 3 STATUTORY FORMS

### **556.401 Statutory form power of attorney.**

Sec. 301. A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this act:

#### **MICHIGAN STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION**

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). It is, therefore, an important legal document, and **you are taking a serious step if you decide to make use of this form without seeking legal advice**; for if the person you designate as your agent accepts authority granted under this power of attorney, the agent will be able to make decisions and act with respect to your property (including your money). The extent of your agent's authority over subjects listed on this form is explained in the uniform power of attorney act, MCL 556.201 to 556.505.

This power of attorney does not authorize the agent to make health care decisions for you and it does not authorize the agent to exercise powers you have as a parent or guardian regarding care, custody, or property of a minor child or ward.

You should select someone you trust to serve as your agent and you should ask yourself as you review each section of this form, whether you have chosen the right person(s) to act in that capacity. If your signature on this form is notarized or witnessed as provided below, then unless you specify otherwise, the agent's authority will generally continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of an agent and successor agent(s) who serve one at a time, as opposed to coagents who serve simultaneously. If you wish to name coagents, you may do so in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions. And unless you state otherwise in the Special Instructions, this power of attorney does not revoke any other power of attorney you may have created.

**If you have questions about the power of attorney or the authority it grants to your agent, you should seek legal advice before signing this form.**

#### **DESIGNATION OF AGENT**

I \_\_\_\_\_ name  
(Name of Principal)

the following person as my agent:

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

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

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

#### **DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

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: \_\_\_\_\_

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

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: \_\_\_\_\_

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

#### **GRANT OF GENERAL AUTHORITY**

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the uniform power of attorney act, MCL 556.201 to 556.505:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects, you may simply initial "All Preceding Subjects.")

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects (regardless of whether any of the preceding subjects are initialed)

#### **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

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

**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. Furthermore, depending on the amount in one or more of the accounts mentioned in the last item listed below (which refers to 31 CFR 1010.350), granting that particular power may subject your agent to burdensome federal reporting obligations that are subject to stiff penalties. INITIAL ONLY the specific authority you WANT to give your agent. If you have questions about the wisdom of granting any specific authority to your agent, you should seek legal advice before signing this form. **If you are inclined to grant specific authority but doubt the wisdom of granting that authority to a particular person you have designated as your agent or successor agent, you should ask yourself whether you have designated the right person(s).**

- Create, amend, revoke, or terminate an inter vivos trust
- Make a gift as limited by section 217 of the uniform power of attorney act, MCL 556.317, and any special instructions in this power of attorney
- Create or change rights of survivorship by, for example, creating a joint account
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate
- Access the content of electronic communications
- Exercise authority over any "bank, securities, or other financial account in a foreign country" within the meaning of 31 CFR 1010.350

#### **LIMITATION ON AGENT'S AUTHORITY**

Even if I have authorized my agent to make a gift (by initialing the relevant line above), an agent who 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.

#### **SPECIAL INSTRUCTIONS (OPTIONAL)**

You may give special instructions on the following lines.

**CAUTION!**Special instructions are liable to cause ambiguities that may impair the effectiveness of this power of attorney. You are taking a solemn step if you decide to make any use of this form without seeking legal advice; **you should be especially wary of providing special instructions without the benefit of legal counsel.**

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**EFFECTIVE DATE**

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

**EFFECT ON PREVIOUS POWERS OF ATTORNEY**

Unless I have said otherwise in the Special Instructions, the execution of this power of attorney does not revoke any prior power of attorney.

**NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)**

If it becomes necessary for a court to appoint a conservator or guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for Conservator or Guardian of My Estate: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

Name of Nominee for Guardian of My Person: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

**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 that the power has terminated or is invalid.

**SIGNATURE OF PRINCIPAL, SIGNATURES OF WITNESSES,  
AND ACKNOWLEDGMENT**

**CAUTION!** Unless you provide otherwise in the Special Instructions, this form will create a "durable" power of attorney if you sign it either before a notary public (or other individual authorized to take acknowledgments) or in the presence of two witnesses neither of whom is designated as your agent or successor agent, both of whom sign below (and one of whom may be the notary public or other individual authorized by law to take acknowledgments who also signs below in his or her official capacity). The power's being "durable" means that unless the power is revoked or the agent's authority is otherwise terminated beforehand, your agent's authority will continue during any period in which you are alive but incapacitated. **If you have questions about the wisdom of making this power durable, you should seek legal advice before signing this form.**

**CAUTION!** You have an important motivation to acknowledge your signature before a notary public (or other individual authorized to take acknowledgments) regardless of the question of durability (described above): doing so will make it harder, under section 120 of the uniform power of attorney act, MCL 556.220, for someone to whom the power is presented to decline to accept the power and your agent's authority to act on your behalf.

---

Your Signature

---

Date

---

Your Name Printed

---

Your Address

---

Your Telephone Number

---

Witness No. 1's Signature

---

Date

---

Witness No. 1's Name Printed

---

Witness No. 1's Address

---

Witness No. 2's Signature

---

Date

Witness No. 2's Name Printed

\_\_\_\_\_  
Witness No. 2's Address

State of \_\_\_\_\_  
[County] of \_\_\_\_\_

This document was acknowledged before me on \_\_\_\_\_

(Date)

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

\_\_\_\_\_  
(Seal, if any)

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

My commission expires: \_\_\_\_\_

This document prepared by:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **IMPORTANT INFORMATION FOR AGENT**

#### **Agent's Duties**

When you accept authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power or your authority under it is terminated by a termination event described in the uniform power of attorney act, MCL 556.201 to 556.505. 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;
- (4) Keep a record of receipts, disbursements, and transactions made on behalf of the principal;
- (5) Disclose your identity as an agent whenever you act for the principal by, for example, 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;
- (6) And if the power is "durable" in the sense described below, you must, before acting as agent under the power, sign an acknowledgment of your duties as agent that contains all the declarations contained in the optional template "Agent's Acknowledgment" provided in section 302 of the uniform power of attorney act, MCL 556.402, in substantially the form of that optional template.

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) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects concerning health care or, if you do not know the principal's expectations, to act in the principal's best interest; and
- (5) Attempt, to the extent of the powers you have been granted as agent, 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 it. Events that terminate a power of attorney or your authority to act under such a power 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;
- (4) If the power is intended only for a specified, limited purpose, the specified purpose of the power is fully accomplished; or
- (5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

#### **Statutory Duty to Acknowledge Agent's Duties under "Durable" Power**

Unless the Special Instructions in this power of attorney state otherwise, this form will create a "durable" power of attorney (meaning that unless the power is revoked or your authority is otherwise terminated beforehand, your authority as agent will continue during any period in which the principal is alive but incapacitated) if the principal signs it either before a notary public (or other individual authorized to take acknowledgments) or in the presence of two witnesses neither of whom is designated as the principal's agent or successor agent and both of whom also sign the form. If this power of attorney is durable, then before you act as agent under the power, you must execute an acknowledgment of your duties as agent that contains all the declarations contained in the optional template "Agent's Acknowledgment" provided in section 302 of the uniform power of attorney act, MCL 556.402, in substantially the form of that optional template.

#### **Liability of Agent**

The meaning of the authority granted to you is defined in the uniform power of attorney act, MCL 556.201 to 556.505. If you violate that act or the terms of this power, you may be liable for any damages caused by your violation.

**If there is anything about this document or your duties under it that you do not understand, you should seek legal advice.**

**History:** 2023, Act 187, Eff. July 1, 2024.

#### **556.402 Agent's acknowledgment form.**

Sec. 302. The following optional template may be used by a nominated agent under a durable power of attorney to provide the acknowledgment required by section 113(2):

#### **AGENT'S ACKNOWLEDGMENT**

I, \_\_\_\_\_, have been appointed agent for \_\_\_\_\_ (Your Name), the principal \_\_\_\_\_ (Name of Principal), under a durable power of attorney dated \_\_\_\_\_. By signing this document, I acknowledge that if and when I act as agent under the power, all of the following apply:

#### **MY DUTIES AS AGENT**

I must:

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 the durable power of attorney.
4. Keep reasonable records of receipts, disbursements, and transactions I make on behalf of the principal.
5. Disclose my identity as an agent whenever I act for the principal by writing or printing the principal's name and signing my own name as "agent".
6. And depending on the terms of the power of attorney, I may have additional duties described in section 114 of the uniform power of attorney act, MCL 556.201 to 556.505, including the presumptive duties to act loyally for the principal's benefit, avoid conflicts of interest that would make it hard for me to act in the principal's best interest, and act with care, competence, and diligence.

#### **POWERS REQUIRING SPECIFIC AUTHORITY**

Unless specifically provided in the durable power of attorney or by judicial order, I cannot do any of the following:

1. Create, amend, revoke, or terminate an inter vivos trust.
2. Make a gift of the principal's property to someone else, let alone to myself.
3. Create or change rights of survivorship by, for example, creating a joint account.
4. Create or change a beneficiary designation.
5. Delegate authority granted under the durable power of attorney.
6. Exercise fiduciary powers that the principal has authority to delegate.
7. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.
8. Exercise authority over the content of electronic communications, as defined in 18 USC 2510, sent or received by the principal.
9. Exercise authority over any bank, securities, or other financial account in a foreign country within the meaning of 31 CFR 1010.350.

#### **TERMINATION OF MY AUTHORITY**

I must stop acting on behalf of the principal if I learn of any event that terminates the durable power of attorney or my authority under the power, including the death of the principal or the principal's revocation of either the power or my authority to act under it.

#### **MY POTENTIAL LIABILITY AS AGENT**

If I violate the uniform power of attorney act, MCL 556.201 to 556.505, or act outside the authority granted in the durable power, I may be liable to the principal or the principal's successors for damages caused by my violation and to civil or criminal penalties. An exoneration clause in the power (if any) does not relieve me of liability for acts or omissions committed in bad faith or, in some cases, for acts or omissions committed with reckless indifference to the purposes of the power of attorney or the interests of the principal.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**If there is anything about this document or your duties that you do not understand, you should seek legal advice.**

History: 2023, Act 187, Eff. July 1, 2024.

**556.403 Certification of validity of power of attorney by agent or attorney at law.**

Sec. 303. The following optional template may be used by an agent or an attorney at law who represents either the agent or the principal to certify facts concerning a power of attorney:

**CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY**

State of \_\_\_\_\_

[County] of \_\_\_\_\_

I, \_\_\_\_\_ (Name of Certifier), certify under penalty of perjury that \_\_\_\_\_ (Name of Principal) granted \_\_\_\_\_ (Name of Agent) authority as an agent or successor agent in a power of attorney dated \_\_\_\_\_.

I further certify that to my knowledge:

- (1) The Principal is alive and has not revoked the Power of Attorney or the Agent's authority to act under the Power and the Agent's authority to act under the Power have not otherwise terminated;
- (2) If the Power of Attorney was drafted to become effective upon the happening of a specified event or contingency, the specified event or contingency has occurred;
- (3) If the Agent was named as a successor agent, the prior agent is unable or unwilling to serve; and
- (4) \_\_\_\_\_

(Insert other relevant statements. You may attach separate sheets if additional space is needed.)

**SIGNATURE AND ACKNOWLEDGMENT**

Certifier's Signature \_\_\_\_\_

Date \_\_\_\_\_

Certifier's Name Printed \_\_\_\_\_

Certifier's Capacity (as Agent, attorney at law for Agent, or attorney at law for Principal) \_\_\_\_\_

Certifier's Address \_\_\_\_\_

Certifier's Telephone Number \_\_\_\_\_

This document was acknowledged before me on \_\_\_\_\_,

(Date) \_\_\_\_\_

by \_\_\_\_\_.

(Name of Certifier) \_\_\_\_\_

(Seal, if any) \_\_\_\_\_

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

My commission expires: \_\_\_\_\_

This document prepared by: \_\_\_\_\_

History: 2023, Act 187, Eff. July 1, 2024.

**ARTICLE 4**  
**MISCELLANEOUS PROVISIONS**

**556.501 Uniformity of application and construction.**

Sec. 401. In applying and construing this act, consideration should be given to the need to promote uniformity of the law with respect to the act's subject matter among the states that enact the uniform act on which this act is based.

History: 2023, Act 187, Eff. July 1, 2024.

## **CERTIFICATE OF TRUST**

**STATE OF MICHIGAN** )  
**COUNTY OF \*** )  
S.S. \_\_\_\_\_

The undersigned, \*[can be signed by Settlor, Trustee or Attorney for Settlor or Trustee], being first duly sworn, is executing this Certificate of Trust and represents as follows:

1. **TRUST NAME AND DATE.** The name and date of the trust and the date of each operative trust instrument are as follows (the "Trust"): \* [include all dates of amendments and restatements]
2. **CURRENT TRUSTEE(S).** The name and address of each current trustee ("Trustee") is: \*
3. **TRUSTEE POWERS.** The Trustee has the power and authority to sell, transfer, convey, mortgage and otherwise encumber or dispose of ("Transfer") the real property held by the trust described in this certificate, including, without limitation, the power to execute deeds, promissory notes, mortgages, closing statements, affidavits and all other documents or instruments which the Trustee deems necessary or appropriate to consummate the Transfer.
4. **REVOCABILITY OR IRREVOCABILITY.** The Trust [choose one of the following bracketed options] [is revocable and \*, as **Settlor/Grantor** has reserved the power to amend or revoke the Trust] [is irrevocable] [is irrevocable and it became irrevocable when the **Settlor/Grantor, NAME,\*** died on \*].
5. **CO-TRUSTEES.** [include this Section if there is more than one Trustee and choose one of the following bracketed options][Each co-trustee acting alone has] [A majority of the co-trustees acting together have] [All of the co-trustees acting together have] the authority to sign on behalf of the Trust or otherwise authenticate on behalf of the Trust, and to exercise powers of the Trustee.
6. **NO REVOCATION.** [optional when attorney signs add: To the best of my knowledge,] The Trust remains in full force and effect, and has not been revoked, modified, or amended in any manner that would cause the representations included in this Certificate of Trust to be incorrect.
7. **LEGAL DESCRIPTION.** The real property affected by this Certificate of Trust is situated in the \* of \*, County of \* and State of Michigan, and legally described as follows:

[INSERT LEGAL DESCRIPTION HERE]

More commonly known as: \*  
Tax Parcel ID Number: \*

8. **RECORDING.** This Certificate of Trust is being made, may be relied upon, and is being recorded pursuant to MCL 700.7913 and MCL 565.431 et seq.
9. **GOVERNING LAW.** The Trust is governed by the laws of the State of \*.

Dated: \_\_\_\_\_, 20\_\_\_\_

Signed and Sealed:  
[name and date of trust]

\_\_\_\_\_  
\*[Trustee]

**[Use this Notary if the Settlor or Trustee is signing the Certificate]**

The foregoing instrument was subscribed and sworn to before me, a Notary Public, the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, by \*, the \* of the \* Trust, dated \_\_\_\_\_.

**[Use this Notary if the Attorney for the Settlor or Trustee is signing the Certificate]**

The foregoing instrument was subscribed and sworn to before me, a Notary Public, the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, by \*, the attorney for \*, **Settlor/Trustee** of the \* Trust, dated \_\_\_\_\_.

\_\_\_\_\_, Notary Public  
State of Michigan, County of: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

Drafted by and return to:

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

<b>STATE OF MICHIGAN PROBATE COURT COUNTY OF</b>	<b>LETTERS OF AUTHORITY FOR PERSONAL REPRESENTATIVE</b>	<b>FILE NO.</b>
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Estate of \_\_\_\_\_

TO: _____	Name and address _____ _____ _____	Telephone no. _____ _____ _____
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You have been appointed and qualified as personal representative of the estate on \_\_\_\_\_ . You are authorized to perform all acts authorized by law unless exceptions are specified below. Date \_\_\_\_\_

Your authority is limited in the following way:

You have no authority over the estate's real estate or ownership interests in a business entity that you identified on your acceptance of appointment.

Other restrictions or limitations are:

These letters expire: \_\_\_\_\_ .  
Date \_\_\_\_\_

Date \_\_\_\_\_ Judge (formal proceedings)/Register (informal proceedings) \_\_\_\_\_ Bar no. \_\_\_\_\_  
SEE NOTICE OF DUTIES ON SECOND PAGE

Attorney name (type or print) \_\_\_\_\_ Bar no. \_\_\_\_\_

Address \_\_\_\_\_

City, state, zip \_\_\_\_\_ Telephone no. \_\_\_\_\_

I certify that I have compared this copy with the original on file and that it is a correct copy of the original, and on this date, these letters are in full force and effect.

Date \_\_\_\_\_ Deputy register \_\_\_\_\_

Do not write below this line - For court use only

**The following provisions are mandatory reporting duties specified in Michigan law and Michigan court rules and are not the only duties required of you.** See MCL 700.3701 through MCL 700.3722 for other duties. Your failure to comply may result in the court suspending your powers and appointing a special fiduciary in your place. It may also result in your removal as fiduciary.

**CONTINUED ADMINISTRATION:** If the estate is not settled within 1 year after the first personal representative's appointment, you must file with the court and send to each interested person a notice that the estate remains under administration, specifying the reasons for the continued administration. You must give this notice within 28 days of the first anniversary of the first personal representative's appointment and all subsequent anniversaries during which the administration remains uncompleted. If such a notice is not received, an interested person may petition the court for a hearing on the necessity for continued administration or for closure of the estate. [MCL 700.3703(4), MCL 700.3951(3), MCR 5.144, MCR 5.307, MCR 5.310]

**DUTY TO COMPLETE ADMINISTRATION OF ESTATE:** You must complete the administration of the estate and file appropriate closing papers with the court. Failure to do so may result in personal assessment of costs. [MCR 5.310]

**CHANGE OF ADDRESS:** You are required to inform the court and all interested persons of any change in your address within 7 days of the change.

#### **Additional Duties for Supervised Administration**

If this is a supervised administration, in addition to the above reporting duties, you are also required to prepare and file with this court the following written reports or information.

**INVENTORY:** You are required to file with the probate court an inventory of the assets of the estate within 91 days of the date your letters of authority are issued or as ordered by the court. You must send a copy of the inventory to all presumptive distributees and all other interested persons who request it. The inventory must list in reasonable detail all the property owned by the decedent at the time of death. Each listed item must indicate the fair market value at the time of the decedent's death and the type and amount of any encumbrance. Where the decedent's date of death is on or after March 28, 2013, the lien amount will be deducted from the value of the real property for purposes of calculating the inventory fee under MCL 600.871(2). If the value of any item has been obtained through an appraiser, the inventory should include the appraiser's name and address with the item or items appraised by that appraiser. You must also provide the name and address of each financial institution listed on your inventory at the time the inventory is presented to the court. The address for a financial institution shall be either that of the institution's main headquarters or the branch used most frequently by the personal representative.

[MCL 700.3706, MCR 5.307, MCR 5.310(E)]

**ACCOUNTS:** You are required to file with this court once a year, either on the anniversary date that your letters of authority were issued or on another date you choose (you must notify the court of this date) or more often if the court directs, a complete itemized accounting of your administration of the estate. This itemized accounting must show in detail all income and disbursements and the remaining property, together with the form of the property. Subsequent annual and final accountings must be filed within 56 days following the close of the accounting period. When the estate is ready for closing, you are also required to file a final account with a description of property remaining in the estate. All accounts must be served on the required persons at the same time they are filed with the court, along with proof of service.

**ESTATE (OR INHERITANCE) TAX INFORMATION:** You are required to submit to the court proof that no estate (or inheritance) taxes are due or that the estate (or inheritance) taxes have been paid. **Note:** The estate may be subject to inheritance tax.

#### **Additional Duties for Unsupervised Administration**

If this is an unsupervised administration, in addition to the above reporting duties, you are also required to prepare and provide to all interested persons the following written reports or information.

**INVENTORY:** You are required to prepare an inventory of the assets of the estate within 91 days from the date your letters of authority are issued and to send a copy of the inventory to all presumptive distributees and all other interested persons who request it. The inventory must list in reasonable detail all the property owned by the decedent at the time of death. Each listed item must indicate the fair market value at the time of the decedent's death and the type and amount of any encumbrance. Where the decedent's date of death is on or after March 28, 2013, the lien amount will be deducted from the value of the real property for purposes of calculating the inventory fee under MCL 600.871(2). You are required within 91 days from the date your letters of authority are issued, to submit to the court the information necessary to calculate the probate inventory fee that you must pay to the probate court. You may use the original inventory for this purpose. [MCL 700.3706, MCR 5.307]

**ESTATE (OR INHERITANCE) TAX INFORMATION:** You may be required to submit to the court proof that no estate (or inheritance) taxes are due or that the estate (or inheritance) taxes have been paid. **Note:** The estate may be subject to inheritance tax.