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**(Principal)**

**AND**

**(Attorney)**

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**GENERAL POWER OF ATTORNEY**

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## GENERAL POWER OF ATTORNEY

A general power of attorney is a legal document that allows you, the principal, to nominate one or more persons, referred to as attorneys, to act on your behalf. A general power of attorney gives the attorney the authority, if you choose, to manage your legal and financial affairs, including buying and selling real estate, shares and other assets for you, operating your bank accounts, and spending money on your behalf.

A general power of attorney ceases if you lose your mental capacity after its execution. If you wish the power of attorney to continue if you lose your mental capacity, use the enduring power of attorney prescribed form. An attorney under a general power of attorney cannot make decisions about your lifestyle or health. These decisions can only be made by a guardian, whether an enduring guardian appointed by you or a guardian appointed by the New South Wales Civil and Administrative Tribunal or the Supreme Court.

You may set whatever conditions and limitations on your attorney that you choose. An attorney must always act in your best interest. If your attorney does not follow your directions or does not act in your best interest, you should revoke the power of attorney. You or someone on your behalf should inform the attorney of the revocation, preferably in writing. The attorney must then immediately cease to act as your attorney. If anyone else, such as a bank, has been advised about the power of attorney, that person or entity should also be informed of the revocation.

The important information set out at the end of this form includes notes to assist in completing this form and more fully explains the role and responsibilities of an attorney.

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## GENERAL POWER OF ATTORNEY

### 1. Appointment of attorney by the principal

I, of 1/67 Scott Street, Liverpool, NSW 2170, appoint of to be my attorney.

If I appoint more than one then my attorneys are appointed jointly and [ I want **OR** I do not want ] the appointment to be terminated if one of the attorneys vacates office.

**OR**

If I appoint more than one then my attorneys are appointed jointly and severally.

**AND** I [revoke OR do not revoke] any previous appointments of powers of attorney.

#### **Nomination of substitute attorney**

If all my attorneys have vacated office then I appoint of to be my substitute attorney.

If I appoint more than one then my substitute attorneys are appointed jointly and [ I want **OR** I do not want ] the appointment to be terminated if one of the substitute attorneys vacates office.

**OR**

If I appoint more than one substitute attorney then they are appointed [ jointly **OR** jointly and severally ].

### 2. Powers

My attorney/s may exercise the authority conferred on my attorney/s by Part 2 of the Powers of Attorney Act 2003 to do anything on my behalf I may lawfully authorise an attorney to do.

#### **Additional powers**

[Optional - Delete or edit as required]

- (a) I authorise my attorney to give reasonable gifts as provided by section 11(2) of the Powers of Attorney Act 2003.
- (b) I authorise my attorney to confer benefits on the attorney to meet their reasonable living and medical expenses as provided by section 12(2) of the Powers of Attorney Act 2003.
- (c) I authorise my attorney to confer benefits on of to meet their reasonable living and medical expenses as provided by section 13(2) of the Powers of Attorney Act 2003.
- (d) .

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**3. Conditions and limitations**

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I place the following limits and/or conditions on the authority of my attorney/s:

[Optional - Delete or edit as required]

- (a) My attorney must not exercise any power granted by this appointment without my express authority to do so on each occasion; and
- (b) .

[You can limit the attorney's power to only carry out certain tasks. For example, you can specify that the attorney may only act to sell your house, or that the attorney can only act to deal with your shares. You can also place any conditions on how those tasks are to be carried out. For example, you can require that the attorney must submit accounts to a nominated accountant every year for audit. If you do not want to have any conditions or limitations placed on your attorney, write "NIL".]

**4. Commencement**

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This power of attorney operates immediately.

**OR**

This power of attorney operates on and from \_\_\_\_\_ up to and including \_\_\_\_\_ .

**OR**

This power of attorney operates whilst I am overseas.

**OR**

This power of attorney operates \_\_\_\_\_ .

**5. Signing by principal to give effect to the appointment of the attorney**

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<b>SIGNED</b> by _____ on the _____ day of _____ ) 2019 in the presence of: _____ ) _____ )	_____ Principal's signature
_____ Witness's signature	
_____ Witness's name	
_____ Witness's address	

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**6. Attorney responsibilities**

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Your attorney must do the following:

- (a) Keep your money and property separate from the attorney's money and property;
- (b) Keep reasonable accounts and records of your money and property;
- (c) Not benefit from being an attorney, unless expressly authorised by you;
- (d) Always act in your best interests; and
- (e) Always act honestly in all matters concerning your legal and financial affairs.

Failure to do so may incur civil and/or criminal penalties.

NSW LRS OFFICE USE ONLY

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## IMPORTANT INFORMATION

- A power of attorney is an important and powerful legal document. You should get legal advice before you sign it.
- It is important that you trust the person you are appointing as attorney to make financial decisions on your behalf. Your attorney must be over 18 years old and must not be bankrupt or insolvent. If your financial affairs are complicated, you should appoint an attorney who has the skills to deal with complex financial arrangements.
- A power of attorney cannot be used for health or lifestyle decisions. You should appoint an enduring guardian under the Guardianship Act 1987 if you want a particular person to make these decisions. For further information, contact the New South Wales Civil and Administrative Tribunal or New South Wales Trustee and Guardian.
- Clause 2 of the power of attorney contains powers which will permit your attorney to use your money and assets for the attorney or anyone else as provided. You include those provisions in clause 2 if you want your attorney to have those powers.
- This power of attorney is for use in New South Wales only. If you need a power of attorney for interstate or overseas, you may need to make a power of attorney under their laws. The laws of some other states and territories in Australia may give effect to this power of attorney. However, you should not assume this will be the case. You should confirm whether the laws of the state or territory concerned will in fact recognise this power of attorney.
- Your attorney must keep the attorney's own money and property separate from your money and property, unless you are joint owners, or operate joint bank accounts. Your attorney should keep reasonable accounts and records about your money and property. The cost of providing and maintaining these records by the attorney may be recoverable from you.
- If your attorney is signing certain documents that affect real estate, the power of attorney must be registered at NSW Land Registry Services. Please contact NSW LRS on 1300 052 637 to see whether the power of attorney must be registered.
- An attorney must always act in your best interest. If your attorney does not follow your directions or does not act in your best interest, you should consider revoking the power of attorney. If you revoke the power of attorney you should notify the attorney, preferably in writing, that they are no longer your attorney. The attorney must stop acting immediately once they have knowledge of the revocation.
- This power of attorney does not automatically revoke earlier powers of attorney made by you. If you have made an earlier power of attorney that you do not want to continue, you must revoke the earlier power of attorney. It is advisable that you notify the attorney, preferably in writing, of the revocation, if you have not already done so. You should also give notice of the revocation to anyone who is aware of the earlier power of attorney, such as a bank.

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## NOTES FOR COMPLETION

### **Joint attorneys**

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If you appoint more than one attorney, you should indicate whether the attorneys are to act jointly or jointly and severally. Attorneys who are appointed jointly are only able to act and make decisions together.

Attorneys who are appointed jointly and severally – that is, together or separately – are able to act and make decisions independently of each other. However, you can specify that a simple majority, if you appoint three or more attorneys, must agree before they can act.

### **Substitute attorney/s**

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If you appoint a substitute attorney, the substitute attorney will only have authority to act as your attorney if the first appointed attorney vacates their position.

You can specify for whom the substitute is to act – for example, if you appoint A and B as attorneys and X and Y as substitutes, you can specify that X takes A's place if A vacates office.

### **Attorney vacates office**

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Section 5 of the Powers of Attorney Act 2003 states that there is a vacancy in the office of attorney if the attorney dies, resigns, becomes bankrupt, loses mental capacity or the authority to act is revoked.

If you have appointed a substitute attorney, it may be helpful that some sort of documentation evidencing the vacation of the original attorney is attached to this power of attorney when that vacancy happens. This will assist to satisfy a third party that the substitute attorney is entitled to act for you.

### **Further information**

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For information on powers of attorney, the attorney's duties and registration, contact NSW Land Registry Services [www.nswlrs.com.au](http://www.nswlrs.com.au), the New South Wales Trustee and Guardian [www.tag.nsw.gov.au](http://www.tag.nsw.gov.au), a solicitor or a trustee company.

The New South Wales Government's Planning Ahead Tools website [www.planningaheadtools.com.au](http://www.planningaheadtools.com.au) provides up-to-date information and resources about powers of attorney, enduring guardianship, wills and advanced care planning.