

SCHEDULE IV

SAMPLE POWERS OF ATTORNEY

Note: The Protocol formerly required that the Lawyer obtain the client's power of attorney, empowering the Lawyer to correct defects in the document which would otherwise cause its rejection by the Land Titles Office. The approved power of attorney was either the short form Limited Power of Attorney shown as Sample One below, or the longer form Limited Power of Attorney illustrated at Sample Two, which is an enduring power of attorney under *The Powers of Attorney Act (Manitoba)*.

It continues to be acceptable to obtain a party's power of attorney by way of separate written instrument, in the form of either Sample One or Sample Two below. In circumstances where the continuing capacity of a party is at issue, the prudent practice may still be to obtain that party's enduring power of attorney, substantially in the form of Sample Two below.

However, it is no longer a Protocol requirement to obtain the client's express power of attorney, nor is it appropriate to require the other party's lawyer to obtain a power of attorney from that lawyer's client. By general principles of agency law, the lawyer has the client's implied authority to conduct the matter in which the lawyer is retained and to do all things that may reasonably be expected to arise in the transaction. The Corrections Policy of the Land Titles Office recognizes that implied authority, and will allow the lawyer, as agent for the client, to correct the vast majority of document defects by way of correction letter.

(SAMPLE ONE)

LIMITED POWER OF ATTORNEY

I, (insert full name of donor) of (insert full address and postal code) appoint (insert full name of lawyer appointed) of (insert full address and postal code) to be the attorney for me and in my name and place to do all things required to be done on my behalf in order to complete the [purchase / mortgage / sale] of (insert civic address or short legal description of the property as referred to in the Offer or the Mortgage Commitment) contemplated by my agreement with (insert full names of all other parties, including the donor's mortgagee, if applicable) dated _____. For that purpose (but without limitation), my attorney may execute and deliver, or amend, correct, replace or re-execute and deliver, all documents, forms, instruments, elections, acknowledgements, consents or releases (including any consent or release under *The Homesteads Act [Manitoba]*), may give evidence on my behalf by way of affidavit, statutory declaration or otherwise concerning any matter, and may do all lawful acts which, in the opinion of my attorney, may be necessary or desirable.

SIGNED AND SEALED at _____, Manitoba, this ____ day of _____ 20 ____.

Signed, published and declared by _____)
in my presence, and at his/her request)
and in his/her presence, I have hereunder)
subscribed my name as a witness.)

Witness)

Name and
Occupation

**THE HOMESTEADS ACT
DONOR'S ACKNOWLEDGEMENT FOR POWER OF ATTORNEY**

I, _____, the donor named in the above Limited Power of Attorney appointing _____ as my attorney, acknowledge that:

1. I am executing this Limited Power of Attorney freely and voluntarily, without any compulsion on the part of my spouse or common-law partner;
2. I am aware of the nature and effect of this Limited Power of Attorney; and
3. I am executing this acknowledgement apart from my spouse or common-law partner.

(Name of Donor)

(Signature of Donor)

(Date)

(Name of Witness)

(Signature of Witness)

(Date)

A Commissioner for Oaths/Notary Public in and for the Province of Manitoba. My Commission expires:

02/04

CANADA) I, _____, of
) the _____ of _____, in the
 PROVINCE OF MANITOBA) Province of Manitoba,
)
 TO WIT:)

make oath and say that:

1. I was personally present and did see the within Limited Power of Attorney and Acknowledgement duly signed, sealed and executed by the donor of the power, _____, at the _____ of _____, in the Province of Manitoba, on the _____ day of _____, 20__ and at the time of execution the donor was, in my opinion, of sound mind, memory and understanding.
2. I know the donor and he/she is, in my belief, eighteen (18) years of age or more.
3. I am a subscribing witness to the Limited Power of Attorney and Acknowledgement.
4. The Limited Power of Attorney and Acknowledgement was executed by the donor in my presence (or the donor acknowledged his or her signature in my presence), whereupon I did, in the presence of the donor, subscribe the Limited Power of Attorney and Acknowledgement as a witness.

SWORN BEFORE me at the _____ of)
 _____, in Manitoba, this)
 _____ day of _____, 20__)
)
 _____)
 A Commissioner for Oaths in and)
 for the Province of Manitoba)
 My Commission Expires:

 Witness

NOTE TO SOLICITOR:

In circumstances where transfer or mortgage documents must be substantially amended or re-executed by the solicitor under the Limited Power of Attorney, the Land Titles Office may require that, in addition to filing the Limited Power of Attorney, the solicitor furnish evidence to the effect that:

1. the documents executed or amended by the grantee under the Limited Power of Attorney relate to the lands described in the Limited Power of Attorney; and
2. the documents executed or amended by the grantee under the Limited Power of Attorney relate to the transaction described in the Limited Power of Attorney.

Solicitors should consult with the Land Titles Office to determine its specific requirements in any individual case.

(SAMPLE TWO)

LIMITED POWER OF ATTORNEY

I, _____ (*Insert Full Name of Donor*) of _____ (*Insert Full Address and Postal Code*) do hereby nominate, constitute and appoint _____ (*Insert Full Name of Lawyer Appointed*) of _____ (*Insert Full Address and Postal Code*)

to be the true and lawful attorney for me and in my name, place and stead, and for my sole use and benefit, to do all things required to be done on my behalf in order to complete the transaction of purchase, mortgage or sale of property contemplated by my agreement with _____ (*Insert Full Names of all other Parties, including the Donor's Mortgage, if applicable*) (the "Transaction") and for that purpose (but without limitation), to exercise any or all of the following powers:

1. to execute and deliver, or to amend, correct, replace or re-execute and deliver, all documents, forms, instruments, elections, acknowledgements, consents or releases (including any consent or release under *The Homesteads Act [Manitoba]*) and, without limitation, to give evidence on my behalf, by way of affidavit, statutory declaration or otherwise, concerning any matter;
2. to examine, state, adjust, settle or pay any account between myself and any other person, to receive and to give receipts and discharges for all sums of money which may become due and payable to me, and to compound, compromise and accept part payment in satisfaction of the payment of the whole of any debts or sums of money payable to me or to grant an extension of time for the payment of the same;
3. to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in connection with the Transaction;
4. to appoint a substitute attorney or attorneys with the same or more limited powers as are set out herein and, at pleasure, to revoke any or all powers given to such substitute or substitutes; and
5. to act generally as my attorney in relation to the Transaction and, on my behalf, to do all lawful acts which, in the opinion of my attorney, may be necessary or desirable.

I hereby declare that, for the purposes of the Transaction, my attorney shall have all powers in relation to my property as if my attorney were the owner thereof, and I hereby authorize my attorney to do on my behalf anything I can lawfully do by an attorney.

I declare that the authority given to my attorney under this Limited Power of Attorney is given for valuable consideration, is irrevocable, and is to remain in full force and effect, notwithstanding any future or periodic mental infirmity, incompetency or death on my part.

SIGNED AND SEALED at _____, Manitoba, this __ day of _____ 20__.

Signed, published and declared by _____)
in my presence, and at his/her request)
and in his/her presence, I have hereunder)
subscribed my name as a witness.)

*Witness)
Name and)
Occupation)

***Important Note as to Requirements for Witness**

In accordance with *The Powers of Attorney Act (Manitoba)*, a witness to the execution of an enduring power of attorney must be:

- (a) an individual registered, or qualified to be registered, under section 3 of *The Marriage Act (Manitoba)* to solemnize marriages;
- (b) a judge of a superior court of the province;
- (c) a justice of the peace, magistrate or provincial judge;
- (d) a duly qualified medical practitioner;
- (e) a notary public appointed for the province;
- (f) a lawyer entitled to practice in the province;
- (g) a member of the Royal Canadian Mounted Police; or
- (h) a member of a municipal police force in the province who exercises the powers of a peace officer.

Neither the attorney nor his or her spouse or common-law partner may act as a witness.

THE HOMESTEADS ACT
DONOR'S ACKNOWLEDGEMENT FOR POWER OF ATTORNEY

I, _____, the donor named in the above Limited Power of Attorney appointing _____ as my attorney, acknowledge that:

1. I am executing this Limited Power of Attorney freely and voluntarily, without any compulsion on the part of my spouse or common-law partner;
2. I am aware of the nature and effect of this Limited Power of Attorney; and
3. I am executing this acknowledgement apart from my spouse or common-law partner.

(Name of Donor)

(Signature of Donor)

(Date)

(Name of Witness)

(Signature of Witness)

(Date)

A Commissioner for Oaths/
Notary Public in and for
the Province of Manitoba.
My Commission expires:

CANADA) I, _____, of
) the _____ of _____, in the
 PROVINCE OF MANITOBA) Province of Manitoba,
)
 TO WIT:)

make oath and say that:

1. I was personally present and did see the within Limited Power of Attorney and Acknowledgement duly signed, sealed and executed by the donor of the power, _____, at the _____ of _____, in the Province of Manitoba, on the _____ day of _____, 20__ and at the time of execution the donor was, in my opinion, of sound mind, memory and understanding.
2. I know the donor and he/she is, in my belief, eighteen (18) years of age or more.
3. I am a subscribing witness to the Limited Power of Attorney and Acknowledgement.
4. The Limited Power of Attorney and Acknowledgement was executed by the donor in my presence (or the donor acknowledged his or her signature in my presence), whereupon I did, in the presence of the donor, subscribe the Limited Power of Attorney and Acknowledgement as a witness.

{If the person signing the Limited Power of Attorney and Acknowledgement is a marksman or blind, complete the following paragraph.}

5. Prior to the execution of the within Limited Power of Attorney and Acknowledgement by the donor, it was read over to him/her by me and the donor at the time had knowledge of its contents and appeared perfectly to understand it.

SWORN BEFORE me at the _____ of)
 _____, in Manitoba, this)
 _____ day of _____, 20__.

)
)
 _____)
 A Commissioner for Oaths in and)
 for the Province of Manitoba)

My Commission Expires:

 Witness