

CAs' Handbook on

DRAFTING POWER OF ATTORNEY



Committee on Commercial Laws, Economic Advisory & NPO Cooperative
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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Foreword

In the ever-evolving landscape of finance and legal practice, Chartered Accountants play a pivotal role, serving as the bedrock of stability, expertise, and trust. As regulations shift, technologies advance, and global markets interconnect, the ability to navigate complexity with precision becomes paramount. In this regard, drafting Power of Attorney Documents is an area of Concern.

I am pleased to note that the Committee on Commercial Law, Economic Advisory, and NPO Cooperative of the Institute of Chartered Accountants of India (ICAI) has brought out Publication “CA’s Handbook on Drafting Power of Attorney”. This publication meticulously addresses the nuances of drafting Power of Attorney documents, offering comprehensive insights and practical guidance. From understanding legal requirements to crafting precise and effective documents, this handbook equips professionals with the tools necessary to excel in this crucial aspect of their practice.

I extend my heartfelt appreciation to CA. Chandrashekhar Vasant Chitale, Chairman; CA. Prakash Sharma, Vice-Chairman, and other members of the Committee for their dedication and expertise in compiling this invaluable resource.

I am confident that the publication will serve as a cornerstone for practitioners, educators, and students in handling Power of Attorney matters. I encourage all readers to make the most of this resource and leverage the insights provided within.

June 30, 2024
Delhi

CA. Ranjeet Kumar Agarwal
President, ICAI

Preface

Chartered Accountants in India play a crucial role in various aspects of financial and legal matters, including the execution and understanding of legal documents such as Power of Attorney. The ability to draft and understand these documents is essential for Chartered Accountants, as it enhances their professional capabilities and ensures compliance with legal requirements.

The handbook on "drafting Power of Attorney" is designed to provide Chartered Accountants with comprehensive guidance on the drafting and interpretation of Power of Attorney documents. It emphasizes the importance of clarity and precision in language, as well as a thorough understanding of relevant laws and legal terminology.

The Committee on Commercial Law Economic Advisory and NPO Cooperative (CCLEANC) of ICAI is proud to present this handbook, which is tailored to meet the specific needs of Chartered Accountants. It is our belief that this resource will empower CAs to effectively navigate the complexities of Power of Attorney, enabling them to provide valuable services to their clients.

I would like to express my gratitude to the leadership of ICAI - CA. Ranjeet Kumar Agarwal, President, ICAI and CA. Charanjot Singh Nanda, Vice-President, ICAI, for their support and guidance in the development of this publication.

I would also like to extend my heartfelt thanks to CA. Sharad A. Vaze and CA. Kishor M. Gurjar for their valuable contributions and insights, which have greatly enriched the content of this handbook.

I would further like to express my gratitude to CA. Prakash Sharma, Vice Chairman, CCLEANC and other members of the Committee for their continuous efforts in the Committee's initiatives. Additionally, I acknowledge the efforts of the Committee's Secretariat for their dedication and hard work in bringing this publication to fruition.

It is my hope that the "CAs' Handbook on Drafting Power of Attorney" will serve as a valuable resource for members of ICAI, enhancing their understanding and proficiency in this important legal area.

I thank all those involved in the creation of this handbook and commend their commitment to excellence. Together, let us continue to uphold the highest standards of Chartered Accountancy, fostering a culture of professionalism and integrity.

Happy learning!

May 27, 2024
Delhi

CA. Chandrashekhar Vasant Chitale
Chairman,
Committee on Commercial Law Economic Advisory, and NPO Cooperative

Contributors

S.NO	NAME	CONTRIBUTION
1.	CA. SHARAD A. VAZE	AUTHOR
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Power of Attorney

1. Introduction:

A Power of Attorney is a legal document that allows one person to act on behalf of some another person.

In fact, the concept of power of attorney dates back to *Ramayana*!

Angad, son of Wali, was sent as an emissary by Lord Ram to the King Ravana. Lord Ram had given power to Angad to represent him before the King Ravana. It was a kind of oral attorney bestowed on Angad by Lord Ram.

In the like manner, in *Mahabharata* also, Shrikrishna had been to the *darbar* (Court) of Kaurava King Duryodhan. He represented Pandavas.

At that time, no written documentation was required because people were honest and oral attorney was accepted on the face of it. No proof of attorney was demanded from persons like Angad or Lord Shrikrishna.

2. Need:

A power of attorney is required when you choose a person to act on your behalf in your absence. There can be many situations where you may not be present or even when you are present yet you want to be properly represented before any authority including the courts/tribunals, etc., by an expert in the subject. A power of attorney can be given in your good times for any eventuality in future where you get physically or mentally incapacitated to perform any work.

A person giving the power is called a “Donor” and the person receiving the authority is called a “Donee” or the “Attorney”.

KEY POINTS

- A power of attorney is a legal document that gives one person the power to act for another.
- The person who receives the authority is referred to as the agent or donee or attorney.
- The subject of the POA is called the principal or donor or executant.
- The attorney or donee can have broad legal authority or limited authority to make decisions about the principal's property, finances, or medical care.
- A durable power of attorney continues to remain in effect if the principal becomes ill or disabled and cannot act personally.

A power of attorney (POA) is a legal authorization that gives the donee or agent or attorney the authority to act on behalf of an individual referred to as the Donor or executant or principal. The

attorney may be given broad or limited authority to make decisions about the principal's property, finances, investments, or medical care.

Creating a special power of attorney and specifying how it will operate even if one loses his/her ability to think or function, ensures that he/she will have a plan in place for overseeing his/her financial affairs and health directives if and when he is unable to do so. Be sure to choose someone on whom he/she trusts and who will be able to faithfully carry out their responsibilities on his/her behalf.

One can technically name anybody as his agent as long as it is done under his free will, and he is mentally competent. The Attorney should be somebody trustworthy and capable, such as a spouse, close family member, or friend or professional for some technical or legal matter. Thus, one can also designate his Chartered Accountant to have a POA for tax, corporate laws, financial laws, arbitration, mediation, etc.

Following is an illustrative list (not exhaustive) where the power of attorney may be given

- (i) Power of attorney to represent before the Courts/Tribunals or other quasi-judicial authorities. Here the Donor of the attorney is availing the expertise and professional knowledge of the donee attorney.
- (ii) Power of attorney in favour of parents when their children go abroad for employment or education.
- (iii) Power of attorney in favour of spouse by those persons working abroad.
- (iv) Power of attorney in favour of near relative in India by non-resident Indians towards sale of property in India, renting of property, filing of tax returns, making of investments in bank deposits/shares/mutual funds etc.
- (v) Power of attorney in favour of near relative in India, due to physical unavailability/presence of the donor.

3. How a Power of Attorney (POA) Works:

A power of attorney (POA) is a legal document that binds the attorney and the executant. It is used in the event of an executant's temporary or permanent illness or disability or when they can't sign necessary documents. Both parties must sign the document and (though not necessary) usually a third party is usually required to witness it.

POA documents authorize the attorney to represent the executant in all property and financial matters as long as the executant's mental state of mind is good. The agreement automatically ends if the executant becomes incapable of making decisions for themselves unless it is so specifically provided as Durable Power of Attorney. (Described in following para).

Power of attorney can come to an end for several reasons, such as when the executant:

- a) Revokes the agreement or

- b) Dies or
- c) When a court invalidates it, or
- d) When the attorney can no longer carry out the responsibilities outlined in the agreement.
- e) In the case of a married couple, the authorization may be invalidated if the executant has given the power of attorney to his/her spouse and the relationship between them is dissolved by divorce.

Someone who wants the power of attorney to remain in effect after their health deteriorates should sign a Durable Power of Attorney (DPOA). This remains in force even if the person they're representing becomes mentally or physically incapacitated, but it doesn't persist after the executant's death. The authority is also become void if the power of attorney isn't designated as Durable and the client becomes mentally incapacitated.

There are many good reasons to make a power of attorney because it ensures that someone will look after your financial affairs if you become incapacitated. But signing a POA that grants broad authority to an attorney is very much like signing a blank check.

a) CA and Power of Attorney :

When a chartered accountant represents his client in any proceedings, it is necessary for him to obtain Power of Attorney from his client. Such proceedings can be before Income Tax Authorities, GST Authorities, Corporate Law Officials, FEMA or bank officers, Arbitration or Mediation Proceedings, etc.

If a chartered accountant appears on behalf of the client without obtaining power of attorney, then there will be a risk if the client disowns his representation. The client can file a case for professional misconduct with ICAI for acting without authority.

Power of attorney should be appropriately stamped under the law of the State Government.

b) Stamp Duty:

Power of Attorney being a legal document attracts stamp duty. **The charge of stamp duty varies from State to State as the stamp duty is the State subject. Therefore, it is advisable to appraise the correct amount of stamp duty as well as mode of its payment.** For example, in Maharashtra the stamp duty for a power of attorney is to be executed on a Rs 500/- stamp paper whereas in the State of Madhya Pradesh, the stamp duty is Rs 1,000/-.

The power of attorney may attract stamp duty as applicable to a "conveyance", if the power is given to transfer an immovable property. For instance, in Maharashtra, as per the Maharashtra Stamp Act, 1958 if the power of attorney is given to a 'non-relative', (for transfer of an immovable property) the stamp duty at the rates applicable for 'conveyance' is payable. The word 'relative' means father, mother, brother sister, wife, husband, daughter, son, grand-son, grand-daughter or father, mother, brother, or sister of the spouse. The stamp duty is Rs 500/- if power is given to above described relative for the transfer of any immovable property.

The readers are advised to refer the similar provision that may exist in stamp duty provisions of their respective State legislations.

The advocates are required to pay the stamp duty by way of affixing court fee stamps on *Vakalatnama* (power of attorney) for representation in any Court of Law.

c) Execution:

A power of attorney requires the signatures of the donor as well as the donee. A witness is not required.

The execution of a power of attorney outside India is dealt in separately elsewhere in this booklet.

d) Registration:

Generally, registration of power of attorney is not required.

However, if a power of attorney authorises the "donee" which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in **immovable property**, such power of attorney needs to be registered as required by section 17(1)(b) of the Indian Registration Act 1908.

Hence, if a person desires to give the power to transfer an immovable property, the said power of attorney must be registered.

e) Contents:

- (i) Preamble
- (ii) Authorisation / Objects Cause.
- (iii) Production of evidence / information.
- (iv) Signature on behalf of Donor.
- (v) Receipt of Notices on behalf of Donor.
- (vi) To do all acts / things for the furtherance of objects of power of attorney.
- (vii) Acts of donee to bind the Donor.
- (viii) Date of execution
- (ix) Signature of Donor
- (x) Acceptance and signature by donee.

(i) Preamble

Preamble includes adscription of the Donor's name, son/daughter of, address, age of the Donor, capacity whether as individual or as partner/director/trustee etc. In the like manner, the details of donee are included in the preamble.

(ii) Authorisation / Objects Cause

Here the power of attorney states the purpose and objectives to be achieved. This generally includes a long list of various powers bestowed on the donee like operating a bank account, signing of income tax returns, filing of appeals, appointing consultants, investments to be made, renting of property, sale/purchase of immovable property and so on.

(iii) Production of evidence / information.

This clause helps the donee to submit any evidence / information suitable to his pleadings especially before the courts/tribunals or other authorities. Such production of evidence may be necessary in other cases like production of KYC documents periodically to banks for its operations etc.

(iv) Signature on behalf of Donor

This clause empowers the donee to sign any document on behalf of the Donor like transfer/purchase of property, operation of bank account, execution of rent agreement, signing of tax returns and so on. With this power, the signature by donee will be as good as the signature of Donor.

(v) Receipt of notices etc

Donee can receive notices on behalf of the Donor if so, authorised in this behalf. The receipt of notice / communication by the donee will be treated as acceptance of notice / communication by the Donor.

(vi) To do all acts / things for the furtherance of objects of power of attorney .

The authority to bind the Donor by the acts of donee can never exceed the authority give to him. For instance, an authority is given to donee to operate a bank account. However, this authority will not help him to e-verify the income tax return through net banking!

Donee must function within the parameters of authority bestowed on him.

(vii) Acts of donee to bind the Donor.

Any act done by the donee in pursuance of power of attorney but within the powers granted by the Donor shall be binding on him.

(viii) Date of execution

The power of attorney shall state the date of execution as well commencement of its life. The power of attorney may provide sunset clause either by date or by completion of an event i.e. fulfilment of its object.

(ix) Signature of Donor

The Donor shall put his signature to give the authority. He must also state the capacity in which he is signing. He may sign as an individual or as partner of firm, director of company or trustee of a trust, etc. Whenever, the Donor is signing on behalf of other person like firm/company/trust etc he should possess necessary power to give such authority in the instrument (partnership deed / articles of association / trust deed etc), governing the other entity.

(x) Acceptance and signature by donee.

Giving of power to the donee is not a unilateral act. The donee must accept the authority given by the Donor by putting his signature.

4. Delegation:

Donee can further delegate power of attorney if and only if so, authorised by the Donor. For instance, Mr A residing abroad has given power of attorney to his father, Mr B, to submit Mr A's tax returns. There were some additions in the intimation. Mr B, donee, desires to file the appeal and engage a Chartered Accountant to represent the assessee, i.e. Mr A. Mr B can appoint a Chartered Accountant by giving power of attorney to represent Mr A if and only if such delegation of further power is permissible / available in the power of attorney given by Mr A to Mr B.

This proposition has come out of section 2 of the Powers of Attorney Act 1882.

5. Execution of Power of Attorney outside India:

A person need not be in India to give power of attorney. Such person desiring to give the power should visit Indian High commission / Indian Embassy or its sub-offices like consulates etc. The concerned person will have to execute the power of attorney in the presence of Consular Official who countersigns as a token stating that the executant has signed before him (normal attestation).

There are two ways in which such documents are executed:

a) Apostille:

India, since 2005, is a member of the Hague Convention of October 5, 1961, that abolished the requirement of legalization of foreign public documents. Apostille is acceptable in all member-countries of the Convention. Apostille is done for personal documents like birth/death/marriage certificates, Affidavits, Power of Attorney, etc. and educational documents like degree, diploma,

matriculation, and secondary level certificates etc. As India is a member of the Hague Apostille Convention, 1961, no further attestation or legalization of a document apostilled by a member country, should be required for using such apostilled document in India. An apostilled document should, therefore, be treated as a legalized document for all purposes in India by all concerned, in accordance with the international obligation under the Hague Convention.

b) Normal attestation:

This is done for all the countries which are not a member of the Hague Convention and where Apostille is not accepted.

In either case, as the document is to be used in India, the concerned person, may be Indian or non-Indian, shall visit the Indian High Commission / Indian Embassy or its sub-offices.

The authority for attestation is provided by sec 3 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948.

6. Periodic Review:

Periodically review and updation of the POAs to be carried out when and if family circumstances change. You can cancel a POA by simply writing a letter that identifies it and states that you're revoking it and then delivering the letter to your former agent. Some states require such a letter to be notarized. It's also a good idea to send copies to third parties with whom the agent may have acted on your behalf. Then create a new POA and deliver it to your new choice of an agent.

It is necessary to ensure that the attorney or donee periodically report all actions taken by a trusted attorney or donee upon which family members agree upon, such as the family's chartered accountant or lawyer. One can also name two agents and require they agree on major transactions, such as the sale of a home.

7. Limitation on Attorney:

The scope of legal authority that is granted by an Attorney or Donee is laid out when Power of Attorney is drafted and executed. The person who is granted power of attorney has a legally fiduciary duty to make decisions that are in the best interests of the person they're representing. The Attorney or Donee cannot travel beyond the authority, cannot exceed the authority conferred under the Power of Attorney document, as executed.

8. Abetment:

As stated earlier, the Attorney or Donee must act within the four corners of authority as well as law. Therefore, he cannot undertake / perform any act which is illegal or prohibited by law. For instance, an Attorney cannot submit that he had bribed the Public Servant on behalf of Donor to have some illegal gratification to the Donor.

9. Revocation:

- (i) Power of Attorney can have a set termination date or duration of time for which it will remain in force.
- (ii) Power of Attorney can be for a specific event. On the conclusion of the said event, the power of attorney lapses. For instance, power of attorney given by client to a chartered accountant to represent for assessment / appeal etc. On completion of assessment or conclusion of appellate hearing, the power of attorney will come to an end.
- (iii) Power of attorney can be terminated by expressly revoking it.
- (iv) A POA ends if attorney or donee becomes mentally incapacitated.
- (v) All powers of attorney cease on death of the principal or Donor.

10. Irrevocable Power of Attorney:

Power of attorney given to the buyer of property after receipt of full consideration is irrevocable in all circumstances.(and needs proper registration with Competent Authority)

11. Choosing Multiple Agents:

More than one attorney can be named in a POA, either with the authority to act separately or they can be requiring to act jointly. Having two agents who are separately authorized to manage routine items can be a convenience if one becomes unavailable for some reason. Requiring two or more to agree on major actions like selling a house can ensure better decision making over major decisions.

THE POWERS-OF-ATTORNEY ACT, 1882

In India, the Powers-Of-Attorney Act, 1882 deals with certain aspects relating to powers-of-attorney. The Act is enclosed in an Appendix.

SPECIMEN

1. Power of Attorney to represent the assessee before CIT(A) by an individual.

SPECIAL POWER OF ATTORNEY

I, X Y Z, individual, carrying on business, residing at -----, Pune 411 005 do hereby given authority to CA. A B C, and CA. P Q R, Chartered Accountants of Pune to represent me before the CIT(A) – NFAC, Delhi in my Appeal for A Y 20xx-xx and AY 20xx-xx and to do as Attorney under Income Tax Act 1961 to do following things on my behalf:-

1. To represent me before any CIT (A) for my appeal for assessment years 20xx-xx and 20xx-xx.
2. He is authorized to produce any evidence / information required in respect of any proceeding described in (1) above.
3. He is authorized to sign any document and receive any notices relating to above appeal.
4. To do all other acts / things as may be necessary and proper for any or in furtherance of any purpose of these presents.
5. The acts / things done by the Attorney CA. A B C and CA. P Q R shall be binding on me.

Given at ----- on this -- day of April, 20xx.

X Y Z

I Accept

I Accept.

A B C

P Q R

SPECIMEN

2. Power of Attorney to represent the assessee before ITAT by an individual.

SPECIAL POWER OF ATTORNEY

I, X Y Z residing at Plot No -----, Pune 411021 do hereby given authority to CA. A B C, Chartered Accountant of Pune to represent me before the Income Tax Appellate Tribunal, xxx Bench xxx in my Appeal for A Y 20xx-xx in Appeal No ITA/xxxx/20xx and to do as Attorney the following acts / things on my behalf :-

1. To represent me before any Bench of the Income Tax Appellate Tribunal in India for my appeal for assessment year 20xx-xx.
2. He is authorized to produce any evidence / information required in respect of any proceeding described in (1) above.
3. He is authorized to sign any document and receive any notices relating to above appeal.
4. To do all other acts / things as may be necessary and proper for any or in furtherance of any purpose of these presents.
5. The acts / things done by the Attorney CA. A B C shall be binding on me.

Given at ----- on this -- day of April, 20xx.

X Y Z

I Accept.

A B C

SPECIMEN

3. Power of Attorney to represent the assessee before CIT(A) by a company / firm.

SPECIAL POWER OF ATTORNEY

I, X Y Z, Managing Director / Managing Partner of MNO Pvt Ltd / M/s E F G, a partnership firm, having registered office at -----, Pune 411 005, do hereby given authority to CA. A B C, and CA. P Q R, Chartered Accountants of Pune to represent the Company / Firm before the CIT(A) – NFAC, Delhi in the Appeal for A Y 20xx-xx and AY 20xx-xx and to do as Attorney the following acts / things on behalf of the company / firm :-

1. To represent the company / firm before any CIT (A) for the appeal for assessment years 20xx-xx and 20xx-xx.
2. He is authorized to produce any evidence / information required in respect of any proceeding described in (1) above.
3. He is authorized to sign any document and receive any notices relating to above appeal.
4. To do all other acts / things as may be necessary and proper for any or in furtherance of any purpose of these presents.
5. The acts / things done by the Attorney CA. A B C and CA. P Q R shall be binding on the company / firm.

Given at ----- on this – day of April, 20xx.

Authorised Signatory for the Company/Firm

I Accept

A B C

I Accept.

P Q R

SPECIMEN

4. Power of Attorney to represent the assessee before ITAT by a company / firm.

SPECIAL POWER OF ATTORNEY

I, X Y Z, Managing Director / Managing Partner of MNO Pvt Ltd / M/s E F G, a partnership firm, having registered office at -----, Pune 411 005, do hereby given authority to CA. A B C, and CA P Q R, Chartered Accountants of Pune to represent the Company / Firm before the Income Tax Appellate Tribunal, xxx Bench xxx in the Appeal for A Y 20xx-xx in Appeal No ITA/xxxx/20xx and to do as Attorney the following acts / things on behalf of the company / firm:-

1. To represent me before any Bench of the Income Tax Appellate Tribunal in India for my appeal for assessment year 20xx-xx.
2. He is authorized to produce any evidence / information required in respect of any proceeding described in (1) above.
3. He is authorized to sign any document and receive any notices relating to above appeal.
4. To do all other acts / things as may be necessary and proper for any or in furtherance of any purpose of these presents.
5. The acts / things done by the Attorney CA. A B C shall be binding on me.

Given at ----- on this 03rd day of April 2024.

For MNO Pvt Ltd / M/s E F G

X Y Z

Managing Director / Partner

I Accept

I Accept.

A B C

P Q R

SPECIMEN

5. Power of Attorney to represent the husband due to his illness.

POWER OF ATTORNEY

This Power of Attorney is executed here at Pune, on this 10th day of April 2024

By

Shri. A B C, aged about xx years, occ: business, residing at -----, Pune 411 038 hereinafter referred to as the "EXECUTANT",

WHEREAS,

- a) the Executant is physically not well as he is suffering from -----, it would not be possible for the Executant to attend in person, various matters relating to his properties; moveable and immoveable, debts and securities, lying, situate and being anywhere in the Union of India (hereinafter referred to as the said "SUBJECT MATTER"),
- b) by this instrument therefore, the Executant has appointed his Wife Mrs. P A C, aged about xx years, occ: Service, residing at, ----- Pune 411 038, as his duty constituted attorney to look after and deal with the said Subject Matter,

NOW THIS POWER OF ATTORNEY WITNESSETH:

- 1. The Executant hereby appointed, nominated and constituted, Mrs. P A C (wife of the Executant), aged about xx years, occ: Service residing at -----, Pune 411 038, as the attorney for, in the name of, and on behalf of the Executant, generally, entirety at his discretion, to do or caused to be done or executed or performed through consultants, professionals, contractors, agents, servants, employees, representatives, delegates, sub-attorney, etc, all such acts, deeds and things, in respect of or relating to or touching the matters pertaining to
 - (a) all immoveable properties lying, being or situate at anywhere in the Union of India or the State of Maharashtra in general, and the District of Pune in particular,
 - (b) all saving, current or any such bank account/s in any bank or banks; cooperative, scheduled, or national, anywhere in the Union of India or the State of Maharashtra in general.
 - (c) all or any of investments, securities, scrips, debentures, shares, demat accounts, bank deposits, held by or which may be held by or in the name of the Executant.
 - (d) all other matters pertaining to the Executant or any of them, personally, inter alia, such as: to receive in the name of the attorney or any of them and/or the Executant, to pay in the name of the attorney or any of them and/or the Executant, to appoint, to reappoint, to cancel, to revoke, to substitute, to engage, to apply, to reapply, to file, to

withdraw, to depose, to state, to declare, to verify, to affirm, to swear affidavits, to state, to appear, to open, maintain, operate or close one or more accounts in the name of the Executant and/or maintain operate and/or close any existing accounts in any bank/s in the name of the Executant, to purchase, to acquire, to obtain possession, to dispose of, to sell, to gift, to assign, to lease, to exchange, to gift, to mortgage and/or to transfer in any other manner, to grant licence, to grant possession thereof, to negotiate, to transact, to enter into, execute, sign, to admit, to present for registration, to admit the execution without any consideration thereof, to register agreement before the concerned Sub-Registration Office, to submit, to register, to collect back the original/s/ certified copy/ies/ indexes/ such other document/s, to file/ defend suits, applications, petitions, revisions, appeals reviews, writs, or any such proceedings, to compromise, to record, to settle, to look after, to abandon, to waive, to surrender, to relinquish, to enter into any arrangement and enter into such necessary documentation, to represent the Executant in all and any of such ways and manners before all or any of the government/ revenue/ taxation/ statutory authorities (including but not limited to the authorities under the Registration Act, 1908, Maharashtra Stamp Act, 1958, the Bombay Provincial Municipal Corporation Act, 1949, the Maharashtra Rent Control Act, 1999, the Bombay Tenancy and Agricultural Lands Act, 1948, the Maharashtra Land Revenue Code, 1966, the Maharashtra Regional and Town Planning Act, 1966, the Income Tax Act, 1961, the Maharashtra Co-operative Societies Act, 1960), courts of law, tribunals, arbitrators, conciliation officers, revenue authorities, government/s, banks, all or any of people, under any concerned statute or otherwise, to delegate or otherwise confer all or any of the powers herein given to any person deemed fit to any person, and also to do all such acts, deeds and things incidental, ancillary, supplementary and complementary thereto, in the name of, for and on behalf of the Executant, as the Executant might has done in person.

2. The Executant hereby ratifies and agrees to ratify, all such acts, deeds and things done, or which would be done by the said attorney, and further agree that all such acts, deeds and things shall always be binding upon the concerned Executant as if the concerned Executant did the same in person.

In witness whereof, the Executant has signed and executed this Power of Attorney on the date and at the place herein before first mentioned.

A B C

I

Accept.

P A C

SPECIMEN

6. Power of Attorney to represent the son pursuing education abroad.

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that I, A B C age xx years, son of P B C residing at ----- Pune 411 052, do hereby appoint Shri B D C, age xx years, residing at ----- Pune 411 052 as Attorney in my name and on my behalf to do and execute all or any of the following acts and things as I am leaving India for my further education.

1. To invest any of my monies upon such investments including equity shares, mutual funds, bank deposits, company deposits, bonds issued by Govt, on any company, as my attorney may in his absolute discretion think fit and proper with power from time to time to vary / sell including operation of any Demat account / purchase / repurchase, as the case may be, in any of the above investments.
2. To borrow from time to time such sums of money upon such terms as to the said attorney may think fit upon the security of any of my property or investment (including bank deposits) whether moveable or immoveable and for such purpose to execute such mortgages, charges, pledges or other securities upon such covenants, terms and conditions as may be thought proper.
3. To sign income tax returns or any other document/paper etc and to represent me before any of the income tax authorities either for assessment or appeal or for the claim of refund.
4. To purchase in my name any non-risk policy issued by Life Insurance Corporation of India or any other insurance company in India.
5. To receive any amount due from Life Insurance Corporation of India or any other insurance company in India on maturity or any amount due on money-back policies.
6. Generally, to do all such acts and things as my attorney shall think expedient for the purpose aforesaid as fully and effectually in all respects as I could myself AND I hereby undertake, ratify, and confirm all and whatever my said attorney shall lawfully do or cause to be done by virtue of this Deed.

IN WITNESS WHEREOF, I have signed this Deed at Pune on 11th day of April 2024.

A B C

I accept.

B D C

SPECIMEN

7. Power of Attorney from the spouse working abroad.

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that I, A B C age xx years, son of P B C residing at ----- Pune 411 052, do hereby appoint Shri A P C, my spouse, age xx years, residing at ----- Pune 411 052 as Attorney in my name and on my behalf to do and execute all or any of the following acts and things as I am working in ----- (Place & Name of country).

1. To invest any of my monies upon such investments including equity shares, mutual funds, bank deposits, company deposits, bonds issued by Govt, on any company, as my attorney may in his absolute discretion think fit and proper with power from time to time to vary / sell including operation of any Demat account / purchase / repurchase, as the case may be, in any of the above investments.
2. To borrow from time to time such sums of money upon such terms as to the said attorney may think fit upon the security of any of my property or investment (including bank deposits) whether moveable or immoveable and for such purpose to execute such mortgages, charges, pledges or other securities upon such covenants, terms and conditions as may be thought proper.
3. To sign income tax returns or any other document/paper etc and to represent me before any of the income tax authorities either for assessment or appeal or for the claim of refund.
4. To purchase in my name any non-risk policy issued by Life Insurance Corporation of India or any other insurance company in India.
5. To receive any amount due from Life Insurance Corporation of India or any other insurance company in India on maturity or any amount due on money-back policies.
6. Generally, to do all such acts and things as my attorney shall think expedient for the purpose aforesaid as fully and effectually in all respects as I could myself AND I hereby undertake, ratify, and confirm all and whatever my said attorney shall lawfully do or cause to be done by virtue of this Deed.

IN WITNESS WHEREOF, I have signed this Deed at Pune on 11th day of April 2024.

A B C

I accept.

B D C

SPECIMEN

**8. Power of Attorney to represent the non-resident in India for sale of property
(Authority executed outside India)**

SPECIAL POWER OF ATTORNEY

I, A B C, Citizen of USA, adult, occupation Doctor, at present residing at -----
-----, New York, NY10021, United States of America. (Hereafter mentioned as
'Executant')

WHEREAS:

1. The Executant desires to sell his one-half share in a residential flat in India, more particularly described herein below: -
Flat No x in xxx Building on Second Floor situated in -----, Pune 411 052 (hereinafter referred to as 'said Flat') to
Mrs. M N P and Shri L N P, both adults, at present residing at -----, Pune 411052.
2. The Executant is permanently residing out of India at -----, New York, NY 10021, United States of America. Therefore, this power of attorney is being executed at the Indian Embassy in New York (USA) in accordance with the provisions of 'The Diplomatic and Consular Officers (Oaths & Fees) Act, 1948'.
3. It is not possible for the Executant to comply and execute required acts & deeds, things, and formalities in respect of the said Flat intended to be sold.
4. Therefore, the Executant decided to appoint, brother-in-law of his mother, in India, Shri D E F, adult, resident of -----, Pune 411 052 as an Attorney for and on his behalf for performing below mentioned acts, deeds and things;
5. Said proposed Attorney also consented to act as the Attorney for and on behalf of and in the name of the Executant.
6. Therefore, the Executant has executed this power of Attorney.

NOW THIS POWER OF ATTORNEY WITNESSETH:

The Executants hereby appoints, nominates, and constitutes Shri D E F, adult, resident of -----
-----, Pune 411 052 as an Attorney for and on his behalf for performing acts, deeds and things mentioned below: -

To Make, sign, and verify any applications required of me under the Foreign Exchange Management Act, 1999 or any such other law for the time being in force for getting approvals and permission from the Reserve Bank of India and/or the Govt. of India in connection with transfer/assignment of any immovable property in India.

To file application(s) before any authority under the Income Tax Act, 1961 for obtaining No Objection / Tax Clearance / application u/s 195, and for lodging objections and / or filing appeals against the said authorities under the aforesaid enactment.

To engage Advocate for the purpose of sorting out local formalities or defending any legal action / Suit in respect of the said flat in any court/Tribunal in India.

To sign all applications, documents, plans, affidavits, instruments, complaints, appeals, written statements and replies etc. on my behalf and to submit the same to any Govt, authority or to any court of law or to MSEB or to Pune Municipal Corporation or to ----- Co-op Housing Society. Ltd or to any other authority under any law for the time being in force.

To hand over possession of the said flat to Mrs. M N P and Shri L N P.

To execute the sale deed in respect of the said flat in favor of Mrs. M N P and Shri L N P and register the same before the registrar of assurances and to receive consideration in cash and / or by cheque on my behalf. The payment can be received, on my behalf, in the name of A B C.

To make, sign, and verify return of Income under the income Tax Act 1961 so as to declare my-Indian income which may be liable to tax in India and to pay Income Tax or any other tax and to claim refund of tax on my behalf from the Income Tax Dept.

Generally, to do all such acts, to perform the deeds / things incidental, ancillary supplementary and complimentary thereto as the Executant himself might have done in person.

The Executant hereby agrees and undertakes always to agree and ratify all such acts, deeds, and things done in respect of and touching the said Flat intended to be sold by the said attorney in the name of Executant and the same shall always be binding upon the Executant as if the Executant has himself done all such acts, deeds, and things for the sale of the said Flat.

In witness whereof the Executant executed this Power of Attorney here on ----- at New York (USA).

Photo
ABC

Executant

A B C

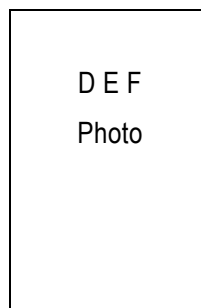
Signed before me by A B
C, person unknown to me
but who has produced US
Passport No -----
issued at ----- on -
----- as evidence of
identity.

The Consulate does not
hold any responsibility
about the contents of the
document.

Legalisation No -----
date -----.

Seal of the Consular
Officer, New York.

I accept.



D E F

SPECIMEN

**9. Power of Attorney to represent the non-resident in India for sale of property
(Authority executed in India)**

SPECIAL POWER OF ATTORNEY

I, V P P, Citizen of United States of America, age xx years, occupation retired, permanently residing at -----, North Brunswick, NJ 08902 USA **have come to India on a visit** and at present residing at -----, Thane 400601 (India). Mrs V P P hereafter mentioned as the 'Executant'.

WHEREAS :

1. Mr V K G and Mrs J V G, parents of the Executant purchased one residential flat at Pune more specifically described in Schedule to these presents (the said Flat is called as the Scheduled Flat) on 18th May 1998.
2. Mr V K G expired on 16th February 2003 and Mrs J V G expired on 19th August 2015, leaving behind their four daughters as the surviving legal heirs.
3. Mrs J V G had bequeathed the said Scheduled Flat EQUALLY to all the four daughters by executing the Will.
4. Thus, the Executant owns $\frac{1}{4}$ th share in the said Scheduled Flat, along with her three sisters owning $\frac{1}{4}$ share each.
5. The Executant desires to sell her share in the Scheduled Flat along with her sisters to any purchaser in future.
6. The Executant is permanently residing out of India, hence it will not be possible for her to do any acts, deeds, things etc for effecting the sale of the said Scheduled Flat and at present she has come to India on a visit and staying at -----, Thane 400601 (India).
7. Therefore, the Executant has decided to appoint her Sister, in India, Mrs A P T, age xx years, residing at -----, Pune 411045 as an Attorney for and on her behalf for performing below mentioned acts, deeds and things.
8. Said proposed Attorney has also consented to act as Attorney for and on my behalf and in the name of the Executant.
9. Therefore, the Executant has executed this Power of Attorney.

NOW THEREFORE THIS POWER OF ATTORNEY WITNESSETH :

1. The Executant hereby appoints, nominates and constitutes Mrs A P T, age xx years, residing at -----, Pune 411045 as an Attorney for and on her behalf for performing acts, deeds and things mentioned below :-
 - a) To execute the sale / transfer / assignment deed for the said Scheduled Flat to any person(s) and register the same before the registrar of assurances and to receive consideration in cash and / or by cheque on my behalf and for the credit of Mrs V P in bank account.
 - b) To make, sign, verify any application required of me under the Foreign Exchange Management Act 1999 or any such other law for the time being in force for getting approvals and permission from the Reserve Bank of India and / or the Govt of India in connection with sale / transfer / assignment of any immovable property in India.
 - c) To file application(s) before any authority under the Income Tax Act 1961 for obtaining No Objection / Tax Clearance / application u/s 195, and for lodging objections and / or filing appeals against the said authorities under the aforesaid enactment.
 - d) To engage Advocate for the purpose of sorting out local formalities or for defending any legal action / suit in respect of the said Scheduled Plots in any Court / Tribunal in India.
 - e) To sign all applications, documents, plans, affidavits, instruments, complaints, appeals, written statements and replies etc on my behalf and to submit the same to any Govt authority or to any court of law or to any other authority under any law for the time being in force.
 - f) To hand over the possession of the Scheduled Flat to any purchaser(s).
 - g) To make, sign and verify return of income under the Income Tax Act 1961 so as to declare any Indian income which may be liable to tax in India and to pay income tax or any other tax and claim refund of tax on my behalf from the Income Tax Department.
 - h) Generally, to do all such acts, to execute the deeds and to perform the things incidental, ancillary, supplementary and complimentary thereto as the Executant herself might have done in person.

2. The Executant hereby agrees and undertake always to agree and ratify all such acts, deeds and things done in respect of and touching the said Scheduled Flat purported to be sold by the Attorney in the name of the Executant and the same shall always be binding upon the Executant as if the Executant herself has done all such acts, deeds and things in respect of the said Scheduled Flat.

In witness whereof the Executant has executed this Power of Attorney on 12th day of September 20xx at Pune.

V P P

Executant

I consent to act as Attorney.

Mrs A P T

Attorney

SPECIMEN

**10. Power of Attorney to represent the non-resident in India for sale / let out of property
(Authority executed in India)**

SPECIAL POWER OF ATTORNEY

I, ABC, holder of Aadhar Card No. (Aadhaar of ABC), s/w/o DBC, residing at -----
-----, India (hereinafter referred to as Executant), do hereby appoint, nominate, and
constitute jointly or severally:

Mr. PQR holder of Aadhar No. (Aadhaar of Attorney), S/D/O Shri QSR residing at -----
-----.

Mr. XYZ, holder of Aadhar No. (Aadhaar of Attorney), S/D/O Mr. YPZ, residing at -----
-----.

(PQR and XYZ collectively or individually called Attorney/s) as my true and lawful Attorneys in
my name and on my behalf to do the following acts mentioned below for my properties, which
are situated at ----- :

Property Details:

Property: [PROPERTY ADDRESS]

Plot No:Size:

Description:

I, ABC, do hereby authorize my above-mentioned Attorneys to do the following acts, deeds, and
things on my behalf and in my name only:

To represent, act, execute, sign all papers, affidavits, undertakings, Indemnity Bonds, etc., and
to deposit requisite fees, to make payments of all other documents, and to make payments on
my behalf with regards to the above-mentioned properties.

To manage, control, and look after the said properties in all respects and to represent me before
all private, semi-government, and government authorities under all circumstances, to submit
applications, sign requisite forms, give statements, bills, and claims/receive the same under
their own signature on my behalf.

To SELL or LET OUT the properties, to sign Rent Lease Agreements, receive payments/cheques
in my name, issue payment receipts, and if required, to get tenants evicted through the Court of
Law or any other authorities.

To execute, sign, and represent me in all kinds of suits, complaints, appeals, and statements in
any court of law and any other authorities for the said properties.

To compromise, compound, or withdraw cases, appoint arbitrators, proceed in arbitration proceedings, engage advocates, pleaders, deposit money, execute decrees, receive recovery and decretal amounts, issue receipts, and take every step necessary for the said properties.

To deposit any dues, taxes, outgoing penalties to the concerned authorities on demand and generally to do all acts, deeds, and things for the management, control, and supervision of the affairs of the said properties, even if they are not specifically mentioned hereinabove, as efficiently as I would have done for the said properties.

To apply for any no-objection and no dues certificates to relevant authorities on my behalf.

IT IS HEREBY EXPLICITLY MENTIONED THAT THE SAID SPECIAL POWER OF ATTORNEYS NEITHER HAS ANY POWER TO TAKE ANY LOANS NOR ANY POWER TO TAKE ANY MORTGAGE ON THE ABOVE PROPERTIES.

I, the Executant, do hereby agree, confirm, and declare that the acts, deeds, and things done or got done by my SPA Holders shall be construed as acts, deeds, and things done by me.

IN WITNESS WHEREOF, I do set my hand to this deed on the

ABC

Aadhaar Number: 123456789123

WITNESSES:

Witness 1:

Aadhar No:

Witness 2:

Aadhar No:

Dated:

We accept

PQR

XYZ

THE POWERS-OF-ATTORNEY ACT, 1882

(India Code)

THE POWERS-OF-ATTORNEY ACT, 1882

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title.
Local extent.
Commencement.
- 1A. Definition.
2. Execution under power-of-attorney.
3. Payment by attorney under power, without notice of death, etc., good.
4. Deposit of original instruments creating powers-of-attorney.
5. Power-of-attorney of married women.
6. [Repealed].

THE POWERS-OF-ATTORNEY ACT, 1882
ACT NO. 7 OF 1882¹

[24th February, 1882.]

An Act to amend the law relating to Powers-of-Attorney.

For the purpose of amending the law relating to Powers-of-Attorney. It is hereby enacted as follows: —

1. Short title.—This Act may be called the Powers-of-Attorney Act, 1882.

Local extent.—It applies to the whole of India ²[*^{***}];

Commencement.—and it shall come into force on the first day of May, 1882.

³**[1A. Definition.**—In this Act, “Power-of-Attorney” includes any instrument empowering a specified person to act for and in the name of the person executing it.]

2. Execution under power-of-attorney.—the donee of a power-of-attorney may, if he Thinks fit, execute or do any^{4***} instrument or thing in and with his own name and signature, And his own seal, where sealing is required, by the authority of the donor of the power; and Every^{4***} instrument and thing so executed and done, shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

3. Payment by attorney under power, without notice of death, etc., good.—Any person making or doing any payment or act in good faith, in pursuance of a power-of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become^{5***} of unsound mind, ^{6***} or insolvent, or had revoked the power, if the fact of death,^{7***} unsoundness of mind,^{8***} insolvency or revocation was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had against the payer, if the payment had not been made by him.

¹ Extended to Dadra and Nagar Haveli by the Dadra and Nagar Haveli (Laws) Regulation, 1963 (Reg. 6 of 1963); s. 2 and the First Schedule extended to Laccadive, minicoy and Amindivi Islands (Laws) Regulation, 1957 (w.e.f. 1-10-1974); vide Reg 8 of 1956, s. 3 and the Schedule and to Pondicherry by the Pondicherry (Extension of Laws) Act, 1968 (26 of 1968).

² Subs. by Act 3 of 1951, s. 3 and the Schedule, for “Except Part B States”.

³ Ins. by Act 55 of 1982, s. 2 (w.e.f. 22-10-1980).

⁴ The word “assurance” omitted by s. 3, *ibid.* (w.e.f. 22-10-1980).

⁵ The word “lunatic,” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

⁶ The word “lunacy,” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

⁷ The word “or bankrupt” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

⁸ The word “bankruptcy,” omitted by s. 4, *ibid.* (w.e.f. 22-10-1980).

This section applies only to payments and acts made or done after this Act comes into force.

4. Deposit of original instruments creating powers-of-attorney. — (a) an instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court⁹ [or District Court] within the local limits of whose jurisdiction the instrument may be.

(b) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(d) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court [or District Court].

(e) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the State Government, the fees to be taken under clauses (a), (b) and (c).

2* * * *

(g) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

5. Power-of-attorney of married women.—3[A married woman of full age shall, by virtue of this Act, have power, as if she were unmarried,] by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

6. [Act 28 of 1866, section 39 repealed.] Rep. by the Amending Act, 1891 (12 of 1891), s. 2 and the First Schedule.

(India Code)

⁹ Ins. by s. 5, *ibid.* (w.e.f. 22-10-1980).

* The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

1. Ins. by Act 55 of 1982, s. 5.

2. Clause (f) rep. by Act 6 of 1900, s. 48 and the Second Schedule.

3. Subs. by Act 55 of 1982, s. 6, for certain words (w.e.f. 22-10-1982)