

# UNIT 1

## POWER OF ATTORNEY

### A. QUESTIONS FOR DISCUSSION

1. What is a power of attorney and what is its purpose?
2. Have you ever acted as an attorney in fact for a person granting the power?
3. What kind of information could you find in a power of attorney?

### B. GET THE CONTEXT BEFORE YOU TRANSLATE

A power of attorney is a written document signed by a person giving another person the power to act in conducting the principal's business, including signing papers, checks, documents, contracts, handling bank accounts and other activities in the name of the person granting the power. The person receiving the power of attorney (the agent) is "attorney in fact" for the person giving the power, and usually signs documents as "Melinda Hubbard, attorney in fact for Guilda Giver." There are two types of power of attorney: a) general power of attorney, which covers all activities, and b) special power of attorney, which grants powers limited to specific matters, such as selling a particular piece of real estate, handling some bank accounts or executing a limited partnership agreement. A power of attorney may expire on a date stated in the document or upon written cancellation. Usually the principal acknowledges before a notary public that he/she executed the power, so that it is recordable if necessary.

<http://dictionary.law.com/>

### C. SAMPLE POWER OF ATTORNEY

I, \_\_\_\_\_ (**Principal's name**)  
\_\_\_\_\_ (**Principal's address**),  
being of **sound mind** and **legal capacity**, do hereby  
appoint  
\_\_\_\_\_ (**Agent's name**)  
\_\_\_\_\_ (**Agent's address**),

as my true and lawful **attorney in fact**, to act for me  
**in my name, place, and stead**, and on my behalf to  
do and perform the following:

(List **agent's powers** here, such as the power to buy or  
sell stock or real estate, write checks, etc.)

The following property, interests, or rights shall **be**  
**subject to** this Power of Attorney:  
(Identify assets subject to agent's authority.)

This Power of Attorney shall be **effective** on the  
date of \_\_\_\_\_, 20\_\_\_\_.

This Power of Attorney shall remain in effect in the  
event that I should become or be declared **disabled**,  
**incapacitated**, or **incompetent**.

This Power of Attorney shall **terminate** on the date  
of \_\_\_\_\_, 20\_\_\_\_, unless I have **revoked** it  
sooner. I may revoke this Power of Attorney at any  
time and in any manner.

My agent shall be paid compensation for services  
pursuant to this Power of Attorney as follows:  
(Identify compensation agent will receive, if any.)

This Power of Attorney shall be **governed** by the  
laws of the State of \_\_\_\_\_.

<p style="text-align: center;"><i>In witness whereof, I have signed this Power of Attorney of my own free will.</i></p> <p><i>Principal's Signature</i>  <i>Date</i>  <i>Agreed to and Accepted by:</i>  <i>Agent's Signature</i>  <i>Date</i>  <i>Subscribed and sworn to before me on this _____ day of _____, 20____.</i>  <i>Notary</i></p>	
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<http://www.lawyercox.com/Sample%20Power%20of%20Attorney.htm>

#### D. FOLLOW-UP

1. Form groups composed of 3 – 4 students. Each group has 20 minutes to translate the above power of attorney into Slovak on its own first. Use the glossary below to help you with the translation.
2. Look at the text again and underline the phrases which your group is not able to translate at all.
3. Listen to the translations presented by other groups and discuss in the classroom whether, in your opinion, their translations are comprehensible and accurate. Comment on any drawbacks of the translations provided.
4. Summarise the purpose of the power of attorney above.

#### E. GLOSSARY

<b>agent</b>	<i>splnomocnenec</i>
<b>agent's powers</b>	<i>oprávnenie splnomocnenca</i>
<b>attorney in fact</b>	<i>splnomocnenec, splnomocnený zástupca</i>
<b>disabled</b>	<i>postihnutý, nespôsobilý, invalidný</i>
<b>effective</b>	<i>účinný, platný</i>
<b>incapacitated person</b>	<i>osoba vyhlásená za nespôsobilú na právne úkony z dôvodu jej fyzického alebo duševného stavu</i>
<b>incompetent</b>	<i>nespôsobilý na právne úkony</i>
<b>principal</b>	<i>splnomocniť</i>
<b>to act in sb's name, place and stead</b>	<i>konať v niekoho mene</i>
<b>to be governed by</b>	<i>spravovať sa (právom štátu...)</i>
<b>to be of legal capacity</b>	<i>mať spôsobilosť na právne úkony</i>
<b>to be of sound mind</b>	<i>byť v dobrom psychickom stave</i>
<b>to be subject to</b>	<i>podliehať</i>
<b>to revoke</b>	<i>odvolať</i>
<b>to terminate</b>	<i>ukončiť</i>

#### F. EXERCISES

1. Translate the following sentences from English into Slovak.
  - a) A person who has reached the age of 18 has the **legal capacity** to contract as an individual.  
 .....
  - b) **Sound mind** is considered a legal requirement before writing or signing most legal documents, including a will.  
 .....
  - c) This power of attorney, and any dispute arising out of it **shall be governed** by the laws of the State of [GOVERNING LAW STATE].  
 .....

d) However, the full terms and conditions of the sale **are subject to** a nondisclosure agreement.

e) You may **revoke** a power of attorney any time you want as long as you are competent.

f) In addition, it is automatically revoked when you become incompetent unless the power of attorney specifically states that it will continue if you become **incompetent**.

**2. Practise the use of preposition used in excerpts from a power of attorney by filling in the gaps with the correct preposition from the following box:**

**IN (2x), FOR (4x), TO (2x), ON,UPON**

*My agent shall exercise powers -1- my best interests and -2- my welfare, as a fiduciary. My agent shall have the following powers:*

*1. BANKING - To receive funds, deposit funds -3- any financial institution, and make withdrawals by check or otherwise to pay for goods, services, and any other personal and business expenses -4- my benefit. To effect her or his powers, my agent has power to sign a power of attorney drafted by the institution, and shall have access -5- my safe deposit box.*

*2. GOVERNMENT BENEFITS - To apply -6- and receive any government benefits -7- which I may be eligible or become eligible, including but not limited to, Social Security, Medicare and Medicaid.*

*3. INVESTMENTS - To invest and reinvest my funds and to withdraw funds -8- the extent needed to pay for my needs.*

*4. RETIREMENT PLAN - To contribute to, select payment option of, and receive benefits of any retirement plan or IRA, except my agent shall not have power to change the beneficiary of any plan or IRA.*

*5. TAXES - To complete and sign any local, state and federal tax returns, pay any taxes due, to sign any IRS documents necessary to effectuate these powers.*

*6. INSURANCE - To purchase, pay premiums and make claims -9- life, health, automobile and homeowners' insurance, except my agent shall not have the power to change the beneficiary of any life insurance policy.*

*7. REAL ESTATE - To purchase, sell, lease, repair, improve, mortgage, and make mortgage and utility payments -10- real property. A legal description is attached.*

**3. How would you translate the following expressions used in the excerpts above into Slovak?**

my agent shall have the following powers	
to complete and sign any local, state and federal tax returns	
to effect his or her powers	
to purchase, sell, lease, repair, improve, mortgage, and make mortgage and utility payments	
beneficiary of a life insurance policy	
fiduciary	
to deposit funds	
to make withdrawals by check	
to contribute to, select payment option of, and receive benefits of any retirement plan	

## G. LEGAL LANGUAGE IN USE: LEGAL REFERENCING

Reference words contained in contracts, formal letters or other legal documents refer to time, place, result, etc. in connection with the document they appear in. Find the list of the most frequently used reference words below.

REFERENCE WORDS	MEANING	EXAMPLE
<b>HEREAFTER</b>	after this / starting from this time	This person will <b>hereafter</b> be referred to as Lessor.
<b>HEREBY</b>	in this way / by this / with these words / with this action	I <b>hereby</b> pronounce you man and wife.
<b>HEREIN</b>	in this (document)	The provisions stipulated <b>herein</b> are rather unclear.
<b>HEREOF</b>	of this / of the thing or document that is being talked about	This agreement shall commence on the date of signature <b>hereof</b> .
<b>HERETO</b>	to this / to this matter or document	You will find attached <b>hereto</b> the text of the Treaty on European Union.
<b>HEREWITH</b>	with this / together with this letter or other official written material	I enclose the following documents <b>herewith</b> .
<b>THEREAFTER</b>	after that	They agreed to cooperate with each other and entered into a written agreement <b>thereafter</b> .
<b>THEREBY</b>	in that way / by that	He breached his duty of care, <b>thereby</b> causing the company to lose its profit.
<b>THEREIN</b>	in that (document)	Lessor's address stated <b>therein</b> has been changed.
<b>THEREOF</b>	of that (document)	Please refer to the Regulations and in particular Article 99 <b>thereof</b> .
<b>THERETO</b>	to that	The government has the right to inspect any files or any papers or records relating <b>thereto</b> .
<b>THE AFOREMENTIONED / THE FOREGOING</b>	set out above / written above	The <b>foregoing</b> term is unfair with respect to a consumer.
<b>THE UNDERMENTIONED</b>	set out below / written below	The undermentioned fiduciary duty has been substantially breached.

## H. LEGAL LANGUAGE PUT INTO PRACTICE

Replace the underlined words with the following words: *herein, hereof, hereto, hereby, thereof (2x), therein, the foregoing, the aforementioned, the undermentioned*. Change the word order where necessary.

1. The provision of this agreement shall be severable.
2. Different clauses contained in this agreement need to be reviewed and amended.
3. The applicability and construction of that clause is subject to further negotiation.
4. The parties to this contract agree that it shall be governed in accordance with the laws of Slovakia.
5. The copy of that summons shall be served on the defendant within 14 days of its issuance.
6. The Parties agree in this way to collect and submit and necessary evidence requested by the court.
7. Each witness mentioned in that subpoena has been summoned to attend the court next week.
8. The provisions written above shall be binding on both parties to the contract in their entirety.

9. The governing law and jurisdiction clause set out above has been inserted after further negotiation between the parties.  
We will have to supplement the terms and conditions set out below with other detailed provisions to avoid any ambiguity.
10. Please refer to the pertinent statutory instrument and in particular Section 58 of that statutory instrument.

## I. ADDITIONAL TRANSLATION

Translate the following text from English into Slovak.

### **DURABLE POWER OF ATTORNEY**

*This document shall be construed and interpreted as a durable power of attorney and my Agents shall have full authority to act on my behalf in relation to my property and affairs, save for the following conditions and restrictions:*

*I furthermore grant my Agents the authority to:*

- *make gifts within gift tax limits except to themselves.*
- *execute, amend or revoke any trust agreement.*
- *exercise the right to make a disclaimer on my behalf.*

*I indemnify and hold harmless my Agents from any loss that results from an error made in good faith save for wilful misconduct or the wilful failure to act in good faith.*

*I indemnify any third party from any claims which may arise against the third party because of reliance on this power of attorney.*

*My Agents shall provide accurate records on a monthly basis of all transactions completed on my behalf and shall provide accounting records on a six-monthly basis.*

*If I am unable to review the records and accounting, they must be submitted to:*

*(Full \_\_\_\_\_ legal \_\_\_\_\_ names)*

*(Identity / Social Security number) \_\_\_\_\_*

*\_\_\_\_\_ residing at*

*My Agents shall be entitled to compensation for their services at a rate as set out by law and for reimbursement of all reasonable expenses in their duties as my Agents.*

<http://www.free-legal-document.com/free-durable-power-of-attorney.html>

