# SAMPLE CONTINUING POWER OF ATTORNEY FOR PROPERTY EXCLUDING LAW PRACTICE

 *Current as at October 2014*

The following sample continuing power of attorney for property excluding law practice may be used by lawyers when developing a contingency plan for their personal assets excluding their law practice in the event of their own incapacity or other disability preventing a return, whether temporary or otherwise, to their law practice. This sample document should be modified to suit the personal circumstances of the lawyer. When adapting this sample document, lawyers should consult the [Issues to Consider When Preparing Power of Attorney for Property Documents](https://lso.ca/lawyers/practice-supports-and-resources/topics/opening%2C-operating-or-closing-a-practice/contingency-planning-for-lawyers/issues-to-consider-when-preparing-power-of-attorne) that forms part of this Guide.

Continuing Power of Attorney for Property made in accordance with the *Powers of Attorney Act* and the *Substitute Decisions Act, 1992*, as amended.

**This Continuing Power of Attorney** for property is given by **(NAME OF DONOR)**, of the (*insert “City” or ‘Town*”) of , in the Province of Ontario.

1. I revoke any continuing power of attorney for property previously given by me, save and except for any continuing power of attorney for property which I have executed in connection with the management and disposition of my Law Practice as defined in paragraph 2 below. I declare that this continuing power of attorney for property applies only to my Personal Assets, as defined in paragraph 2 below.
2. For purposes of this continuing power of attorney for property:
3. “L**aw Practice**” means all property, both real and personal, of every nature and kind whatsoever, used in connection with my law practice including without limiting the generality thereof all bank accounts, investments, trust funds, client lists, client property, leasehold interests in any business premises, accounts receivable, goodwill, equipment, software and software licences, intellectual property and passwords and includes my Law Practice Corporate Properties**.**

*Delete definition and reference to Law Practice Corporate Properties if no corporations form part of the Law Practice.*

1. “**Law Practice Corporate Properties**” means all shares, debt and other interests which I may own in (*insert name of law professional corporation*), any successor corporation, and any other corporation that owns assets used in the carrying on of my Law Practice or that has employees who are involved in the carrying on of my Law Practice; and
2. “**Personal Assets**’ means all my assets personally owned by me both real and personal of every nature and kind whatsoever save and except for my Law Practice.
3. I appoint **(NAME OF PERSON BEING APPOINTED)** to be my attorney for property in respect of my Personal Assets, and I authorize my attorney to do on my behalf anything in respect of my Personal Assets that I could do if capable of managing property, except make a Will, subject to the law and any conditions or restrictions contained in this document.

If **(FIRST PERSON)** cannot or will not be my attorney because of refusal, resignation, death, mental incapacity, removal by the court or any other reason, I substitute **(NAME OF ALTERNATE PERSON)** to act as my attorney for property in respect of my Personal Assets in place of **(FIRST PERSON)** in the same manner and subject to the same authority as **(FIRST PERSON)**.

*The parties being named in this continuing power of attorney do not have to be the same as the parties named in the continuing power of attorney prepared for the lawyer’s Law Practice.*

1. It is my intention that this document is a continuing power of attorney for property pursuant to the *Substitute Decisions Act, 1992* and may be used during my incapacity to manage property.
2. This power of attorney includes the following powers:
3. I authorize my attorney to exercise all powers in connection with my Personal Assets as I would be able to exercise had I chosen to exercise such powers myself, or had I legal capacity to exercise such powers. This therefore authorizes my attorney to bind, secure information, and execute documents in connection with any Personal Assets in respect of my attorney’s dealings with any person. Without restricting the generality of the foregoing, I expressly constitute my attorney as my "legal representative" for the purposes of s.150 (1) (d) and all other purposes of *the Income Tax Act* (Canada), and authorize my attorney to bind, secure information and execute documents on behalf of my Personal Assets in respect of any matter involving the government of Canada or any institution, such as a bank or trust company, regulated by the government of Canada.
4. I authorize my attorney to delegate any act my attorney may exercise to some other person, and to revoke or suspend such delegation.
5. I authorize my attorney to take physical possession of all of my Personal Assets, including property held in a safety deposit box, property held in safekeeping by others on my behalf, and property held by others subject to some professional privilege, which privilege I waive for this purpose. For greater certainty, my attorney shall be entitled to review my Will, in order to be able to manage my Personal Assets in a manner that is sensitive thereto.
6. My attorney may take compensation out of my Personal Assets for any work done in connection with this continuing power of attorney for property by him, her, or them, in accordance with the prescribed fee scale established pursuant to the provisions of the *Substitute Decisions Act, 1992*, as amended, for the compensation of attorneys under a continuing power of attorney.
7. I authorize my attorney to provide any consent on my behalf with respect to any right of possession or other interest I may have in a matrimonial home under the *Family Law Act*.
8. Any other general or limited power of attorney, whether continuing or not, granted by me with respect to my Law Practice is not revoked and all such powers of attorney shall co-exist with this continuing power of attorney for my Personal Assets as multiple powers of attorney.
9. This continuing power of attorney will come into effect on the date it is signed and witnessed.

I have signed this power of attorney in the presence of both of the witnesses who names appear below.

I have signed this power of attorney on , 20\*\* (*insert date*)

**[Signature of Donor]**

**[Name of Donor]**

We are the witnesses to this power of attorney. We have signed this power of attorney in the presence of the person whose name appears above, and in the presence of each other, on the date shown above. Neither one of us is the attorney, a spouse or partner of the attorney, a spouse or child of the grantor or person whom the grantor has demonstrated a settled intention to treat as a child of the grantor, a person whose property is under guardianship or who has a guardian of the person, or less than eighteen years old. Neither one of us has any reason to believe that the grantor is incapable of giving a continuing power of attorney.

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| --- | --- |
| [Signature of the Witness] | [*Signature of the Witness*] |
| Insert name and address of Witness | **Insert name and address of Witness** |