

# The Fidelity and Casualty Company of New York

80 MAIDEN LANE, NEW YORK 38, N. Y.

STATE OF MINNESOTA  
NOTARY PUBLIC  
J. R. L. E. STATE  
1960  
Secretary of State

OK. K. R.  
Specially

## CERTIFICATE

### RELATING TO FACSIMILE SIGNATURES ON POWERS OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That The Fidelity and Casualty Company of New York, a New York corporation, with its principal office in the City of New York, and authorized and qualified to do business in all states of the United States of America, the Territories of Hawaii and Alaska, and the Provinces of Canada, by its officers thereunto duly authorized, hereby certifies:

That, on October 16, 1957, the Board of Directors of said company passed the following resolution:

"RESOLVED, that the Chairman of the Board, the President, an Executive Vice President or any Vice President of the Company, be, and that each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, bonds, undertakings and all contracts of suretyship; and that any Secretary or any Assistant Secretary be, and that each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

FURTHER RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached;" and

That, the facsimile signatures of Carroll R. Young, Vice President, and A. J. Miller, Secretary, executing the attached power of attorney, are affixed by the authority of the foregoing resolution and are in fact their signatures and so intended and acknowledged by them, and the power is an original executed power and not a copy, and has not been amended, rescinded or revoked, and is at the date hereof in full force and effect; and

That, the facsimile signature of A. J. Miller, Secretary, executing the certificate attached to said power of attorney, and affixed by the authority of the foregoing resolution, is in fact his signature and so intended and acknowledged by him, and his certificate is an original executed certificate and not a copy, and is in full force and effect as of the date hereof.

Signed and Sealed in the City and State of New York.

Dated this            day of            , 19            .

THE FIDELITY AND CASUALTY COMPANY OF NEW YORK

(SEAL)

By

*A. J. Miller*

A. J. Miller, Secretary

STATE OF NEW YORK    )  
                                  ) ss.  
COUNTY OF NEW YORK )

On this            day of            , A.D. 19            , before me personally came A. J. Miller, who being by me duly sworn, did depose and say: that he resides in Glen Ridge in the County of Essex, State of New Jersey, at 67 Chestnut Hill Place; that he is a Secretary of The Fidelity and Casualty Company of New York, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereunto by like order.

MURIEL E. ROWAN  
Notary Public, State of New York  
# 41-8634750  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires March 30, 1960

*Muriel E. Rowan*  
Notary Public

14572

# The Fidelity and Casualty Company of New York

## BRIEF OF LAW AND FACT RELATING TO FACSIMILE SIGNATURES ON POWERS OF ATTORNEY

### FACSIMILE SIGNATURES OF OFFICERS AND NOTARY

A facsimile signature as used herein refers to the script signatures of officers and notaries affixed by some printing process. In the absence of a general statute prescribing the method of affixing a signature or prohibiting any but hand-written signatures, or in the absence of a prohibition in the general or corporation laws or charter or by-laws of the corporation in question, a facsimile signature may be an original signature if so intended by the parties.

Inasmuch as the power is given by a New York Corporation in New York, the law of New York governs.

There is no general or corporation law of the state of New York prescribing the method of affixing a signature for such a power of attorney and there is no prohibition in such statutes or the charter or by-laws of The Fidelity and Casualty Company of New York that would preclude The Fidelity and Casualty Company of New York from adopting any mode of affixing signatures to the corporation's powers of attorney.

Section 46 of the General Construction Law of New York permits facsimile signatures. It reads as follows:

"The term signature includes any memorandum, mark or sign, written, printed, stamped, photographed, engraved or otherwise placed upon any instrument or writing with intent to execute or authenticate such instrument or writing."

Article 13 of the General Business Law of the State of New York prescribing the Statutory Short Form of Power of Attorney provides that other forms may be used if desired by the parties.

There being no prohibition, authority to use facsimile signatures is derived from Section 46 of the General Construction Law and from affirmative action by the Board of Directors of The Fidelity and Casualty Company of New York.

The Board of Directors by resolution dated October 16, 1957, granted authority to the Chairman of the Board, the President, an Executive Vice President or any Vice President, acting with any Secretary or Assistant Secretary to sign by facsimile signature all powers of attorney.

In addition to Section 46 of the General Construction Law of the State of New York, common law precedents establish the validity of facsimile signatures when intended as original signatures:

"A facsimile signature of a person may be a genuine signature" 80 C.J.S. 1294 (citing authorities).

"A signature, if adopted as such, may be printed, lithographed or typewritten" Brooklyn City R. Co. v. New York, 248 N. Y. S. 196, 139 MISC. 691 (1931). To the same effect see Joseph Denunzio Fruit Co. v. Crane, 79 F Supp. 117, (1948) Aff. 188 F (2d) 569, cert. denied 342 U.S. 820.

"A corporation may adopt or authorize the execution of documents by a typewritten, printed or rubber-stamp signature, and if the adoption or authority is shown, is bound by a signature in such form" Fletcher Cyclopedic Corporation Sec. 3026.

It is therefore concluded that both the officer's and the notary's signature may be in facsimile.

### PRINTED FACSIMILE OF SEALS

In New York a corporation seal is not necessary to give validity to an instrument. Section 342 of the New York Civil Practice Act provides as follows:

"Except as otherwise expressly provided by statute, the presence or absence of a seal upon a written instrument hereafter executed shall be without legal effect."

Section 14 of the General Corporation Law of New York provides that

"Every corporation as such has power \*\*\* (2) to have a common seal and to alter the same at pleasure. The presence of the seal of a corporation on a written instrument purporting to be executed by authority of the corporation shall constitute a rebuttable presumption that the instrument was so executed."

Section 43 of the General Construction Law of New York provides:

"A seal of a \*\*\* corporation may be impressed directly upon the instrument or writing to be sealed."

"A written or printed facsimile of the corporate seal or scroll is sufficient if adopted and intended as the seal of the corporation." Fletcher cyc. Corporation Vol. 6 Sec. 2464 wherein it is also stated that a statute providing that corporation may have a common seal is merely declaratory of the common law, and does not require it to adopt a fixed seal, so as to prevent it from executing a bond with a scroll for a seal."

There is no statute in New York requiring that a seal of the notary is necessary to the validity of a certificate of acknowledgment of such an instrument.

"A notary's written instrument \*\*\* is not invalidated by the omission of his seal," Cohen v. Sovalsky, 208 N.Y.S. 46, 124 MISC. 368 (1925).

Section 135 of the Executive Law outlining duties of notaries makes possession of a seal discretionary.

Section 309 of the Real Property Law of New York providing the form of corporate acknowledgment does not require that the notary's seal be attached thereto.

Finally since facsimile signatures are permitted in New York it also follows that such signature may properly be acknowledged before a notary and he may certify to that fact. Brooklyn City R. Co. v. New York, Supra.

From all of the foregoing it is concluded that both the seal of the corporation and the notary may be in facsimile and that the officer's facsimile signature may properly be acknowledged.

As used by The Fidelity and Casualty Company of New York in such instruments, the facsimile signature is intended and acknowledged by the Subscriber to be his original signature and thus becomes his original signature and creates an original instrument — as contrasted to a "copy" of a signature, which would create but a copy of the instrument to which it was inscribed.

THE FIDELITY AND CASUALTY COMPANY  
OF NEW YORK

*Paul J. McGeedy*

Assistant Counsel

STATE OF MINNESOTA  
DEPARTMENT OF STATE

APR 27 1960

*James P. Hanson*  
Secretary of State

April 7th, 1958

Bond 4920

14572