



Lawyers' and notaries' guide  
to appointing RBC Royal Trust  
as mandatory to the property,  
liquidator and trustee



Wealth Management  
Royal Trust

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## Introduction

The choice of mandatary, liquidator and trustee is one of the most important decisions made when preparing a Will and estate plan. RBC Royal Trust\* has been providing professional, personalized mandatary, liquidator and trustee services to Canadians for over a century. We are pleased to work in partnership with a client's legal and other professional advisors to ensure the success of their estate plan.

This guide provides you, the client's lawyer/notary, with the clauses and documentation we require when RBC Royal Trust is appointed as liquidator and/or trustee. For clients wishing to appoint us as their mandatary, additional information and documents are included. For your convenience, a brief explanation of the clauses is included to assist you when discussing our requirements with clients.

We ask that we be given the opportunity to review drafts of all new or updated Wills and mandate<sup>1</sup> documents that name RBC Royal Trust as sole, co- or cross-contingent liquidator, trustee and/or mandatary. Our review helps to identify administrative issues and ensure all powers and authorities necessary to ensure an efficient and effective administration are included. We ask that a copy of any client information document prepared during your discovery process be provided along with the draft documents. Links to the required clauses and documents are located in the [Appendix](#). **As these documents may change over time, we request that you make use of the links in the Appendix to ensure you are using the current version of the documents.**

### \*Corporate name

Please note that in the province of Quebec, RBC Royal Trust's legal entity name is **"The Royal Trust Company."** Please use this legal entity name when naming RBC Royal Trust in a Will and/or a mandate.

Our brand name, RBC Royal Trust, will be referenced throughout the balance of this guide.

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<sup>1</sup> In this document, the word "mandate" refers to both mandate by a mandator who has capacity, also known as power of attorney, and protection mandate unless contrary intention.

## General overview

In order to effectively administer the estate/trust, RBC Royal Trust requires that certain powers and authorities be included in all Wills and that additional powers be provided where a testamentary trust(s) is created, a co-liquidator/trustee is appointed and/or the estate assets may include a private company.

The sample clauses contained in this document are provided for your convenience. **RBC Royal Trust assumes no responsibility for any reliance placed on, or use made, of the sample provisions.** With the exception of the “Incorporation of fee agreement” provision, which should not be amended by you other than to include the applicable date, you may of course provide your own wording and/or adapt the clauses to the particular situation. That being said, we request that all Wills provide RBC Royal Trust with the powers and authorities provided by the clauses set out herein.

### Clauses required in all Wills

- Incorporation of fee agreement
  - Note: A separate fee agreement is required for each client/document.
- Deposit of assets
- Environmental protection
- Power to administer digital assets

### Additional clauses required where the Will creates a testamentary trust(s)

- Power to invest in RBC Royal Trust’s own and related party securities and investment offerings
- Power to delegate and sub-delegate
- Power to terminate trusts

### Additional clauses required in a Will based upon client circumstances

- Burden of administration (*if there is a co-liquidator/trustee*)
- Non-resident trustees and investment decisions (*if there is a co-liquidator/trustee*)
- Power to deal with business and corporate interests (*if the client owns a business*)

## Brief explanation of clauses and powers

**Incorporation of fee agreement:** This clause incorporates our fee agreement by reference into the Will. The relevant fee agreement must be signed and dated prior to the execution of the Will into which the fee agreement is intended to be incorporated by reference.

The standard fee agreement enclosed is for fiduciary services only and does not include any investment management fees; these will be applied separately and based on the investment management firm's fees.

For existing RBC employees/retirees, please contact RBC Royal Trust for applicable discounts.

If the client is an existing RBC Wealth Management client and wishes RBC Royal Trust to maintain this investment relationship when called upon to act, a Letter of intent is required to be signed by the client. A link to this document is available in the [Appendix](#).

**Deposit of assets:** This clause authorizes us to deposit estate and trust assets in our company or that of an affiliate. This clause is designed to preclude conflict of interest or breach of trust arguments, to the extent that they may still be applicable, from being raised where assets are deposited in interest bearing accounts with RBC Royal Trust or any related company such as Royal Bank of Canada. This clause also specifies that where a liquidator/trustee benefits from such deposits, the liquidator/trustee is not required to account for the benefit, nor will the liquidator/trustee be required to give up any such benefit.

**Environmental protection:** This clause enables RBC Royal Trust to adequately address existing and potential environmental issues and concerns that may arise during its administration. Lack of such a clause may mean that the liquidator/trustee is not as free to address certain environmental matters related to the estate/trust. This could cause hardship for the liquidator/trustee as well as affect the value of the estate/trust. Also, where there is no indemnification, the liquidator/trustee may be exposed to personal liability for environmental claims simply as a result of being in or having been in control of the estate/trust property. This may result in the liquidator/trustee potentially refusing an appointment of liquidatorship/trusteeship in cases where no environmental liability currently exists, but real potential may exist in the future.

**Power to administer digital assets:** The power is intended enable us to manage and administer digital assets.

**Power to invest in our own and related party securities and investment offerings:** This power enables us to invest in securities issued by us or an affiliated company. For the same reasons set out above regarding deposit of assets, if the trustees invest trust property in their own securities or securities issued by a related company, the trustees (or external investment managers) might be considered to be benefitting from the trust property and/or could be considered to be in a conflict of interest. This clause specifically permits trustees (or external investment managers) to invest in securities, shares, obligations, etc., issued by a trustee or a company related to a trustee without being required to account for or give up any benefit.

**Power to delegate and sub-delegate:** This power enables us to delegate our investment management and custodian duties to another including an affiliated company. It may be prudent in some circumstances to delegate (and sub-delegate) responsibility for trustee investments. While legislation in many provinces already permits trustee investment delegation issues concerning sub-delegation as well as delegation to affiliated or related parties may still persist. We therefore require the power to delegate (and sub-delegate) investment management powers to others, including parties affiliated or related to RBC Royal Trust. The clause further permits custodianship of assets to be given to the hired investment counsel, and authorizes the trustees to pay the fees of such investment counsel in addition to the fees that will be taken by the trustees, unless the trustees and the testator have stated otherwise in any written agreement regarding such compensation.

**Power to terminate trusts:** This power enables trusts to be terminated or transferred to beneficiaries or others in trust for the beneficiaries where there is no longer a benefit to having RBC Royal Trust act as trustee. It is not uncommon for a Will to establish multiple trusts for various beneficiaries. Initially, the trust fund may be substantial enough to continue and/or be administered by a corporate Trustee. However, if the initial amount is small, or over time the value of the trust fund is reduced due to permitted distributions, payment of expenses, or any other reason, it may no longer be a benefit for the funds to be continued to be held in the trust. Therefore, where the trustee is of the view that continued administration of a trust would no longer be a benefit, this clause allows the trustee to terminate the trust and pay or transfer the remainder of the trust pursuant to the instructions that are provided in the clause.

**Burden of administration:** This clause explains that where appointed as co-liquidator or co-trustee, RBC Royal Trust, or any financial institution affiliated or related to RBC Royal Trust, will control custody of the assets of the estate and of any trust created in the Will, and that RBC Royal Trust will also have charge of all accounts, and assume the burden and responsibility for the routine activities related to the administration of the estate and of any trust created in the Will.

**Non-resident liquidators and trustees and investment decisions:** We require this clause as various foreign securities laws generally do not permit Canadian investment managers to provide investment management or advice to a liquidator/trustee where a non-resident co-liquidator/co-trustee will be involved with investment matters. As such, this clause is required to ensure that investment decisions can be made by a Canadian investment management firm in accordance with applicable securities legislation.

**Power to deal with business and corporate interests:** This power enables RBC Royal Trust to adequately address business and corporate interests that may arise during our administration.

# Mandatory appointments

## Powers and clauses

RBC Royal Trust requires certain powers and clauses to be incorporated into the mandate document. These sample powers and clauses are provided in the Appendix for your convenience. **RBC Royal Trust assumes no responsibility for any reliance placed on, or use made, of the sample provisions.** With the exception of the “remuneration clause” which should not be amended by you other than to include the applicable date, you may of course provide your own wording and/or adapt the clauses to the particular situation. That being said, we request that all mandates provide RBC Royal Trust with the powers and authorities provided by the clauses set out below:

- Remuneration
- Tax returns
- Environmental risk
- Joint account/assets
- Beneficiary designations
- Management of property
- Management of real property/business interest
- Digital assets

Also we request the following clauses and powers to be included based upon certain circumstances:

- Where there is a co-mandatar
- Sharing information with mandatary to person
- Acting while the mandator is still capable

### **Note: Gifts and donations**

Where the client wishes to permit or request RBC Royal Trust as mandatary to (or for) property to make gifts or donations on behalf of the client, please include the necessary powers to do so in the mandate.

## Fees

The standard fee agreement provided is for fiduciary services only and does not include any investment management fees; these will be applied separately and based on the investment management firm's fees.



For existing RBC employees/retirees, please contact RBC Royal Trust for applicable discounts.

If the client is an existing RBC Wealth Management client and wishes RBC Royal Trust to maintain this investment relationship when called upon to act, a Letter of Intent is required to be signed by the client. A link to this document is available in the [Appendix](#).

# Appendix

## Required clauses and powers

### Personal and property information document—Individual

### Personal and property information document—Spouse/Partner

### Personal and property information document—Appendix A—Private business/company (holding and operating) information and initial checklist

To be signed by client

#### Estate and testamentary trust fee agreement

#### Power of attorney and protection mandate fee agreement

#### Letter of intent

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RBC Royal Trust refers to Royal Trust Corporation of Canada and The Royal Trust Company. This document has been prepared for use by Royal Bank of Canada, Royal Mutual Funds Inc., RBC Phillips, Hager & North Investment Counsel Inc., RBC Global Asset Management Inc., RBC Dominion Securities Inc.\*, Royal Trust Corporation of Canada and The Royal Trust Company. Royal Mutual Funds Inc., RBC Phillips, Hager & North Investment Counsel Inc., RBC Global Asset Management Inc., RBC Dominion Securities Inc., Royal Trust Corporation of Canada, The Royal Trust Company and Royal Bank of Canada are separate corporate entities that are affiliated. RBC Phillips, Hager & North Investment Counsel Inc., RBC Global Asset Management Inc., RBC Dominion Securities Inc., Royal Trust Corporation of Canada and The Royal Trust Company are member companies of RBC Wealth Management, a business segment of Royal Bank of Canada. \* Member—Canadian Investor Protection Fund.

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