Heritage Trust

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heritagetrustcompany.ca

HERITAGE TRUST COMPANY INC.
Standard Will Clauses

1. Required Will Clauses and Administrative Powers

We have provided clauses below which are required to be included in all Wills where Heritage Trust Company Inc. ("Heritage Trust") is named in any manner as executor and/or trustee. Please further include those clauses under Section B where applicable to the circumstances.

2. Review of Draft Will

We kindly ask that we be provided the opportunity to review drafts of all Wills naming Heritage Trust. Our review is for administrative purposes only and ensures that we will have the power to eventually administer estates and/or trusts effectively and efficiently.

3. Fee Schedule

You will note that the Executor Fee Schedule which we have proposed to your client is to be incorporated by reference in the Will clause below. If the Executor Fee Schedule has not already been signed by your client, kindly ensure that he/she signs that before signing the Will. Please return to us a separate signed Executor Fee Schedule for each client.

4. Signed Will

Once the Will is signed, please kindly provide to us either the original Will for our safekeeping or a copy, as your client instructs.

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A. REQUIRED WILL CLAUSES AND ADMINISTRATIVE POWERS

For Heritage Trust to administer any given estate and/or testamentary trust, Heritage Trust requires that the following clauses be included in all Wills. *[**Note**: you may adjust these as needed to match the language and defined terms in the rest of the Will.]*

1. APPOINTMENT OF EXECUTOR

Include the following Defined Term:

"**Trustee**" or "**Trustees**" means both the executor of this Will and the trustee of my estate, and any reference to my Trustee or my Trustees shall include each executor and trustee of this Will, my estate or any portion thereof who may be acting as such from time to time whether original or substituted, singular or the plural, masculine, feminine or corporate, as the context requires.

AND

(a) Heritage Trust Company Inc. as Sole Executor

I appoint **HERITAGE TRUST COMPANY INC.** to be my Trustee.

(b) Heritage Trust Company Inc. as Co-Executor

I appoint *[Name of Individual]* and **HERITAGE TRUST COMPANY INC.** to be my Trustees. If *[Name of Individual]* does not survive me, or is unwilling or unable to act or to continue to act as one of my Trustees, then **HERITAGE TRUST COMPANY INC.** shall act or continue to act as my sole Trustee.

I direct that **HERITAGE TRUST COMPANY INC.** shall assume the burden of the administration of my estate and shall have charge and custody of all my estate assets, and it shall be compensated as though acting as my sole Trustee.

2. EXECUTOR'S COMPENSATION

I declare that **HERITAGE TRUST COMPANY INC.** shall be entitled to receive and shall be paid out of my estate, or any trust established by this Will as the case may be, as compensation for its acting as my Trustee, the fees, reimbursement, and other remuneration provided for in the Executor Fee Schedule between Heritage Trust Company Inc. and me, dated the ____ day of

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_____, 20___, and signed by me prior to the execution of this Will, and such fee schedule is hereby incorporated by reference into this Will.

3. DISCRETION OF TRUSTEE

My Trustee shall be fully protected in exercising any discretion granted to my Trustee in this Will and any Codicil thereto and shall not be liable to the beneficiaries, their heirs or personal representatives because of the exercise of such discretion. My Trustee shall exercise the powers, authority, and discretion given to my Trustee in what my Trustee deems to be the best interests, whether monetary or otherwise, of the beneficiaries, whether or not such exercise may confer an advantage on one or more of the beneficiaries or would otherwise be considered as other than an impartial exercise of my Trustee's duties hereunder or as not being maintenance of an even hand among the beneficiaries. All such exercise of my Trustee's powers, authority and discretion shall be binding upon all the beneficiaries and shall not be subject to any question or review by any person, official, authority, court or tribunal.

4. LIMITATION OF LIABILITY

My Trustee shall only be liable hereunder for its own bad faith and gross negligence, and my Trustee shall be indemnified and held harmless against any claims and/or losses (except those arising from the bad faith or gross negligence of such Trustee), death duties, taxes, and impositions arising in connection with my estate or any part thereof.

5. INVESTMENTS AND DELEGATION

My Trustee is authorized to invest and reinvest any moneys at any time and from time to time forming part of my estate, or to retain any investments in any kind of property, as my Trustee in their absolute discretion consider advisable, notwithstanding that such investments may not be investments authorized by law for trustees or it may be considered a delegation of their investment duties. Without limiting the generality of the foregoing, I expressly authorize my Trustee to engage the services of one or more investment counsel, mutual fund managers and/or investment advisors as my Trustee from time to time in their absolute discretion consider advisable (the "**investment counsel**") to advise my Trustee in respect of the investment and reinvestment of my estate, with power to my Trustee to delegate to the investment counsel discretion to manage all or any part of the assets of my estate as may be directed by my Trustee.

I authorize my Trustee to fix the remuneration to be paid to the investment counsel and such

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remuneration shall be charged upon my estate and payable out of the capital or income thereof in such proportions as my Trustee from time to time considers advisable. The amount of any such remuneration shall not be taken into account and/or deducted from the compensation to which my Trustee would from time to time be otherwise entitled, but rather such remuneration shall be in addition to such compensation.

My Trustee shall incur no liability for any action taken or omitted in good faith as a consequence of following the advice of the investment counsel however communicated or for any loss resulting from the delegation of discretion to the investment counsel, provided that my Trustee has acted in good faith.

6. PROFESSIONAL ADVICE

My Trustee may employ such agents and professionals or other assistants as they in their absolute discretion consider appropriate in carrying out the administration of my estate. My Trustee may pay for the same out of the income and capital of my estate as they see fit, and such disbursements are to be in addition to my Trustee's compensation. My Trustee may delegate to such agent any authority they consider appropriate, provided that they shall not delegate to such agent the discretionary right to distribute income or capital from my estate. Without limiting the generality of the foregoing, my Trustee may act on the opinion, advice of, or information obtained from any professional advisor, and shall not be responsible for any resulting loss to my estate.

7. ADMINISTRATIVE POWERS

> ***Note**: The following list is NOT intended to be copied into the Will. The clauses that provide for such powers are to be comprehensively drafted according to current best practices.*

Please additionally ensure that all Wills include the following **discretionary** administrative powers to enable Heritage Trust to efficiently and effectively perform its duties:

(a) to convert, retain, or invest *(i.e. where not subject to a specific bequest)*;

(b) to distribute assets in kind *(i.e. where not subject to a specific bequest)*;

(c) to attend to all income tax matters, including allocations and elections;

(d) to compromise and settle any claims on any terms;

(e) to exercise any rights in connection with real property interests;

(f) to deal with business interests, including continuation, reorganization, wind up, etc.

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(i.e. if business interests exist);

(g) to borrow *(if applicable)*;

(h) to lend *(if applicable)*; and

(i) to administer digital assets.

B. OTHER CLAUSES TO BE INCLUDED, IF APPLICABLE

1. EARLY VESTING AND PURCHASE OF ANNUITIES

Note: *These clauses should be included where there is an ongoing testamentary trust. In the event that the administrative cost of continuing the trust later outweighs the benefit, these clauses will permit the Trustee to pay the balance of the trust fund to the beneficiary or appropriate individual on their behalf, or to purchase an annuity (depending on whichever is in the beneficiary's best interests).*

Early Vesting

Notwithstanding anything else in this Will and any Codicil thereto, if my Trustee is holding a share or shares of my estate in trust for any beneficiary or beneficiaries and my Trustee in their absolute discretion deem that the amount of the share or shares being held in trust is less than an amount my Trustee in their uncontrolled discretion deem advantageous to the beneficiary or beneficiaries having regard to the costs of administering such share or shares, I authorize my Trustee, in their absolute discretion, to pay or transfer the remainder of that share to such beneficiary or to the parent or legal guardian of such beneficiary if my Trustee deems it appropriate in the circumstances.

Purchase of Annuities

I hereby authorize my Trustee to purchase an annuity for life or a term of years for any beneficiary, where the cost of administration of any trust fund maintained by my Trustee on behalf of any such beneficiary has become excessive compared to the capital and income of the fund.

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2. MINOR OR INCAPABLE BENEFICIARIES

Note: *These clauses should be included where there is a possibility of a minor beneficiary or one under a mental disability receiving any distribution under the Will (other than through any express testamentary trust provided elsewhere under the Will).*

Trust Terms for Minors

If any person who becomes entitled to any part of my estate is a minor, and I have not specified terms in this Will on which my Trustee is to hold that part, I direct my Trustee hold that part, and:

(a) pay so much of the income and capital of that person's part of my estate as my Trustee decide for that person's benefit until that person reaches the age of majority;

(b) add any unused income to the capital of that person's part of my estate and then pay the capital to that person when he or she reaches the age of majority, but if that person dies before reaching the age of majority, I direct my Trustee to pay that person's part of my estate to that person's estate; and

(c) at any time my Trustee decides, my Trustee may pay some or all of that part of my estate to that person's parent or guardian as trustee to receive and hold that part of my Estate for that person's benefit on the same terms as set out in paragraphs (a) and (b) above.

Payment to or on Behalf of Minors and Persons under Mental Disability

I authorize my Trustee to make any payments for any person under the age of majority or who is under a mental disability to a parent, legal guardian, attorney under a power of attorney of such person, or to any other person my Trustee, in their absolute discretion, may consider to be a proper recipient therefor, whose receipt shall be a sufficient discharge to my Trustee.

3. CHARITIES (CY-PRÈS CLAUSE):

Note: *These clauses should be included whenever a charity is named as a beneficiary.*

When my Trustee makes any payment or distribution to any organization, society, foundation, association, or corporation, my Trustee may accept the receipt of any person purporting to be the secretary or treasurer or other officer or officers, as the case may be, of that beneficiary. The receipt will discharge my Trustee for that payment or distribution and my Trustee shall have no further responsibility in connection with how that payment or distribution is used.

If at the time of distribution, any of the organizations named in this Will has amalgamated with another organization or organizations, or has changed its name or location of its work, the

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bequest or share of residue provided for it shall not fail but my Trustee shall in my Trustee's sole discretion, pay the same to the organization my Trustee deems to be the successor organization.

If, in the sole discretion of my Trustee, any of the organizations named in this Will has ceased to operate or exist or has never operated or been in existence (as distinct from having amalgamated, changed its name or location of its work), my Trustee shall pay the bequest or share of my estate to the organization which in my Trustee's sole discretion most closely resembles the organization I intended to benefit, provided that if such bequest shall fail for any reason, then I declare that, notwithstanding the particular form of bequest, my paramount intention is to benefit a general charitable purpose.