

la justice
à votre
portée

My mandate in case of incapacity



My mandate in case of incapacity

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Graphic designer
Lucie Pouliot, Les Publications du Québec

Project Coordination
Jean Montreuil, Les Publications du Québec

Wherever required by the context,
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SINCE APRIL 15, 1990, THE *CIVIL CODE OF QUÉBEC* HAS ALLOWED ANY ADULT OF SOUND MIND TO PREPARE A MANDATE IN CASE OF INCAPACITY. IF YOU HAVE NOT DRAWN UP A MANDATE BUT ARE CONSIDERING DOING SO, THIS BOOKLET WILL GUIDE YOU THROUGH THE PROCESS. IT EXPLAINS THE MAIN FEATURES OF THE MANDATE AND ALSO CONTAINS A SAMPLE MANDATE DESIGNED TO RESPOND TO THE NEEDS OF AS MANY PEOPLE AS POSSIBLE. YOU CAN USE IT AS IS OR AS THE BASIS FOR DRAFTING YOUR OWN MANDATE, ADAPTING IT TO YOUR SITUATION SO THAT IT RESPONDS TO YOUR NEEDS. BE SURE TO READ THE FOLLOWING INFORMATION FIRST.

Note

The text of the law always takes precedence over the information in this booklet.

What is a mandate in case of incapacity?

A mandate in case of incapacity is a document in which a person, known as the **mandator**, while in full possession of his faculties, appoints another person, known as the **mandatary**, to see to his protection and/or administer his property or both at once, in the event of illness or accident depriving him of his faculties, either temporarily or permanently.

The mandator is free to decide on the content of the mandate. For their protection and physical well-being, mandators can include a living will to cover their end-of-life wishes. Likewise, the clauses dealing with the administration of property can be very general or highly detailed, with a list of specific administrative activities, depending on the mandator's situation.

Finally, mandators may even appoint more than one mandatary in their mandate. For example, they may appoint one to take care of their person and another to administer their property. They can also designate a substitute mandatary, in case the principal mandatary refuses to have the mandate homologated, for some reason is unable to continue to execute the mandate or dies before or during the exercise of his duties. They may also determine a basis of remuneration for the mandatary.

What is the difference between a will, a mandate and a power of attorney?

A **will**, which contains your wishes about what is to be done with your property, takes effect only after your death. A power of attorney and a mandate in case of incapacity can be used only during your lifetime.

A **power of attorney** authorizes a person to perform certain ordinary administrative tasks (pay bills, withdraw money from a bank account) or other more serious administrative activities. A power of attorney, whether notarial or not, is limited to the administration of property. If it is not notarial, it can be terminated at any time without requiring any special procedure. It is automatically

terminated if its author is placed under protective supervision (advisorship to a person of full age, a tutorship or a curatorship) or becomes incapable of supervising the actions of the person to whom power of attorney has been given. The death of the person who has power of attorney also terminates it.

The **mandate in case of incapacity** goes further. It can cover not only the administration of property but also contain provisions for the protection of the mandator's person. However, to come into force, a mandate must be homologated by the court, which must then have evidence that the mandator has become incapable.

What forms can a mandate take?

The law provides for two forms of mandate in case of incapacity:

- **mandate by notarial deed:** a notary prepares the document according to the wishes and requirements of the mandator. This mandate is registered with the *Chambre des notaires* so that it can easily be located should the mandator become incapable;
- **mandate given in the presence of witnesses (with or without the assistance of an attorney):** it is signed by the mandator in the presence of two witnesses who have no interest in the document. If the mandator has already signed the mandate, he must acknowledge his signature in the presence of the witnesses. If the mandator is physically unable to sign the document, the law authorizes him to have it signed by a third party according to his instructions. This situation must, of course, be made clear to the witnesses. The document must then be countersigned by the two witnesses who are not the mandataries and have no interest in the mandate. Their signature certifies that the mandator was of sound mind when he signed the mandate. The mandator does not have to disclose the contents of his mandate to the witnesses. The law simply requires the mandator to state the nature of the document to be signed (by saying for example, "This is my mandate in case of incapacity").

People who have given a mandate in the presence of witnesses should store the original in a safe place, inform the mandatary and give him a copy. If an attorney prepares the mandate, it will be registered with the Barreau du Québec and be easily found if the mandator becomes incapable.

However, whether your mandate is notarial or given in the presence of witnesses, it is always advisable to tell your family and those close to you the name of your mandatary. This is a wise precaution because it enables them to act at once should you become incapable of looking after yourself as the result of an illness or accident.

Whatever form it takes, the mandate in case of incapacity comes into effect only after it has been **homologated or approved** by the court, that is, examined by a clerk or judge of the Superior Court in the legal district where the mandator lives or has his legal residence.

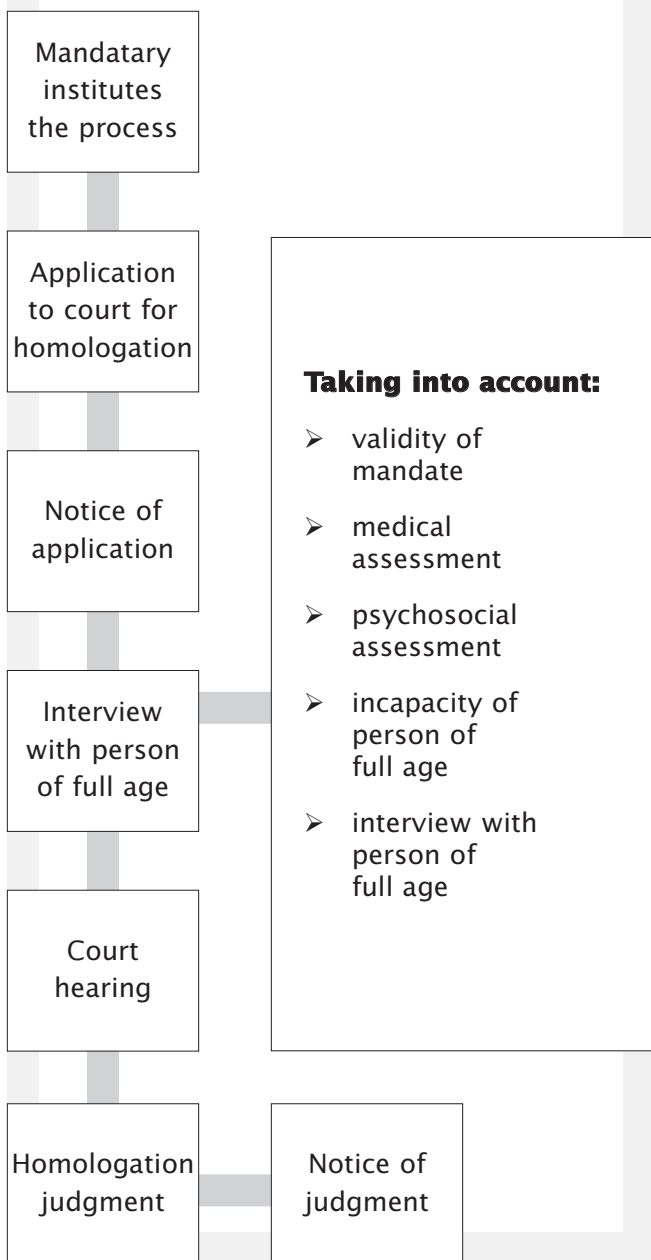
What is homologation?

Homologation is a legal procedure whereby the court establishes the incapacity of the mandator, verifies the existence of the mandate and its validity if given in the presence of witnesses. Only the mandatary can apply to the court in the mandator's legal district for homologation of this document. The application must be accompanied by a copy of the mandate, along with medical and psychosocial assessments establishing the mandator's incapacity. These assessments are made by health and social services professionals associated with an establishment in the health care network (CLSC, hospital, residential and long-term care facility, rehabilitation centre) or in private practice. As shown in the table on page 8, the final stage of the procedure is the judgment giving the mandate force of law, that is, giving the mandatary the right to exercise the powers invested in him.

Homologation of a mandate in case of incapacity is a formal procedure that takes time. The mandatary may use the services of legal counsel (notary or attorney).

Homologation of a mandate

Regular procedure



In addition, there is now a process in which the notary takes charge of handling the procedure involving a person who needs protective supervision. The notary must still have the conclusions of his minutes approved by the clerk or by the court. Only certain notaries certified by the *Chambre des notaires* are allowed to apply this process. Unless the court orders otherwise, the costs incurred to homologate the mandate are the responsibility of the mandator.

What to consider when choosing a mandatary?

Because of the responsibilities that a mandatary may have to take on, it is useful to inform him of your decision to make sure that he has understood your needs before you officially designate him. You can then discuss the powers you wish to give him over your person and property in order to be sure that he will execute the mandate as you wish. Your choice of mandatary and substitute mandatary, if you appoint one, is most important; in either case, they should be a person in whom you have full confidence and with whom you have developed close ties. Freedom of choice is one of the major advantages of the mandate.

You may appoint more than one mandatary. The enclosed form allows you to enter the name of one person to protect your person and another (or several others, depending on the nature of the property to be managed) to manage your property. Note that a legal entity, such as a trust company, can be appointed but only to administer your property. It is recommended that you also designate a substitute mandatary in case the mandatary you initially appointed cannot or no longer wants to perform these duties.

You can also specifically authorize a mandatary to property to act in your place as liquidator if you are given this office after becoming incapable. Finally, if your personal or financial situation is complicated, we recommend you consult a notary or an attorney about preparing and drafting your mandate.

What is the role of the Curateur public with regard to mandataries?

The Curateur public keeps a **register of homologated mandates**. The information entered in this register includes the first and last names of the mandator and mandatary and the date and number of the homologation judgment.

The Curateur public also has the **power to intervene** in any legal procedure connected with the homologation or revocation of a mandate. For example, it can contest the evidence of the mandator's incapacity presented in the homologation process. In the case of revocation, it can present reasons which it considers justify termination of the mandate in favor of protective supervision.

In addition, the Curateur public has **power of inquiry** over mandataries. For example, if informed that a mandatary is negligent or abusive or has failed to respect the terms of the mandate, the Curateur public can investigate the situation upon receipt of a complaint. If the complaint is founded, the Curateur public can meet with the mandatary to ask for the situation to be corrected or to obtain an undertaking to do so. If the mandatary persists in being remiss and refuses to remedy the situation, the Curateur public can remove the mandatary from office by applying to the Superior Court. In fact, any interested party can institute this procedure.

However, the Curateur public cannot be designated as the mandatary or the person to whom the mandatary must report periodically, as the law does not specifically authorize it to assume these duties.

What happens if you regain your capacity?

Needless to say, if you regain your health and faculties, you can personally take the steps to terminate the mandate. Your mandatary can also do this, as can any other interested party. The procedure can be instituted by a motion.

Your mandate can also be revoked on the initiative of the director general of a health and social services establishment. The law authorizes him to mention, in the report containing medical and psychosocial assessments, that you are once again capable of looking after yourself and no longer need to be represented by a mandatary.

This report is sent to the clerk of the court. If it is not contested by the people notified by the clerk of the court within the 30 days following filing of the report, your mandate will be automatically revoked. The clerk of the court gives notice in writing of the revocation and gives copies to you, your mandatary and the Curateur public. The mandatary must then account to you for his management.

What if the mandator dies?

The death of the mandator obviously terminates the mandate. If this happens, the mandatary's report is made to the mandator's heirs. If the mandatary dies during the mandate, his heirs have to report on his management on his behalf to the substitute mandatary or the legal representative (tutor or curator) appointed by the court following the institution of protective supervision, when there is no substitute mandatary.

What happens if you become incapacitated without having prepared a mandate?

Once incapable, a person is no longer able to make a mandate. However, the law has provisions for the protection and representation of persons of full age who become incapacitated without having prepared a mandate in case of incapacity and who need to be protected. These include domestic and judicial mandates, which apply to spouses. Certain laws, such as *An Act respecting the Quebec Pension Plan* and the *Automobile Insurance Act*, allow an organization paying a pension or indemnity to designate a person other than the beneficiary to manage the sums paid.

Finally, there are three forms of protective supervision. From the most limited to the most inclusive, they are: **advisor to a person of full age**, **tutorship** to the person and/or property, and **curatorship**, which covers both person and property. An advisor to a person of full age is an essentially private type of supervision that can only be conferred on the Curateur public under exceptional circumstances and deals strictly with assisting in the administration of property. Tutorships and curatorships can be entrusted to the Curateur public if there is no one in the person's immediate circle to assume the role of tutor or curator.

Choosing a tutor to a minor

If at the time of the homologation of your mandate, one of your children is a minor (younger than 18), a tutor should be appointed. You can designate this person to assume the office of tutor to a minor now but this designation will take effect only if you are the last (father or mother) to assume the duties of legal tutorship.

If you have more than one minor child, you can choose the same tutor for all children concerned or designate several different tutors by indicating which tutor will be responsible for each child concerned.

However, please note that in these circumstances, each child can have only one tutor.

How to fill out the form

We have provided a form allowing you to prepare your mandate in case of incapacity. You will see that it contains detailed information about the mandator's wishes regarding the protection of his person and his general well-being. The clauses regarding the administration of property are especially suited to people whose property, whatever its value, is simple to administer. If your personal and financial situation is complicated and requires special wishes to be expressed, it is preferable that you consult a notary or attorney.

You should review your mandate periodically. After all, it should respond to your needs. The rules of form imposed by the law must be respected, which means if you change the mandate, the whole process has to be repeated as if you were giving a mandate for the first time. Don't forget that the new mandate revokes all prior mandates.

The new mandate must be signed by the mandator (or, at his request, by a third party, as described earlier) in the presence of two witnesses, who must also sign the document attesting the mandator's capacity. If a third party has drawn up the mandate on behalf of the mandator and has also signed for him, the witnesses must be formally notified of this.

The explanatory notes that follow present information that will help you complete the *My mandate in case of incapacity* form.

Explanatory notes for the form

When you choose to cross out all or part of a clause, place your initials in the left margin to clearly confirm your intention.

It is possible that you, the mandator, have already signed your mandate or had it signed by a third party in your presence following your instructions, but without witnesses. In these cases, you must authenticate your signature or that of the third party who signed for you because you were unable to sign before witnesses.

1 SINGLE MANDATARY

The mandatory you choose is a person you trust, to whom you give responsibilities and powers for the protection of your person – care, support, etc. – and the administration of your property. Be sure that this person will be able to assume this task when you become incapable. For example, a spouse of the same age may no longer be able to take care of you, manage your assets or make decisions about entrusting these tasks to third parties.

The **substitute mandatory** is the person who will take over as mandatory in case your principal mandatory cannot execute the mandate.

2 MULTIPLE MANDATARIES

Option 2 lets you designate several mandataries: one to protect your person and one or more to manage your property. In the latter case, you can choose a trust company or other institution authorized by law. It is recommended that you inform it of your choice, find out its conditions (management fees, for example) and obtain its agreement.

The **substitute mandatory** is the person who will take over as mandatory in case your designated mandatory cannot execute the mandate. As you have chosen several mandataries, you can designate one substitute for each of them. By checking the last box, you allow the last mandatory left to continue to act: he will then act to protect your person and administer your property.

3 INVENTORY AND REPORT

Although optional, these clauses are a wise precaution and will facilitate the task of the mandatory when preparing the final account at the end of his administration.

When the person receiving the management report is informed of the mandatory's administration, he makes sure that the decisions concerning both the protection of the person and the management of his property have been made in the mandator's interest.

If he notices that the mandatory has been negligent in the performance of his duties, he can take the appropriate steps to correct the situation.

Ideally, the person asked to receive reports from your mandatory will not be the designated substitute who could be asked to act as the principal mandatory. If this is unavoidable, it is important to designate a second substitute to receive the reports and ensure continuous supervision.

The **inventory** is a sort of a description of the assets of the mandator at the time when the mandatory responsible for administering the property begins his duties. An inventory is absolutely necessary if a verification of the mandatory's management is required at a later date. It should include an accurate list and description of all the property to be managed, except for property and personal effects worth less than \$100, which can be described generally (e.g.: a set of 10 dresses, 5 suits, kitchen utensils, an envelope of documents and pictures, etc.).

The **report** concerning your protection and the administration of your property may be made to a person close to you or anyone able to assess your mandatory's management and take steps to improve it, if needed. Ideally, the person to whom the mandatory reports regarding his management will assist in making the inventory of the mandator's property that the mandatory should make when he begins his duties.

4 MANDATARY'S RESPONSIBILITIES FOR THE PROTECTION OF MY PERSON

These clauses are not obligatory: you can choose to cross out some or all of the section you do not want to include in your mandate.

Remember that the mandatory to the person must be a physical person – a family member, friend or someone else – whose role will be to ensure the protection of your person and your moral and material welfare and to consent to certain care on your behalf.

5 MANDATARY'S RESPONSIBILITIES FOR THE ADMINISTRATION OF MY PROPERTY

It is important to be clear about the powers you give your mandatory.

By giving him the powers of **simple administration**, your mandatory will require authorizations to perform certain significant actions. He will have to manage your day-to-day business and preserve and maintain your moveable and immoveable property. He will not be able to sell assets without your authorization if you are able to give it, and if not, without the authorization of the court, unless it involves assets that are perishable or likely to depreciate rapidly. If he makes investments in your name, they must be "presumed sound," which means they must comply with the definition given by the *Civil Code of Québec* (several types of bonds, certificates of deposit, etc.).

The mandatary who is given the powers of **full administration** has greater flexibility. In addition to preserving the assets of the mandatary, if possible, he must ensure that they grow and increase in value. He may also borrow or take out a mortgage in your name, or even sell your property without prior authorization.

The administration by the mandatary ends when the mandate given to him is revoked or the mandator dies. As appropriate, the mandatary must report on his overall management to the mandator who has regained his capacity, the heirs of the deceased mandator or the mandatary or the legal representative (tutor, curator) who replaces him in his duties.

6 ACCESS TO RECORDS

This clause is not obligatory. You can cross it out if you want.

7 REMUNERATION

The provisions of the Civil Code stipulate that anyone who administers property for someone else is entitled to be reimbursed for expenses incurred in the execution of his duties. They also state that in principle, the execution of the mandate is done free of charge unless the mandator wants to offer remuneration to his mandatary.

You can therefore make provisions for the mandatary responsible for taking care of your person and/or the one responsible for managing your property to receive remuneration calculated at an hourly rate for the hours spent on your care or administration and be reimbursed for his expenses. It is also possible for the remuneration of the mandatary to property to be calculated based on a percentage of the value of the assets under management. Obviously, if you designate a trust company or other legal entity, the management fees applicable will be billed to your assets.

8 PARTIAL INCAPACITY

These clauses are not obligatory: you can choose one of the three options by checking the one that you want included in your mandate or simply cross them out if none is applicable.

9 OTHER CLAUSES

These clauses are not obligatory: you can cross out some or all of the section you do not want included in your mandate.

10 SIGNATURE OF THE MANDATOR AND DECLARATION OF WITNESSES

The mandator must inform the witnesses of the nature of the documents he submits to them but he does not have to disclose their contents.

The role of the witnesses is two-fold and very important. By signing in his presence, they attest that the document has been **signed by the mandator** or according to his instructions and that he was **capable of doing so**.

In some cases, it may seem difficult for a witness to judge the capacity of the mandator to prepare his mandate. If there are doubts about whether he is in full possession of his faculties, the mandatary appointed in the document should, before signing, consult specialists in the health network so that the mandator receives a conclusive assessment.

A witness may be deemed to “have an interest” in the mandate if he is designated mandatary or the substitute mandatary or if he is the one to whom the mandatary must report. He may also be a person specified in clause 9 on page 7 of 8.

11 ACCEPTANCE BY THE MANDATARY

When the incapacity occurs, the designated mandatory is responsible for having the mandate homologated, and in doing so, his acceptance of the office is assumed. However, should he refuse, the substitute, if any, may act in his place.

It is recommended that you give a copy of the mandate to the designated mandatory or at least inform him that a mandate has been prepared and where it can be found.

You can also obtain his immediate acceptance and commitment to represent you after you become incapable.

Please note that for mandates prepared by notaries or attorneys that are listed in the *Registre des dispositions testamentaires et des mandats du Québec*, friends or family can perform searches to locate any registered mandate.

REMINDER

If you need more space for any section of the form, you can add pages by numbering them so that they refer to the appropriate section.

PLEASE INITIAL THE MARGIN WHENEVER YOU CHANGE A PRINTED TEXT.

NOTE

The text of the law always takes precedence over the information in this booklet.

Offices of Le Curateur public du Québec

Montréal – Head Office

600, boul. René-Lévesque Ouest
10^e étage
Montréal (Québec)
H3B 4W9
Tél.: 514 873-4074
1 800 363-9020
Web site: www.curateur.gouv.qc.ca

Direction territoriale de Montréal

454, place Jacques-Cartier
Bureau 200
Montréal (Québec)
H2Y 3B3
Tél.: 514 873-3002
1 866 292-6288

Direction territoriale Sud (Longueuil)

201, place Charles-Lemoyne
RC 02
Longueuil (Québec)
J4K 2T5
Tél.: 450 928-8800
1 877 663-8174

Sherbrooke

200, rue Belvédère Nord
RC 03
Sherbrooke (Québec)
J1H 4A9
Tél.: 819 820-3339
1 877 663-8174

Victoriaville

108, rue Olivier
1^{er} étage
Victoriaville (Québec)
G6P 6V6
Tél.: 819 752-7907
1 877 663-8174

Direction territoriale Est (Québec)

400, boulevard Jean-Lesage
Hall Ouest, bureau 22
Québec (Québec)
G1K 8W1
Tél.: 418 643-4108
1 800 463-4652

Rimouski

92, 2^e Rue Ouest, bureau 102
Rimouski (Québec)
G5L 8B3
Tél.: 418 727-4030
1 866 621-7088

Saguenay

227, rue Racine Est
Bureau 1.08
Saguenay (Québec)
G7H 7B4
Tél.: 418 698-3608
1 866 226-0985

Direction territoriale Nord (Saint-Jérôme)

222, rue Saint-Georges
Bureau 315
Saint-Jérôme (Québec)
J7Z 4Z9
Tél.: 450 569-3240
1 877 221-7043

Gatineau

4, rue Taschereau
3^e étage, bureau 320
Gatineau (Québec)
J8Y 2V5
Tél.: 819 772-3694
1 866 552-5164

Rouyn-Noranda

255, Principale
RC 06
Rouyn-Noranda (Québec)
J9X 7G9
Tél.: 819 763-3116
1 866 621-7087

Trois-Rivières

25, rue des Forges
Bureau 313
Trois-Rivières (Québec)
G9A 6A7
Tél.: 819 371-6009
1 877 221-7043

In the same collection

My Will

Cohabitation Contract

Application for the Probate of a Will

*Joint Application for the Determination
of Custody Access and Child Support*

*Joint Application for Review
of Accessory Measures*

*Joint Application for Divorce
on Draft Agreement*

Form

My mandate in case of incapacity

PLEASE PRINT

Wherever required by the context, any word written in the singular form also includes the plural, and any word written in the masculine form also includes the feminine.

IMPORTANT

Please read the explanatory notes on pages 14 through 19 of the booklet carefully. Each section of the form has a corresponding explanatory note.

If you would like to designate **ONLY ONE MANDATARY** to care for your person and administer your property, **fill out section 1**, then go directly to section 3.

If you would like to designate **SEVERAL MANDATARIES** to care for your person and administer your property together or one to care for your person and the other to administer your property, **fill out section 2**, then go to section 3.

Please note that the administrator of your property can be someone in your family, a friend or someone else you trust or even a company, such as a trust company or other institution authorized by law to act in this capacity.

If you need more space in any of the sections of the form, you can add pages and number them according to their corresponding section.

Please initial the margin whenever you change a printed text.

1 SINGLE MANDATARY (See note 1.)

This mandate cancels all previous mandates in case of incapacity and, once homologated, it terminates any power of attorney I have granted for the administration of my property.

I, the undersigned, _____, born on _____ DAY _____ MONTH _____ YEAR

NAME OF MANDATOR

hereby designate _____

NAME OF MANDATARY

ADDRESS

to act as mandatory responsible for protecting my person and administering my property.

Indicate your relationship to this person: _____

1.1 Substitute mandatory

If my mandatory is unable to act for whatever reason,

I designate _____

NAME OF MANDATARY

ADDRESS

to act as substitute mandatory.

Indicate your relationship to the person: _____

Initials of the mandator and witnesses _____

(Continued on back.)

2 MULTIPLE MANDATARIES (See note 2.)

This mandate cancels any previous mandate in case of incapacity and, once homologated, it terminates any power of attorney I have granted for the administration of my property.

I, the undersigned, _____, born on _____, born on _____ DAY MONTH YEAR
NAME OF MANDATOR
hereby designate _____
NAME OF MANDATARY

ADDRESS

to act as mandatory responsible for protecting my person.

Indicate your relationship to this person: _____

I also designate _____
NAME OF MANDATARY

ADDRESS

And, where necessary, _____
NAME OF MANDATARY

ADDRESS

to act as mandatory responsible for the administration of my property.

Indicate your relationship to this person: _____

When several mandataries act jointly, decisions must be made:

unanimously OR by majority

2.1 Substitute mandataries

If my mandatory is unable to act for whatever reason,

I designate _____
NAME OF SUBSTITUTE

ADDRESS

to act as substitute mandatory.

Indicate your relationship to this person: _____

Check if desired

In case of the resignation, death or legal incapacity of any of my mandataries mentioned above, the remaining mandatory will act as if he alone had been designated.

Initials of the mandator and witnesses _____

(Continued on back.)

3 INVENTORY AND REPORT (See note 3.)

3.1 Inventory

At the beginning of his functions, the mandatary responsible for the administration of my property should complete a summary inventory of all my moveable and immoveable property. This procedure must be performed in the presence of two witnesses, ideally including the person for whom the management report will be prepared, as appropriate.

3.2 Report

My mandatary OR Only his substitute OR My mandatary and his substitute

must prepare an annual report of the actions taken with respect to my person and the administration of my property and submit it to _____

NAME

ADDRESS

or failing that person, to _____

NAME

ADDRESS

4 RESPONSIBILITIES OF THE MANDATARY CONCERNING THE PROTECTION OF MY PERSON

(See note 4.)

4.1 General

My mandatary is responsible for ensuring my moral and material welfare. In this sense, he is authorized to make any decisions and take any steps to meet my daily needs while respecting my wishes, my personal and religious values, my habits, my standard of living and degree of autonomy.

Wherever I live, my mandatary must ensure that I receive the care and services required by my health status.

As a general rule, I would like my mandatary to be "actively" present to the extent possible (regular visits, moral support, etc.).

4.2 Housing

If possible, I would like to live at home. However, if my health requires me to live in a setting that is safer and better adapted to my needs, my mandatary will decide according to the circumstances, while taking into account the following wishes:

Initials of the mandator and witnesses _____

(Continued on back.)

4.3 Consent to care

If I am unable to consent to the care required by my health status or to refuse it, my mandatary must do so on my behalf. In this respect, he must act in my interest alone and take into account the wishes I have expressed to the extent possible and as provided by law. Should he be asked to consent to care, he must use all means necessary to make a well-informed decision, as discussed with the attending physician and healthcare team. If he consents to the care suggested, it is with the conviction that it will be beneficial, despite its effects, appropriate in the context and the risks involved do not seem disproportionate given the beneficial effect targeted.

Yes OR No

4.4 Clinical trials

I authorize my mandatary, if he feels that it is appropriate and complies with the applicable provisions of the *Civil Code of Québec*, to allow my participation in a research project or trial.

Yes OR No

4.5 Last wishes

In all decisions concerning care required at the end of my life, my mandatary must consider:
(Check the desired options.)

- my opposition to any disproportionate diagnostic method or therapy that needlessly worsens or prolongs my suffering and death;
- my wish to die with dignity, with the required supportive care and comfort and proper medication to relieve my suffering, even though it may indirectly accelerate my death;
- other details or wishes:

5 RESPONSIBILITIES OF THE MANDATARY CONCERNING THE ADMINISTRATION OF MY PROPERTY (See note 5.)

I grant my mandatary the power to administer my moveable and immoveable property according to the rules of

simple administration in accordance with the *Civil Code of Québec*

OR

full administration in accordance with the *Civil Code of Québec*

Check the desired options:

I would not like the following moveable and immoveable property to be sold, unless necessary:

I specifically authorize my mandatary to property _____
NAME OF MANDATARY
to act in my place as liquidator of a succession if these duties should be given to me.

6 ACCESS TO RECORDS (See note 6.)

In the exercise of his functions, it is understood, as provided by law, that my mandatary is authorized to consult my medical, personal and other records concerning my person and my property that may be useful to him.

7 REMUNERATION (See note 7.)

My mandatary may reimburse himself out of my assets for all expenses that are helpful or necessary to execute his duties, including fees for the homologation of the mandate.

My mandatary or his substitute will act free of charge.

OR

I would like _____
NAME OF MANDATARY TO THE PERSON

OR

I would like _____
NAME OF MANDATARY TO THE PROPERTY

OR

I would like _____
NAME OF MANDATARY TO THE PERSON

AND

_____ NAME OF MANDATARY TO THE PROPERTY

to be remunerated from my assets according to the following terms and conditions: _____

Initials of the mandator and witnesses _____

8 PARTIAL INCAPACITY (See note 8.)

If my incapacity is only partial:

- I require this mandate to be homologated with all powers specified in it.

I am fully aware that should I become partially incapable, some of the powers specified in this mandate could limit my rights and my autonomy. Nevertheless, I want this mandate to be homologated.

I consider myself the person in the best position to know my interests. I believe that my mandatary will act fully to respect my rights and protect my autonomy, even if he holds the powers of full administration.

OR

- I prefer that my residual capacity be taken into account in my mandate.

If I am only unable to manage my property, the mandate concerning the administration of my property must be homologated.

My mandatary will then act with powers of simple administration **OR** full administration and I will retain full autonomy in decisions about my person.

OR

- I prefer to refer it to the court.

Should the court, examining a motion for homologation concerning this mandate, conclude that my incapacity is only partial or temporary and as a result allow me to exercise some of my rights like any person of full age under protective supervision provided with a tutor or advisor, I would like the court to recognize the provisions of this mandate according to the degree of capacity it determines, without necessarily relieving my mandatary of his duties, since the latter may continue to represent or advise me in the exercise of my rights while respecting the degree of capacity recognized by the court.

Initials of the mandator and witnesses _____

(Continued on back.)

9 VARIOUS CLAUSES (See note 9.)

Check the clauses that apply:

- I would like my mandatary to use a portion of the revenues from my assets, and even some capital if necessary, in order to assume my financial obligations to my family in the same manner that I have assumed them until the homologation of this mandate. However, if these revenues have decreased considerably as a result of my incapacity, he will assume these obligations to the extent of my means.
- For any decision concerning my person or the administration of my property, if possible, I want to be consulted so that I can give my opinion. If my mandatary deems it appropriate, he will consult the most significant persons among my friends and family, who are:

NAME	NAME
NAME	NAME

However, it is understood that my mandatary is entitled to make the final decision.

- If, at the time of the homologation of this mandate, one or more of my children are minors (younger than 18) and must be represented, I appoint:

NAME	NAME (WHERE RELEVANT)
------	-----------------------

to act as tutor.

- The mandatary to my person must have a new medical and psychosocial assessment conducted every five (5) years after the homologation of this mandate in order to reassess my condition. After receiving these assessments, he must make all decisions and take all necessary steps to protect my rights and ensure that my autonomy is respected.
- If I regain my capacity again, my mandatary will cease to represent me and begin procedures to terminate this mandate, unless I indicate otherwise.

10 SIGNATURE OF THE MANDATOR AND DECLARATION OF THE WITNESSES (See note 10.)

SIGNATURE OF THE MANDATOR

10.1 Declaration of witnesses

We, the undersigned, _____ and _____
NAME NAME

have both witnessed the signature of _____
NAME OF MANDATOR

We also declare that he was fully capable of preparing this mandate and that we have no personal interest in it.

In witness whereof, we have signed at _____ this _____
PLACE DAY MONTH YEAR

SIGNATURE OF WITNESS	SIGNATURE OF WITNESS
NAME OF WITNESS	NAME OF WITNESS
FULL ADDRESS	FULL ADDRESS
TELEPHONE NO.	TELEPHONE NO.

Initials of the mandator and witnesses _____

(Continued on back.)

11 ACCEPTANCE BY THE MANDATARY (See note 11.)

The request to execute this mandate by my mandatary will be deemed his acceptance of this office.

OR

The mandatary hereby designated in this mandate:

NAME OF MANDATARY OCCUPATION

FULL ADDRESS

declares the following:

1. I _____ acknowledge that I have read this mandate and agree to be appointed mandatary to the property or to the person;
2. I agree, in case of the incapacity of _____, to take the
NAME OF MANDATOR
measures required by law to execute this mandate in case of incapacity and thereafter assume the powers and obligations of my office as mandatary and I agree to fulfill my duties in the interest of _____, to ensure respect for his rights and the protection of his
NAME OF MANDATOR
autonomy.

SIGNATURE OF ACCEPTING MANDATARY

Please initial the margin whenever you change a printed text.

Initials of the mandator and witnesses _____

***My mandate in case of incapacity* is intended for any adult of sound mind. It allows him to appoint a mandatary to ensure the protection of his person and the administration of his property in the event that illness or an accident deprives him of his faculties. It contains essential information on the choice of mandatary, the various clauses that may be included in the mandate and its homologation.**

This new edition features a completely revised form, designed to offer the mandator a greater range of elements contributing to his protection.

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