

**DECLARATION OF TRUST
ORLEANS CONSERVATION TRUST
Amendment and Restatement**

The undersigned Trustees, being all the incumbent Trustees as of this date, acting pursuant to the provisions of Article X of the Declaration of Trust dated 18 April 1970, as last amended and restated on February 17, 2015, establishing the Orleans Conservation Trust (recorded April 30, 1970, in the Barnstable County Registry of Deeds in Book 1470, Page 432, and with the Barnstable County Registry District of the Land Court as Document No. 181,052, hereby adopt the following Amended and Restated Declaration of Trust of the Orleans Conservation Trust. This Amended and Restated Declaration of Trust (hereinafter sometimes referred to as the “Declaration of Trust”) has been approved by the members of the Trust (hereinafter sometimes referred to as a “Member” or the “Members”) in accordance with Article XI of the Declaration of Trust dated February 17, 2015.

Establishment: On 18 April 1970, Malcolm M. Dickinson, Osborne Earle, Reginald L. Higgins, Malcolm R. Hobbs, Arthur B. Nichols, Laurin C. Peterson and Orin Tovrov, all of Orleans in the County of Barnstable and Commonwealth of Massachusetts, acknowledged the receipt of property and agreed for themselves and their successors in trust to hold the same together with such other property and funds as may be and have been added thereto for the purposes hereof in trust nevertheless for the benefit of all the inhabitants of the Town of Orleans in the manner and under the terms and conditions herein set forth.

ARTICLE I – NAME OF THE TRUST

This Trust may be referred to as the Orleans Conservation Trust (hereinafter sometimes referred to as the “Trust”) and the Trustees may be referred to as Trustees of the Orleans Conservation Trust (hereinafter sometimes referred to as “Trustees”). This Declaration of Trust and other instruments, pursuant to the provisions hereof, are to be recorded in a timely manner with the Barnstable County Registry of Deeds and the Barnstable Land Registry District of the Land Court.

ARTICLE II – PURPOSE

This Trust is organized exclusively for charitable, educational and scientific purposes, as those terms are defined in and limited by Section 501(c)(3) of the Internal Revenue Code and, in furtherance but without limitation of those purposes, will:

- a) Acquire and hold land in its natural state for conservation purposes forever;
- b) Assist in and promote protection of the natural resources of the Town of Orleans, Massachusetts by the conservation, preservation, restoration, and maintenance of

- beaches, meadows, woodlands, marshlands, wetlands, lands lying under water and other open areas and wildlife habitat in Orleans and its surrounds for current and future generations;
- c) Provide education in conservation and biological sciences, and opportunities for passive outdoor recreation by the public on trails and through other permitted uses of Trust land;
 - d) Assist in and promote the preservation of the character of the Town of Orleans, Massachusetts, including through efforts to reduce the density of development for conservation purposes;
 - e) Manage the land under its control for conservation, preservation, passive recreation, and climate resilience purposes;
 - f) Solicit and acquire by gift and purchase, real estate and interests therein and personal property of every sort and description, and use such property in such manner as the Trustees deem most appropriate to carry out the Trust's purposes;
 - g) Work to educate the public in the importance of preserving land for conservation purposes in Orleans, through such efforts as developing and disseminating written materials; developing and conducting programs, lectures, and walks; promoting sound resource management and the scientific study of natural history; involving and engaging the public in the purposes and activities of the Trust; and
 - h) Supplement local government and lessen its burden in providing open space and land for natural resource protection for its citizens as envisioned in Article 97 of the Amendments to the Massachusetts Constitution.

No substantial part of the activities of the Trust shall consist of efforts to influence legislation or regulation. Any such activities must be approved by an affirmative vote of three-quarters of the Trustees in office. The Trust shall not participate in any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of this Article, the Trust shall not conduct any activities not permitted to be carried on by an organization exempt from Federal Income Tax under Internal Revenue Code 501(c)(3) or corresponding provisions of any subsequent Federal Tax laws.

ARTICLE III – TRUSTEES

Power of Trustees: The Trustees, for the carrying out of the above purposes and except as herein otherwise specifically provided, shall have the same powers on behalf of the Trust with respect to all real and personal property at any time held by the Trust as if they were the absolute owners thereof, and without limiting the foregoing generality;

- To solicit and accept gifts, devises and bequests, and to purchase or otherwise acquire any real or personal property or interests therein, including without limitation, conservation restrictions;
- To invest any of the Trust property in such manner as they may deem advisable without being limited as to the kind or amount of any investment;

- To sell or exchange any real or personal property or any interest therein for such consideration and upon such terms and conditions as they may deem advisable, except that no land held under a charitable trust for conservation purposes may be sold or exchanged, unless said land is granted to another nonprofit conservation entity, the town, or the state;
- To join with others in the acquisition of real property or any interest therein;
- To borrow money and mortgage or pledge any part of the Trust estate assets and issue bonds, notes or other evidence of indebtedness;
- To join with others in borrowings, mortgages and pledges and to guarantee and become surety on obligations of others, in transactions in which the Trust has an interest;
- To execute as lessor or as lessee leases, including leases for terms expiring after the possible expiration of the Trust;
- To hold securities or other property or any interests in property in the name of agents or nominees without disclosure of the Trust;
- To restore, construct, repair, maintain, or demolish buildings and other improvements;
- To pay, compromise or adjust all obligations incurred and rights acquired in the administration of the Trust;
- To obtain advice of counsel and to rely thereon, and to employ such other persons, agents, brokers, managers, accountants, or advisors as they may deem advisable;
- To adopt and amend such reasonable rules, policies and bylaws of the Trust to ensure the efficient and effective functioning of the Trust; provided however, that in the event of a conflict between the terms of this Declaration of Trust and any rules, policies and bylaws that the Trustees may adopt, the terms of the Declaration of Trust shall control;
- To execute, acknowledge and deliver all such contracts, deeds, mortgages, leases, discharges and partial releases of mortgages, or other instruments as they may deem advisable in the course of the administration of the Trust; and
- To establish such financial reserves and do any and all things necessary or desirable in the opinion of the Trustees to carry out the purposes of the Trust.

The Trustees shall refrain from exercising any powers in such manner as to disqualify the Trust from Federal Income Tax exemption as a charitable organization.

Acts of Trustees: A majority of the Trustees may exercise any or all of the powers of the Trustees hereunder; except for the following: as described in Article II hereof with respect to the power to influence legislation or regulation; as described in Article VIII with respect to amendment of this Declaration of Trust; and as described in Article IX hereof with respect to the power of

termination; and may execute on behalf of the Trustees any and all instruments except as aforesaid with the same effect as though executed by all of the Trustees.

The Trustees may by instrument executed by all the Trustees delegate to any attorney, agent or employee such other powers and duties as they may deem advisable, including power to execute, acknowledge or deliver instruments as fully as the Trustees might themselves and to sign and endorse checks and approve electronic and other funds transfers to and from accounts of the Trust.

No Trustee shall be required to give bond. No license of Court shall be requisite to the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

No one dealing with the Trustees need inquire concerning the validity of anything the Trustees purport to do or see to the application of anything paid to or upon the order of the Trustees.

No Trustee shall be liable for acts, negligence or defaults of any other Trustee or any employee, agent or representative of the Trust selected with reasonable care, nor for errors of judgment, nor mistakes of law or fact made in good faith nor for reliance in good faith on advice of counsel nor for other acts or omissions in good faith.

Election and Tenure of Office: To the extent reasonably possible, Trustees' terms shall be staggered so that approximately one-third of the terms expire each year. Except as noted below, each of the Trustees shall be elected by majority vote of the Members at the Annual Meeting and shall hold office for a term of three (3) years until his/her successor is elected; provided however, that (i) a Trustee may be elected to a term of less than three years to appropriately stagger Trustee terms; (ii) a Trustee elected to fill an unexpired term shall be elected for the remainder of such term, and (iii) a Trustee appointed by the Board of Trustees to fill a vacancy shall serve until the next Annual Meeting.

Size of the Board: There shall be at least seven (7) and not more than fifteen (15) Trustees duly authorized by the Members at a meeting of Members. The Trustees shall be elected at the Annual Meeting of the Members.

The document titled ORLEANS CONSERVATION TRUST BYLAWS as voted and approved by the Trust Members and by the Trust Board of Trustees on the date of this Amendment and Restatement (hereinafter sometimes referred to as the "Trust Bylaws"), as the same may be amended, sets forth in additional detail the size and composition of the Board; Trustee election and tenure of office, eligibility requirements, nominating process and procedures; the rights and powers granted to Trustees; and the notice, quorum, voting and general procedural process applicable to the meetings of the Trustees.

ARTICLE IV – MEMBERS OF THE TRUST

Members of the Trust: The Trustees shall from time to time set out the eligibility requirements for individuals, trusts and other eligible organizations to be Members, including the appropriate membership contribution levels, and shall publicize said requirements; provided, however, that anyone holding the title of Life Member, as shown in the records of the Trust at the time of this amendment and restatement, shall continue to hold this title and is eligible to attend and vote at all meetings of the Members of the Trust.

Membership Year: For the purpose of determining eligibility for voting, the membership year shall be from July 1 through the following June 30, unless otherwise determined by the Trustees from time to time. All Members during this period shall be eligible to vote at the Annual Meeting that follows the end of the membership year, and be eligible to vote at any Meetings of the Members during the membership year and during the membership year immediately following.

Member Records: The Trust shall keep a record of all names and addresses, including electronic addresses if available, of all Members of the Trust.

ARTICLE V – MEETINGS OF THE MEMBERS OF THE TRUST

Annual Meeting of the Members of the Trust: An Annual Meeting of the Trust will be held each year at a time and place determined by the Trustees for purposes of electing Trustees, advising the Members on the Trust's activities, and reporting on the financial status of the Trust. At each such Annual Meeting, the Members shall elect or re-elect by majority vote individuals to act as Trustees in accordance with Article III.

Special Meetings of the Members of the Trust: There shall be as many Special Meetings of the Members of the Trust as the Trustees shall determine from time to time; provided, however, that the Trustees shall call a Special Meeting when requested by a resolution of a majority of the Trustees or a written request for a Special Meeting signed by at least 25 Members of the Trust stating the purposes for such meeting.

Notification: Notice of the Annual Meeting and Special Meetings of the Trust, and notification of matters to be voted on, shall be sent to all Members, at an address for the Member appearing in the records of the Trust, as least 10 days before the date of such meeting; provided, however, that notification of any meeting of the Members of the Trust for the purposes of amending the Trust under Article VIII or dissolving the Trust under Article IX shall be sent to all Members, at an address for the Member appearing in the records of the Trust, as least 30 days before the date of such meeting.

Quorum: A quorum of the membership is required to conduct official business at a meeting of the Members of the Trust. Only Members in physical or virtual attendance at the meeting shall be counted toward the quorum. For purposes of this Article, a quorum shall be met if the number of Voting Members in attendance is equal to or greater than 50 Members.

Voting: Members of the Trust may vote in person at a meeting or by written ballot before the meeting, either by mail or online, on any and all noticed matters at any meeting of Members, including the election of Trustees. A valid vote on any noticed matter requires a combined receipt of votes in person, and/or absentee ballots, by mail or online, equal to or greater than the lesser of 10% of all Members qualified to vote, or 100 members. Except as provided for in Articles VIII and IX a majority vote is required for approval of any action by the Members.

Meetings by Telephone, Conference Call, or Videoconference: If requested by the President, the Executive Director, or a written request signed by at least twenty five (25) Members of the Trust, Members of the Trust may participate in any meeting of the Members by conference telephone, telephone videoconference, or similar means of communication by which all persons participating in the meeting can hear each other at the same time and respond to each other. Participation by such means of communication shall constitute presence in person at a meeting.

ARTICLE VI– LIABILITY

Neither the Trustees nor any agent, employee, volunteer or Officer of the Trust shall have the power to bind any Member of the Trust. No Trustee, Officer, employee, volunteer, or Member of the Trust shall be personally liable hereunder; provided, however, that said Trustee, Officer, employee, volunteer, or Member of the Trust was authorized to act on behalf of the Trust and so acted in good faith in accordance with its above-stated terms and purposes and the interests of its beneficiaries and in accordance with the Massachusetts Uniform Trust Code codified at M.G.L. Chapter 203E, as the same may be amended. All persons extending credit to, contracting with or having any claim against the Trustees on behalf of the Trust shall look only to the funds and property of the Trust for payment of any contract or claim, or for the payment of any debt, damage, judgment or decree or for any money that may otherwise become due or payable to them from the Trustees on behalf of the Trust, so that neither the Trustees nor the Members shall be personally liable therefor.

As set forth more specifically in the Trust Bylaws, the Trust shall indemnify any Trustee or Officer of the Trust from personal liability on account of any act or omission in good faith as a Trustee or Officer of the Trust.

ARTICLE VII – ACCOUNTS

The Trustees shall render an account to the Members annually at the Annual Meeting of the

Members. The fiscal year of the Trust shall, unless changed by the Trustees, be the calendar year.

ARTICLE VIII– AMENDMENTS

This Declaration of Trust may be amended from time to time, except as to the qualified exemption of the Trustees and the Members from personal liability and except that no amendment shall be made which shall disqualify the Trust from Federal Income Tax exemption as a charitable organization.

Any Amendment shall be considered only at a Meeting of the Members at which a quorum is present and only when accompanied by an instrument in writing signed by all of the Trustees stating the proposed amendment and summarizing the rationale for the change. Approval of an Amendment requires a majority vote of the Members voting with a combined receipt of votes in person, and/or absentee ballots, by mail or online, equal to or greater than 10% of all Members qualified to vote, or 100 Members, whichever is less.

After an Amendment is approved, the instrument of amendment or a certificate thereof and a certificate of the vote shall be recorded in a timely manner with the Registry of Deeds and the Barnstable Land Registry District of the Land Court.

ARTICLE IX – DURATION OF THE TRUST

This Declaration of Trust, being a charitable trust, shall be of indefinite duration; provided, however, that a proposal to terminate the Trust may be considered at a Special Meeting of the Members called by the Trustees for that purpose and only when accompanied by a document summarizing the rationale for the termination of the Trust and an instrument of approval signed by all Trustees. Approval of such termination requires an affirmative vote by three-quarters of those voting (either by mail, online or in person) with the total number of votes cast must be greater than or equal to 30% of the total number of Members qualified to vote or 300 Members, whichever is less.

The instrument of termination together with a certificate of the vote shall be duly recorded in a timely manner with the Barnstable County Registry of Deeds and the Barnstable Land Registry District of the Land Court.

Upon the termination of the Trust, subject to the payment of or making provision for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be distributed to such other charitable organizations exempt from Federal Income Tax and entitled to hold land and conservation restrictions for conservation purposes, and exempt from income tax under Section 501(c)(3) of the Internal Revenue Code. The Trustees at their discretion shall determine the organization(s) best fitted to carry out the purposes of this Trust, in

such proportions as the Trustees shall in their discretion determine.

In making any such distribution the Trustees may sell all or any portion of the Trust property, except land held under charitable trust for conservation purposes, and distribute the net proceeds thereof, or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are completed.

ARTICLE X – AUTHORITY SHOWN BY RECORD TO BE CONCLUSIVE;
CERTIFICATE AS TO FACTS

Every contract, deed, mortgage, lease and other instrument executed by a majority of the Trustees who appear from instruments or certificates recorded with the Barnstable County Registry of Deeds or the Barnstable Land Registry District of the Land Court to be Trustees hereunder shall be conclusive evidence in favor of every person relying thereon or claiming thereunder, that at the time of the delivery thereof this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees, except that the instruments of amendment pursuant to Article VIII hereof and an instrument of termination pursuant to Article IX hereof shall be conclusive only if it appears that the delegations, amendments or termination have been executed by all the Trustees.

Any Trustee who appears from instruments or certificates recorded with the Barnstable County Registry of Deeds or the Barnstable Registration District of the Land Court to be a Trustee hereunder may execute and deliver a certificate as to who are the Trustees of the Trust, or as to the existence or nonexistence of any fact or facts, necessary to be proven as a condition for any act or acts by the Trustees, or which for any other reason may be germane to the affairs of the Trust, and any person dealing with the Trust may rely on the truth of any fact or statement made in said certificate.

ARTICLE XI – TAX EXEMPTION

The income from the Trust shall be distributed at such time and in such manner as not to subject the Trust to tax under Sec. 4942 of the Internal Revenue Code. The Trustees may not engage in any act of self-dealing as defined in Sec. 4941(d) of said Code, retain any excess business holdings as defined in Sec. 4943(c) of said Code, make any investments in such manner as to subject the Trust to tax under Sec. 4944 of said Code, or make any taxable expenditures as defined in Sec. 4945(d) and in such manner as not to subject the Trust to tax under Sec. 4942 of said Code.

No part of the net earnings of this Trust shall inure or be payable to or for the benefit of any private individual or corporation.

ARTICLE XII – OFFICERS

The Trustees shall annually elect from amongst themselves a President, Vice-President, Treasurer and Clerk and such other officers as the Board of Trustees may designate for election from time to time.

ARTICLE XIII - TITLES

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.

ARTICLE IX – SEVERABILITY

If any provision of the Declaration of Trust shall to any extent be held invalid, the remainder shall not be affected.

ARTICLE X-PROCEDURE

Robert's Rules of Order shall govern procedures in all meetings of the Members if questions are raised concerning procedures; provided, however, that if there is a conflict between the specific procedures outlined in the Declaration of Trust and Robert's Rules of Order, the specific procedures outlined in the Trust shall prevail.

ARTICLE XI- RESTATEMENT

This Amended and Restated Declaration of Trust dated _____, upon its recording in the Registry of Deeds and the Barnstable Land Registry District, shall replace in its entirety the Original Declaration of Trust dated 18 April 1970 and all previous amendments recorded thereto.

WITNESS the execution hereof under seal this day of _____, 2021:

President/Trustee

Vice-President/Trustee

Treasurer/Trustee

Clerk/Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Then personally appeared the above-named _____, President, and Trustee of the Orleans Conservation Trust, and proved to me through satisfactory evidence of identification, which was personal knowledge of identify, to be the person whose name is signed on the document, and acknowledged he is duly authorized to act on behalf of the Trust, and further acknowledged the foregoing instrument to be the free act and deed of said Trust, before me.