

Legal Description: Lot 1, Section 16, Range 2E, North

Saanich Land District, Plan VIP20832

(Municipal address: Mc Donald Park Road)

IN TRUST for the benefit of all persons who are resident within the Town of Sidney, and the Districts of North Saanich and Central Saanich.

I. DEFINITIONS

1. "lands" means all the lands and improvements thereon held at any time by the Trustee, expressly including any future Society acquisition subsequent to the date of this Declaration of Trust, for its charitable purposes.
2. "residents" means all persons who are dwelling in the Town of Sidney, and the Districts of North Saanich and Central Saanich.
3. "Society" means the Sidney and North Saanich Memorial Park Society.
4. "sub-delegate" means a person to whom a delegation is made by a person appointed by the Trustee as a delegate to perform a certain function.
5. "Trust" means the Peninsula Memorial Park Trust.
6. "Trust fund" or "Trust funds" means assets, including investments in securities and monies on bank deposit or in accounts, held by the Trustee for the purposes of the Trust, but excludes all lands held by the Trustee for the same purposes.
7. "Trust property" means all assets held by the Trustee for the purposes of the Trust, including all lands held by the Trustee for the same purposes.

8. "Trustee" means the Sidney and North Saanich Memorial Park Society in its capacity as trustee with regard to the present Declaration of Trust.

II. THE NAME OF THE TRUST

1. The name of the Trust is the Peninsula Memorial Park Trust

III. THE PURPOSE OF THE TRUST

1. The purposes, otherwise described herein as the objects, of the Trust are to hold the lands as a memorial to those who gave their lives in the service of Canada during the wars or peacekeeping in which Canada has taken part, and thereto to provide that the lands are held in trust to advance the community, cultural, athletic, and recreational lives of the residents, doing so in conformity with the law of charity.

IV. THE DUTIES OF THE TRUSTEE

1. The Trustee shall act in accordance with this Declaration of Trust so as to accomplish the objects of the Trust;
2. The Trustee shall hold the lands solely for the furtherance of the objects of the Trust, without power of sale over the said lands or to mortgage the same;
 - (1) The Trustee shall preserve and maintain a sculpture honouring those who so gave their lives, locating the memorial in a place on the Trust lands that is prominent and accessible to the public, and the Trustee has authority to repair or

replace at any time the memorial then in existence or to change its location within the Trust lands, as circumstances in the determination of the Society shall require;

- (2) The Trustee shall pay out of the Trust Property only those sums that it considers as Trustee are required to meet the objects of the Trust.

V. THE POWERS OF THE TRUSTEE

1. The Trustee has the power to enter into leases of or agreements concerning any part of the Trust lands, to grant licenses over the said lands, or to permit the Society to carry out on any part of the said lands such uses or activities that further the objects of the Trust, and that meet the requirements of the relevant local authority as to permitted use, with the proviso that every exercise of this power take place within what is permitted by the law of charity, and by the terms, as interpreted, of the *Income Tax Act (Canada)*, R.S.C. 1985, c. 1 (5th Supp.), as amended.
2. So as not to derogate from the scope of subclause (1) of this clause V, but to emphasize inclusion within the said subclause, the Trustee has the power:
 - (1) To enter into leases, agreements or licenses concerning the Mary Winspear Centre, that permits activities to be carried on within the said Centre or within the lands surrounding the Centre that complement and further the carrying out of the objects of the Trust.

- (2) To enter into leases, licenses or agreements, including grants of options, that complement and further the carrying out the objects of the trust, for such periods of time in each instance as the Trustee at discretion considers appropriate, permit uses of or activities on the lands, including business use and the earning of rental income;
 - (3) To permit the Society to carry on business on the lands that complements and further the carrying out of the objects of the Trust, and to permit utilization of the lands in such manner, with the consent of the Trustee, as the Society determines;
 - (4) To use the proceeds of any expropriation of the whole or any part of the lands to purchase further land and any improvements thereon; to invest in improvements on existing Trust lands or lands in future acquired by the Trustee; or to invest the whole or part of the proceeds as a separate fund, employing either the income or capital gain of that fund to maintain and manage any and all lands held at any one time by the Trustee, as the Trustee thinks fit;
 - (5) To carry out any alteration or use of lands, or demolition of erections thereon, held by the Trustee under the authority of this Trust indenture.
3.
 - (1) To hold Trust funds only in a segregated account or accounts;
 - (2) To invest the Trust funds in accordance with the provisions of section 15 of the *Trustee Act*, R.S.B.C. 1996, c. 464, as amended.
 - (3) To delegate investment decisions to a professional investment manager or adviser, subject to the Trustee's duty at law to supervise in a reasonable manner the discharge by the delegate of its obligations, and to permit the said manager

or adviser on request to sub-delegate, in both respects as the manager or adviser considers advisable.

4. (1) To open and maintain from time to time an account or accounts at a financial institution or institutions in Canada;
 - (2) To pay any monies forming part of the Trust funds to the credit of the account or accounts, or to place the monies on deposit with any financial institution or institutions;
 - (3) To sign cheques or orders for payment, or to authorize any person to sign such documents.
5. To pay and incur out of the Trust fund any charges or expenses, and, as the Trustee considers necessary or desirable, to expend any Trust funds for the carrying out of the objects of the Trust as set out in this instrument.
 6. To incur debts or borrow monies on such terms as the Trustee determines, provided no security or charge is given by the Trustee to any lender or other person or institution over any part of the Trust's lands or other fund assets.
 7. To appoint, consult or obtain assistance from any agent, including legal counsel, investment adviser, accountant, appraiser or other adviser or person, as the Trustee considers necessary or advisable for the purpose of discharging the duties or exercising the powers of the Trustee, and to pay compensation from the Trust funds for the services of any such person.

8. To appoint any person on behalf of the Trustee either to sign any contract, document or instrument in writing, or to sign specific contracts, documents or instruments in writing, and for the purposes of this clause “contracts, documents or instruments in writing” is to be given the broadest interpretation, including applications, notifications, returns of information, reports and filings of any nature.
9. To utilize the powers that the Society has under its instrument of incorporation.

VI. ADMINISTRATION OF THE TRUST

1. The Trustee is to maintain a minute book in which the proceedings of the meetings of the executive Trustee officers are entered, status of persons for attendance at such meetings being determined by the Trustee, and the Chair is to sign the minutes at the close of each meeting, or at a future meeting when the minutes have been duly confirmed by the Trustee officers attending that meeting.
2. The Trustee is to maintain books of account that record all monies received or paid out by the Trustee or on its behalf, and is to provide to the Society annual statements of receipts and payments made, prepared in a manner that is consistent with generally accepted accounting practice.
3. The Trustee may adopt any other rules or regulations which from time to time it considers proper to govern its own procedures with a view to its efficient operation and reporting to the Society members.

VII. APPOINTMENT OF A SUBSTITUTE TRUSTEE

1. The Trustee at any time by deed in accordance with documented legal advice may appoint a replacement Trustee for this Declaration of Trust;

2. The Trustee at any time and in a manner agreed with the respective local authority in this section 2 may transfer legal title and management obligations, but only on the trusts herein recorded, –
 - (i) to the Town of Sidney, of those lands and improvements that are situate within the borders of the Town; or
 - (ii) to the District of North Saanich, of those lands and improvements that are situate within the borders of the said District, or
 - (iii) to the District of Central Saanich, of those lands and improvements that are situate within the borders of the said District..

VIII. TRUSTEE'S STANDARD OF CONDUCT

1. All duties, powers and authorities imposed or conferred upon the Trustee by law or this instrument are to be exercised by the Trustee, as required by law, honestly, in good faith and avoiding any conflict of interest and duty with a view to the furtherance of the best interests of the Trust objects;

2. The Trustee, as required by law, is to exercise that degree of vigilance, prudence and skill which a reasonable trustee would exercise in comparable circumstances.

IX. LIMITATION OF TRUSTEE'S LIABILITY

1. The Trustee is not liable for loss that arises from the making of any investment, the appointment of a delegate or sub-delegate to manage any aspect of investment, the discharge by any delegate or sub-delegate of the delegated duties and the exercise of delegated powers, provided that the Trustee has acted in the investment making, the appointment or the supervision in the manner described in clause V 3(3), and otherwise as required by law;
2. The Trustee, its officers, employees and agents will not be liable for relying in good faith on any document that appears to be properly executed, or for relying, or declining or failing to act, in good faith upon the report or opinion of any agent properly employed by the Trustee, or for any other act or omission, provided the Trustee's conduct does not constitute a breach of trust under the law of trusts.

X. INDEMNIFICATION OF THE TRUSTEE

1. The Trustee is entitled to be indemnified from the Trust fund for expenses reasonably incurred, and losses and liabilities experienced by the Trustee in the proper discharge of its duties and the exercise of its powers, provided the Trustee has acted or omitted to act without fraud, wilful wrongdoing, or negligence;
2. The Trustee may take out policies of insurance for the purpose of indemnifying the Trustee, its officers or employees, and may charge the Trust fund with the cost of the premiums payable on such policies.

XI. LIABILITY TO THIRD PARTIES

1. All acts done, written instruments executed and all obligations and liabilities incurred vis-a-vis third parties by the Trustee, or by any officer, employee or agent on behalf of the Trustee, in the proper performance of the duties or the exercise of the powers of the Trustee shall be conclusively taken to have been done, executed or incurred only by or on behalf of the Trustee in its capacity as Trustee;

XII. AMENDMENT OF TRUST DECLARATION

1. The Trustee from time to time may vary, delete or add to the terms of this Declaration of Trust, including the Purpose or objects of the Trust and the Powers of the Trustee, provided the Declaration remains a charitable trust thereafter, and that documented legal advice has been taken by the Trustee prior to any such amendment.

XIII. AMALGAMATION AND TERMINATION OF THE TRUST

1. The Trustee may cause the Trust to be amalgamated with another charitable trust fund or not- for-profit corporation having the same or approximately the same charitable purposes, or terminate the Trust, transferring the remaining assets or fund on trust to another charitable trust fund or corporation having wholly or approximately the purposes of the Trust, if so advised by independent legal advice that such amalgamation, or termination of the Trust, is a reasonable and appropriate action. Upon dissolution of the Trust, and after payment of all debts and liabilities, the Trust property shall be distributed as determined by the Trustee to one or more registered charitable organizations having comparable purposes to those of the Trust.

XIV. GOVERNING LAW

