

# LITTLETON CONSERVATION TRUST

P.O. Box 594  
Littleton, Massachusetts

PROPOSED REPLACEMENTS INDICATED IN YELLOW

## BYLAWS

2022 - Revised

### Agreement and Declaration of Trust

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BY-LAWS OF THE  
LITTLETON CONSERVATION TRUST  
Littleton, Massachusetts

## AGREEMENT AND DECLARATION OF TRUST (1962)

RAYMOND E. BRADLEY, STANLEY F. CONANT, FRANCIS A. FLAHERTY, RAYMOND F. GEHLING, JR., HENRY S. HARVEY, LOIS McWILLIAMS, LESLIE L. NELSON, HERBERT SONTHOFF, and HURD C. WILLETT, all of Littleton, in the County of Middlesex, and the Commonwealth of Massachusetts, (hereinafter called the Trustees), hereby acknowledge receipt of the sum of fifty dollars (\$50.00) from a donor, whose name, together with the names of all other donors to this Trust and the amounts contributed by each, shall be kept by the Trustees as a permanent record, and DECLARE that they hold said sum and agree for themselves and their successors in trust to hold the same, together with such other property and funds as may be added thereto for the purposes hereof, IN TRUST, NEVERTHELESS, for the benefit of all the inhabitants of the Town of Littleton, in the manner and under the terms and conditions herein set forth, namely:

### **ARTICLE I - Name of the Trust**

As set forth in its Agreement and Declaration of Trust dated May 12, 1962, this Trust shall be called the Littleton Conservation Trust, and may be so described in any legal, or other identification thereof.

### **ARTICLE II - Purposes of Trust**

The purposes of the Littleton Conservation Trust shall be to assist in and promote the preservation of the rural character of the town, in order to preserve and maintain areas for conservation of public water resources and for the preservation of marshland, swamps, and other wetlands, and the animal and plant life therein, sections of unique historical significance or natural beauty, greenbelt and similar open sections, areas for educating and training the public, and training girl scouts, boy scouts, and similar youth organizations in nature lore, and other out-of-door activities, and for general public outdoor passive recreation, such as swimming, skiing, skating, boating and similar activities, the development of walking and riding trails therein, and the establishment of sound conservational practices, and to engage in and encourage others to engage in the scientific study of plants, birds and other wildlife, and the sylvan culture of the Town of Littleton, and in this connection, to acquire by gift, purchase or otherwise real property and personal property both tangible and intangible of every sort and description, to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purposes; provided, however, that all property comprising this Trust and net earnings thereof shall be used only in the United States of America exclusively for the benefit of all the inhabitants of the Town of Littleton for the conservational, educational, and scientific purposes for which the Trust is formed as set forth in this article, and no preponderant part of the activities of the Trust shall consist of carrying on propaganda or otherwise attempting to influence legislation, and no part of the net earnings of the Trust shall inure to the benefit of any private individual or corporations.

### **ARTICLE III -Concerning the Trustees**

*1994 Language:*

*The Trustees hereunder shall hold office until their successors are duly elected or appointed, and qualified as hereinafter provided. Only persons who are residents of the Town of Littleton and members of the trust shall be eligible to hold the office of Trustee, and any Trustee who ceases to be such a resident shall automatically, without any further action, cease to be a Trustee hereunder. If a Trustee shall die, resign or for any other reason cease to be a Trustee hereunder*

*before his or her term of office expires, a successor shall be appointed by the remaining Trustees to fill such vacancy.*

*Commencing September 26, 1967 the number of Trustees shall be increased from nine (9) to twelve (12), the term of each Trustee shall be three years, and not less than four Trustees shall be elected each year.*

**Proposed Replacement:**

1. The Trustees hereunder are defined as those members duly elected by majority vote of the Members of the Trust at the Annual Meeting, and shall hold office until their successors are duly elected or appointed, and qualified as hereinafter provided. Only persons who are residents of the Town of Littleton and members of the trust shall be eligible to hold the office of Trustee, and any Trustee who ceases to be such a resident shall automatically, without any further action, cease to be a Trustee. If a Trustee shall die, resign or for any other reason cease to be a Trustee before his or her term of office expires, a successor shall be appointed by the remaining Trustees to fill such vacancy for the remainder of the term. The role of the Trustees is further defined in Article VII.

2. The number of Trustees shall be a maximum of twelve (12). The term of each Trustee shall be three years.

3. Officers of the board are the President, Vice-President, Secretary and Treasurer, and they shall be limited to two consecutive terms in the same position, unless voted in by a majority of the board for a third term.

4. Any Trustee may be removed, with or without assignment of cause, by a vote of a two-thirds majority of the Trustees at any Trustees meeting. No Trustee shall be removed from office unless the notice of the meeting at which removal is to be considered states such purpose and opportunity to be heard at such meeting is given to the Trustee whose removal is sought.

5. Non-Discrimination: The Trust board members shall not discriminate against any member, visitor, contractor, or any other individual on the basis of financial strata, race, religion, ethnicity, creed, age, national origin, marital status, gender, gender expression, sexual orientation, physical or mental disability, or veteran status, in accordance with State and Federal non-discrimination laws.

#### **ARTICLE IV - Members of the Trust**

*1994 Language:*

*Membership of the Trust shall consist of those persons who have made a contribution to the Trust. Rates of membership shall be proposed by the Trustees and by the members at an Annual Meeting. Membership in the Trust shall entitle those persons with the right to vote at Annual and Special Meetings of the Trust. Trustees shall keep a record of the names and addresses of all members whose dues are paid for the current year.*

*Life Members shall be those persons so designated by the Trustees who have contributed \$1000 or more to the Trust, or property or services of equivalent or greater value in the opinion of the Trustees. A record shall be kept by the Trustees of all Life Members, living or deceased.*

**Proposed Replacement:**

Members of the Trust shall consist of those persons who have made a contribution to the Trust in the current year. Membership in the Trust shall entitle those persons with the right to vote on specific issues brought forth by the Board of Trustees at Annual and Special Meetings of the

Trust. Trustees shall keep a record of the names and addresses of all members who have made a donation in the current year.

#### **ARTICLE V - Meetings of the Members of the Trust**

*1994 Language:*

*1. There shall be an Annual Meeting of the Members of the Trust during each calendar year beginning with the year 1963, at such time and at such place as the Trustees shall determine, for the purpose of electing Trustees hereunder. At such Annual Meeting, the Members shall elect or re-elect by ballot by majority vote individuals to act as Trustees for those whose terms of office expire at that meeting. Each such new or re-elected Trustee shall serve for a term to expire at the Third Annual Meeting of the Members after the meeting at which such Trustee is elected or re-elected.*

*2. There shall be as many Special Meetings of the Members of the Trust as the Trustees shall determine. At such meetings, the Members may advise the Trustees on questions of policy or on any other matters placed before them by the Trustees, and may take such other action as is permitted them under this instrument.*

*3. A written notice stating the place, day, hour, and purpose of each Meeting of the Members of the Trust shall be mailed to each Member at his or her address appearing in the records of the Trust at least ten (10) days before the date of such meeting.*

*4. Except as otherwise provided in this instrument, a quorum at any Meeting of the Members shall consist of seven Members and such Members may act by majority vote of those present.*

**Proposed Replacement:**

1. There shall be an Annual Meeting of the Members of the Trust during each calendar year, at such time and at such place as the Trustees shall determine, for the purpose of electing Trustees hereunder. At such Annual Meeting, the Trustees shall present a slate of candidates to the Members, who shall vote by majority to elect or re-elect individuals to act as Trustees for those whose terms of office expire at that meeting. Each such new or re-elected Trustee shall serve for a term to expire at the Third Annual Meeting of the Members after the meeting at which such Trustee is elected or re-elected.

2. There shall be as many Special Meetings of the Members of the Trust as the Trustees shall determine. At such meetings, the Members may advise the Trustees on questions of policy or on any other matters placed before them by the Trustees, and may take such other action as is permitted under this instrument.

3. An electronic or written notice stating the place, day, hour, and purpose of each Special Meeting of the Members of the Trust shall be sent to each Member at his or her e-mail or mailing address appearing in the records of the Trust at least ten (10) days before the date of such meeting.

4. Except as otherwise provided in this instrument, a quorum at any Meeting of the Members shall consist of seven Members and such Members may act by majority vote of those present.

**Proposed New Article VI Insertion, which renumbers all Articles that follow:**

#### **ARTICLE VI - Meetings of the Members of the Board of Trustees**

1. The Trustees shall meet at least quarterly per calendar year to conduct the business of the Trust, with at least one of such meetings being the Annual Meeting as scheduled by the Trustees. Additional or special meetings may be called for purposes agreed to by the board of trustees.

2. An electronic or written notice stating the place, day, and time of a meeting of the board of trustees shall be sent to all trustees at his or her email or mailing address at least 7 days prior to the meeting, except no written notice shall be required for regular meetings of the Board of Trustees for which the time and place have been standardized or for which a schedule has been set in advance for the entire Board of Trustees.

3. Except as otherwise provided in this instrument, a quorum at any Meeting of the Trustees shall consist of a simple majority of the number of Trustees in office at that time, and such Trustees may act by a majority vote of those present.

4. Voting without a meeting: Any vote that may be taken at a meeting of the board may be taken without a formal meeting if all members of the board are notified in advance of the content and purpose of the vote through electronic means such as e-mail or telecommunications, or other available means, and all members of the board have an opportunity to respond and submit their vote for, against or abstaining from voting. The number of affirmative votes must equal the required number of affirmative votes if the vote had occurred at a meeting. Minutes setting forth any votes taken in this manner shall be kept with the Trust's minutes.

#### **ARTICLE VII - Powers of the Trustees**

1994 Language:

*The Trustees for the time being hereunder shall hold, manage, and administer the property comprising the Trust, and in order to carry out the purposes of the Trust shall have and may exercise the following powers:*

*1. To solicit and to receive by gift, devise, or bequest, and to purchase or otherwise acquire real property in Littleton and in towns contiguous to Littleton, and personal property, both tangible and intangible, of every sort and description, including the right to acquire property subject to restrictions as to the use thereof and to abide by such restrictions notwithstanding anything to the contrary herein contained; provided, however, that the Trustees shall not accept any property to be used for purposes other than those set forth in Article II hereof.*

*2. To sell or exchange any interest in real or personal property held by them at public or private sale for cash or for any other consideration and upon such terms and conditions as they deem advisable; to borrow money and mortgage or pledge all or any part of the real or personal property or other assets of the Trust, and to issue notes or other evidences of indebtedness upon such terms and maturities as they think proper; to lease any real estate at any time held in trust hereunder for such term or terms, upon such provisions and conditions as they shall determine; and to pay all expenses or other charges and obligations incurred in the administration of the Trust or the assets thereof.*

*3. To invest and reinvest the property of the Trust; to continue to hold such real estate, bonds, securities or other investments which may be transferred to them for such length of time as shall seem to them wise and proper notwithstanding that the same may be wasting investments or may constitute an unduly large proportion of the trust fund or would otherwise be improper for trust investments in the absence of express authority hereby given; and in making new investments as such Trustees, they shall have full power and discretion to invest in such securities or other property, including by way of illustration but not of limitation, mutual funds, so-called, as shall seem to them wise and proper without being liable to any person by reason of any*

*loss to the trust estate occurring from any investments retained or made by them unless such loss shall have occurred through their willful default; to join in any merger, consolidation or reorganization of any corporation or association whose securities shall be held in trust hereunder; to vote at any meeting of such corporation or association by proxy with power of substitution or otherwise; to deposit any of such securities with any protective committee or voting trust; and to hold any securities or other property which may from time to time comprise a part of the trust estate in the name of such nominee as they shall select or in the form of street certificates, so-called, without in any of such cases disclosing the fact that such property is owned in a fiduciary capacity.*

*4. To employ, elect, appoint, and remove officers, attorneys and other agents who may or may not be Trustees; to appoint one or more of their number to the offices of Treasurer and Secretary; to fix the compensation, if any, of the Trustees or anyone or more of them; to authorize anyone or more of the number or any person or agent appointed by them to sign and endorse checks, to enter orders to purchase and sell securities, including short sales, to sign, seal, acknowledge, and deliver any instrument in the name of and in behalf of the Trustees or of the Trust, and to have access to any safe deposit box or boxes belonging to the Trustees or to the Trust.*

*5. To prosecute, compromise, submit to arbitration or abandon any claim or dispute involving the trust property and pay all debts, expenses, or claims against them upon such evidence as they deem proper.*

*6. To execute, acknowledge and deliver all necessary and proper contracts, deeds, and other instruments, whether or not under seal, incident to any of their powers, rights and discretion.*

*7. To deposit any moneys of this Trust in any bank or trust company, or with any bankers, and to entrust to any bank, banker, trust company, or safe deposit company for safekeeping any of the securities and any documents and papers comprised in or relating to the trust estate.*

*8. Any action or vote taken by a majority of the Trustees shall constitute action of the Trustees.*

*9. They shall prepare an Annual Account of the Trust in the form of a report showing receipts, expenditures and property remaining in trust. Such report shall, if published in the Annual Town Report, be a complete protection to the Trustees in so far as is consistent with the Applicable laws of the Commonwealth of Massachusetts, as to all matters included therein or reflected thereby as against all persons, firms, corporations, and organizations. The fiscal year of the Trust shall, unless changed by the Trustees, be the calendar year.*

*10. Except as otherwise determined by the Members, the Trustees shall not be required to give bond, security, or surety in any form.*

*11. They shall keep such records and may from time to time adopt and change such rules in the nature of bylaws for the regulation of the administration of the Trust as they deem advisable.*

**Proposed Replacement:**

**The Trustees shall hold, manage, and administer the property comprising the Trust, and in order to carry out the purposes of the Trust shall have and may exercise the following powers:**

**1. The officers of the Trust shall be elected by the Trustees and shall have the authority to sign, seal, acknowledge, and deliver any instrument in the name of and on behalf of the Trustees or of the Trust.**

2. The Trustees shall have the authority to vote to appoint Associate Trustees, who shall be non-voting members of the board meant to assist the Trustees in various capacities as determined by the Trustees.

3. The Trustees shall have the power to establish committees for various purposes and of various durations to further the Trust's needs, goals and purposes at their discretion. Members of the committees may include people that are not a member of the board, such as Associate Trustees and other volunteers.

4. To solicit and to receive by gift, devise, or bequest, and to purchase or otherwise acquire real property in Littleton and in towns contiguous to Littleton, and personal property, both tangible and intangible, of every sort and description, including the right to acquire property subject to restrictions as to the use thereof and to abide by such restrictions notwithstanding anything to the contrary herein contained; provided, however, that the Trustees shall not accept any property to be used for purposes other than those set forth in Article II.

5. To sell or exchange any interest in real or personal property held by them at public or private sale for cash or for any other consideration and upon such terms and conditions as they deem advisable; to borrow money and mortgage or pledge all or any part of the real or personal property or other assets of the Trust, and to issue notes or other evidences of indebtedness upon such terms and maturities as they think proper; to lease any real estate at any time held in trust hereunder for such term or terms, upon such provisions and conditions as they shall determine; and to pay all expenses or other charges and obligations incurred in the administration of the Trust or the assets thereof.

6. To invest and reinvest the property of the Trust; to continue to hold such real estate, bonds, securities or other investments which may be transferred to them for such length of time as shall seem to them wise and proper. In making new investments as such Trustees, they shall have full power and discretion to invest in such securities or other property, including by way of illustration but not of limitation, mutual funds, without being liable to any person by reason of any loss to the trust estate occurring from any investments retained or made by them unless such loss shall have occurred through their willful default; to join in any merger, consolidation or reorganization of any corporation or association whose securities shall be held in trust hereunder; to vote at any meeting of such corporation or association by proxy with power of substitution or otherwise; to deposit any of such securities with any protective committee or voting trust; and to hold any securities or other property which may from time to time comprise a part of the trust estate in the name of such nominee as they shall select without, in any of such cases, disclosing the fact that such property is owned in a fiduciary capacity.

7. To prosecute, compromise, submit to arbitration or abandon any claim or dispute involving the trust property and pay all debts, expenses, or claims against them upon such evidence as they deem proper.

8. To execute, acknowledge and deliver all necessary and proper contracts, deeds, and other instruments, whether or not under seal, incident to any of their powers, rights and discretion.

9. To deposit any money of this Trust in any bank, trust company, investment management or brokerage services companies, and to entrust to any bank, trust company, or safe deposit company for safekeeping any of the securities and any documents and papers comprising or relating to the trust estate.

10. Any action or vote taken by a majority of the Trustees shall constitute action of the Trustees.

11. They shall prepare an Annual Account of the Trust in the form of a report showing

receipts, expenditures and property remaining in trust. Such report shall, if published in the Annual Town Report, be a complete protection to the Trustees in so far as is consistent with the Applicable laws of the Commonwealth of Massachusetts, as to all matters included or reflected in such report as against all persons, firms, corporations, and organizations. The fiscal year of the Trust shall, unless changed by the Trustees, be the calendar year.

12. Except as otherwise determined by the Members, the Trustees shall not be required to give bond, security, or surety in any form.

13. The Trustees shall keep such records and may from time to time, by majority vote, adopt and change such rules in the nature of these bylaws for the regulation of the administration of the Trust as they deem advisable.

14. Employ, appoint and remove such agents, managers, officers, brokers, engineers, employees, servants, assistants, financial advisors and counsel as they shall deem proper for the purchase, sale or management of the Trust assets, or any part or parts thereof, or for conducting the business of the Trust, and may define their respective duties and fix and pay their compensation.

### **ARTICLE VIII - Execution of Instruments**

*1994 Language (Paragraph 1 Only):*

*1. All instruments, whether or not under seal, (including, but not limited to deeds, leases, contracts, releases, notes, checks, drafts, securities, assignments, endorsements, and proxies) may be executed on behalf of the Trust by such Trustee or Trustees as shall be authorized by a writing signed by a majority of the Trustees or by action or vote of the Trustees evidenced by the certificate of a Trustee or the Secretary of the Trustees if one is appointed. Any person accepting such instrument executed by any one Trustee purporting to act under such authority may conclusively presume that such Trustee has authority to execute such instrument.*

**Proposed Replacement (Paragraph 1 Only)**

1. All instruments, whether or not under seal, (including, but not limited to deeds, leases, contracts, releases, notes, checks, drafts, securities, assignments, endorsements, and proxies) may be executed on behalf of the Trust as shall be authorized by action or vote of the Trustees evidenced by the certificate of a Trustee or the Secretary of the Trust. Any person accepting such instrument executed by any one Trustee purporting to act under such authority may conclusively presume that such Trustee has authority to execute such instrument.

2. All agreements, obligations, instruments, papers, and actions by or in the name and on behalf of this Trust may be made, incurred, executed, signed or taken by or in the name of the Littleton Conservation Trust, and shall in such cases and in such manner as the Trustees deem advisable, expressly exempt the Trustees from liability out of his or her personal assets and expressly provide that the trust property alone shall be liable thereunder or by reason thereof.

3. The Trustees may from time to time adopt and use a form of seal for this trust.

### **ARTICLE IX – Protection of Persons Dealing with the Trust**

1. No corporation, person, or transfer agent shall be held to examine into the trusts hereunder, but such corporation, person or transfer agent may deal with trust property as if the Trustees were the owners thereof free of all trusts; and no such corporation, person, or transfer agent



dealing with the Trustees shall be required to see to the application of any money or property paid or delivered to any Trustee or agent of the Trustees.

2. A certificate signed by any Trustee or by the Secretary of the Trust, and, if relating to real property, recorded in the registry of deeds for the county or district where the land lies, certifying who the Trustees are, or as to any action by the Trustees or Members of the Trust, or as to any other fact affecting or relating to the Trust of the Trust instrument, may be treated as conclusive evidence thereof by persons dealing with this Trust.

*1994 Language (Paragraph 3)*

*3. Any Trustee, or any firm, trust, corporation, concern or estate in which he or she is interested as a member, trustee, director, officer, beneficiary, shareholder, agent, fiduciary or otherwise, may sell to, buy from, contract with and otherwise deal with this Trust as freely and as effectually as though no interest or fiduciary relation existed; and the Trustees hereunder shall have power to exercise or concur in exercising all powers and discretions given to them hereunder or by law notwithstanding that they or any of them may have a direct or indirect interest, personally or otherwise, in the mode, result or effect of exercising such powers or discretions.*

**Proposed Replacement (Paragraph 3)**

**3. Conflict of Interest: No part of the Trust's funds shall benefit any members of the board or other private individuals, except that reasonable compensation may be paid for services actually rendered, and reimbursement of actual costs paid by individuals to benefit the Trust. The members of the Trust shall not perform any act or acts which are inconsistent with the status of the Trust as a tax-exempt charitable organization within the meaning of section 501(c)(3) on the Internal Revenue Code. Board members should not acquire investments that may affect or be affected by the organization's investment decisions. Any board member who knowingly has conflicts shall acknowledge the conflict to the board, and refrain from participating in any discussions and/or votes pertaining to the subject matter of such conflict.**

**ARTICLE X – Protection of Trustees**

1. No Trustee shall be liable to this Trust except for his own acts, neglects, and defaults conducted in bad faith.
2. No Trustee shall be liable out of his or her personal assets for any obligation or liability incurred by this Trust or by the Trustees, and each Trustee shall be entitled to reimbursement and exoneration out of the trust estate according to law.
3. The Trust estate alone shall be liable for the payment or satisfaction of all obligations and liabilities incurred in carrying on the affairs of this Trust.
4. Proceedings against this Trust may be brought against the Trustees as Trustees hereunder but not personally. The Trustees shall be parties thereto only in so far as necessary to enable such obligation or liability to be enforced against the trust estate. In such proceeding, service of process upon one of the Trustees or upon any agent whom they have appointed for that purpose shall be sufficient.

**ARTICLE XI - Amendments**

*1994 Language:*

*If at any time any of the provisions of this instrument as it may then exist shall be or have become inappropriate or inapplicable to carry out the purpose for which this Trust is deemed to have been*

established, or if it shall be desirable to supply any defects or omissions in this instrument or to make any reasonable modifications thereto which may be necessary or desirable to give effect to the intent hereof or if a modification as to the appointment of successor Trustees seems appropriate, the Trustees for the time being hereunder may at any Annual or Special Meeting present a proposed amendment to the Trust to the Members, who may either accept such amendment as proposed or reject the same, but may not take any other action relative thereto. If accepted, such amendment shall be attached to each original counterpart of this instrument, and shall be recorded in every registry of deeds in which this instrument is recorded. Notwithstanding anything to the contrary herein contained, the general conservational, educational, and scientific purposes for which this Trust is originally established as set forth in Article II may not be altered, amended, or changed.

**Proposed Replacement:**

If at any time any of the provisions of this instrument as it may then exist shall be or have become inappropriate or inapplicable to carry out the purpose for which this Trust is deemed to have been established, or to make any reasonable modifications thereto which may be necessary or desirable to give effect to the intent, a proposed amendment may be presented to the entire board. The Trustees may enact such changes with a majority vote of the board. Notwithstanding anything to the contrary herein contained, the general conservational, educational, and scientific purposes for which this Trust is originally established as set forth in Article II may not be altered, amended, or changed.

**ARTICLE XII – Termination**

With the approval of a majority of all the Members of the Trust, the Trustees may at any time and from time to time, after providing for the payment of all proper debts, charges, and expenses, give, convey and transfer all or any part of the property comprising the Trust to another private or public conservation organization or to an agency of the Town of Littleton, to be held by such organization or Town for the purposes hereof and subject to such restrictions as may have been imposed on any such property by the donors thereof. If all the trust property is so transferred, this Trust shall terminate.

**ARTICLE XIII – Miscellaneous**

This Trust shall at all times be governed, construed, and administered in accordance with the laws of the Commonwealth of Massachusetts.

This instrument is executed in several counterparts, each of which shall be deemed an original; and such counterparts shall constitute but one and the same instrument, which shall for all purposes be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, (Current Trustee names list)

**COMMONWEALTH OF MASSACHUSETTS**  
**Middlesex, SS \_\_\_\_\_, 2022**

On this \_\_\_\_\_, day of \_\_\_\_\_, 2022, before me, the undersigned notary public, personally appeared the above-named \_\_\_\_\_, Trustee as aforesaid, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license(s) or other state or federal governmental document(s) bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed

above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose as Trustee of said Trust.

SEAL

\_\_\_\_\_  
Notary:  
My commission expires: