

## DECLARATION OF TRUST

### 1. CONSTITUTION

- A. This Declaration of Trust (“Trust Deed”) is established under the authority of Book of Forms section 149, of The Presbyterian Church in Canada with the approval of the congregation of the St. Andrew’s Kamloops Presbyterian Church (“Congregation”) at a duly called Congregation meeting held on \_\_\_\_ day of \_\_\_\_\_ 2022 and with the approval of the Presbytery of Kamloops on \_\_\_\_ day of \_\_\_\_\_ 2022 and replaces any and all terms of any trust declaration created or applying to the Congregation pertaining to the subject matter set out in this Trust Deed.
- B. This Trust Deed sets out the rules governing the trustees of this Trust Deed, whose responsibilities are partially that of agent for the Congregation and partially that of trustee for the property of the Congregation.
- C. The Trustees of this Trust Deed (herein called the “Congregational Trustees”) shall be appointed by the Congregation in the manner set down in this Trust Deed. See 3 and 4 below.
- D. The registered title to property of the Congregation (herein called the “property”) is held by the Congregational Trustees. The property includes, without limitation, site of church building, car park etc.
- E. A copy of the original Trust Deed, duly signed by the clerk of session and all the Congregational Trustees who are appointed by the Congregation, and all amended versions of this signed Trust Deed, will be lodged with the clerk of session of the Congregation and the clerk of the Presbytery of Kamloops.
- F. This Trust Deed is governed by and complies with the relevant laws of the Province of British Columbia.
- G. This Trust Deed may only be amended by a duly called meeting of the Congregation and with the approval of the Presbytery of Kamloops.

### 2. QUALIFICATIONS OF TRUSTEES

- A. All Congregational Trustees acting under the terms of the Trust Deed must be professing members of the Congregation provided they are not under church discipline.

### 3. ELECTION AND APPOINTMENT OF TRUSTEES

- A. The Congregational Trustees will be elected and appointed at an annual meeting of the Congregation or at another duly called meeting of the Congregation.

- B. The election of the Congregational Trustees will be by majority vote of those present at the annual meeting of the Congregation or another duly called meeting of the Congregation, as the case may be.
- C. At present, a full complement of Congregational Trustees for the Congregation will be three (3). The Congregation may determine by resolution at the annual meeting of the Congregation or another duly called meeting of the Congregation, as the case may be, that it requires a larger minimum number of Congregational Trustees than three (3).
- D. If the number of Congregational Trustees is less than either three (3) Congregational members or the larger minimum number determined by the Congregation pursuant to 3C above, the session of the Congregation shall call a meeting of the Congregation to elect the requisite number of replacement Congregational Trustees.
- E. If a Congregational Trustee dies or resigns as a Congregational Trustee, but there remains the minimum number of Congregational Trustees stated in paragraph 3C above, the session may call an emergent meeting of the Congregation to replace the Congregational Trustee who has died or resigned.
- F. At the annual meeting of the Congregation, or another duly called meeting of the Congregation, the Congregation may, by a majority vote of the members present at such meeting of the Congregation, remove any Congregational Trustee and secondly, may elect and appoint any eligible person in the place of the Congregational Trustee so removed, for the remainder of their term, subject to the requirements of paragraph 2A above.
- G. Congregational Trustees are eligible for re-election provided they are not under church discipline that would prevent them from assuming this office.
- H. Once duly elected, the moderator of the meeting of the Congregation will declare the Congregational Trustees to be appointed to this office. The appointment of the Congregational Trustees will be communicated to the Congregation at large in each case in a manner to be determined by the session.
- I. The minutes of the meeting of the Congregation held to appoint or remove Congregational Trustees will reflect that appointment or removal.

#### 4. **TERM OF OFFICE OF TRUSTEES**

- A. The term of office for a Congregational Trustee will be the lesser of (i) the date of the subsequent annual meeting of the Congregation, (ii) until the Congregational Trustee resigns pursuant to paragraph 4C below, or (iii) is removed from office pursuant to paragraphs 3F above or 4B below.
- B. If a Congregational Trustee ceases to be a member of the Congregation not under church discipline, s/he ceases automatically to be a Congregational Trustee of the Congregation.

- C. A Congregational Trustee may resign his or her office by written resignation delivered to the session with a copy to the other Congregational Trustees who are then acting.
- D. If during a term of office a Congregational Trustee resigns or dies, is removed by the Congregation, or is automatically removed because he or she has ceased to be a professing member of the Congregation not under church discipline, the remaining Congregational Trustees will have all the powers of Congregational Trustees and will for all purposes be the Congregational Trustees of the Congregation unless and until the Congregation elects a replacement Congregational Trustee or Congregational Trustees pursuant to paragraph 3 above.
- E. If at any time there are no Congregational Trustees acting hereunder, for any reason, the moderator and clerk of the Presbytery of Kamloops will automatically become Congregational Trustees of the Trust Deed until other Congregational Trustees are duly elected by the Congregation.

## 5. TRUSTEES' RESPONSIBILITIES

- A. Congregational Trustees will carry out their duties in accordance with the laws of The Presbyterian Church in Canada as found in the Book of Forms and various acts of the General Assembly.
- B. Congregational Trustees have only the power delegated to them by this Trust Deed and a duly called meeting of the Congregation and such power can be amended or withdrawn by another duly called meeting of the Congregation. Congregational Trustees must not alter or go beyond the instructions of the Congregation. Notwithstanding the foregoing, regardless of what powers are delegated by the Congregation unless this Trust Deed is amended by the Congregation and approved by the Presbytery of Kamloops the Congregational Trustees shall have and only have the power and authority to execute documents as approved by the Congregation and shall be no more and no less than a pen in the hand of the Congregation.
- C. Congregational Trustees will hold any and all property and real estate of the Congregation for the sole use and benefit of the Congregation. In the event that the Congregation is dissolved, the ownership of the church building, contents, funds and property transfer automatically pursuant to church law to the Trustee Board of The Presbyterian Church in Canada and the Congregational Trustees shall take such actions and execute such documents to give effect to this paragraph 5C. The ownership and use of such building, contents, funds and property and any proceeds from the disposition or income earned on such assets shall be as determined by the Trustee Board of The Presbyterian Church in Canada to further the mission of the denomination.
- D. Whether registered title to real property (land and building) has been assigned to the Congregational Trustees or not, Congregational Trustees may ask the Congregation to have legal counsel confirm that church properties are properly registered with the local land registry office or land titles office, and the Congregation may also be asked by the Congregational Trustees to confirm that all real property is properly and sufficiently insured for loss and liability. To the extent such registration and insurance is improper, inadequate, or otherwise flawed, the Congregation shall take effective remedial action as soon as practicable

at the cost of the Congregation and if such action and cost is not taken or borne by the Congregation, the Congregational Trustees shall report that fact to the Presbytery of Kamloops.

- E. Congregational Trustees are responsible for signing all legal documents related to the purchase and sale of any real property of the Congregation only pursuant to the instructions of the Congregation by resolution duly passed at a meeting of the Congregation and with the approval of the Presbytery of Kamloops.
  - F. Congregational Trustees are responsible for signing all documents related to obtaining a loan or mortgage pertaining to or affecting any real property of the Congregation only pursuant to the instructions of the Congregation by resolution duly passed at a meeting of the Congregation and with the approval of the Presbytery of Kamloops.
  - G. Any two of the Congregational Trustees will be deemed to have the authority to act on behalf of the Congregation, subject to the terms of this Trust Deed.
  - H. Congregational Trustees are responsible for carrying out any other legal duties that may be assigned pursuant to the instructions of the Congregation by resolution duly passed at a meeting of the Congregation, subject to obtaining the approval of the Presbytery of Kamloops when required by the Book of Forms or standing orders of the Presbytery of Kamloops.
  - I. Congregational Trustees shall be responsible for having this Trust Deed reviewed periodically, but not less than every ten years, at the cost of the Congregation, by a solicitor qualified to practice in the Province of British Columbia.
  - J. Without limiting restrictions placed on the powers of the Congregational Trustees by the Congregation, Congregational Trustees have no power to decide on the receipt or disposition of bequests and legacies, which shall be decided only by resolution duly passed at a meeting of the Congregation.
  - K. Without limiting restrictions placed on the powers of the Congregational Trustees by the Congregation, Congregational Trustees have no power to decide on how bequests or legacies will be held or used.
  - L. Before executing any documents pertaining to the investment of Congregational property, the Congregational Trustees shall act solely on the direction from the Congregation as to how such property shall be invested but neither the Congregational Trustees nor the Congregation in such action shall be restricted to choosing investments authorized by law for the investment of trust property.
  - M. Congregational Trustees are accountable to the Congregation for the full and faithful performance of tasks delegated to them. They will report on their activities to the annual meeting of the Congregation.
6. **CONFLICT WITH DECISION TAKEN**
- A. A Congregational Trustee who cannot carry out a decision of the Congregation, for the sake of conscience or any other reason, must resign pursuant to paragraph 4C above. Before

offering her/his resignation, the Congregational Trustee may ask the session to have the decision reviewed by the Congregation. The session may then call a meeting of the Congregation to review the decision and affirm, withdraw or amend it.

7. **LIABILITY**

- A. A Congregational Trustee and former Congregational Trustee shall not be liable for any error or mistake made during the exercise of his or her duties as Congregational Trustee, save for (i) willful misconduct, (ii) willful breach of trust, or (iii) fraud, and the Congregation will indemnify each and every Congregational Trustee or former Congregational Trustee against all costs, charges and expenses with respect to any proceeding to which he or she is made a party by reason of being a Congregational Trustee, if he or she acted honestly and in good faith, with a view to the best interests of the Congregation.
- B. If a Congregational Trustee willfully acts outside (i) the law, (ii) the direction of the Congregation or (iii) the terms of this Trust Deed, that Congregational Trustee could be subject to removal, church discipline and/or legal liability.

(Congregation) Date, \_\_\_\_\_ 2022

**St. Andrew's Kamloops Presbyterian Church** Date \_\_\_\_\_, 2022

Rev. \_\_\_\_\_  
Name: Rev. Steve Filyk  
Moderator of Congregation

\_\_\_\_\_  
Name: Marion Dover  
Congregational Trustee

\_\_\_\_\_  
Name: Klaas Broersma  
Clerk of Session

\_\_\_\_\_  
Name: Dave Gulley  
Congregational Trustee

\_\_\_\_\_  
Name: Jarrett Schill  
Congregational Trustee

**Presbytery of Kamloops**

Date \_\_\_\_\_, 20

Rev. \_\_\_\_\_

Name: Steve Filyk

Moderator of Kamloops Presbytery

Rev. \_\_\_\_\_

Name: Teresa Charlton

Clerk of Kamloops Presbytery