

FOR OFFICE USE ONLY

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RECEPTE  
OTTAWA-CARLETON (4)

39 MAR 11 11 39

JOHN RICHMOND  
ASST. DIR. LAND REGISTRAR

(1) Registry  Land Titles  (2) Page 1 of 17 pages

(3) Property Identifier(s) *547* Block 04158 Property 0006 Additional: See Schedule   
*2ndly* 04158 0213

(4) Nature of Document  
Notice of Common Property Co-tenancy Agreement (Section 71 of The Land Titles Act)

(5) Consideration  
Dollars \$

(6) Description  
*2ndly* Part of Blocks 26 and CX, Plan 4M-237 and Part of the South 1/2 of Lot S, Concession 4, (Rideau Front)  
*SM*  
Designated as Parts 21 to 25 on Plan 4R-14322  
City of Ottawa  
Regional Municipality of Ottawa-Carleton  
*\* being Parts 1 to 20 on 4R-14322*

(7) This Document Contains: (a) Redescription  (b) Schedule for: Description  Additional Parties  Other

(8) This Document provides as follows:

TO: The Land Registrar for the Land Titles Division of Ottawa-Carleton.

1120919 Ontario Inc. has an unregistered estate right, interest or equity in the above land registered in the name of 1120919 Ontario Inc. and hereby applies under Section 71 of the Land Titles Act for the entry of a Common Property Co-tenancy Agreement dated the 31 day of MAR 1999 made between 1120919 Ontario Inc. and 1120919 Ontario Inc.

Copy of original is attached hereto. Common Property Co-tenancy Agreement

Continued on Schedule

(9) This Document relates to instrument number(s)

(10) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y M D
1120919 Ontario Inc. By its solicitor Stephen R. Polowin		1999 03 13
(Transferor)		

(11) Address for Service: 200-111 Colonnade Road North, Nepean, Ontario K2E 7M3

(12) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y M D
1120919 Ontario Inc.		
(Transferee)		

(13) Address for Service: 200-111 Colonnade Road North, Nepean, Ontario K2E 7M3

(14) Municipal Address of Property multiple	(15) Document Prepared by: Stephen R. Polowin Gibson & Augustine Constitution Square Suite 1520, 360 Albert St. Ottawa, Ontario K1R 7X7 - Box 399	Fees and Tax	
		Registration Fee	
		Total	

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**COMMON PROPERTY CO-TENANCY AGREEMENT**

THIS AGREEMENT made this 3rd day of March, 1999

**BETWEEN:**

**1120919 ONTARIO INC.**  
(hereinafter called "1120919")

**AND:**

**1120919 ONTARIO INC.**  
On behalf of Future Owners

**WHEREAS:**

- A. 1120919 is the owner of the lands and premises described in Schedule "A" attached hereto (hereinafter call the "Lands");
- B. Sixty dwelling units ("Units") have been or will be erected on the Lands;
- C. 1120919 intends to sell each of the Units together with one-sixtieth (1/60th) interest in that part of the lands legally described in Schedule "B" attached hereto;
- D. In order to effect the sales of the Units, 1120919 has arranged for the passage of a by-law pursuant to section 50(7) of the *Planning Act*;
- E. The owners of the Units will have a Co-tenancy Interest and enjoy certain rights with respect to Common Property as herein defined;
- F. As a condition of granting of site plan approval, 1120919 is required to enter into an agreement to establish rights and obligations with respect to the use, operation, management, supervision, maintenance, repair and replacement of the Common Property and to ensure that such agreement is binding on the purchasers; and
- G. Pursuant to this Agreement, all purchasers of Units will take title subject to a covenant to be bound by the provisions of this Agreement.

**NOW THEREFORE IT IS AGREED AS FOLLOWS:**

**ARTICLE 1**

**INTERPRETATION**

**1.1 Definitions.**

- (a) "Common Expenses" means the expenses relating to the maintenance and repair of the Common Property and are described herein in Section 4.1.
- (b) "Common Property" means that part of the Lands and appurtenances thereon described in Section 2.3 and in Schedule "B" and that part of any equipment which provides utilities and services to more than one Unit, although located within a Unit. This includes, but is not limited to, hydro transformer enclosures, hydro meter centres, hydro secondary cable and storm sewer laterals and drains.
- (c) "Co-tenancy Interest" means a tenancy-in-common interest in the Common Property.
- (d) "Lands" means all of the lands and premises described in Schedule "A" attached hereto.

- (e) "Owner" individually means the owner of one of the Units and collectively means the owners of all of the Units.
- (f) "Proportionate Share" means one-sixtieth (1/60th).
- (g) "Unit" means a dwelling unit and the land associated therewith located on the Lands.

1.2 **Schedules.** The Schedules to this Common Property Co-tenancy Agreement are part of the Agreement and are as follows:

- Schedule "A" - Legal Description of Lands
- Schedule "B" - Legal Description of Co-tenancy Interest
- Schedule "C" - Rules and Regulations
- Schedule "D" - Estoppel Certificate

**ARTICLE 2**

**OWNERSHIP RIGHTS**

- 2.1 **The Units.** The Owner of each Unit shall also be the Owner of an undivided one-sixtieth (1/60th) interest in the Common Property.
- 2.2 **Co-tenancy Interest.** The Owners share a Co-Tenancy Interest in the Common Property. During the ownership of the Owners Co-tenancy Interest, each owner shall have the right in common with other Owners and subject to this Agreement to use and enjoy the Common Property.
- 2.3 **Common Property.** During the ownership of the Unit, each owner shall have the right to use the Common Property for the purposes set out in Article 5.1.
- 2.4 **Common Expenses.** Each of the Owners shall contribute in equal shares to the Common Expenses.
- 2.5 **Restriction on Sale.** Upon accepting delivery of a transfer of a Unit and Co-tenancy Interest, the Owner agrees that the ownership of the Co-tenancy Interest may not be sold, assigned, transferred, pledged, charged, or encumbered in any manner unless, at the same time:
  - (a) the Owner shall have sold, assigned, transferred, pledged, charged or encumbered the Unit purchased with the Co-tenancy Interest. It is the Intent of the Agreement that the Co-tenancy Interest is always to be inseparable from the Ownership of the Unit;
  - (b) The Owner shall have sold, assigned, transferred, pledged, charged or encumbered the interest in this Agreement. It is the Intent of this Agreement that the Co-tenancy Interest is inseparable from the rights, duties and obligations set out in this Agreement.
- 2.6 **Transferee's Covenant.** All contracts for the sale of the Unit to any purchaser or by subsequent purchasers shall contain the following provision, which shall be incorporated in all transfers so that it shall be a covenant which runs with the Lands for the benefit of the Owners:

With the intention that this covenant shall run with and bind the lands herein described for the benefit of all others having an interest in such lands, the Transferee, for himself and his heirs, executors, administrators, successors and assigns agrees that he shall not use, occupy or deal with the lands, or any part thereof or any interest therein, except in accordance with the provisions of the Common Property Co-tenancy Agreement registered on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_ as Instrument No. \_\_\_\_\_.

- 2.7 **1120919's Rights and Obligations.** 1120919 has the same rights and obligations as the Owners in respect of the Common Property and 1120919 shall cease to have such rights and obligations upon the completion of the sale of all Units and the Co-Tenancy Interests.
- 2.8 **Contractual Relationship Between Owners.** Each Owner is deemed to have contracted directly with each other Owner with respect to the provisions of this Agreement.
- 2.9 **Relationship of the Owners.** The Owners are not considered to be and shall not be deemed to be engaged in a business or as a general partnership, a limited partnership, a company, shareholders of a Corporation, a joint venture, a joint stock company or an association nor shall the Owners or any of them for any purpose be, or be deemed or treated in any way whatsoever to be liable or responsible hereunder as partners or joint venturers, but at all times the relationship shall be solely that of tenants-in-common. For greater certainty, no Owner is, or is intended to be, or shall be deemed to be the partner, agent or legal representative of any other Owner, whether for the purposes of this Agreement or otherwise, except in all respects as provided in this Agreement.
- 2.10 **Severel Liability.** As between the Owners, the obligations of each Owner relating to the Common Property as a whole shall be several only and the obligation of any Owner shall be limited to that Owner's Proportionate Share.
- 2.11 **Name of Co-tenancy.** The Co-tenancy shall be known as the "Hunt Club Gables Co-tenancy".

**ARTICLE 3**

**MANAGEMENT OF THE COMMON PROPERTY**

- 3.1 **Initial Management of the Common Property.** The Common Property shall be managed by 1120919 until either all of the Units have been sold or 1120919 wishes to relinquish the management of the Common Property. In computing the cost of maintenance and repair, 1120919 shall be entitled to charge at the ongoing rate for labour furnished or materials supplied by its servants or agents. When 1120919 is no longer the manager of the Common Property, the management, supervision and repair of the Common Property shall be exercised by a Co-tenancy Committee.
- 3.2 **Duties of Co-tenancy Committee.** The duties of the Co-tenancy Committee are as follows:
  - (a) to prepare an annual budget for the maintenance , repair and general upkeep of the Common Property;
  - (b) to obtain General Liability Insurance with respect to Common Property;
  - (c) to estimate the amount of Common Expenses for the ensuing fiscal year;
  - (d) to establish a reserve fund for contingencies including the major repair and replacement of the Common Property;
  - (e) in general, to oversee the management and operation of the Common Property and to, if deemed necessary, appoint a property manager which will deal with day to day management, accounting and general administrative matters and will fully account to the Co-tenancy Committee in respect thereof;
  - (f) to revise the rules and regulations imposed upon the Owners as set out in Schedule "C" when deemed necessary; and,
  - (g) to account to the Owners from time to time with respect to the foregoing and, in

particular, to call annual meetings of the Owners in accordance with Section 8 of this Agreement.

- 3.3 **Formation of Co-tenancy Committee.** Within sixty (60) days after 1120919 ceases to be the owner of any Unit or after 1120919 notifies the Owners that it wishes to relinquish the management of the Common Property, 1120919 shall call a meeting of the Owners. At such meeting of the Owners, three (3) Owners shall be elected to form the Co-tenancy Committee. A quorum for the transaction of business and any meeting of the Co-tenancy Committee shall be (2). Notwithstanding vacancies on the Co-tenancy Committee, the remaining Co-tenancy Committee members may exercise the powers of the Co-tenancy Committee so long as a quorum remains in office. A quorum of Co-tenancy Committee by appointing one (1) Owner to hold office until the next annual meeting of owners.
- 3.4 **Qualifications.** Each Co-tenancy Committee member shall be either:
- (a) an Owner of a Unit;
  - (b) a nominee of an Owner;
  - (c) a mortgagee of an interest in a Unit; or
  - (d) a nominee of a mortgagee of an interest in a Unit.
- A Co-tenancy Committee member shall be deemed to have tendered his resignation from the Co-tenancy Committee when there is a default of payment of his Common Expenses for a period of sixty (60) days or more.
- 3.5 **Election and Term.** The three (3) members of the Co-tenancy Committee shall be elected at a meeting of the Owners called for that purpose. At such meeting of Owners, in accordance with the number of votes cast for each nominated committee member, one (1) committee member shall be elected to hold office until the first annual meeting following the date of his election; one (1) committee member shall be elected to hold office until the second annual meeting following the date of his election; and one (1) committee member shall be elected to hold office until the third annual meeting following the date of his election. Where the committee members are elected by acclamation, the Owners at the meeting shall determine the distribution of terms.
- 3.6 **Calling of Meetings.** Meetings of the Co-tenancy Committee shall be held when called by any committee member. Notice of any meeting shall be given to each committee member personally, not less than forty-eight (48) hours before the time when the meeting is to be held, or by ordinary mail, or by leaving notice at the last recorded address of the committee member not less than five (5) days before the day the meeting is to be held. No notice of a meeting shall be necessary if all of the committee members are present and consent to the holding of the meeting or if those absent waive notice of or otherwise signify in writing their consent to the holding of the meeting.
- 3.7 **Regular Meeting.** A Co-tenancy Committee may appoint a time and place for regular meetings. A copy of the resolution of the Co-tenancy Committee fixing such a time and place shall be sent to each committee member and no further notice shall be required for any such meetings.
- 3.8 **Indemnity of Committee Members.** Every member of the Co-tenancy Committee and his heirs, executors, administrators and other legal personal representatives shall be indemnified and saved harmless by the Owners from and against:
- (a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him for or in respect of the execution of the duties of his office; and
  - (b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the Co-tenancy;

provided that:

- (i) the Co-tenancy Committee is advised of any such action, suit or other proceeding, or cost, charge or expenses, forthwith after the committee member or representative received notice thereof; and
- (ii) the Owners are given the right to join the defence of the action, suit or proceeding.

Notwithstanding the foregoing, no member of the Co-tenancy Committee shall be indemnified by the Owners in respect of any liability, cost, charge or expense that he sustains or incurs in or about any action, suit or other proceedings as a result of which he is adjudged to be in breach of any duty or responsibility set out hereunder, unless in an action brought against him in his capacity as committee member he has achieved complete or substantial success as a defendant.

- 3.9 **Term of Office.** A majority of the Owners may remove at their pleasure any member of the Co-tenancy Committee.
- 3.10 **Records.** The Co-tenancy Committee shall keep or cause to be kept full and accurate books of accounting which shall record all receipts and disbursements of the Co-tenancy and shall control the deposit of money, the safekeeping of securities and the disbursement of the funds of the Co-tenancy and shall render to the Owners annually an account of all transactions of the financial position of the Co-tenancy.
- 3.11 **Agents and Attorneys.** The Co-tenancy Committee shall have the power from time to time to appoint managers, personnel agents or attorneys for the Co-tenancy with such powers of management or otherwise, including the power to sub-delegate, as may be thought fit. Without limiting the generality of the foregoing, the Co-tenancy Committee may appoint a property manager which property manager shall be fully accountable to the Co-tenancy Committee.
- 3.12 **Execution of Documents.** Documents arising from the exercise of its duties by the Co-tenancy Committee shall be signed by two members of the Co-tenancy Committee. Notwithstanding the foregoing, the Co-tenancy Committee, at any time and from time to time, may direct the manner in which the person or persons by whom a particular deed, transfer, contract of obligation may be signed.

ARTICLE 4

COMMON EXPENSES

- 4.1 **Common Expenses.** The Common Expenses of the Common Property shall include the following:
  - (a) all municipal, provincial or other government taxes, rates or assessments, including local improvement rates, charged, levied or issued against the Common Property as they become due and payable;
  - (b) sewer and water rates allocated to the Common Property;
  - (c) insurance premiums with respect to the maintenance of fire insurance policies on the Common Property, and public liability insurance and all costs related to security insurance coverage;
  - (d) hydro charges for the Common property;
  - (e) repair, replacement and maintenance of the Common Property;
  - (f) service and supplies for the Common Property;

- (g) landscaping, repairs and maintenance and snow removal for the Common Property;
- (h) maintenance materials, tools and supplies;
- (i) the cost of legal, accounting, managing, auditing and engineering services or other professional advice and service required by the Co-tenancy Committee;
- (j) the cost of maintaining all trees located on the Lands;
- (k) the cost of personnel required to maintain, repair and operate the Common Property;
- (l) a contribution towards a reserve fund for major repair and replacement of the Common Property which reserve fund shall constitute an asset of the Co-tenancy Committee to be held in trust for all of the Owners and shall not be distributed on the sale of a Unit;
- (m) any amounts spent to remedy any Owner's breach of this Co-tenancy Agreement as well as any amount spent by the Co-tenancy Committee on behalf of the Owners to enforce the remedies provided for in this Agreement upon the default of any owner;
- (n) such other expenses as are normally incurred in maintaining a high quality residential development.

The hydro, water, cable, telephone and other utility and service charges for each Unit shall be paid by the Unit Owner.

- 4.2 **Payment of Common Expenses.** Each owner shall pay to the Co-tenancy Committee his Proportionate Share of the Common Expenses. On the first day of May in each year the Owner shall deliver to the Co-tenancy Committee twelve (12) post-dated cheques for the Owner's Proportionate Share of the estimated Common Expenses for the following year. Such sums are to be held by the Co-tenancy Committee in trust, and are to be used by the Co-tenancy Committee for the purpose of maintaining the Common Property and keeping current all Common Expenses. The reserve fund received by the Co-tenancy Committee shall be segregated and deposited into a special interest bearing account to be held by the Co-tenancy Committee until such funds are required to be expended, or until the Owners, by a decision confirmed by a majority of the then current Owners, direct the Co-tenancy Committee to use the fund for other purposes.
- 4.3 **Change in Common Expenses.** The total monthly amount of be collected for Common Expenses may from time to time be changed by either:
- (a) a notice from the Co-tenancy Committee advising that additional funds are necessary to keep Common Expenses current and setting out with reasonable detail the reason for the Co-tenancy Committee's decision; or
  - (b) a decision signed by a majority of the then current Owners present at any meeting of all Owners where a quorum has been satisfied.
- 4.4 **Priority of Common Expenses.** The Owners agree that every amount from time to time payable by each Owner for Common Expenses shall constitute a first charge upon the Owner's Unit subject only to municipal taxes having statutory priority and that any such amounts that may from time to time be in arrears will have priority to the rights of any purchaser or mortgagee of such interest, whether the instrument in favour of such purchaser or mortgagee is registered before or after such Common Expense payments become due. This charge shall be deemed to be a charge to which the Mortgages Act, R.S.O. 1990 c.M.40 applies.
- 4.5 **Default.** Should an Owner make default in payment of Common Expenses, the amount in arrears shall bear interest in favour of the Co-tenancy Committee as

trustee for the Owners at a rate of interest which is the greater of:

- (a) 15% per annum, calculated monthly;
- (b) a rate which is equal to five (5%) per annum above the bank rate of the Royal Bank of Canada.

In case such default continues for a period of fifteen (15) days, the Owners, in addition to the rights set out in section 4.4, shall have the right to collect the same by action and shall have a charge upon the Owner's Unit until such amount shall have been paid. If such amount shall not have been paid within a thirty-five (35) day period, the other Owners or any of them (the "Payor Owners") shall be entitled to advance the necessary sum on behalf of the defaulting Owner (the "Defaulting Owner"). As security for this advance the Owner hereby charges his Unit in favour of the Payor Owners in the amount so contributed from time to time together with interest at the rate herein set forth and agrees that the terms of such charge are those terms set out in the charge terms filed under the Land Registration reform Act, R.S.O. 1990. C.L.4 as Number 9320.

4.6 **Non-avoidance.** The Obligations of any Owner to contribute towards Common Expenses shall not be avoided by waiver of the right to use the Common Property or by abandonment.

4.7 **Direction to Tenant.** If a Unit is leased to a tenant and the Owner is in default in the payment of any amount on account of Common Expenses or any other amount required to be paid pursuant to the Agreement, then the Owner agrees that the other Owners shall be entitled to serve a notice upon the tenant of such Defaulting Owner's Unit requiring such tenant to pay all further rents due and to become due to the other Owners until such time as the full amount of any such arrears together with interest thereon as provided in section 4.5 hereof, owing by the Defaulting Owner has been fully paid. Each of the Owners agree that any lease or tenancy agreement which they may enter into with respect to the Unit shall contain a provision authorizing the tenant to make any such payment of rent to the other Owners in the event of delivery to the tenant of such notice by the other Owners.

ARTICLE 5

COMMON PROPERTY

5.1 **Use of Common Property.** Each Owner has the full use, occupancy and enjoyment of the whole or any part of the Common Property with all others entitled thereto, except as herein otherwise provided. At the date of this Agreement the Common Property is to be used as follows:

Parts 17 and 24 on 4R-14322 - common driveways for the passage of persons, animals and vehicles and for the installation of utilities and services.

Parts 15 and 16 on 4R-14322 - visitor parking areas

Parts 15 and 18 on 4R-14322 - community mailbox areas

Parts 1, 3, 14, 20 and 22 on 4R-14322 - landscaped open areas

5.2 **Substantial Change to Property.**

a) The Co-tenancy Committee may, by a confirming vote of two-thirds (2/3) of the Owners present at the meeting where a quorum is present, make any substantial additions, alterations or improvements to, or renovation of the Common Property. For this purpose, any addition, alteration, or improvement to, or renovation of the Common Property shall be deemed to be substantial if the cost of such addition, alteration or improvement to or renovation of the Common Property is in excess of twenty percent (20%) of the current annual budget.



- 9.
- b) the Co-tenancy Committee may, by a confirming vote of a majority of Owners present at a meeting where quorum is present make any other addition, alteration, or improvement to, or renovation to the Common Property.

## ARTICLE 6

### SALE BY PURCHASER

- 6.1 **Notice of Sale.** Upon an Owner entering into an agreement for sale of his Unit and his Co-tenancy interest, he shall immediately thereafter notify the Co-tenancy Committee of such sale, the name and address of the purchaser and the date set for the completion of the sale. The Owner shall pay to the Co-tenancy Committee, prior to the completion of the sale, all monies due and owing by the Owner up to and including the date of completion of the sale with respect to any Common Elements.
- 6.2 **Assumption Agreement.** The Owner agrees in the event of a sale to cause the purchaser to sign an assumption agreement in a form satisfactory to the Co-tenancy Committee whereby the purchaser assumes in writing all of the obligations of an Owner under this Agreement and to specifically acknowledge that such purchaser has received a copy of this Agreement. If the Owner sells without obtaining such assumption agreement and delivering it to the Co-tenancy Committee, the Owner shall continue to be liable for the obligations imposed under this Agreement.
- 6.3 **Estoppel Certificate.** The Co-tenancy Committee shall at the request of a purchaser deliver to such purchaser on closing an Estoppel Certificate in the form attached hereto as Schedule "D" for the then current fee. The Estoppel Certificate shall also be made available to mortgagees at the Co-tenancy Committee's then current fee.

## ARTICLE 7

### PARTITION RESTRICTIONS

- 7.1 **Partition Restrictions.**
- (a) An Owner shall not have the right to petition nor make any application to, or petition any court or authority having jurisdiction, nor commence, nor prosecute any action, for partition and sale of the Co-tenancy interest under the provisions of the *Partition Act*, R.S.O. 1990. c.P.4, as amended from time to time, or any statute enacted to replace it.
- (b) In case an order for sale is made under such Act, each of the Owners shall be permitted to purchase the interest in such sale.
- 7.2 **Remedies.** Upon a breach of section 7.1 by any of the Owners, the other Owners, in addition to all other rights and remedies in law and in equity, may be entitled to obtain an order restraining the commission of any such breach and an order rescinding and removing the effects of any such breach and the Owner in breach shall not be entitled to plead in defence that there would be an adequate remedy at law; it being recognized and agreed that the injury and damage resulting from any such breach could not be entirely compensated by an award of damages.

## ARTICLE 8

### MEETINGS OF OWNERS

- 8.1 **Annual Meetings.** The Co-tenancy Committee shall call an annual meeting of the Owners to receive reports, to elect Co-tenancy Committee members and to transact such other business as may be set out in the notice of the meeting. The Owners shall be provided with not less than twenty-one (21) days' written notice of all annual general meetings.

- 8.2 **Meetings Called by Owners.** Any of the Owners may, in writing, call a meeting of Owners. The notice shall specify the purpose or purposes of the meeting, the place for holding the meeting, and the date for holding the meeting. The date for holding the meeting shall be no sooner than fourteen (14) days after written notice has been given to the Owners.
- 8.3 **Quorum.** The presence in person or by proxy of not less than thirty percent (30%) of the votes shall be necessary to constitute a quorum at all meetings of Owners for the transaction of business. If a quorum shall not be present, the holders of a majority vote, present in person or represented by proxy, at such meeting shall have power to adjourn the meeting from time to time until a quorum shall be present or represented at any adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.
- 8.4 **Votes.** At all meetings, each of the Owners who is not at such time in default in the payment of the Common Expenses shall be entitled to cast one (1) vote for each matter presented for vote. Only Owners of record not in default shall be entitled to vote either in person or by proxy. In the event that more than one (1) person shall have an interest in a Unit, the Owners of that Unit shall designate one of their number to vote with respect to that Unit. Accordingly, for the purpose of any voting decision to be made by the Owners, there shall never be more than sixty one votes.
- 8.5 **General.** Unless otherwise specified in this Agreement, any resolution passed by a majority vote at a meeting of the Owners shall be binding on all Owners and their respective heirs, executors, administrators and assigns.

## ARTICLE 9

### INSURANCE

- 9.1 **Insurance Coverage.** The Co-tenancy Committee shall obtain and maintain the following insurance.
- (a) Insurance against fire, major perils and such other perils as the Owners may from time to time deem advisable insuring the Common Property in an amount equal to the replacement cost of such real and personal property without deduction for depreciation;
  - (b) public liability and property damage insurance, and insurance against the Owners' liability resulting from breach of duty as occupier of the Common Property insuring liability of the Owners from time to time, with limits to be determined by the Owners, but not less than Two million dollars (\$2,000,000.00), and without right of subrogation as against each of the Owners, the Co-tenancy Committee, their agents, employees and servants, and as against the Owners and occupants.
- 9.2 **Provision Affecting Coverage.** Every policy of insurance referred to in Article 9 shall insure the interests of the Owners from time to time, as their respective interests may appear and shall to the extent reasonably available contain the following provisions:
- (a) waivers of subrogation against the Owners, the Co-tenancy Committee, their agents, employees and servants as against the Owners, except for arson, fraud, vehicle impact, vandalism, or malicious mischief;
  - (b) such policies of insurance shall not be terminated or substantially modified without at least sixty (60) days' prior written notice to the Owners;
  - (c) waivers of any defence based on co-insurance or of invalidity arising from the conduct or any act or omission or breach of statutory condition of any insured;
  - (d) any coverage provided or monies payable under any insurance purchased by any

of the Owners, occupant or mortgagee shall not be brought into contribution with any coverage or monies payable pursuant to policies held herein.

- 9.3 **Settlement.** The Co-tenancy Committee shall have the exclusive right to adjust any loss and settle any claims with respect to all insurance and to give such releases as they are required.
- 9.4 **Insuring the Unit.** Each Owner shall insure his or her own Unit in an amount equal to its full replacement cost and shall provide the Co-tenancy Committee with proof of insurance upon request.
- 9.5 **Breach of Conditions.** The Owners from time to time shall at no time do or commit any act of omission or commission which shall constitute a breach of statutory conditions applicable to the fire insurance covering the Unit of which he or she is the Owner and the Common Property or which would void such fire insurance coverage or, except with the consent of the insurer, increase the risk.

## ARTICLE 10

### INDEMNIFICATION

- 10.1 **Indemnification.** The Owner shall indemnify and save harmless the other Owners from and against any losses, costs, damage, injury whatsoever which any other Owner may suffer or incur resulting from or caused by an act or omission of the Owner, his employees, customers or any guest thereof, and any tenant to or with respect to the Common Property, except for any loss, cost, damage, injury or liability caused by an insured (as defined in any policies of insurance) and insured against by the Owners.
- 10.2 **Reimbursement.** In the event that the Owner shall be required to make payment in respect to the Common Property in an amount in excess of the Owner's Proportionate Share for any reason other than a reason attributed to the Owner's act or omission or the act or omission of those for whom the Owner is in law responsible, the other Owners, in their respective Proportionate Shares, agree to indemnify the Owner for the excess amount so paid, and such amount shall be payable to the Owner on demand.
- 10.3 **Indemnification of Co-tenancy Committee.** Except in the case of gross negligence or fraud on the part of the Co-tenancy Committee, its servants or agents, the Owners shall indemnify and save harmless the Co-tenancy Committee members from and in respect of any and all liability and from all claims or demands arising out of damage or injuries to persons or property in or about or in any way connected with the Common Property and defend at the expense of the Owners all suits which may be rendered against the Co-tenancy Committee members on account thereof.

## ARTICLE 11

### ARBITRATION


- 11.1 **Arbitration.** If, during the continuance of this Agreement, there is any dispute, difference or question which is not covered by the provisions of this Agreement or which has not been resolved at a meeting of the Owners by decision approved by the majority of Owners, then such dispute, difference or question shall be referred to arbitration. The arbitration shall be conducted by three persons, one to be appointed by each side to the dispute and a third to be appointed by the two so appointed. If either side to such dispute shall fail to appoint an arbitrator within ten (10) days after one of the parties has appointed an arbitrator and has notified the other in writing of the appointment and of the matter in dispute to be dealt with, the other arbitrators shall be appointed in accordance with the provisions of the Arbitration Act, S.O. 1001.

ARTICLE 12


MISCELLANEOUS

- 12.1 **Zoning.** The Owners acknowledge that Section 4(c) of the City of Ottawa Zoning By-law Z-2K, as amended, applies to the Lands.
- 12.2 **Choice of Law.** This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario.
- 12.3 **Further Assurances.** The Owners agree to sign such further and other papers, cause such meetings to be held and resolutions passed, exercise their vote and influence, do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof.
- 12.4 **Notices.** The delivery of any notice required to be given to the Owners hereunder shall be effective if personally delivered or mailed by ordinary mail. Notice shall be deemed to be delivered four (4) days after the date of mailing if mailed by ordinary mail and addressed to the Owner at the last recorded address for such Owner in the ownership records maintained by the Co-tenancy Committee. Any notice required to be given to the Co-tenancy Committee shall be served personally on a committee member or addressed by ordinary mail to the Co-tenancy Committee at an address which the Co-tenancy Committee shall notify the Owners from time to time.
- 12.5 **Severability.** Every provision of this Agreement is intended to be severable. If any terms or provisions hereof is illegal or invalid for any reason whatsoever, such illegality shall not affect the validity of the remainder of this Agreement.
- 12.6 **Interpretation.** The use of the masculine gender in this Agreement shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural wherever the context so requires. This Agreement shall be read with all changes of gender and number required by context.
- 12.7 **Successors and Assigns.** Except as otherwise provided, this Agreement shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns and the successors in title to the undivided interests in the Property.

1120919 Ontario Inc.

Per:   
 Name: STEPHEN POLOWIN  
 Title: AUTHORIZED SIGNING OFFICER.  
I have authority to bind the Corporation.

1120919 Ontario Inc.  
On behalf of Future Owners

Per:   
 Name: STEPHEN POLOWIN  
 Title: AUTHORIZED SIGNING OFFICER.  
I have authority to bind the Corporation.

SCHEDULE "A"

SITUATE, LYING AND BEING IN THE City of Ottawa, in the Regional Municipality of Ottawa-Carleton and being composed of:

Part of Blocks 26 and CX, Plan 4M-237 and Part of the South 1/2 of Lot 5, Concession 4 (Rideau Front) being Parts 1 to 25 on 4R-14322

PIN: 04158-0213 and 04158-0006

**SCHEDULE "B"**

**SITUATE, LYING AND BEING IN THE City of Ottawa, in the Regional Municipality of Ottawa-Carleton and being composed of:**

**Part of Blocks 26 and CX, Plan 4M-237 and Part of the South ½ of Lot 5, Concession 4 (Rideau Front)) being**

**Parts 17 and 24 on Plan 4R-14322**

**Parts 15 and 16 on Plan 4R-14322**

**Parts 1, 2, 3, 4 and 5 on 4R-14545**

**Parts 3, 4, 7 and 8 on Plan 4R-14544**

**Parts 15 and 18 on Plan 4R-14322**

**Parts 13, 14, 20 and 22 on 4R-14322**

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**SCHEDULE "C"**

**RULES AND REGULATIONS**

The following rules and regulations shall be observed by the Owner and the term "Owner" shall include any other person occupying the Unit with the Owner's approval, including any tenant occupying the Unit:

1. No Owner shall do, or permit anything to be done in the Unit or bring or keep anything therein which will in any way increase the risk of fire or the rate of fire insurance on the Unit, or on property kept therein, or obstruct or interfere with the rights of other Owners, or do anything which is, on a reasonable standard, bound to injure or annoy them, or conflict with the laws relating to fire or with the regulations of the Fire Department or with any insurance policy for the Lands or conflict with any of the rules and ordinances of the Board of Health or with any statute or municipal by-law.
2. Owners shall not place, lease or permit to be placed or left in or upon the Common Property any debris, refuse or garbage. Such debris, refuse or garbage shall be contained in properly sealed refuse bags or properly secured containers and placed by the street for garbage pick-up days.
3. No noise, caused by any instrument or other device, or otherwise, which in the opinion of the Co-tenancy Committee may be calculated to disturb the comfort of the other Owners, shall be permitted.
4. The sidewalks, entry, passageways, walkways and driveways used in common by the Owners shall not be used to park motor vehicles or be obstructed by any of the Owners or used by them for any purpose other than for ingress and egress to and from their respective Units.
5. No telecommunications antenna, dish, aerial, tower or similar structure and appurtenances thereto shall be erected on or fastened to any Unit, except as a connection for a common television cable system.
6. No one shall harm, mutilate, destroy, alter or litter any of the landscaped areas of the Common Property including the grass, trees, shrubs, hedges, flowers, flower beds, lockstones, curbing and fencing.
7. No planters, structures, tents, furniture or other apparatus shall be placed, located, kept or maintained on the Common Property by an Owner.
8. Any loss, cost or damage incurred by the other Owners by reason of a breach of any rules and regulations in force from time to time by any of the Owners, his family, guests, servants, agents or occupants of a Unit shall be borne by such Owner and may be recovered by the other Owners against such Owner in the same manner as Common Expenses.
9. No motor vehicle shall be driven on any part of the common elements other than roadways and parking areas.
10. In the event that the Co-tenancy Committee, for reasons of cleaning, snow removal, maintenance or repair, temporarily require vacant possession of any parking space, the owner thereof shall ensure that such space is vacated for such period as the Committee requires in order to complete the work.
11. No sign, advertisement or notice may be installed on any part of the common elements including signage offering a Unit for sale or rent.

12. Owner's pets are not permitted to defoul or damage any common area. No pet shall be permitted in the common elements unless it is on a leash and accompanied and controlled by a responsible person.