

This Shared Services Agreement made between

THE CORPORATION OF THE TOWN OF COBOURG
Hereinafter call the "Town"

OF THE FIRST PART

-and-

THE ART GALLERY OF NORTHUMBERLAND
Hereinafter called the "AGN"
OF THE SECOND PART

WHEREAS the Town is the registered owner of the land and building located at 55 King Street West, Cobourg, Ontario, known as Victoria Hall;

WHEREAS the Town and AGN are parties to a lease describing their landlord and tenant relationship and this agreement is being entered into to describe the working relationship between the Town and the AGN, and their respective roles in that relationship.

WHEREAS the AGN has grown from the inspiration of a group of volunteer Members of the Cobourg Public Library in 1960 who recognized the need for a Public Art Gallery and is today governed by the AGN Board of Directors ("Board"), the Members of which are elected by the membership with one Member being appointed by the Municipal Council of the Town of Cobourg, such Council representative to be a full voting member of the Board;

WHEREAS the AGN and the Town have mutually benefitted from a close working relationship with the AGN making a \$100,000 cash donation to the Town in support of Victoria Hall in 1973, including the ongoing support described in this AGREEMENT, and the Town providing the AGN with the annual financial assistance of its operations.

WHEREAS the AGN utilizes space within Victoria Hall under the terms and conditions of a lease agreement, for the purpose of providing an accessible, educational, and engaging public art gallery to the residents of and visitors to the Town of Cobourg, the County of Northumberland and surrounding area.

WHEREAS the AGN was incorporated under the Corporations Act Ontario (the "Act") on the 19th day of July 1974 as a non-profit corporation and continues to be governed by the Act.

WHEREAS the AGN became a registered charity on April 1, 1974 and is subject to the rules governing registered charities under the Income Tax Act which are administered by the Canada Revenue Agency.

WHEREAS the AGN has proven to be a valuable partner to the Town since its inception in 1960 and the parties are interested in continuing this relationship in the future for the well-being of people who live, work, learn and play in the Town and surrounding area and for enriching local culture through exhibitions, education programs, and events across all age groups, with the pursuit of a vibrant, healthy Ontario community being a strong desire of both parties;

AND WHEREAS both parties are committed to providing Persons with Disabilities with equal opportunities, experiences, and standards of goods and services and intend to be compliant with the Accessibility for Ontarians with Disabilities Act (2005), as amended.

NOW THEREFORE in consideration of the provisions above, the parties each bound by this AGREEMENT, agree as follows:

1. TERM

This AGREEMENT is for an initial term of five (5) years commencing on January 1, 2025, and ending on December 31, 2029. A review of the terms and conditions of this AGREEMENT shall be completed every five (5) years commencing no later than six months prior to the expiry date of each five (5) year term.

2. AGREEMENT FOR THE PROVISION OF AGN SPACE

The terms of this agreement are related to the AGN services delivered on behalf of the Town within and without Victoria Hall at 55 King Street West, Cobourg Ontario; the lease space is detailed in a separate lease agreement.

3. INSURANCE and INCIDENT REPORTING

The AGN shall maintain its own insurance policies that are appropriate for its operations. It will name the Town as an Additional Insured under its liability and property coverage. Coverages shall include general liability, property, errors and omissions, environmental liability and cyber. The AGN shall provide the Town with an insurance certificate on an annual basis as proof of coverage under the policies in which the Town is an additional assured.

Throughout the term of this agreement the AGN is responsible for ensuring that they obtain insurance certificates from any outside group or organization who wishes to use the space known as the AGN for an event or activity which is directed or controlled by that group. The insurance certificate must include commercial general liability insurance of no less than \$2 Million Dollars and must name both the Corporation of the Town of Cobourg and the Art Gallery of Northumberland as additional insureds.

The AGN shall be responsible for promptly reporting all third-party incidents that occur at the AGN space to the Town of Cobourg Director of Corporate Services or their designate within two business days of becoming aware of the incident occurring.

4. GENERAL

The AGN covenants with the Town:

- 1) The AGN will be solely responsible for the legal governance (supervision, financial costs, standards of practice and liability) of its staff and volunteers;
- 2) That all employees, agents, volunteers associated with the AGN understand and comply with all established Town of Cobourg applicable policies, rules and codes of conduct, as amended by the Town from time to time, and understand the Town's commitment to providing an environment free of discrimination, harassment and violence, which promotes and fosters an engaged, healthy, positive and inclusive community committed to and valuing equity, diversity and where all individuals are treated with respect, dignity and are able to contribute fully and have equal opportunities;
- 3) To comply with all federal, provincial and municipal laws, rules, regulations and by-laws and to hold the Town harmless from the consequences of its failure to do so;

5. FACILITY SERVICES

The Town covenants with the AGN:

- 1) To provide the use of a meeting room within Victoria Hall, when possible, to the AGN for the purposes of hosting Board meetings on a full-cost recovery basis invoiced monthly to the AGN.

6. ADMINISTRATION

- The Town will provide, at the request of the AGN, the following administrative services:

- 1) Town staff will be available for consultations from time to time on matters relating to legislative, financial, human resources, building maintenance, and information technology services, but they will not assume responsibility for any of these services at any time.
- 2) The Town Director of Community Services, or delegate, will meet regularly with the AGN Executive Director for purposes of planning and coordination on collaborative projects and services, no less than quarterly. These meetings will benefit both parties through increased opportunities for collaborative service delivery and sharing of resources.
- 3) The Town requires the AGN to complete the following within Victoria Hall, other municipal facilities, and outdoor public sites. The budget allocation for these works will be reviewed and approved annually through the Town and AGN operating and capital budgets.
 - Regular Inspections:
 - Conduct thorough inspections to assess the condition of each piece of public art.
 - Identify any signs of damage, wear, or vandalism.
 - Cleaning:
 - Schedule routine cleaning to remove dirt, grime, and environmental pollutants.
 - Use appropriate cleaning methods and materials to avoid damaging the art.
 - Conservation and Restoration:
 - Address any minor repairs or touch-ups to prevent further deterioration.
 - Engage professional conservators for more significant restoration work when necessary.
 - Documentation:
 - Maintain detailed records of the condition, maintenance activities, and any conservation work performed on each piece.
 - Update the inventory and condition reports regularly.
 - Protective Measures:
 - Implement protective measures such as anti-graffiti coatings or barriers to safeguard the art from vandalism and environmental damage.
 - Use protective coverings or shelters for artworks vulnerable to weather conditions.
 - Community Engagement:
 - Organize events or programs to engage the community in appreciating and caring for public art.
 - Educate the public about the importance of preserving public art.
 - Funding and Budgeting:
 - Secure funding for ongoing maintenance and conservation efforts.
 - Allocate budget resources effectively to address both immediate and long-term maintenance needs.
 - Collaboration with Artists:
 - Involve original artists, when possible, in the maintenance and restoration process to ensure the artwork's integrity.
 - Establish clear guidelines for modifications or restorations.
 - Preventive Conservation:
 - Implement strategies to prevent damage, such as proper placement and environmental controls.
 - Monitor environmental factors like humidity, temperature, and pollution levels.
 - Security Measures:
 - Enhance security to prevent theft and vandalism, including surveillance and improved lighting.
 - Collaborate with local law enforcement for regular patrols in areas with public art.
 - Policy Development:
 - Develop and update policies and guidelines for the care and maintenance of public art.
 - Ensure compliance with legal and regulatory requirements related to public art.
 - Public Feedback:
 - Solicit and incorporate feedback from the public regarding the

- condition and impact of public art.
- Use feedback to improve maintenance practices and community engagement.
- Implementing these activities ensures the preservation and continued enjoyment of public art for the community.

7. ATTESTATION:

The Art Gallery of Northumberland (AGN) is dedicated to enriching the cultural fabric of the Town of Cobourg and surrounding communities by fostering artistic expression and engagement. Since 1960, AGN has partnered with the Town to provide inclusive exhibitions, educational programs, and cultural events that inspire creativity, learning, and connection across all age groups. Committed to nurturing a vibrant and healthy community, AGN will continue to be a beacon for the arts, enhancing the well-being of residents and visitors alike through continuous collaboration and a shared vision for cultural vitality.

• GOVERNANCE

The AGN is governed by an independent board that is elected by the AGN's members, except for one member appointed by the Council. In accordance with the Act, its Letters Patent and bylaws, the AGN is managed by the Board, which has full authority to govern so except where the Act specifies approval by the members of the AGN. The AGN maintains compliance with the Ontario Not-for-Profit Corporations Act legislation and holds charitable status.

The Board has primary authority and responsibility for the policy oversight of the operations of the AGN and provides direction through policy. The Board is responsible for operational policies that affect the AGN's programming and collecting responsibilities and other functions exclusive to the operation of a public art gallery.

• PERMANENT COLLECTION

The AGN holds in public trust the AGN's collection (existing and future) and other assets purchased or acquired by the AGN from time to time. This is collection is managed in compliance with CRA regulations and Canadian Conservation Institute standards.

• RESPONSIBILITIES, REPORTING RELATIONSHIP, COMMUNICATIONS

The AGN is responsible for providing the Council forthwith after each Annual General Meeting, documentation reflecting the current legal status of the board, including a copy of all current by-laws, constitution, audited financial statements and the most recent Strategic Plan document.

To provide Council with a copy of all Board Minutes with the exception of Closed Session meetings;

To review the roles and responsibilities of the Board and the Executive Director on a regular basis;

To be responsible for hiring an Executive Director and performing an annual performance evaluation of the Executive Director;

To hold all meetings per parliamentary procedures and as much as possible to be open and transparent and follow rules similar to those contained in the Municipal Act, 2001 for holding closed meetings.

8. COST RECOVERY

The Town will provide the AGN with a monthly invoice summarizing all charges for the following goods and services:

- 1) Security services for those hours that the AGN is the only occupant of Victoria Hall charged at the rate approved in the Town User Fee By-Law;
- 2) Any other goods or services as agreed to in writing by the parties for the fees, term, and scope as documented.

Invoicing will be done monthly by the end of the following month with payment in full expected within 30 days.

9. BUDGET AND FINANCIAL REPORTING

As the AGN is a separate legal entity, the Board of the AGN is responsible for the overall financing of the AGN. With respect to the Town's contribution, the AGN will comply with the Town's budgeting process, as identified in the Town's annual work plan.

As stewards of public assets, the AGN commits to comply with the Ontario Asset Management Regulations O.Reg 588/17, related acts and all amendments.

The AGN shall submit an annual budget for each year to Council for their information no later than September 30th of the preceding year in such format as requested by the Town. To provide adequate financial planning and forecasting, the budget will include the prospective year's request plus **two** subsequent operational years and include the following:

- 1) All operating costs associated with AGN's operation;
- 2) All operating sources of revenue anticipated from sources other than the Town of Cobourg;
- 3) All minor and major capital expenditures with a 10 year revenue and expense forecast.

These sections will form the annual budget request for funding from the Town of Cobourg for each of three (3) year period. The intention of providing the operating budget on a three (3) year basis, while not binding either party past the current year, is to provide a clear vision to both parties of what level of financial commitment is expected moving forward.

The budget request shall also include at least one (1) prior year of audited financial statements and detailed budget actuals for comparison purposes.

Funds will be advanced in equal amounts on the first day of January, April, July, and October. As described in the section "Cost Recovery," payment for other services will be paid as invoiced no more frequently than monthly. In years where the Town has not approved their budget by January 1st, the first quarter payment will be paid on time at the prior year's amount and adjustments made on the second quarter payment after the Town's budget has been approved.

With appropriate Board oversight, AGN management will ensure that the AGN will remain in an accumulated net asset surplus during the term of this Agreement.

Any requests for financial reporting of any amounts regarding transactions between the Town and the AGN shall be made in writing to the Municipal Treasurer for the Town.

Charitable Tax Status: The AGN holds charitable tax status and issues receipts accordingly.

The Town may choose to reinstate the "Percentage for Public Art" strategy at a fixed percentage of capital or use other rationale to contribute to public art project renewal and new construction. Projects with high visibility and public impact will be excellent candidates for new public art projects, including new building construction, major additions to buildings, park projects, and engineering structures. Funds will be used for creating new art and or new ways of approaching, designing, and constructing projects using existing budgets through Public Art. A minimum of 75% of public art funds will be dedicated to designing, fabricating, and installing public art chosen through the objective art selection process. No more than 25% of the funds arising from the capital funding allocation may be used to implement and maintain the public art. This includes the governance and administration of the selection process, collection, inventory, maintenance, insurance, staffing, acceptance of gifts and bequests, the de-accessioning of artwork, and overall policy review. Funds dedicated to capital art projects can be pooled with funds from another project. These pooled resources may be used for either a single project or another public art program initiative. Pooled funds can be used to facilitate the establishment of art initiatives that may not otherwise have sufficient funds.

AGN As Arbiter of Public Art

The AGN will additionally be required to perform the general functions and duties of the former CAPS (Committee for Art in Public Spaces) and report annually to the Council on its activities in this role.

Definition: Art in public space is any physical installation that's primary function is aesthetic value.

The purpose of this Public Art practice for the Town of Cobourg is:

to ensure that the artwork and creative concepts of artists become part of the planning and design of publicly accessible spaces and contribute positively to making public art visually stimulating and community oriented to guarantee an approved, fair, invested and consistent public selection process so that all the citizens of Cobourg can access and participate in the cultural, economic and social developmental opportunities afforded by public art. to serve as an

act of public trust and stewardship for public art.

Further detail is outlined in the Public Art Policy as amended.

10. ADMINISTRATION OF THIS AGREEMENT

This AGREEMENT has been approved by the AGN's Board and by Town Council. It may only be amended by resolution of the Board and by Town Council. If either the AGN or the Town wishes to change the AGREEMENT, it shall give notice to the other party that wishes to initiate a negotiation and, in such case, the parties shall undertake a good faith negotiation.

11. SEVERABILITY

If any provision of this Agreement is held invalid, illegal, or unenforceable for any reason, the remaining provisions shall remain valid and enforceable. If a court finds that any provision of this Agreement is invalid, illegal, or unenforceable but that by limiting such provision, it would become valid, legal, and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

12. DISPUTE RESOLUTION

Negotiation: The parties agree to first attempt to resolve any disputes, controversies, or claims arising from or relating to this Agreement through good faith negotiations.

Mediation: If the dispute cannot be resolved through negotiation within thirty (30) days, the parties agree to submit the dispute to mediation. The mediation will be conducted by a mutually agreed-upon mediator. If the parties cannot agree on a mediator, a mediator will be appointed by a recognized mediation institution.

Arbitration: If the dispute is not resolved through mediation within sixty (60) days of initiating the mediation process, the dispute shall be finally resolved by binding arbitration. The arbitration shall be conducted in accordance with the rules of the recognized arbitration body agreed upon by the parties. A single arbitrator will conduct the arbitration, and the arbitrator's decision will be final and binding on both parties. The place of arbitration will be Cobourg, Ontario and the language of the arbitration will be English. The costs of arbitration, including administrative and arbitrator's fees, shall be shared equally by the parties unless the arbitrator determines that it would be unjust to do so.

Litigation: Notwithstanding the foregoing, either party may seek injunctive or other equitable relief from a court of competent jurisdiction to prevent irreparable harm or to preserve the status quo pending dispute resolution through arbitration.

Governing Law: This Agreement shall be governed by and construed in accordance with the laws of Ontario.

Jurisdiction: Any legal action or proceeding arising out of or relating to this Agreement that is not subject to arbitration shall be brought exclusively in the courts of Ontario located in Northumberland County, and the parties irrevocably submit to the jurisdiction of such courts.

13. NOTICE

Any concerns or issues of non-compliance with the terms of this agreement should be promptly reported to the lead contacts for administering this agreement as follows:

For the Town - Tracey Vaughan, Chief Administration Officer (CAO)

For the AGN - Olinda Casimiro Executive Director (ED)

The terms of Agreement have been accepted by both parties as acknowledged by their respective signatures as follows:

1) For the Corporation of the Town of Cobourg:

Name:

Lucas Cleveland

Position:

Mayor

Signature:

Name:

Brent Larmer

Position:

Municipal Clerk

Signature:

2) For the Art Gallery of Northumberland:

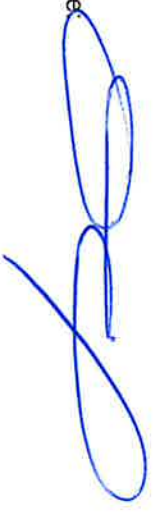
Name:

Olinda Casimiro

Position:

Executive Director (ED)

Signature:



This agreement made this

day of _____, 2024