

**AMENDED AND RESTATED UNANIMOUS SHAREHOLDER AGREEMENT**

**THIS AGREEMENT** made as of the 29<sup>th</sup> day of November, 2019.

**BETWEEN:**

**LAW SOCIETY OF ONTARIO (f/k/a THE LAW SOCIETY OF UPPER CANADA)**, a non-share capital corporation governed by the laws of the Province of Ontario, ("LSO")

and

**FEDERATION OF ONTARIO LAW ASSOCIATIONS (f/k/a COUNTY & DISTRICT LAW PRESIDENTS' ASSOCIATION)**, a non-share capital corporation governed by the laws of the Province of Ontario, ("FOLA")

and

**TORONTO LAWYERS ASSOCIATION**, a non-share capital corporation governed by the laws of the Province of Ontario, ("TLA")

and

**LIBRARYCO INC.**, a share capital corporation governed by the laws of the Province of Ontario, (the "Corporation").

**WHEREAS** LSO, FOLA and TLA are the holders of the following number of issued and outstanding shares in the capital of the Corporation:

<b>Holder</b>	<b>Number and Class of Shares</b>
LSO	100 common
FOLA	75 special
TLA	25 special

**AND WHEREAS** the shareholders entered into a unanimous shareholders agreement dated June 1, 2007 in order to make arrangements regarding certain aspects of the organization of the affairs of the Corporation and their respective rights and obligations to the Corporation and each other;

**AND WHEREAS** the shareholders of the Corporation now wish to enter into this amended and restated unanimous shareholders agreement in order to make certain changes to the unanimous shareholders agreement dated June 1, 2007 as set forth herein;

**NOW THEREFORE** this agreement witnesseth that, in consideration of the mutual covenants and agreements contained in it, the parties agree with each other as follows:

**ARTICLE I**  
**PRELIMINARY MATTERS**

**1.1 Recitals.**

Each party acknowledges and declares that the foregoing recitals, insofar as they relate to it, are true and correct.

**1.2 Prior Agreements.**

Any other agreements regarding the matters contained in this agreement, whether written or oral, are terminated.

**1.3 Corporation's Confirmation of Knowledge.**

The Corporation confirms its knowledge of this agreement and agrees to be subject to and abide by the provisions hereof, to the full extent of its capacity and ability at law to do so.

**1.4 Unanimous Shareholder Agreement and Inconsistencies.**

The provisions of this agreement shall govern the operation and affairs of the Corporation to the maximum extent permitted by law, notwithstanding any conflicting provision in the articles or by-laws of the Corporation. In the event of a conflict between this agreement and any provision in the articles or by-laws of the Corporation, the parties hereto shall take or cause to be taken all such steps and proceedings as may be permitted under the Act to amend the articles or by-laws of the Corporation, as the case may be, to resolve such conflict so that the provisions of this agreement shall prevail to the maximum extent permitted by law. To the extent that this agreement specifies that any matter is to be approved by any of the shareholders of the Corporation, such shareholders shall have all of the rights, powers, duties and liabilities of the directors of the Corporation, and the discretion and power of the directors of the Corporation to manage and supervise the management of the Corporation is hereby restricted and the directors of the Corporation are hereby relieved of their duties and liabilities in respect thereof.

**1.5 Endorsement and Share Certificates.**

The share certificates representing shares in the capital of the Corporation shall bear the following legend:

"The shares represented by this certificate are subject to all the terms and conditions of a unanimous shareholder agreement made as of the 29<sup>th</sup> day of November, 2019, and are transferable only in accordance with the provisions of such agreement."

**ARTICLE II**  
**DEFINITIONS AND INTERPRETATION**

**2.1 Definitions.**

As used in this agreement, the following terms shall have the following meanings:

- a) "**Act**" means the Business Corporations Act (Ontario), as the same may be amended, restated or replaced from time to time;
- b) "**Board**" means the board of directors of the Corporation;
- c) "**Business day**" means a day on which banks are open for business in the City of Toronto, but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;
- d) "**County Law Library**" means each county and district law library established by a county or district law association in pursuance of LSO By-law #13;
- e) "**Extraordinary Resolution**" means a resolution of the Shareholders relating to a Material Decision which requires the approval of LSO and at least one of FOLA and TLA;
- f) "**Fiscal Year**" means the fiscal year of the Corporation, which shall end on December 31st in each year;
- g) "**Head Office**" means the offices of the Law Society of Ontario, 130 Queen Street West, Toronto, Ontario, M5H 2N6;
- h) "**Material Decision**" means any decision involving:
  - (i) the sale or disposition, directly or indirectly, of any material assets or property by the Corporation during any Fiscal Year, unless such sale or disposition has been expressly provided for in the Budget for that Fiscal Year;
  - (ii) the Corporation making or committing to make during the Fiscal Year any material capital expenditure from its assets, unless such expenditure has been expressly provided for in the Budget for that Fiscal Year;
  - (iii) the Corporation establishing, acquiring or otherwise becoming involved in any corporate entity or any partnership, joint venture or similar arrangement;
  - (iv) the allotment or issuance, directly or indirectly, of any shares (or other securities) in the capital of the Corporation;

- (v) the Corporation taking any steps to wind-up, dissolve, reorganize or terminate its existence or taking any steps under any bankruptcy, insolvency, corporation or other applicable law in any jurisdiction in respect of its bankruptcy, liquidation, winding-up or dissolution or suspension of its general operations;
  - (vi) the Corporation entering into any material contract, agreement, commitment or gift out of the ordinary course during any Fiscal Year, unless such contract, agreement or commitment has been expressly provided for in the Budget for that Fiscal Year;
  - (vii) the Corporation borrowing any money or incurring any material other than in the ordinary course, unless such borrowing or incurrence has been expressly provided for in the Budget for that Fiscal Year;
  - (viii) the creation of any mortgage, lien, charge or other form of encumbrance with respect to any of the assets of the Corporation or the granting of any guarantee by the Corporation;
  - (ix) the Corporation altering the nature of its undertaking;
  - (x) any shutdown or closure of the County Law Library system;
  - (xi) the closure of a County Law Library (other than as a result of such library's uncorrected material default or deficiency under the policies, strategies, business objectives or performance criteria established by the Corporation);
  - (xii) any material decrease in the funding of a County Law Library which results in a permanent reduction of such library's paid staff (other than as a result of such library's uncorrected material default or deficiency under the policies, strategies, business objectives or performance criteria established by the Corporation); and
  - (xiii) any changes in the objectives and principles, including governing principles, established under section 4.1;
- i) "**Person**" means an individual, partnership, unincorporated association, organization, syndicate, corporation, trustee, executor, administrator or other legal or personal representative; and
  - j) "**this agreement**" means this agreement and all amendments and supplements hereto and all restatements and replacements hereof.

## 2.2 Construction.

In this agreement, except as otherwise expressly provided:

- a) all words and personal pronouns relating to those words shall be read and construed as the number and gender of the party or parties require, and the verb shall be read and construed as agreeing with the required word and pronoun;

- b) the division of this agreement into Articles and sections and the use of headings is for convenience of reference only and shall not modify or affect the interpretation or construction of this agreement or any its provisions;
- c) references in this agreement to Articles and sections are references to Articles and sections of this agreement; and
- d) when calculating the period of time within which or following which any act is to be done or step is to be taken pursuant to this agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a business day, the period in question shall end on the next business day.

### **ARTICLE III**

#### **BOARD OF DIRECTORS AND MANAGEMENT OF THE CORPORATION**

##### **3.1 Composition of the Board of Directors.**

The board of directors of the Corporation shall consist of a minimum of five (5) and a maximum of eight (8) directors to be appointed based on the recommendations of a nominating committee (the “Nominating Committee”) established by the shareholders of the Corporation, as set out below in section 3.3.

##### **3.2 Election or Appointment of Directors.**

The Nominating Committee shall prepare a report for the appointment of directors, in accordance with the requirements of the by-laws of the Corporation and this agreement, and present the report to the shareholders. The shareholders and directors of the Corporation shall take all actions that may be required to ensure the election, appointment or replacement of the nominees as set forth in this Article. Notice of appointments to the board shall be given to the President of FOLA, the President of TLA and the Treasurer of LSO prior to such appointment being made.

##### **3.3 Nominating Committee.**

- a) The shareholders shall establish and shall select the members of the Nominating Committee which at all times shall be composed of six (6) persons, all of whom shall be representatives of the shareholders. LSO shall be entitled to appoint three (3) of the members, FOLA shall be entitled to appoint two (2) of the members and TLA shall be entitled to appoint one (1) of the members.
- b) Each member of the Nominating Committee shall hold office for a term of two (2) years and shall be eligible for reappointment by the shareholders for up to three (3) consecutive terms.

- c) The Nominating Committee shall submit every two (2) years to the shareholders, and otherwise as required to fill vacancies, its recommended list of nominees for membership on the board which shall have been approved by each of the shareholders.
- d) In making its recommendations as to the board members, the Nominating Committee shall be guided by a skills and competency matrix to be established (and revised) by the shareholders upon consultation with the board.
- e) The chair of the Nominating Committee shall be appointed from among its number by the shareholders. The term of office for the chair shall be for renewable terms of two (2) years.
- f) Three (3) members of the Nominating Committee shall constitute a quorum for the transaction of business at meetings of the Nominating Committee. Each member of the Nominating Committee shall have one (1) vote. Questions arising at any meeting shall be decided by a majority of votes cast at such meeting.
- g) The office of a member of the Nominating Committee shall automatically be vacated if:
  - (i) she/he resigns her/his office by delivering a written resignation to the shareholders; or
  - (ii) such member ceases to be a representative of a shareholder; provided that, if any vacancy shall occur for any reason contained in this section, the shareholders may nominate a replacement. If a vacancy occurs as a result of any of the foregoing reasons and is not filled, the remaining members of the Nominating Committee may exercise all of the powers herein conferred provided that a quorum is elected or remains in office, as the case may be.
- h) All other rules and regulations in respect of the Nominating Committee shall be determined from time to time by the said committee.

### **3.4 Term of Directors.**

The terms of office of directors shall be two (2) years. If directors whose terms have expired are not replaced, the incumbent directors shall continue in office until their successors are appointed. Directors may be appointed to the board for up to three (3) consecutive terms. Any removal of a director prior to the expiry of the director's term must be approved by LSO and at least one of FOLA and TLA.

### **3.5 Replacement of Directors.**

A vacancy on the board howsoever caused, shall be filled for the remainder of the director's term of office based on the recommendations of the Nominating Committee.

### **3.6 Audit and Other Committees of the Board.**

The board of directors of the Corporation shall appoint from their numbers an audit committee and delegate to such committee such powers of the directors as it deems advisable from time to time.

Subject to section 3.8, the board of directors may appoint from their number such other committees of the board as it deems necessary or advisable from time to time and delegate to such committees any of the powers of the directors.

### **3.7 Meetings of the Board.**

Meetings of the Board of the Corporation may be called at any time by the Chair of the Board. If, in the event that no meeting has been held within the last three months, any director may call for a meeting of the Board. At least 15 business days before each meeting of the Board, each director shall receive a written notice from the individual calling the meeting indicating the time and place of the meeting, and providing a summary of the matters to be considered. A director may waive notice of a meeting by an instrument in writing delivered to the Corporation at or prior to the meeting and the attendance of a director at a meeting shall constitute a waiver of notice of the meeting (except where a director attends a meeting for the express purpose of objecting to the transaction of business on the grounds that the meeting is not properly called). Notwithstanding the foregoing, the Chair of the Board shall ensure that the Board meets no less than once each fiscal quarter. The quorum for meetings of the Board of the Corporation shall be a majority of the directors then in office. Board meetings may be held by conference call, teleconference or other communication tool where all directors can be present, can hear each other, and can participate in the discussion by speaking.

### **3.8 Decisions of the Board.**

All decisions of the board of directors of the Corporation shall be by a majority vote.

In the event of a tie vote, the chair will cast the deciding vote.

### **3.9 Officers of the Corporation.**

The initial officers of the Corporation shall be the Chair of the Board, the Vice Chair and the Treasurer. The Board may appoint and replace these officers at any time and may appoint such additional officers as it thinks fit from time to time, provided that, the Chair of the Board shall be an appointed director under section 3.1 and such appointment shall require the approval of each of the shareholders and provided further that, the Treasurer shall be the CFO/Executive Director, Finance of LSO.

The Treasurer shall be responsible for the maintenance of proper accounting records in compliance with the Act, as well as the deposit of money, the safekeeping of securities and the disbursement of funds of the Corporation. Whenever required, the Treasurer shall render to the

Board an account of all such person's transactions as Treasurer and of the financial position of the Corporation.

The roles and responsibilities of each of the other officers of the Corporation shall be determined by the Board from time to time.

### **3.10 Material Decisions.**

All Material Decisions shall be authorized only by Extraordinary Resolution.

## **ARTICLE IV PURPOSE OF THE CORPORATION AND MANDATE OF THE BOARD**

### **4.1 Purpose and Objectives of the Corporation.**

The Corporation has been created for the purpose of carrying on the central management of the Ontario county law library system on a not-for-profit basis and in accordance with the objectives, policies and principles established and approved by LSO from time to time in consultation with FOLA and TLA.

Recognizing the changing nature of legal information and library services and the importance of consultation with stakeholders and users of Ontario's county law library system, the Corporation's general mandate is to evolve the provision of such services for the Ontario county law library system in an efficient and cost-effective manner through the management and allocation of grant funding, ongoing assessment of the system, and strategic development of appropriate service offerings.

The key objectives of the Corporation include: ensuring that the public is served by legal professionals with high standards of learning and competence; supporting ongoing learning and development with a specific emphasis on the use and application of legal information, legal research and legal training content and activities; establishing a platform that provides effective access to legal information; and considering the development of supportive legal information services targeted to the needs of users.

### **4.2 Managing Director.**

The Corporation shall employ and direct a Managing Director who shall perform the duties of corporate secretary to the board and shall supervise the day-today operations and administration of the Corporation. The board may delegate to the Managing Director the power to manage and direct the activities and affairs of the Corporation and to employ and discharge agents and employees of the Corporation. The Managing Director shall conform to all lawful orders given by the board and shall at all reasonable times give to the board all information it may require regarding the affairs of the Corporation.



**ARTICLE V**  
**REPORTING REQUIREMENTS AND FUNDING**

**5.1 Annual Report.**

Within 120 days after the end of each fiscal year, the Corporation shall prepare, and the Board shall approve, an annual report (“Annual Report”) that sets out the following information:

- a) audited financial statements for the Corporation as well as information related to expenditures and investments of the Corporation's monies during the Fiscal Year;
- b) a report setting out the major activities of the Corporation during the Fiscal Year and any analysis of the extent to which the Corporation is achieving its policy and strategic objectives;
- c) a summary of the major activities that the Corporation proposes to undertake during the current Fiscal Year and the status of the long-range planning activities of the Corporation.

The Annual Report of the Corporation must be delivered first to the Board and thereafter to the Audit and Finance Committee of the LSO.

**5.2 Periodic Reports.**

The Corporation shall be responsible to prepare quarterly financial reports during the fiscal year on the operations and affairs of the Corporation. These periodic reports shall be presented to the Board.

**5.3 Funding of the Corporation.**

The Corporation shall be funded by the LSO through levies, the amount of which shall be determined by LSO subject to the procedures set out below and collected by LSO from designated licensees (the “Legal Information and Library Services Levy”). The Corporation shall use the funds advanced to it by LSO (in addition to any other sources of revenue or funding that the Corporation may obtain) to fund its activities in accordance with its budget as formulated in accordance with this Article.

At least ninety (90) days prior to the commencement of each Fiscal Year of the Corporation, the Board shall oversee the preparation of and approve a detailed operating plan and budget for the operation of the Corporation for the upcoming Fiscal Year (the "Budget"). The Budget shall include the request from the Corporation in respect of the Legal Information and Library Services Levy for the next ensuing Fiscal Year. Once approved, the Budget shall be forthwith presented to LSO for its approval.

If LSO does not approve the Budget as presented, the Board and LSO shall co- operate in good faith to resolve any disputes with a view to developing a Budget that is mutually

acceptable, prior to the commencement of the Fiscal Year. In the event a mutually acceptable Budget is not developed within a reasonable period of time, nothing herein shall fetter the budgetary discretion of LSO to determine the level of funding for the Corporation.

#### **5.4 Annual Grants to County Law Libraries.**

Included in each annual Budget will be an annual grant ("Annual Grant") for each County Law Library for the budgeted fiscal year for the purposes of providing legal information and library services, including staffing, in accordance with any policies, strategies, business objectives and performance criteria established by the Corporation. The list of Annual Grants will be appended to the Budget as an appendix or schedule. The Annual Grants shall require the approval of the Board.

Annual Grants paid to any County Law Library which are not used in the budgeted fiscal year will be (i) returned to the Corporation, or (ii) carried forward and taken into account by the Corporation in setting the next ensuing Annual Grant.

In order to receive an Annual Grant, each County Law Library shall have to adopt and maintain such fiscal and other management policies and procedures as the Corporation may require from time to time, including budgeting, financial controls, and reporting to the Corporation. Every County Law Library receiving an Annual Grant shall be subject to audit by the Corporation (at the direction of LSO) from time to time in respect of those receipts and expenditures related to the Annual Grant.

The Board shall establish policies and strategies for the delivery of legal information and library services for the law library system in Ontario. In formatting these policies and strategies, the Board shall establish business objectives and performance criteria for the delivery of legal information and library services provided by the County Law Libraries. As a requirement of its annual funding from LSO, the Corporation shall include in its Annual Report, as referenced in Section 5.1 above: (i) a summary of these policies, strategies, business objectives and performance criteria; and (ii) a performance report in respect of each.

## **ARTICLE VI DISTRIBUTIONS BY THE CORPORATION**

#### **6.1 Dividends and other Distributions.**

The Board may not declare, and the Corporation may not pay, any dividends of any kind whatsoever on its shares or otherwise distribute any cash, property or assets to any of its shareholders (whether in their capacity as shareholder or otherwise).

## **6.2 Repurchase or Redemption of Shares.**

The Board may not authorize the Corporation to repurchase or redeem, and the Corporation may not repurchase or redeem, any of its outstanding shares at any time or from time to time, except for a nominal amount with the prior written approval of LSO and the shareholder whose shares are being repurchased or redeemed.

## **6.3 Dissolution.**

In the event that the Corporation is liquidated or dissolved (whether voluntarily or involuntarily), immediately prior to such liquidation or dissolution, the Corporation shall transfer (and be deemed to have transferred) all of its remaining cash, property and assets, if any, to any non-profit corporation operating in Ontario (other than any shareholder of the Corporation) as determined by LSO.

## **6.4 Income.**

Without limiting the other provisions of this Article, the Corporation shall not make any income payable to, or otherwise available for the benefit of, or distribute any property to any shareholder of the Corporation.

# **ARTICLE VII TRANSFER OF SHARES**

## **7.1 Warranty as to Ownership.**

Each shareholder of the Corporation represents and warrants that it is the registered and beneficial owner of that number of shares set forth beside its name in the recitals to this agreement, free and clear of all liens, claims, charges, security interests, encumbrances or rights in favour of other Persons.

## **7.2 Prohibition on Unauthorized Transfers.**

Except with the unanimous written consent of each of the shareholders of the Corporation and the unanimous approval of the directors on the Board, no shareholder shall transfer any shares in the capital of the Corporation. In the event that any shareholder of the Corporation proposes to transfer, directly or indirectly, any shares in accordance with this section, it shall be a condition of such transfer that this agreement be amended to recognize the new shareholder and to reflect any other amendments that the parties deem necessary or advisable in the context of such transfer.

**ARTICLE VIII  
GENERAL CONTRACT PROVISIONS**

**8.1 Term of Agreement.**

This agreement shall take effect on the date hereof and shall remain in full force and effect until such dates as may be designated by LSO.

**8.2 Implementation of this Agreement.**

The parties hereto shall sign such further and other documents, cause such meetings to be held, cause such resolutions to be passed and such by-laws to be enacted, exercise their votes and influence and do and perform (and cause to be done and performed) such further and other acts or things as may be necessary or desirable in order to give full effect to this agreement and every part of it.

**8.3 Notices.**

Except as expressly provided in section 3.7, all notices, requests, demands or other communications required or permitted to be given by one party to another under this agreement shall be given in writing by personal delivery, facsimile or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

- a) if to LSO:                   Law Society of Ontario  
                                      130 Queen Street West  
                                      Toronto, Ontario M5H 2N6  
                                      Attention: Chief Executive Officer
  
- b) if to FOLA:                 Federation of Ontario Law Associations  
                                      731 9th St. West  
                                      Owen Sound, Ontario N4K 3P5  
                                      Attention: Chair
  
- c) if to TLA:                   Toronto Lawyers Association  
                                      Court House Library  
                                      361 University Avenue  
                                      Toronto, Ontario M5G 1T3  
                                      Attention: President
  
- d) if to the Corporation:   LibraryCo Inc.  
                                      130 Queen Street West  
                                      Toronto, Ontario M5H 2N6  
                                      Attention: Chair

or at such other address of which written notice is given and such notices, requests, demands or other communications shall be deemed to have been received when personally delivered, on the next business day after sending if sent by facsimile, or, if mailed, on the fourth business day after the mailing thereof; provided that if any such notice, request, demand or other communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities on or before the fourth business day after the mailing thereof, such notice, request, demand or other communication shall be deemed to have been received only upon personal or facsimile delivery.

#### **8.4 Counterparts.**

This agreement may be executed in counterparts and each of which so executed shall be deemed to be an original and such counterparts together shall be one and the same instrument.

#### **8.5 Time of the Essence.**

Time shall be of the essence of this agreement and of every part hereof.

#### **8.6 Governing Law.**

This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract. All of the parties to this agreement hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

#### **8.7 Entire agreement.**

This agreement constitutes the entire agreement between the parties with respect to the matter herein. The execution of this agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, promises, agreements or statements whatsoever not incorporated herein and made a part hereof. This agreement shall not be amended, altered or qualified except by a memorandum in writing signed by all the parties.

#### **8.8 Waiver.**

Except as expressly provided in section 3.7, no party to this agreement shall be deemed or taken to have waived any provision of this agreement unless such waiver is in writing, and then such waiver shall be limited to the circumstances set forth in such written waiver.

#### **8.9 Severability.**

If any Article, section or portion of any section of this agreement is determined to be unenforceable or invalid, that unenforceability or invalidity shall not affect the remaining portions of this agreement and such unenforceable or invalid Article, section or portion thereof shall be deemed to be severed from the remainder of this agreement.

**8.10 Equitable Remedies.**

The parties acknowledge that the provisions contained in this agreement are reasonable, and if any party breaches the terms of this agreement the remaining parties, in addition to any other rights and remedies, shall be entitled to equitable remedies that may include an injunction to stop the contravention of this agreement or an order for specific performance to compel compliance with this agreement.

**8.11 Assignment and Binding Effect.**

This agreement shall not be assignable by any of the parties hereto. This agreement shall enure to the benefit of the parties hereto and their respective successors and administrators.

**IN WITNESS WHEREOF** the parties hereto have executed this agreement as of the date first above stated.

**LAW SOCIETY OF ONTARIO**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**FEDERATION OF ONTARIO LAW ASSOCIATIONS**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**TORONTO LAWYERS ASSOCIATION**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

**LIBRARYCO INC.**

Per: \_\_\_\_\_