



# Co-ownership Agreement

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## Parties

[Owner 1] of [Address] ("Owner 1")

[Owner 2] of [Address] ("Owner 2")

[Owner 3] of [Address] ("Owner 3")

## Background

- A. The Co-owners are entitled to be registered as proprietors in the manner described in **Schedule 1, Item 1** of the asset described in **Item 2** (the "Asset") and for the purposes of this Agreement will be considered to have taken in their respective interests in the proportions set out in **Item 3**.
- B. The Co-owners have agreed to record their various rights and obligations in respect of the Asset as set out in this Agreement.

## Agreed terms

### 1. Definitions and interpretation

#### 1.1 Definitions

In this Agreement:

"Co-owners" means the parties to this Agreement.

"Operating Expenses" means all running costs, maintenance of and repairs to the Asset, including but not limited to consumables such as fuel, storage costs, registration fees, storage costs, insurance, maintenance costs, repairs, capital improvements to and outgoings for the Asset.

#### 1.2 Interpretation

In this Agreement:

- (a) references to persons include corporations and vice versa;
- (b) words importing the singular number include the plural number and vice versa;
- (c) words importing one gender include each other gender;
- (d) a reference to any of the parties by their defined terms includes that party's executors administrators and permitted assigns, or being a company its successors and permitted assigns;

- (e) every agreement or undertaking expressed or implied by which more persons than one agree or undertake any obligation or derive any benefit under this Agreement binds or benefits those persons jointly and each of them severally;
- (f) head notes are for reference purposes only; and
- (g) a reference to an Item is a reference to an item in **Schedule 1** to this Agreement.

## 2. Acquisition and use of the Asset

- (a) The Co-owners have completed as between them all identification and police checks that they have agreed are necessary, and have identified an Asset to purchase and will [contribute to the purchase price and any other costs associated with transacting the purchase of the Asset in the proportions set out in **Item 3**/pay the Co-Owner that owns the Asset an agreed price which will result in the Asset being owned in the proportions set out in **Item 3**].
- (b) The Co-owners agree to maintain subscriptions to and to utilise the [www.sharebuyit.com.au](http://www.sharebuyit.com.au) website tools to:
  - (1) book use of the Asset, which it is agreed will be broadly in proportion to their respective interests in the Asset;
  - (2) log agreed service and repair dates;
  - (3) log contribution to Operating Expenses dates and reminders;
  - (4) tailor an agreed condition report which will be completed each time that the Asset is used by a Co-Owner, both before and after use;
  - (5) communicate with each other for the purposes of this Agreement through the secure sharebuyit portal;
  - (6) and any other tools that the [www.sharebuyit.com.au](http://www.sharebuyit.com.au) website may offer currently or in the future to assist in managing this Agreement and the co-ownership of the Asset.
- (c) The Co-owners acknowledge and agree to the [www.sharebuyit.com.au](http://www.sharebuyit.com.au) terms and conditions of use.
- (d) The Co-owners agree that the Asset will be stored at [address] or as otherwise agreed by them from time to time.

## 3. Operating Expenses

- (a) The Co-owners agree to contribute to the Operating Expenses from time to time in the proportions set out in **Item 3**, on the dates and in the amounts agreed by the Co-owners from time to time.
- (b) Those amounts will be deposited into a bank account in the name of the Co-owners.
- (c) The Co-owners will nominate one of their number from time to time to make day to day decisions about maintaining the asset and paying Operating

Expenses, and will authorise that Co-Owner to operate the abovementioned bank account.

#### 4. Decisions to be by consensus

- (a) Except where otherwise expressly provided to the contrary in this Agreement, all matters in connection with the Asset will be decided by way of consensus between the Co-owners.
- (b) If consensus is not possible the Co-owners agree that they will follow the dispute resolution procedure set out in **clause 7.2** and **Schedule 3**.

#### 5. Insurance

In addition to any compulsory insurance such as third party personal injury insurance that is required to be effected as part of the registration of the Asset, the Co-owners will effect and maintain the following insurance policies in respect of the Asset:

- (a) Public Liability insurance in the sum of **[\$x million]**.
- (b) Fire etc and theft insurance in the sum of **[\$x]**.
- (c) Third party property damage insurance in the sum of **[\$x]**.
- (d) Comprehensive insurance in the sum of **[\$x]**.

#### 6. Selling

- (a) **OPTIONAL:** The Co-owners agree they will not seek the sale of the Asset or their interest in the Asset for **[x]** years from the date of this Agreement without the consent of all the other Co-Owner/s.
- (b) The parties agree to accept the offer or to sell the Asset in accordance with the procedure set out in **Schedule 2**, as the case may be if:
  - (1) an offer is made to purchase the Asset from the Co-owners for an amount that will recoup all purchase costs and Operating Expenses in respect of the Asset and result in a clear profit of **[x%]** of the value of the Asset as at the date of completion of the transfer;
  - (2) 1 or more parties are suffering severe financial hardship; or
  - (3) 1 or more parties die.
- (c) **IF (a) IS USED:**[After **[x]** years from the date of this Agreement,] The Asset will be sold in accordance with the procedure set out in **Schedule 2** if a simple majority of Co-owners require it to be sold.
- (d) If a Co-owner/s wishes to sell their interest in the Asset (“**selling Co-owner/s**”) or if the other Co-owner/s for whatever reason wish to buy out another Co-owner/s interest in the Asset (“**buying Co-owner/s**”), he, she or they will send a notice to the other Co-owner/s offering to sell or buy, as the case may be, his or her interest in the Asset to or from the other Co-owner/s for a price set out in the notice based upon his or her opinion of the value of the Asset.

- (e) If the other Co-owner/s do not agree with the price offered in the notice then this will be a dispute to be determined as set out in **clause 7.2** and **Schedule 3**.
- (f) The value of the Asset is to be ascertained at the relevant date on an open market basis between a willing but not anxious seller and a willing but not anxious buyer.
- (g) After the value of the Asset has been ascertained either by agreement or by the dispute resolution process the Co-owner/s will within 21 days each send notice to the selling Co-owner/s or the buying Co-owner/s advising that they do not want to purchase or sell their interest or send a notice that they wish to purchase or sell their interest in the Asset upon the following conditions:
  - (1) the price will be paid within 30 days;
  - (2) the price payable will be adjusted to the date of the transfer in respect of all Operating Expenses on the Asset and in relation to any monies owed by the Co-owners to each other pursuant to this Agreement.
- (h) If the other Co-owners do not send a notice that they both (in agreed proportions), or one of them wishes to purchase or to sell the selling Co-owner/s or the buying Co-owner/s interest in the Asset in accordance with the agreed conditions, or if having sent such a notice, they do not pay the price within 30 days, the Asset will be sold in accordance with the procedure set out in **Schedule 2**.
- (i) Each Co-owner may not mortgage, charge or otherwise encumber his or her respective interest in the Asset without the prior written consent of the other Co-owner/s which consent can be withheld for any reason or for no reason whatsoever.

## **7. Administrative provisions**

### **7.1 Power of attorney**

Each Co-owner appoints the other Co-owner their attorney for the purposes of signing all documents which should be signed by a Co-owner under this Agreement, and without limiting the generality of the foregoing any purchaser's agreement, any proposal for insurance and any contracts for services. Such appointment will take effect 7 days after failure of the other Co-owner to execute such document after written request.

### **7.2 Disputes**

Any dispute or difference as to the performance or interpretation of this Agreement or in relation to the use of any part of the Asset will be resolved in the manner set out in **Schedule 3**.

### **7.3 Special charges**

In the event that any rate, charge or tax is levied on the Asset or any part of it as a result of circumstances applying only to one Co-owner, the Co-owner whose circumstances give rise to the levying of the rate, charge or tax will pay in full the amount of such rate, charge or tax, provided that this provision does not relate to any stamp duty and legal fees on the transfer of the Asset.

## **8. Notices**

All notices under this Agreement will be sent using the [www.sharebuyit.com.au](http://www.sharebuyit.com.au) secure online portal.

## **9. Governing law**

This Agreement shall be governed by and interpreted in accordance with the laws of New South Wales and both parties submit to the jurisdiction of the courts of that State or Territory.

## **10. Severance**

Notwithstanding anything in this Agreement if any provision or part of a provision of this Agreement is held or found to be void, invalid or otherwise unenforceable, it shall be deemed to be severed from this Agreement to the extent that it is void or to the extent of its voidability, invalidity or unenforceability but the remainder of this Agreement shall remain in force and effect.

## **11. Good faith and further assurances**

The parties mutually covenant and agree that they will act at all times in good faith and each do all acts and things and execute all agreements deeds and other documents as shall from time to time be reasonably be required for the purposes of to give effect to this Agreement.

## **12. Entire understanding**

This Agreement embodies the entire understanding and agreement between the parties as to the subject matter of this Agreement.

## **13. Independent advice**

The parties each warrant that they have obtained independent legal advice if required by them as to the nature, effect and extent of this Agreement and agree that its terms are reasonable.

## **14. No Partnership**

The parties to this Agreement are not in a relationship of partnership with each other and neither are they joint venturers.

## **15. Effect as a deed**

This Agreement takes effect as a deed from the time that it is made.

Executed as a deed on

**20xx**

**SIGNED SEALED AND DELIVERED** by  
[Name] in the presence of:

Signature: .....

Signature: .....

Name: .....  
PLEASE PRINT

**Witness**

**SIGNED SEALED AND DELIVERED** by  
[Name] in the presence of:

Signature: .....

Signature: .....

Name: .....  
PLEASE PRINT

**Witness**

**SIGNED SEALED AND DELIVERED** by  
[Name] in the presence of:

Signature: .....

Signature: .....

Name: .....  
PLEASE PRINT

**Witness**

**OR, IF AN OWNER IS A COMPANY**

**EXECUTED** by [insert company name] ACN  
[insert ACN number] in accordance with  
section 127 of the *Corporations Act 2001*:

Signature: .....

Signature: .....

Name: .....

Name: .....

PLEASE PRINT

PLEASE PRINT

**Director**

**Director/Secretary \***

\* Delete as appropriate

## Schedule 1

### Asset Details

**Item 1**  
Manner of ownership of Asset

As tenants in common

**Item 2**  
Description of Asset

[Description of Asset including serial and registration numbers]

**Item 3**  
Proportion of ownership

Owner 1 %

Owner 2 %

Owner 3 %

## Schedule 2

### Sale

1. The Co-owners will do all acts and things and sign all necessary documents to effect a sale of the Asset by private treaty upon the following basis:
  - (a) The broker shall be agreed upon by the Co-owners and if there is no agreement within 14 days the broker will be nominated by the President for the time being of the Law Society of New South Wales.
  - (b) The sale price will be an amount the Co-owners agree upon within 7 days after the date upon which the Asset is first listed for sale, or in the absence of agreement will be the price nominated by a valuer appointed by the President for the time being of the New South Wales Division of the Australian Institute of Valuers.
  - (c) The Co-owners shall pay and shall be responsible for the payment of any selling expenses payable before the Asset is sold, in the proportions set out in **Item 3**.
  - (d) If necessary, the Co-owners will instruct such solicitors as they agree upon to act on their behalf in the sale or, in the absence of agreement, they will instruct a solicitor appointed by the President for the time being of the Law Society of New South Wales.
2. In the event the Asset is not sold by private treaty within 6 months after first offering it for sale, the Co-owners shall do all acts and sign all necessary documents and pay all monies equally necessary to sell the Asset by public auction upon the following terms:
  - (a) the auctioneer shall be agreed upon by the Co-owners and if there is no agreement within 14 days the auctioneer will be nominated by the President of the Law Society of New South Wales;
  - (b) the auction shall take place within 6 months and 6 weeks after the Asset was to be listed for sale or such other time as the auctioneer determines;
  - (c) the reserve price for the purpose of the auction will be the amount the Co-owners agree upon within 14 days after the date upon which the Asset is listed for sale by public auction, in the absence of agreement, will be the price nominated by a valuer appointed by the President for the time being of the New South Wales Division of the Australian Institute of Valuers;
  - (d) the Co-owner's shall pay and shall be responsible for the payment of any selling expenses payable before the Asset is sold, in the proportions set out in **Item 3**; and
  - (e) in the event the Asset is not sold by auction or by private negotiation within 21 days after the said auction then the Co-owners shall do all acts and sign all necessary documents and pay all monies equally necessary to procure a second auction without a reserve price at such time as it is agreed between the Co-owners and failing agreement, as determined by the Auctioneer, otherwise upon the same terms and conditions as applied to the first auction.

**Proceeds of Sale**

3. Upon completion of the sale of the Asset the proceeds of sale are to be applied as follows:
  - (a) firstly, to pay all costs, commissions and expenses of the sale and to pay any Operating Expenses in respect of the Asset;
  - (b) secondly, to discharge all loans to the Co-owners from either of the Co-owners;
  - (c) thirdly, to the Co-owners to adjust any amounts owed by one Co-owner to another under this Agreement; and
  - (d) the balance to the Co-owners in the proportions set out in **Item 3**.

## Schedule 3

### Disputes

1. Any dispute or difference as to the performance of this Agreement may be referred by any party for determination by a person ("**determinator**") in accordance with the provisions of this clause.
2. A party who decides to refer any dispute or difference for determination must do so by written notice ("**first determination notice**"). The first determination notice will specify the following:
  - (a) the name, address and occupation of a specific determinator ("**nominated determinator**"); and
  - (b) a nomination of a specific class of determinators, being one of the classes specified in the left hand column of clause 6(a) to (f) of this schedule.
3. Unless another party gives written notice ("**second determination notice**") to the party giving the first determination notice within 7 days of receipt of the first determination notice, the nominated determinator will be the determinator.
4. The second determination notice may reject the nominated determinator but accept the specific class of determinator specified in the first determination notice, in which event the determinator will be a member of the class of person or persons specified in the first determination notice and will be appointed by the appropriate institute or association in accordance with the relevant part of clause 6 of this schedule.
5. If the second determination notice rejects the specific class of persons nominated as determinator, the question of the appropriate class of determinator will be referred at the request of any party to a barrister appointed by the President for the time being of the Bar Association of New South Wales whose decision as to the class of persons from which the determinator will be appointed will be final and binding upon the parties.
6. Failing agreement to the contrary, where any dispute or difference is referred for determination as provided in clause 1 to 3 of this schedule, the determinator will be appointed by the President for the time being of the relevant Australian professional association of their particular profession.
7. When any dispute or difference has been referred for determination, the parties will each use their best endeavours to make available to the determinator all facts and circumstances which the determinator requires to settle or determine the dispute or difference, and will ensure that their respective employees, agents or consultants are available to appear at any hearing or enquiry called by the determinator.
8. The decision of the determinator will be made and delivered to the parties within 1 month (or such other period as the parties may agree or the determinator may determine) from the date of submission of the dispute or difference to the determinator or the date of completion of any, or the last, hearing or enquiry called by the determinator.
9. The determinator will act as an expert and not as an arbitrator and his or her decision will be final and binding upon the parties. The parties will not be entitled to commence or maintain any action upon any dispute or difference until it has been referred and determined as provided in this clause.

10. The determinator will also decide the amount of the costs and expenses relating to the reference to the determinator of any dispute or difference, and in default of such decision the costs and expenses will be borne by the parties in the proportions in **Item 3.**