

# Example of a Heritage Conservation Agreement

## CITY OF OTTAWA

**THIS AGREEMENT** made in triplicate the \_\_\_\_\_ [day] \_\_\_\_\_ [month] 20\_\_\_\_\_

**BETWEEN**

\_\_\_\_\_ [name]

(hereinafter referred to as the "Owner")

**OF THE FIRST PART,**

**AND**

\_\_\_\_\_ [NAME OF MUNICIPALITY]

(hereinafter referred to as the "City")

**OF THE SECOND PART.**

**WHEREAS** \_\_\_\_\_ [name] is the registered owner of the property known municipally as \_\_\_\_\_ [municipal address], situated in the \_\_\_\_\_ [name of municipality], more particularly described in Schedule "A" attached hereto, and upon which is erected \_\_\_\_\_ [description of property] now a residential development (hereinafter referred to as the "Building");

**AND WHEREAS** the Owner and the City desire to preserve and maintain the historical, architectural and aesthetic character and condition of the exterior of the building located at \_\_\_\_\_ [municipal address], as set out in the Statement of Reasons for Designation recited in Schedule "S" attached hereto;

**AND WHEREAS** the Council of the City, pursuant to the *Ontario Heritage Act*, R.S.O.1990, Chapter 0.18, has approved a Heritage Grant in the amount of \_\_\_\_\_ [amount] DOLLARS for \_\_\_\_\_ [restoration description]

**AND WHEREAS** pursuant to Section 37(1) of the *Ontario Heritage Act*, R.S.O. 1990, Chapter 0.18, the City is authorized to enter into easements or covenants with owners of real property, or interests therein, for the conservation of buildings of historic or architectural value or interest;

**AND WHEREAS** the Council of the \_\_\_\_\_ [name of municipality] has recommended entering into this Agreement for the conservation of the building located on the property known municipally as \_\_\_\_\_ [municipal address];

**NOW THEREFORE THIS AGREEMENT STATES** that in consideration of the sum of One (\$1.00) Dollar of lawful money of Canada paid by the City to the Owner (receipt thereof is hereby acknowledged), the parties hereto agree to abide by the following covenants which shall run with the real property forever:

1.0 PRESERVATION AND REPAIR

1.1 Owner agrees to preserve and maintain, at all times, except to the extent the parties may otherwise from time to time mutually agree in writing, the exterior of the Building located at \_\_\_\_\_[municipal address], more particularly described in Schedule "A" attached hereto.

1.2 The Owner agrees to maintain the Building in as good and sound state of repair as a prudent owner would normally do, so that no deterioration in the present condition and appearance of the exterior of the Building shall take place.

1.3 The Owner agrees not to alter, remove, change in any manner, or do any act to the Building which detracts from or is inconsistent with any provision of this Agreement or the Statement of Reason for Designation attached as Schedule "B", without prior written consent of the Council of the City.

1.4 The Owner agrees not to proceed with any demolition of, or construction to, the Building without prior written consent of the Council of the City.

2.0 INSURANCE

2.1 The Owner shall, during the period of this Agreement, provide and maintain adequate All Risk Property insurance coverage to a limit, which will effect the replacement and restoration of the heritage building. Such insurance coverage shall include the enactment of applicable by-laws in the event of a loss.

2.2 Evidence of All Risk Property insurance, in the form of a Certificate of Insurance, shall be provided to the City prior to the signing of the Agreement. If requested by the City, a certified copy of the insurance policy must be provided. The Owner shall notify the City, as soon as possible, if the policy or policies are cancelled or changed.

2.3 The \_\_\_\_\_ [name of municipality] shall have the privilege to request the Owner to obtain a "Certified Building Appraisal" to confirm the replacement cost of the Heritage Building, excluding land. The cost of the appraisal is the responsibility of the Owner and must be performed by a competent licensed appraiser or contractor, architect, engineer, etc.

2.4 The Owner agrees that all proceeds receivable by the Owner under the insurance policy, described in paragraph 2.1, must be applied to the replacement, rebuilding, restoration or repair of the Building in a manner consistent with the heritage aspects of the Building and the Statement of Reasons for Designation attached hereto as Schedule "B", unless written approval to the contrary has been received from the Council of the City pursuant to the Ontario Heritage Act, R. S.O.1990, Chapter 0.18. Replacement, rebuilding, restoration or repair shall not be undertaken without the prior written consent of the Council of the City.

### 3.0 RECTIFICATION OF BREACH

3.1 The parties agree that in the event of a breach of the provisions herein contained, the aggrieved party(ies) shall give written notice of the breach to the party(ies) committing the breach, requesting rectification thereof within a reasonable period of time, and, in default of rectification, the aggrieved party(ies) may proceed to enforce compliance with the provisions in any manner it may deem appropriate in accordance with the law, at the cost and expense of the defaulting party(ies).

### 4.0 NON-LIABILITY OF MUNICIPALITY

4.1 The City shall not be held liable for any damage to the building located on the said property known municipally as \_\_\_\_\_ [municipal address] that may result from the operation of this Agreement save and except for any such liabilities or claims for or in respect of any act or deed done by the City, its agents or servants pursuant to paragraph 3.1 of this Agreement.

5.0 GENERAL PROVISIONS

5.1 The parties agree that where there is a conflict between the provisions of this Agreement and any provision of section 33 or 34 of the Ontario Heritage Act R.S.O,1990, Chapter 0.18, or any amendment or statute substituted therefor, the provisions of this Agreement shall prevail.

5.2 This Agreement shall apply to and be binding upon the property known municipally as \_\_\_\_\_[municipal address], in the \_\_\_\_\_ [name of municipality],

5.3 This Agreement and every provision herein contained shall be to the benefit of and be binding upon the parties hereto and their respective successors and assigns, and shall hereinafter form part of the legal and equitable interests in the said property known municipally as \_\_\_\_\_[municipal address].

6.0 USE OF PROPERTY

6.1 The owner expressly reserves for herself, her representatives, heirs, executors, administrators, successors and assigns, as the case may be, the right to continue the use of the Property for all purposes not inconsistent with this Agreement.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement.

**SIGNED, SEALED AND DELIVERED** ) \_\_\_\_\_ (name)  
 )  
 )  
 ) \_\_\_\_\_  
 ) Name and Title  
 )  
 ) \_\_\_\_\_  
 ) Name and Title  
 )  
 ) (NAME OF MUNICIPALITY)  
 )  
 )  
 ) \_\_\_\_\_  
 ) \_\_\_\_\_, MAYOR  
 )  
 ) \_\_\_\_\_  
 ) \_\_\_\_\_, CITY CLERK

**SCHEDULE "A"**

**DESCRIPTION OF THE PROPERTY**

**SCHEDULE "B"**

**STATEMENT OF REASONS FOR DESIGNATION**