

Equipment Co-ownership Agreement
between
Des Moines Lake Association
and
Long Lake Property Owners Association

This document memorializes a co-ownership agreement effective the 26 day of May, 2024, by and between the parties including the Des Moines Lake Association as one co-owner and Long Lake Property Owners Association as another co-owner in Schedule A below (hereafter, the “Co-owners”).

Article 1 - The Equipment

The persons or organizations above elect to co-own, with a right of survivorship, the decontamination station equipment listed in Schedule B below (hereafter, the “Equipment”).

Article 2 – Term of the Agreement

This Equipment Co-ownership Agreement commenced on May 26, 2024, and shall continue until termination by mutual written consent of the Co-owners or as required by the terms of this Agreement.

Article 3 – Contributions to the Co-ownership and Distributions

- 1) Each of the Co-owners has contributed capital (“Capital Contribution”) to the Co-ownership in the form of equal amount of cash, representing each Co-owner’s fifty (50) percent Equity (“Equity”) in the Equipment. Each Co-owner’s name, address, Capital Contribution and Equity is listed in Schedule A attached hereto.
- 2) The value of any other funds or assets of the Co-ownership, not directly related to the operation and ownership of the Equipment listed in Schedule B shall NOT be included in calculating a Co-owner's Financial Account and shall be accounted for in a separate set of books and accounts.
- 3) Contributed capital does not include monies received via grant funding.

Article 4 – Co-ownership Expenses

- 1) Co-ownership Expenses are the equal responsibility of the Co-owners and shall include, but not be limited to, electricity, water supply, replacement parts, safety equipment and propane.
- 2) Each party to this Agreement is responsible for fifty percent (50%) of the Co-ownership expenses. Co-ownerThe parties will open a joint checking account for the purpose of paying all expenses and purchases under this agreement. All expenses and purchases under this agreement must be paid from this joint account. This account will be funded by quarterly assessments to the Co-owners. Notice of assessments will be communicated to the Co-owners by the first day of each calendar quarter. Payments of assessments are due within 30 days of assessment notice.Co-owner payments in the form of labor or property, in lieu of cash, shall not be permitted unless by mutual written consent.
- 3) Operating Expenses are not to exceed \$3,500 annually, whereas the Co-owners will be responsible for \$1,750 each.

Article 5 – Equipment Use Restrictions

The parties shall use the Equipment solely for the purpose of decontaminating watercraft, and in accordance with any DNR grant requirements, and for no other use, except upon the prior written approval of each Co-owner. The Equipment shall not be leased or loaned to any third-party without the prior written approval of each Co-owner.

Article 6 – Delinquencies

- 1) A delinquency will occur when any Co-owner fails to pay an assessment in full by the due date described herein. Any Co-owner delinquent in the payment of charges or costs/fees arising out of the terms of this Agreement (hereinafter, “Payment Obligation”), whether for fixed, operating or other expenses or assessments mutually agreed to by the Co-owners, shall be provided written notice of said delinquency. Any delinquency lasting more than thirty (30) days from the date of delivery of notice of said delinquency shall, until the delinquency is cured, result in suspension of the delinquent Co-owner’s rights as well as their association’s right to possession and use of the Equipment. Any delinquency that continues thereafter for an additional period of thirty (30) days shall be considered a default and the delinquent Co-owner a Defaulting Co-owner.

Article 7 – Uncured Default and Expulsion

- 1) Any Co-owner in default of any of the terms of this Agreement shall be considered a Defaulting Co-owner and shall be provided notice of such status. Any default that is not cured by the Defaulting Co-owner within thirty (30) days after written notice of such default has been delivered shall be considered an Uncured Default.
- 2) Any Uncured Default shall entitle Co-owners who are not in default to initiate Involuntary Dissolution proceedings. In this event, the dissolution shall be considered involuntary, and the non-defaulting parties shall be the Remaining Co-owner, and the Co-owner who is in default shall be the Retiring Co-owner.

Article 8 – Voluntary Dissolution and Liquidation of Equipment

- 1) The Co-ownership may be dissolved upon mutual consent and shall be dissolved and terminated upon any agreement of the remaining or surviving Co-owners to exercise the option to sell, in its entirety, the Equipment listed in Schedule B to this Agreement and granted under this provision.
- 2) Upon dissolution and termination, the Co-owners shall promptly sell the Equipment, giving first right of refusal to one association or the other, then to the Webb Lake Township, or liquidate the Equipment and wind up the affairs of the Co-owners by satisfying all debts and obligations of the Co-ownership. To the extent this Agreement is being dissolved as a result of a default of a party to this Agreement, then the non-defaulting party shall have the first option to purchase the Equipment. The non-defaulting party shall exercise this option by providing written notice to the defaulting party of its election to purchase the Equipment within thirty (30) days of any signed document dissolving this Agreement. Should the non-defaulting party either waive its right to purchase the Equipment, or fail to elect its option to purchase the equipment within the time frame set forth herein, then the defaulting party shall have thirty (30) days to provide written notice to the non-defaulting party of its election to purchase the Equipment. If both parties elect not to purchase the Equipment, then they shall provide Webb Lake Township thirty (30) additional days in which to elect to purchase the Equipment. If Webb Lake Township fails to purchase the Equipment, then the Equipment shall be sold.
- 3) Co-owners must ensure they are compliant with the Wisconsin DNR disposition procedures for supplies, equipment, and capital assets purchased with grant funds.

Article 9 – Liquidation Sale Price

- 1) No sale of the Equipment in its entirety shall be for less than the combined value of all the Equipment without the mutual and written consent of the Co-owners.

- 2) If mutual agreement between the Co-owners cannot be reached as to a sale price, then the provisions of ARTICLE 18, "Arbitration," shall apply.

Article 10 – Voluntary Withdrawal

- 1) A Co-owner may withdraw from the Co-ownership upon the sixty first (61st) day after the remaining Co-owners receive written notice of the retiring Co-owner intent to withdraw, unless an alternate effective date is established by mutual consent of the remaining Co-owners (the “Effective Withdrawal Date”).

Article 11 – Officer and Board Liability and Indemnification

To the fullest extent allowed by law, no lake association board member, volunteer, employee, or agent of the Co-ownership is personally liable for acts or omissions in providing services on behalf of the Co-owners. Each lake association board member, volunteer, employee, or agent of the Co-ownership is liable for his or her willful misconduct and knowing violations of criminal law.

The Co-owners agree to indemnify and hold harmless any board member, volunteer, employee or agent of the lake associations who was providing services under this Co-ownership Agreement from and against any and all claims, losses, actions, damages, liabilities and expenses in connection with loss of life, personal injury and/or damage to the property arising from or out of any occurrence in performing duties under this Co-ownership Agreement (including, but not limited to, attorneys’ fees and disbursements). The person to be indemnified must notify the Co-owners of any pending or threatened claim so as to allow the Co-owners to retain counsel satisfactory to Co-owners to defend against any said pending or threatened claim. If the person to be indemnified fails to notify the Co-owners until after the completion of any claim, then the Co-owners shall have no duty to indemnify said person. This indemnification is not exclusive of any other rights, if any, to which the lake association board member, volunteer, employee or agent is entitled to under any bylaw, agreement, vote of the association boards or otherwise.

Article 12 – Equipment Board Meetings, Management and Administration

- 1) Meetings of Co-owners listed in this Agreement shall be held at least one (1) time each year or more often as agreed by the Co-owners. Meetings may be held by internet, phone or in person, with notice of the time and place of each meeting to be provided by the Administrator to the other Co-owners at least thirty (30) days prior to such a meeting. Special meetings may be called by the Administrator on such notice as he/she may deem necessary for the continued welfare of the Equipment but with a minimum of fifteen (15) days notice.

- 2) A minimum of four (4) Co-owners from each lake association, 8 total, shall be present at each regular meeting or special meeting to constitute a quorum for the transaction of official business of the Co-ownership, with decisions requiring mutual consent to be communicated in writing to Co-owners not present for their vote. Co-owners need not be present at a duly held meeting of the Co-ownership and instead one Co-owner can provide notice of proposed action(s) of the Co-ownership for vote, and the non-attending Co-owner shall respond within fifteen (15) days of the date of delivery of such notice or else be deemed to have consented to such proposed action(s). Any meetings can be done in person, telephonically or electronically.
- 3) Each Co-owner in good standing shall have an equal vote in the affairs of the Co-ownership. In the event of a tie vote, the outcome shall be determined by Arbitration per Article 17 below.
- 4) The Co-owners may designate board members with specific roles, including, but not limited to:
 - a. Administrator and Chair: coordinating and preparing for board meetings including scheduling meetings, preparing agendas, and managing board materials – among other tasks. Manage the Co-ownership under this Agreement, and delegate such ministerial authority as the Co-owners deem appropriate.
 - b. Vice Chair - Assist chair with responsibilities. Reporting of pertinent information to DNR through SWIMS portal.
 - c. Secretary: assist with meeting agendas, minutes, maintains records, assists in chair responsibilities as needed.
 - d. Treasurer: budgeting, administrating finances, AP/AR, forecasting and reporting.
 - e. Operations Manager: in charge of maintenance and operation of the Equipment.
 - f. Training Manager: responsible for training staff and volunteers.
- 5) Except as otherwise stated in this Agreement, decisions regarding the operation of the Equipment shall be made by mutual consent.
- 6) A Treasurer shall be selected by mutual consent of the Co-owners. The Treasurer shall maintain possession of the books and records of the Equipment and shall perform the necessary administrative accounting functions. In addition to selecting a Treasurer, the Co-owners may hire a professional accountant.
- 7) Complete accounting records of all Equipment's affairs shall be kept and shall be open to review by the other Co-owners upon reasonable request. Copies of registration certificates, bills of sale, or any other documentation relating to the

Equipment and its ownership, shall be maintained by the Treasurer and made available to the other Co-owners at any reasonable time and upon reasonable notice.

Article 13 – Notices

Notification of matters (“Notice”) relating to this Agreement are to be in writing and may be served personally on the Co-owner(s), by certified mail or by electronic communication to the contact information to the address or contact information listed in Schedule A.

The Co-owners shall give notice of any change of address or electronic contact to each other within five (5) days of such change. If notice is given by U.S. mail, it shall be considered served three (3) days after its deposit, postage prepaid, at any official United States Postal Service office location.

Article 14 – Restriction of Co-owners

No Co-owner, without the consent of the other Co-owners shall:

- 1) Sell, assign, hypothecate, encumber or pledge his/her Equity in any of the co-ownership Equipment, except as provided for in this agreement;
- 2) Borrow or lend money on behalf of the Co-ownership;
- 3) Transfer, sell, consign or grant release of any claim of the Co-ownership or consent to arbitration on any dispute involving the Co-ownership;
- 4) Use the Equipment or identification of the Co-ownership for any purpose other than that provided for herein; or
- 5) Commit an act detrimental to any Co-ownership activity which would make it difficult or impossible to continue conduct of the Co-ownership's stated objectives.

Article 15 – Rules and Regulations

The Equipment shall at all times be operated and maintained in accordance with all applicable Regulations and requirements of duly constituted authority. Any deficiencies which cause any civil penalties to be levied shall be borne by the person responsible for the violation. In the event that the violation is not directly attributable to the responsibility of one of the Co-owners, the cost shall be borne equally by all Co-owners.

Any Co-owner finding the Equipment's condition or deficiency that presents a significant risk of bodily injury or damage to the Equipment shall have the right and duty to declare

the Equipment disabled and incapable of further operation until the condition is remedied. The condition or deficiency shall immediately be reported to the Co-owner in charge of maintenance as well as other Co-owners.

Article 16 – Amendments

No alteration, amendment, change or addition to this Co-ownership Agreement shall be binding upon either party unless reduced to writing and signed by each party.

Article 17 – Arbitration

If any dispute arises under or by virtue of any of the terms of this Agreement and which the Co-owners cannot resolve, the Co-owners shall submit the dispute to arbitration pursuant to the rules regulations of the American Arbitration Association. Judgment may be entered into in any court of competent jurisdiction upon the rendition of any final decision by the arbitrators.

Article 18 – Equipment Insurance

Liability insurance in the amount of not less than \$1 million per person and \$1 million per occurrence shall be procured by Treasurer from a carrier specializing in equipment insurance. All parties, including both Co-owners, their officers, directors and volunteers are required to be covered under this insurance policy. The policy is to be reviewed and approved during Co-owners meeting before the Treasurer procures the policy.

Article 19 – Normal Equipment Damage

Damage to the Equipment due to unforeseeable and unexpected mechanical break-down, such that is caused by normal wear and tear, shall be the joint responsibility of all Co-owners.

Article 20 – Additional Equipment

The Co-owners may, by mutual agreement in writing, add additional parts or mechanisms to the Equipment or support inventory.

Article 21 – Severability

If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to

the maximum extent permissible so as to not affect the intent of the parties, and the remainder of this Agreement will continue in full force and effect. Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. This Agreement has been negotiated by the parties and their respective counsel and will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party.

Article 22 – Binding Effect

This Agreement shall be binding upon the parties and their respective heirs, legal or estate representatives, successors and/or assigns.

In AGREEMENT THEREOF the Co-owners have signed this Agreement the day and year first executed on Page 1 of this Agreement and are:

| | | |
|--------------------|------------------------|----------------|
| <u>Amy Jones</u> | <u>DMCA President</u> | <u>5-26-24</u> |
| Co-owner Name | Co-owner Title | Date |
| <u>Ry K</u> | <u>DMCA V.P.</u> | <u>5-26-24</u> |
| Co-owner Name | Co-owner Title | Date |
| <u>Dan Let</u> | <u>LLPOA President</u> | <u>5-26-24</u> |
| Co-owner Name | Co-owner Title | Date |
| <u>Mark Michel</u> | <u>LLPOA V.P.</u> | <u>5-26-24</u> |
| Co-owner Name | Co-owner Title | Date |

SCHEDULES SECTIONS TO BE COMPLETED ONCE SYSTEM IS BUILT AND OPERATIONAL

SCHEDULE A

SCHEDULE OF CO-OWNERS

| Name | Address | Electronic Contact | Capital Contribution |
|-------------|----------------|-------------------------------|---------------------------------|
| | | | |
| | | | |
| | | | |

SCHEDULE B

EQUIPMENT INVENTORY

| Purchase Date | Make/ Model | Serial Number | Registration Number | Additional Description/ Maintenance requirements |
|----------------------|--------------------|----------------------|----------------------------|---|
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SCHEDULE C

EQUIPMENT USE MANUAL

A) Operating Expenses and Equipment Use Charges

i.) Operating Costs are the responsibility of the Co-owners and shall include, but not be limited to [e.g., *electric, water supply, etc.*].

ii.) All Operating Expenses shall be paid by Co-owners proportionate to each Co-owner's percentage of fifty (50) percent.

B) Equipment Basing and Maintenance

1) Each Co-owner has the right to possession but NOT exclusive use of the Equipment for the same percentage of the days in a year, less maintenance down time.

2) Scheduling of the Equipment's maintenance will be as follows:

- a. [Date] through [Date]
- b. through
- c. through

d. Repair/replacement and regularly schedule maintenance shall be performed by the individual listed for each piece of equipment:

| EQUIPMENT | INDIVIDUAL RESPONSIBLE FOR MAINTENANCE | MAINTENANCE DUTIES |
|-----------|--|--------------------|
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