

THE RURAL MUNICIPALITY OF WHITEMOUTH

BY-LAW NO. 692/19

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEMOUTH TO AUTHORIZE THE ENTERING INTO AND EXECUTION OF AN AGREEMENT WITH THE RURAL MUNICIPALITY OF LAC DU BONNET TO PURCHASE WATER FROM THE RURAL MUNICIPALITY.

WHEREAS Section 250(2) of Part 8, Division 1 of The Municipal Act provides in part as follows:

250(2) Without limiting the generality of subsection (1), a municipality may for municipal purposes do the following:

- (d) enter into agreements with a person, with an agency of the Government of Manitoba or the Government of Canada, or with another municipality, including a municipality in another province, to do with or on behalf of the municipality anything the municipality has the power to do within the municipality;

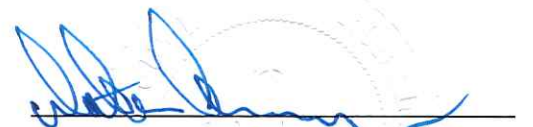
AND WHEREAS it is deemed expedient and in the best interests of the residents of The Rural Municipality of Whitemouth that The Rural Municipality of Whitemouth enter into an agreement with The Rural Municipality of Lac du Bonnet to purchase water from The Rural Municipality of Whitemouth;

AND WHEREAS the terms of the agreement have been settled and are contained in the agreement attached hereto as Schedule "A";


NOW THEREFORE BE IT AND IT IS HEREBY ENACTED that the Council of The Rural Municipality of Whitemouth, duly assembled, enact as follows:

1. **THAT** the entering into the proposed Agreement attached hereto as Schedule "A" is hereby approved and authorized.
2. **THAT** the Reeve and the Chief Administrative Officer of The Rural Municipality of Whitemouth are hereby authorized and instructed to execute the agreement, as set out in Schedule "A" attached hereto, for and on behalf of the Municipality.

DONE AND PASSED by the Council of The Rural Municipality of Whitemouth in regular session assembled, this *23rd* day of *April*, AD., 2019.



Reeve



Colleen Johnson
Chief Administrative Officer

Read a first time this *9th* day of *April*, AD., 2019
Read a second time this *9th* day of *April*, AD., 2019
Read a third time this *23rd* day of *April*, AD., 2019

Water Supply and Sale Agreement

THIS AGREEMENT made as of the 15 day of April, A.D. 2019.

BETWEEN:

THE RURAL MUNICIPALITY OF WHITEMOUTH
a municipal corporation in the Province of Manitoba
("Whitemouth")

- and -

THE RURAL MUNICIPALITY OF LAC DU BONNET
a municipal corporation in the Province of Manitoba
("Lac du Bonnet")

WHEREAS Whitemouth owns and operates a Potable Water System (WWDS) which includes a water intake, water treatment plant / reservoir, pumping and distribution system;

AND WHEREAS Lac du Bonnet desires to obtain from Whitemouth a Potable Water supply;

AND WHEREAS Whitemouth and Lac du Bonnet, under s. 250(2) of *The Municipal Act*, of Manitoba C.C.S.M. c. M225, as amended from time to time, are empowered to contract with another municipality for the supply of municipal services including Potable Water;

AND WHEREAS Lac du Bonnet will distribute Potable Water to its residents and requires an adequate supply of Potable Water for that purpose and has received an Environmental Act License from Manitoba Water Stewardship Department of Conservation for those purposes;

AND WHEREAS the Council of Lac du Bonnet, by resolution, has confirmed it is in the best interest of its Ratepayers to provide a Capital Contribution of \$3,000.00 for each individual hook up (residential or commercial) in Lac du Bonnet to secure from Whitemouth 160 Cubic Meters of water per day (58,400 Cubic Meters per year) to accommodate the needs of the Ratepayers of Lac du Bonnet and have authorized its Administration to complete an agreement with Whitemouth for the supply of Potable Water on the terms set out herein;

AND WHEREAS Whitemouth has determined that it is in the best interest of Whitemouth and its Ratepayers to supply water to Lac du Bonnet and have authorized, by resolution, its Administration to complete an agreement with Lac du Bonnet for the supply of Potable Water on the terms set out herein;

NOW THEREFORE IN CONSIDERATION OF the hereinbefore recited premises and mutual covenants of the parties, **THIS AGREEMENT WITNESSETH THAT THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:**

ARTICLE 1 DEFINITIONS

1.01 **IN THIS AGREEMENT, RECITALS AND SCHEDULES** these terms shall have the meaning prescribed:

- (a) **"Agreement"** means this Water Supply and Sale Agreement including the Recitals and all Schedules attached;
- (b) **"Capital Contribution"** shall mean the money collected by Lac du Bonnet from each connection and paid to Whitemouth to secure the supply of 160 Cubic Meters of water per day or 58,400 Cubic Meters per year and as calculated under Schedule "A";
- (c) **"Cross Connection"** means any temporary, permanent or potential water connection to any other source whatsoever and that allows or may allow backflow to occur;
- (d) **"Designated Officer(s)"** shall mean the C.A.O or other Utility Manager for Whitemouth or Lac du Bonnet or any person appointed as the Designated Officer by either party;
- (e) **"Dispute"** means a dispute arising between the parties in relation to any matter arising hereunder other than the payment of invoices by Lac du Bonnet. All rate charges shall be dealt with in accordance with the PUB.
- (f) **"Emergency"** means an event that requires prompt coordination of action or special regulation of persons or property to protect the safety, health or welfare of people or to limit damage to property;
- (g) **"Lac Du Bonnet Tie in Point"** shall mean the point as set out in Schedule "C" as the connection point between the WWDS and LBWDS and includes the Municipal Water Meter;
- (h) **"Lac du Bonnet Water Distribution System" or "LBWDS"** shall mean all infrastructure for water distribution installed by Lac du Bonnet and in Lac du Bonnet and connected to the Whitemouth Water Distribution System at the

Lac du Bonnet Tie-In Point and as identified in the engineering plans of the Manitoba Water Services Board;

- (i) **"Lac du Bonnet Water Line"** means the water line connected to the WWDS at the Lac du Bonnet Tie-In Point and located in, and owned by, Lac du Bonnet;
- (j) **"Municipal Booster Station"** shall mean the building and infrastructure owned by Lac du Bonnet which houses the booster station and located as set out on Schedule "C";
- (k) **"Municipal Water Meter"** shall mean the building and the device(s) installed at the Lac du Bonnet Tie in Point, within the jurisdiction of Lac du Bonnet, and which measures, on a minimum of a monthly basis, the quantity of water used by Lac du Bonnet's Ratepayers, and which includes the remote-reading device known as SCADA;
- (l) **"Notice"** means notice provided under the terms of Section 14.07;
- (m) **"Party/Parties"** means Whitemouth and/or Lac du Bonnet;
- (n) **"Potable Water"** means water which originated from a source connected to the WWDS and is suitable for human consumption under the Office of Drinking Water regulatory requirements;
- (o) **"Public Utilities Board of Manitoba" or "PUB"** is an independent, quasi-judicial administrative tribunal that has broad oversight and supervisory powers over public utilities and designated monopolies, as set out in *Public Utilities Board Act*, C.C.S.M. P280;
- (p) **"Ratepayer(s)"** shall mean ratepayers of each municipality over which that municipality shall be responsible for and service;
- (q) **"Term"** means the duration of this Agreement as set out in Article 6;
- (r) **"Water Flow Rate"** means 160 Cubic Meters of water per day or 58,400 Cubic Meters per year or approximately 18% of the present capacity of the WWDS as at the date of this Agreement;
- (s) **"Water Supply"** means the supply of Potable Water delivered to Lac du Bonnet from WWDS;
- (t) **"Water Volume"** means the water that passes through the Municipal Water Meter measured in cubic meters (m³);
- (u) **"Whitemouth Water Distribution System" or "WWDS"** shall mean the entire infrastructure owned by Whitemouth to deliver Potable Water and includes the water distribution lines;

- (v) **"Whitemouth Water Line"** means the water line connecting the WWDS to the Lac du Bonnet Tie-In Point and located in, and owned by, Whitemouth;
- (w) **"Whitemouth Water Rates"** shall mean the cost per M³ as set by the Public Utility Board of Manitoba and allowed to be charged by Whitemouth for the supply of water as set out in the Schedule "B" or as amended by Whitemouth through a rate review application and by a board order of the Public Utilities Board of Manitoba.

ARTICLE 2 APPROVALS

- 2.01 Whitemouth represents that it has obtained or will obtain any necessary approvals (if any) including but not limited to approvals from the Provincial Departments of Sustainable Development and Municipal Relations and any other Federal, Provincial or Municipal government department or agency that approvals are required from for Whitemouth to provide the Water Supply to Lac du Bonnet under this Agreement.
- 2.02 Lac du Bonnet represents that it has obtained or will obtain any necessary approvals (if any) including but not limited to approvals from the Provincial Departments of Sustainable Development and Municipal Relations and any other Federal, Provincial or Municipal government department or agency that approvals are required from to receive the Water Supply from Whitemouth under the terms of this Agreement.

ARTICLE 3 OWNERSHIP, MAINTENANCE, OPERATIONS AND ACCESS

3.01 Ownership

- (a) Whitemouth shall retain ownership of the WWDS and the lines servicing their clients past the Municipal Booster Station up to the Lac Du Bonnet Tie-In Point;
- (b) Lac du Bonnet shall retain ownership of the LDBWDS;
- (c) Lac du Bonnet shall pay for the installation of the Municipal Water Meter and shall own the Municipal Water Meter;
- (d) Lac du Bonnet shall pay for the installation of the Municipal Booster Station and shall own the Municipal Booster Station.

3.02 Maintenance

- (a) Whitemouth shall maintain, keep, and service in good repair, the WWDS inclusive of the lines from the Municipal Booster Station servicing its

Ratepayers up to the Lac du Bonnet Tie-In Point under the laws and regulations and its applicable internal policies;

- (b) Lac du Bonnet shall maintain, keep, and service in good repair, the LBWDS, the Municipal Booster Station (and infrastructure including the housing building) and the Municipal Water Meter under the laws and regulations and its applicable internal policies;
- (c) For the purpose of this subsection 3.02(a) and (b), "maintain, keep, and service in good repair" shall be deemed to include, without limitation, the obligation to restore where damage or destruction has occurred;
- (d) Whitemouth shall in the case of maintenance and repairs, alterations, renewals, additions or changes (Alterations) to the WWDS where such Alterations are reasonably anticipated to cause a disruption or disturbance to the service to Lac du Bonnet or in the case of maintenance, repairs, alterations, renewals, additions or changes to the WWDS where such Alterations would reasonably be expected to be communicated to Lac du Bonnet's Designated Officer, provide fifteen (15) days written notice, either by email with acknowledgement of receipt or delivered in person to the Designated Officer of Lac du Bonnet prior to carrying out any such Alterations;
- (e) In the event of Whitemouth declaring an Emergency, Whitemouth shall as soon as is practical, provide verbal notice of the Emergency to the Designated Officer of Lac du Bonnet, and undertake any emergency repairs to the WWDS. Written updates of the Emergency shall be provided to Lac du Bonnet's Designated Officer by Whitemouth immediately after the Emergency has passed, and/or as soon as is reasonably possible;
- (f) Lac du Bonnet shall in the case of maintenance and repairs, alterations, renewals, additions or changes (Alterations) to the LDBWDS where such Alterations are reasonably anticipated to cause a disruption or disturbance to the service from WWDS or in the case of maintenance, repairs alterations, renewals, additions or changes to the LDBWDS where such Alterations would reasonably be expected to be communicated to Whitemouth's Designated Officer, provide fifteen (15) days written notice, either by email with acknowledgement of receipt or delivered in person to the Designated Officer of Whitemouth prior to carrying out any such Alterations;
- (g) In the event of Lac du Bonnet declaring an Emergency, Lac du Bonnet shall as soon as is practical, provide verbal notice of the Emergency to the Designated Officer of Whitemouth, and undertake any emergency repairs to the LDBWDS. Written updates of the Emergency shall be provided to Whitemouth's Designated Officer by Lac du Bonnet immediately after the Emergency has passed, and/or as soon as is reasonably possible;
- (h) If a leak is detected in the LDBWDS, Whitemouth has the right to limit the Water Flow Rate of water or stop the water supply until such leak is repaired to the satisfaction of Whitemouth.

3.03 Operations

- (a) Whitemouth shall, at its own risk, be responsible for the control and operation of the WWDS and all necessary alterations, renewal, additions, repairs and changes to the WWDS;
- (b) Lac du Bonnet shall, at its own risk and expense, be responsible for the control and operation of the LDBWDS, the Lac du Bonnet Water Line and all necessary alterations, renewal, additions, repairs and changes to the Lac du Bonnet Water Line including the Municipal Booster Station and the Municipal Water Meter.

3.04 Right to Connect

- (a) Whitemouth hereby grants to Lac du Bonnet a right and license for Lac du Bonnet to connect to the WWDS and Whitemouth Water Line for the purpose of connecting each of Lac du Bonnet Ratepayers (as determined by Lac du Bonnet and subject to the limits within this Agreement) to a residential or commercial water connection at no cost to Whitemouth;
- (b) Lac du Bonnet shall be solely responsible for carrying out the connection and collecting the Capital Contribution charge from its Ratepayers.

ARTICLE 4 RIGHTS OF ACCESS AND EASEMENT

4.01 Easement

Whitemouth agrees that by entering into this Agreement they will provide a right of easement and/or rights-of-way as are necessary to allow Lac du Bonnet to operate and maintain the Municipal Booster Station and any Lac du Bonnet infrastructure in Whitemouth.

ARTICLE 5 SUPPLY OF POTABLE WATER

- 5.01 In consideration of Lac du Bonnet paying a Capital Contribution from their Ratepayers as set out in Schedule "A", Whitemouth will supply 160 Cubic Meters per day or 58,400 Cubic Meters per year of Potable Water to Lac du Bonnet for their Ratepayers.
- 5.02 Subject to Article 5.05, Lac du Bonnet shall only be entitled to 160 Cubic Meters of Potable Water per day or an annual volume of 58,400 Cubic Meters per year ("Maximum Withdrawal");

- 5.03 The Capital Contribution shall be limited to the amounts as set out in Schedule "A" and Lac du Bonnet shall not be liable to Whitemouth for Capital Improvements for expansions, or upgrades which will increase the physical size or capacity of the water treatment plant.
- 5.04 Whitemouth shall guarantee an operating pressure of 45 pounds per square inch up to the Lac du Bonnet Tie-in Point.
- 5.05 No increase in Maximum Withdrawal:
- (a) In the event of use that exceeds the Maximum Withdrawal, as determined using the meter readings reflecting the average weekly consumption of the Lac du Bonnet Ratepayers, Lac du Bonnet will be levied a penalty of 50% of the current charge per cubic meter over the Maximum Withdrawal. This penalty will be charged to the quarterly invoice of Lac du Bonnet;
 - (b) If Lac du Bonnet can provide evidence satisfactory to Whitemouth that the consumption exceeding the Maximum Withdrawal resulted from an Emergency or leak repaired, Lac du Bonnet shall receive a rebate from Whitemouth equal to any penalty paid during that period for that over-consumption.

ARTICLE 6 TERM, RENEWAL, AND PENALTY

- 6.01 The Term of this Agreement shall be from the Effective Date for twenty (20) years subject to renewal or termination as provided for herein.
- 6.02 At the option of either party providing notice to the other at least one (1) year prior to the end of the Term, this Water Supply and Sale Agreement may be renewed and extended for an additional ten (10) years or such other period as the parties may agree, on the same terms as contained herein subject only to the establishment of water rates, determining additional Capital Contributions from Lac du Bonnet or other mutually agreed to items.
- 6.03 Whitemouth may give notice in writing to terminate this Agreement, such termination shall only be for a default or breach of the terms as set out in Article 6.04.
- 6.04 If a default occurs or breach by Lac du Bonnet of this Agreement, Whitemouth may give notice in writing to Lac du Bonnet to remedy the default or breach to the satisfaction of Whitemouth. If Lac du Bonnet shall not have fully remedied the default or breach within such reasonable times as the conditions demand and in any event no less than ninety (90) days, from the time when Whitemouth gave notice, then Whitemouth may forthwith, provided an extension for remedy of the default has not been granted, issue a further notice in writing advising they will:

- (a) restrict the volume of the Water Supply;
 - (b) restrict the Water Flow Rate;
 - (c) compel Lac du Bonnet to renegotiate this Agreement; or
 - (d) terminate this Agreement and discontinue the Water Supply.
- 6.05 Termination of the Agreement will not terminate any payments that have accrued and are due by the date of termination.

ARTICLE 7 RATES, BILLING, AND PAYMENT

- 7.01 Whitemouth is governed by the PUB and agrees to provide Lac du Bonnet with notice of any water rate study and notice of any PUB review of the Whitemouth water rate study. Whitemouth agrees to provide a copy of any water rate study to Lac du Bonnet which was completed by Whitemouth to support any increased rates.
- 7.02 Lac du Bonnet shall pay the Metered Water amount on all Potable Water as set by Whitemouth Water Rate located at Schedule "B", as amended from time to time, through its rate application to the PUB or such rates as set by Whitemouth and for greater certainty such rates will be the same rates as for Ratepayers of Whitemouth subject only to alteration by the PUB as set in a water rate approved by the PUB.
- 7.03 Whitemouth shall issue invoices to Lac du Bonnet on a quarterly basis for water consumption, based on Whitemouth's current billing procedures for its customers. Upon receipt of such invoice, Lac du Bonnet shall, without delay, pay Whitemouth. Overdue invoices shall accrue interest at 1.25% per month.
- 7.04 The Municipal Booster Station shall service Ratepayers of Whitemouth and Lac du Bonnet. Whitemouth agrees to deduct the volume of water consumed by the twenty-four (24) hook ups in Whitemouth from the quarterly invoice sent to Lac du Bonnet.
- 7.05 In the event that maintenance is required to the Municipal Booster Station it is agreed that Whitemouth shall pay Lac du Bonnet a percentage of the maintenance cost based on the yearly prorated cubic meter usage of the Ratepayers directly benefitting from the Municipal Booster Station. For greater clarity:
- (a) Lac du Bonnet's yearly cubic meter usage of water shall be determined;
 - (b) Whitemouth's Ratepayers who benefit from the Municipal Booster Station (approximately 24 connections at the time of this Agreement) yearly cubic meter usage shall be determined;

- (c) The yearly prorated cubic meter percentage shall be determined for Lac du Bonnet and Whitemouth. Lac du Bonnet and Whitemouth shall each pay their prorated percentage of the maintenance of the Municipal Booster Station.
- 7.05 Lac du Bonnet shall pay Whitemouth a Capital Contribution of \$3,000.00 (three thousand dollars) for each residential or commercial connection to the WWDS. Payment of the Capital Contribution charge shall be paid by Lac du Bonnet to Whitemouth within thirty (30) days of each connection.
- 7.06 Lac du Bonnet shall read all water meter readings from the Municipal Water Meter. The readings will be transmitted continuously by wireless infrastructure to the Lac du Bonnet water treatment plant through the SCADA system and totaled over a 24-hour period. Whitemouth may monitor the Municipal Water Meter readings through their own SCADA system.
- 7.07 The charges on the invoices referred to in section 7.03 shall be based upon:
- (a) Whitemouth's Water Rates, and
 - (b) the volume of water that flows through the Municipal Water Meter, and
 - (c) the penalties levied under Section 5.05.

**ARTICLE 8
STANDARDS OF SERVICE, QUALITY ASSURANCE,
WATER VOLUME RATES**

8.01 Water Volume

- (a) Whitemouth shall only be obligated to supply Lac du Bonnet with a maximum Water Volume of 160 Cubic Meters of water per day or an annual volume of 58,400 Cubic Meters per year.
- (b) The specified Water Volume, as referred to in subsection 8.01(a), shall be the maximum Water Supply to be provided for under this Agreement for each year of the Term of this Agreement subject to the provision in subsection 8.01(c).
- (c) Any change to the specified annual Water Volume, as referred to in subsection 8.01(a), shall be made only if approved in writing by Whitemouth. Such changes shall be confirmed with an amendment to this Agreement. Any increases shall not exceed the recommended capacity that the Lac du Bonnet Water Line are designed to safely contain.

8.02 Quality and Pressure

- (a) The water pressure supplied by Whitemouth to Lac du Bonnet at the Lac du Bonnet Tie-in-Point shall be that pressure available in the WWDS or a

minimum of 45 PPSI, whichever is less. Whitemouth shall not be obligated to maintain the minimum pressure at the Lac du Bonnet Tie-in-Point if maintenance of that pressure results in reduction of pressure to any other customer of Whitemouth. Whitemouth shall not be liable to Lac du Bonnet or any of its Ratepayers or any other person obtaining water from Whitemouth for any temporary loss, inconvenience or damages arising from a temporary failure to maintain the water pressure by Whitemouth.

- (b) The quality of the water supplied by Whitemouth to Lac du Bonnet at the Lac du Bonnet Tie in Point shall be that quality available to Whitemouth in the WWDS. Whitemouth shall not be liable to Lac du Bonnet or any person obtaining water from Whitemouth, or any other federal, provincial or municipal government department or agency, as the situation may require, for any defect in the water furnished, or for any change in the water quality so furnished.

8.03 By-laws

- (a) Upon connection to Whitemouth's Water Distribution System, Lac du Bonnet shall comply with and enforce the requirements of any water by-laws set by Whitemouth from time to time relating to obligations of a water customer of Whitemouth as communicated by Whitemouth to Lac du Bonnet (the "Water By-laws").
- (b) Lac du Bonnet will adopt and pass a by-law(s) substantially the same as the Water By-laws to ensure the enforcement of the requirements of Whitemouth.
- (c) Failure to comply with subsection 8.03(a) shall constitute a breach of this Agreement, and Whitemouth may provide notice to Lac du Bonnet to remedy such breach.

8.04 Operating Restraints

- (a) Lac du Bonnet shall not permit any Cross Connections between the WWDS and non-potable sources of water. Lac du Bonnet shall take all reasonable measures to ensure that no contamination, pollutants, foreign matter or like materials shall enter the WWDS or the LDBWDS.
- (b) Whitemouth agrees to allow Lac du Bonnet to provide potable water to the LGD of Pinawa ("Pinawa") provided however such supply of water to Lac du Bonnet shall not exceed the average of 160 Cubic meters per day 58,400 cubic meters per year).
- (c) Lac du Bonnet shall ensure that Pinawa complies with the terms of this Water Supply and Sale Agreement.
- (d) Unless Whitemouth, in its sole discretion, otherwise agrees in writing, Lac du Bonnet and/or Pinawa shall not permit the connection from the WWDS (or any connection) to the Lac du Bonnet Water Line or the Pinawa Water Line to any

other jurisdiction or corporation located outside the Lac du Bonnet and/or Pinawa's boundary.

ARTICLE 9 WATER CONSERVATION AND PLANNING FOR WWDS

- 9.01 Whitemouth in their sole and unfettered discretion, may determine that restrictions on water usage are necessary and may direct Lac du Bonnet to encourage its Ratepayers to voluntarily adopt restrictions or voluntarily impose mandatory restrictions on water usage.
- 9.02 If a Water Conservation Program(s) is adopted by Whitemouth it shall be implemented by Whitemouth and Lac du Bonnet shall implement it as part of their water conservation measures.
- 9.03 Whitemouth may only require Lac du Bonnet or its Ratepayers to implement those restrictions on water usage which are necessary and as imposed on Whitemouth's customers.
- 9.04 Lac du Bonnet shall be invited to participate in meetings scheduled with Whitemouth to discuss population, community growth and water needs of their respective municipalities which will allow Whitemouth to better understand current and future capacity issues and allow for accurate planning. All discussions will be facilitated by Whitemouth. Such discussions shall not obligate Whitemouth to increase the Water Flow Rate.

ARTICLE 10 EMERGENCY AND RISK MANAGEMENT

- 10.01 Whitemouth shall be relieved of all responsibility to provide Lac du Bonnet with a Water Supply if a disruption of service to the WWDS occurs under any circumstances which include, but are not limited to:
 - (a) strikes;
 - (b) electrical outages;
 - (c) breakdown beyond Whitemouth's control of the WWDS or any essential part thereof;
 - (d) repairs and maintenance of the WWDS, the Lac du Bonnet Water Line or any essential part thereof;
 - (e) force majeure.

- 10.02 If any Emergency occurs or other hazard, danger, problem, occurrence or situation attributable to Lac du Bonnet, Lac du Bonnet will try to forthwith and as soon as reasonably possible, remedy and correct such Emergency, hazard, danger, problem, occurrence or situation.
- 10.03 Lac du Bonnet shall participate in ongoing joint emergency planning meetings as scheduled and organized by Whitemouth.

ARTICLE 11 TERMINATION

- 11.01 This Agreement is conditional upon the faithful performance by all parties of all the terms and provisions. Either party may give notice of termination for breach of a material term of this Agreement. The Notice shall specify the breach. For any breach other than payment of amounts due, the matter shall be referred to arbitration under Section 12 if the party receiving the notice has not commenced action to remedy the breach within five (5) business days.
- 11.02 Whitemouth will have the right to shut off service to Lac du Bonnet for non-payment of invoices until payment is received. Whitemouth shall not be liable to Lac du Bonnet for any loss of damages sustained because of the shut off of water service under this clause.
- 11.03 The shut off/discontinuation of the Water Supply may be the subject of the dispute resolution set out in Article 12 of this Agreement.

ARTICLE 12 ARBITRATION

- 12.01 All disputes under this Agreement ("Disputes") shall be determined under this Section, which sets out the sole and exclusive procedure for resolving Disputes.
- (a) On the written request of any of the parties, the parties shall meet and attempt, in good faith, to negotiate a resolution of the Dispute. The meeting (the "Meeting") shall be held at such location as the parties agree to, between a representative of each party with decision-making authority within ten (10) business days of such written request. The party requesting the meeting shall provide enough information to allow the other parties to prepare their respective positions on the matter.
 - (b) If the Dispute has not been resolved within thirty (30) days after the Meeting, or such other period agreed to in writing by the parties, any of the parties may refer the Dispute to arbitration (the "Arbitration Notice").

- (c) If the Dispute is referred to arbitration under an Arbitration Notice, it shall be arbitrated under The Arbitration Act (Manitoba) except to the extent that those provisions are modified by this Section. The parties shall agree upon a single arbitrator or, where they cannot agree on a single arbitrator, the matter shall be referred to a single arbitrator as designated by a judge of the Court of Queen's Bench of Manitoba, upon application of any one of the parties.
- (d) Unless otherwise agreed by the parties, the place of the arbitration shall be in Manitoba and all case conferences and hearings in the course of the arbitration shall take place in Manitoba in the English language. Despite section 28(1) of The Arbitration Act (Manitoba), the arbitrator shall not, without the written consent of both parties, retain any expert.
- (e) Subject to section 43 of The Arbitration Act (Manitoba), all awards of the arbitrator shall be final and binding on the parties, and there shall be no appeal of any such award whatsoever. Each party will proceed in good faith diligently to implement the award or decision of the arbitrator without delay.
- (f) The arbitrator may apportion the legal costs and disbursements of the parties between the parties in such manner as the arbitrator considers reasonable. In determining the allocation of these costs, the arbitrator shall invite submissions as to costs and may consider, among other things, any offer of settlement made by either party during the arbitration. The arbitrator shall be paid its normal professional fees and disbursements for its time and attendance in dealing with the Dispute, which fees and disbursements, unless otherwise directed by the arbitrator under this clause, shall be paid as to one half by one party and as to the other half by the other party.
- (g) Notwithstanding anything contained herein, prior to the delivery of an Arbitration Notice, a party may seek interim, interlocutory or injunctive relief, or an order of specific performance, or other equitable remedies, directly from the Court of Queen's Bench of Manitoba in connection with a Dispute.

ARTICLE 13 INSURANCE

- 13.01 Whitemouth confirms that it maintains casualty insurance, "all risks" property insurance, property insurance, liability insurance and other forms of insurance as would be obtained by a prudent utility and confirms it has added Lac du Bonnet as an Additional Insured.
- 13.02 Lac du Bonnet confirms that it maintains casualty insurance, "all risks" property insurance, property insurance, liability insurance and other forms of insurance as would be obtained by a prudent municipality operating a utility and confirms it has added Whitemouth as an Additional Insured.

**ARTICLE 14
GENERAL**

- 14.01 A waiver by either party hereto of the strict performance of any covenant or provision of this Agreement shall not of itself constitute a waiver of any subsequent breach of such covenant or provision or of any other covenant, or provisions or term of this Agreement.
- 14.02 This Agreement shall not be assignable without the prior written consent of Whitemouth.
- 14.03 Any changes or additions to this Agreement must be agreed upon by both parties and will be added to this Agreement through the process of creating amendments.
- 14.04 Any term, condition or provision of this Agreement which is or is deemed to be void or unenforceable shall be severable from this Agreement without invalidating the remaining terms, conditions and provisions of this Agreement.
- 14.05 The headings of titles to the sections of this Agreement are for convenience of reference only and are not a part of this Agreement and shall not affect the construction of interpretation of any part thereof.
- 14.06 This Agreement and each of its terms and the rights and duties of the parties under this Agreement shall be construed under and in accordance with the law of the Province of Manitoba.
- 14.07 Except if an Emergency occurs, any notice required to be given by the parties under this Agreement shall be sufficiently given if mailed postage prepaid, or delivered to the parties, at their respective address:

The Rural Municipality of Whitemouth
PO Box 248
49 Railway Avenue
Whitemouth, Manitoba R0E 2G0
Attention: Chief Administrative Officer

The Rural Municipality of Lac du Bonnet
4187 PR 117
Lac du Bonnet, Manitoba R0E 1A0
Attention: Chief Administrative Officer

A notice mailed will be considered as having been given at such time as the party to which it is directed would receive it in the ordinary course of mail. Either party may change its mailing/or delivery address by giving written notice of the new address to the other party.

In the event of Emergency, Notice may be made orally or in writing and shall be deemed to have been received by the addressee on the date of delivery if delivered by hand or communicated directly to the Designated Officer.

14.08 This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one instrument. Facsimile and electronically transmitted signatures shall be valid and binding to the same extent as original signatures.

IN WITNESS WHEREOF the parties hereto have caused to be affixed their respective corporate seals attested by the signature of their respective duly authorized signing officers, as of the day and year first above written.

The Rural Municipality of Whitemouth

Per: Reeve

Per: Assistant Chief Administrative Officer

Rural Municipality of Lac du Bonnet

Reeve

Chief Administrative Officer

SCHEDULE "A"
CAPITAL CONTRIBUTION

Capital contribution will be based on a maximum daily use of 160 cubic meters (M³) of water which is approximately 18% of the current system capacity. Project costs associated with supplying water to Lac du Bonnet, are as follows:

Infrastructure	Total Capital Costs per connection	Paid by Lac du Bonnet
Water Treatment Plant, Reservoir, water distribution lines, booster pumps and meters.	\$3,000.00 (per connection)	To be paid by Lac du Bonnet to Whitemouth at the time of connection

SCHEDULE "B"
WATER RATE

- The water rate shall be the rate set by the PUB, as approved by Whitemouth in By-Law No. 140/10, as amended from time to time.
- Rates charged to Lac du Bonnet shall be the same rates as charged to the Ratepayers/customers of Whitemouth, which may be changed from time to time by policies or water rate by-laws set by Whitemouth.
- Lac du Bonnet shall not be entitled to receive a large user discount rate from Whitemouth.

**SCHEDULE "C"
MAP**