

THE RURAL MUNICIPALITY OF WHITEMOUTH

BY-LAW NO. 661/16

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEMOUTH TO AUTHORIZE THE ENTERING INTO AND EXECUTION OF AN AGREEMENT WITH NO LIMITS INTERNET SOLUTIONS INC.

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 No Limits Internet Solutions Inc;

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 2nd day of *November*, AD., 2016.



Reeve

Carol Johnson

Chief Administrative Officer

Read a first time this 26th day of October, AD. 2016

Read a second time this 2nd day of *November*, AD. 2016

Read a third time this 2nd day of *November*, AD. 2016

THIS AGREEMENT made the 2nd day of November, 2016

BETWEEN:

Rural Municipality of Whitemouth

(the "Licensor")

-and-

No Limits Internet Solutions Inc.,

(the "Licensee")

The Licensor is the owner of the Tower the site at 189 Railway Avenue and 199 Railway Avenue (the structure of the "Building");

AND the Licensee is the owner of communication equipment and mounting devices and wishes to place same upon the structure. The Licensor will also have its own communications equipment on the tower.

Both parties agree to the following:

1. Grant of License: The Licensor agrees to allow the Licensee to keep such communication equipment as described in Schedule "A" on the tower. Related equipment that is not on the tower will be located in the adjacent building and no larger than 3 feet by 3 feet with a depth of one foot.
2. Any communications equipment required by the Licensor for related public service such as emergency services or works and operations, may be mounted on the tower providing it does not compromise the integrity of the structure.
3. Equipment used by both parties should not interfere with operation of either party. Any equipment installations must be approved by the Licensor and should not interfere with the Licensor or the Licensee operation.
4. The Licensee will have exclusive rights to the structure for 10 years. Any interested 3rd party wishing to use the structure must be approved by Licensor.
5. In lieu of rent for the duration of this agreement, the Licensee is providing a substantial contribution to the cost of the structure as described in Schedule "B".

The Facilities

6. The Licensor will own the structure and be responsible for its maintenance as required unless delegated to a third party.
7. The Licensor is responsible for maintaining access to site, i.e. snow clearing to tower in winter as needed.
8. Should either party no longer require the usage of the tower structure, the Licensee will at its discretion have the option of removing the structure at no cost to the Licensor to be used elsewhere.

Liability and Indemnification

9. The Licensor shall not be liable for any injury to the Licensee or its personnel or for any damage to, or loss of, property of the Contractor or its Personnel caused by, or in any way related to, the provision of the Internet Services or work required under this Agreement whatsoever, except where the injury, damage or loss is due to the wrongful or negligent act of the Licensor; or
10. The Licensee shall use due care in the performance of its obligations under this Agreement to ensure that no person is injured, no property is damaged or lost, and no rights are infringed.
11. The Licensee shall be solely responsible for:
 - (a) any injury to persons, including death, damage to, or loss of, property, and infringement of rights caused by the breach of any term or condition of this Agreement by No Limits or its personnel or those for whom it is in law responsible; and
 - (b) Any omission or wrongful or negligent act of the Licensee or its personnel or those for whom it is in law responsible.
12. The Licensee shall defend, save harmless and indemnify the Licensor, representatives and assigns from and against all claims, suits, liabilities, losses, damages, and expenses relating to the matters described in section 11 above.

Covenants of Licensor

13. The Licensor agrees to allow the Licensee, its employees and agents, 24 hours 365 days' access to the facility in order to perform regular or emergency work. Should indoor access be provided the licensee will abide by the agree upon accesses rules.
14. The Licensor agrees that it shall not interfere or cause or permit interference with the operation of the communication equipment.

Termination

15. Should the Licensor wish to terminate this agreement prior its conclusion due to breach of contract Licensee will be given 24 moths to relocate following the Licensor's written notice to the Licensee of any breach by the Licensee of any term, condition or covenant of this Agreement, including non-payment of

the license fee referred to in Paragraph 2, unless such breach has been expressly waived in writing by the Licensor. If terminated within 10 years by the Licensor, the Licensor agrees to pay the Licensee a prorated amount of the amount the Licensee contributed to the structure.

16. Should the Licenses be purchased, merged or managed by said entity, the Licensor will provide a 3 month grace period to renegotiate a new agreement.
17. This Agreement and the License herein contained shall continue in full force and effects from the 2nd day of November, 2016 for 10 year unless sooner terminated in the manner provided herein.

In the event that the Licensee is not given reasonable access to the site or electrical service is unreasonably interrupted or sight lines set out in Schedule "C" are obstructed as a result of an act, omission or lack of skill on the part of the Licensor, its employees, contractors or agents, the Licensee shall have the right to terminate this Agreement, without penalty on the giving of thirty (30) days written notice.

Events Upon Termination

18. Upon termination of this Agreement and License either by lapse of time or as otherwise provided herein, the Licensee agrees to remove the Equipment from the roof of the Building and elsewhere in the Building, as applicable, and restore all portions of the Building in use or used by the Licensee to as good condition as such was in as of the date of this Agreement.

Non-Assignable

19. This Agreement is not assignable by the Licensee without the prior written consent of the Licensor.

General Provisions

20. Any notice required to be given by the parties may be sent by prepaid registered mail addressed to the appropriate party at the address shown below:

To the Licensor:

Rural Municipality of Whitemouth
Box 248, Whitemouth, MB
R0E 2G0

To the Licensee:

No Limits Internet Solutions inc.
Suite 340 180-235 Vermillion Road
Winnipeg, Manitoba, R2J 3M7

Or other address as the parties may notify to the other in writing from time to time, and if so sent, the notice shall be deemed to have been given on the day on which the notice was deposited in any


postbox. Alternatively, any notice may be served personally upon an officer or director of the opposite party.

- 21. All headings used in this Agreement have been inserted for the convenience of reference only and are not to be used in the interpretation of any of the provisions of this Agreement.
- 22. The invalidity of any provision of this Agreement shall not affect the validity of any other provision.
- 23. This Agreement shall be interpreted in accordance with the laws of the Province of Manitoba.
- 24. Time shall, in all respects, be of the essence of this Agreement.
- 25. This agreement shall endure to the benefit and be binding upon the signing parties herein, their successors, assigns, heirs and personal representatives.
- 26. Additional Terms and Conditions are included in Schedule "D".

IN WITNESS WHEREOF the parties have hereunto set their corporate seals as attested to by their proper officers the day and year first above written.

Rural Municipality of Whitemouth

per: 
Reeve

per: 
Chief Administrative Officer

No Limits Internet Solutions Inc.

per: _____

Erik Jansson, President

SCHEDULE "A"
COMMUNICATION EQUIPMENT

- Parabolic dish antennas
- Distribution antennas
- Radios and related electronics
- Mounts, brackets, pipes and related mounting hardware to secure equipment to tower
- Communication, power and grounding cables
- Other equipment as deemed necessary for business operation.

SCHEDULE "B"

Project Total = \$31,500 plus appropriate taxes.

NoLimits in kind contribution \$12,000

NoLimits will be responsible for project management, its own on site Labour as well as its own travel costs.

Total Cost to RM = \$19,500

Tower cost:	\$15,000
Concrete (approx.):	\$3,000
Crane (approx.):	\$1,500

The RM saves \$2,500 dollars over the original proposal and gets a taller tower more robust tower that can be used to deliver highspeed service to the Town of Whitemouth and beyond. NoLimits will be responsible of overage of the tower costs, and the RM will be responsible for cost overages of the crane and concrete.

SCHEDULE "C"

1. Installation area to mount masts at the peak of the structures or best determined location for the Whitemouth RM emergencies services equipment based on frequency analysis
2. Enclosed space to house equipment inside the building
3. Electricity to the enclosed space provided by RM

SCHEDULE "D"

ACCESS

The Licensee shall be permitted to have 24 hours, 7 days a week access to tower any other agreed to indoor locations. Upon written request, No Limits Internet will provide names of authorized employees who will be given access to the facilities

INSTALLATION COSTS

This paragraph will further confirm that any hardware installations by the Licensee that are required (such as electrical outlets, phone lines, etc.) are at the Licensee's sole cost and expense and are subject to the Licensor's approval, which approval shall not be unreasonably withheld.

LIABILITY INSURANCE

The Licensee shall during the entire term hereof, at its sole cost and expense, take out and keep in full force and effect COMPREHENSIVE GENERAL LIABILITY insurance in amount not less than \$2,000,000.00. The Licensee shall provide the Licensor with a copy of the insurance certificate outlining the above upon request.

INTERFERENCE

The Licensor agrees that the Licensee is granted use of the facilities for the purpose of broadcasting radio signals. The Licensor agrees not to allow any installation of any third party equipment unless agreed to by the Licensee on this structure.

FREE SERVICE

The Licensee agrees to provide internet service to the RM office and the Firehall at the following location:

- 189 Railway Avenue and 199 Railway Avenue, Whitemouth, MB

Service to the above locations includes 5Mbps down,1Mbps up, and no data caps.
Any upgrade to the service will be at the users cost for the difference only.