

- A. The Co-op owns and operates the Water Distribution System that supplies water and provides water service connections to each of the Lots, which are respectively owned by each of the Members;
- B. The Co-Op and each of the Members entered into membership agreements (the "**Original Membership Agreements**") in respect of the supply of water through the Water Distribution System, the particulars of such Original Membership Agreements are set out in Schedule "A" hereto;
- C. The parties hereto have agreed to consolidate, amend and restate the Original Membership Agreements on the terms and conditions set forth herein.

NOW THEREFORE WITNESS that in consideration of the premises and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the parties hereto agree as follows:

1. **Definitions:** The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:
 - a) "**Curb Stop**" means the shut off valve connected to the Water Distribution Line and the water line of each Lot;
 - b) "**Directors**" mean the directors of the Co-op;
 - c) "**Lot(s)**" means those lots legally described in Schedule "B", which are each owned by a Member.
 - d) "**Water Distribution Line**" means the water line that exits the Water Distribution System and delivers water at the Curb Stop of each Lot;
 - e) "**Water Distribution System**" means the facilities and water distribution system used by Co-op to provide the Water Services;
 - f) "**Water Services**" means the distribution of water to the Members via the Water Distribution System;
2. **Water Services:** The Co-op shall provide and deliver Water Services to each Lot at the Curb Stop.
3. **Curb Stop Location:** The location of the Curb Stop will be in the most direct and cost effective route possible to the Distribution System, as determined by the Co-op in their sole discretion. The Member may designate its choice of desired location prior to installation of the Curb Stop and the Co-op may accommodate with such request, if in the opinion of the Co-op the service location is suitable, practical and accessible for technical and safety reasons. After the installation of the Curb Stop, the Member shall be responsible for maintaining unobstructed access to the Curb Stop for the Co-op.
4. **Right of Way:** Each Member grants to the Co-op the right, privilege and easement of a right-of-way across, over, under, on or through their respective Lots to construct, operate and maintain the Water Distribution System, the Water Distribution Line, and the Curb Stop to service the Lands, including accessories and above ground installations (appurtenances), and for any other purpose preparatory or incidental thereto. The Member covenants that it will not build, erect or maintain on any specific rights or way nor permit or suffer to be built, erected or maintained on the right-of-way any building or structure, nor allow changes to the design or existing surface grades, nor plant or maintain, nor allow or suffer to be planted or maintained

thereon any trees, shrubs or landscaping which would or could prevent or hinder the exercise by the Co-op of any of the rights hereinbefore granted. The Member shall be liable for any costs incurred by the Co-op occasioned by violation of this provision of this Agreement including the cost of repairing or replacing any part of the Water Distribution System, Curb Stop, or to remove any buildings, roadways or structures placed or constructed on the land that is the subject of the Co-op's easement

5. **Water System Limitations:** The Co-op operates under Licence #9528 issued in 1986 by Alberta Environment and the conditions stated within, which limits the rate and quantity of water diverted. If the Directors, in their sole discretion, determine the quantity of water being used or the rate at which it is being used from time to time through any Member's Curb Stop is deemed to be excessive, the Co-op reserves the right to decrease the distribution rate of flow from the Water Distribution System. The Co-op may take such additional measures as are considered necessary to limit the supply of water. These measures may include the installation of a water meter, partially or completely closing the Curb Stop, installation of a flow restrictor, and regulating the rate and time at which water maybe used at the Member's location. The Co-op may establish additional charges for water used in excess of a stipulated quantity or rate. The cost of these measures deemed necessary by the Directors, in their sole discretion, shall be paid by the Member for such action.
6. **Water Quality Assurance:** Without the prior written approval of the Directors, in their sole discretion, the Member shall not interconnect an external source of water to the Water Distribution Line, such as a swimming pool, water pond, dry and wet sump holding water, or any other body of water which could result in a health hazard if a reverse flow should occur to a potable water line. All such connections require a back-flow preventer and approval by the Directors, in their sole discretion.
7. **Outdoor Watering Restrictions:** The Directors, in their sole discretion, may at any time introduce regulations restricting the use of water for outdoor use on the Lot. Upon receiving notice of such restriction, no Member shall use water distributed by the Co-op for the purposes prohibited by, or in excess of the limits imposed by such restrictions.
8. **Sprinkling and Irrigation System Regulation:** Without the permission of the Directors, in their sole discretion, each Member shall not:
 - a) use more than one hose bib outlet at one time, and such hose bib outlet shall not exceed ½ inch in internal diameter;
 - b) use an open-ended pipe or hose for outdoor watering purposes;
 - c) use any device that attaches to the hose and allows a water rate greater than 5 gallons per minute to be delivered by such device; and
 - d) use an irrigation system that exceeds a delivery rate of 5 gallons per minute.
9. **Member Water Connection:** Each Member, at its sole cost, risk and expense, shall obtain, maintain, supply and install all plumbing components, pumps, tanks, valves, and any other materials required to connect the Member's water line to Water Distribution Line at the Curb Stop.
10. **House Shut-off Valve:** Each Member shall install and maintain an in-house main line shut-off valve and shall test annually such shut-off valve.
11. **Back-check Valve:** Each Member shall install and maintain a whole-house back check valve on the main line within the house, constructed on their respective Lot near the main-line shut of valve.
12. **Water Rates:** Each Member shall to pay the Co-op for its water usage at a rate set by the Directors in accordance with the fee schedule or in accordance with annual or semi-annual invoicing by the Co-op, as authorized by the Directors of the Co-op from time to time. Payment

by the Member shall be made to the Co-op upon receipt of the invoice, and not later than the 28th day following the date of the invoice. A late payment penalty as set by the Board of Directors may apply to overdue accounts.

13. Operating Charge: The Member shall pay to the Co-op an operating charge as set by the Directors of the Co-op, from time to time, for the maintenance, repairs or other necessary costs incurred by the Co-op for the Water Distribution System and the Water Distribution Line. The operating charge shall be payable by the Member on the same date and in the same manner as set out in Section 12.

14. Surplus Earnings: It is mutually understood and agreed that any surplus earnings or funds obtained by the Co-op shall be disbursed at the discretion of the Directors as follows:

- a) By allocating the funds necessary for maintenance, repairs, alterations or improvements to the Co-op's Water Distribution System as may be determined by the Directors from time to time;
- b) By setting aside funds for the reserve account; and
- c) By a water rate fee reduction applicable to future billing periods.

15. Discontinuance of Service: The Co-op shall have the right to discontinue or refuse to continue the supply of water to each Member for any of the following reasons:

- a) lack of supply of water;
- b) repairs or alterations to the Co-op's Water Distribution System, Water Distribution Line, Curb Stop including without limitation, the facility, piping or equipment;
- c) conditions that cause damage, harm, or contamination of the Water Distribution System or any other damage to property owned by the Members;
- d) to prevent fraud, abuse to Co-op property or the resale to others of water supplied by the Co-op;
- e) non-payment of any account when due by the Member;
- f) the insolvency or bankruptcy of the Member;
- g) in the even any condition exists in the Member's equipment that poses a risk to the Co-op, including without limiting the generality of the foregoing, contamination, reverse or negative pressure or any unsafe condition;
- h) the Member is in breach of any of the terms and conditions of this Agreement; any bylaw, policy, rule, regulation, or resolution of the Co-op.

The discontinuance of the supply of water for any of the reasons aforesaid shall in no way affect any other rights or remedies that the Co-op may have against the Member. The Co-op shall have the right to charge the Member a reconnection fee as set from time to time by the Directors for any reasons set out in sub clauses (15.c) to (15.h) inclusive.

16. Release and Indemnity. Excluding for gross negligence or willful misconduct by the Co-op its agents, servants, employees or officers:

- a) Each Member releases the Co-op, its Directors, agents, servants, employees or officers: from any claim for damages, howsoever caused whether arising from negligence or nuisance, breach of contract or otherwise, and whether for direct or indirect, incidental or consequential damages in respect to the interruption or termination of Water Services, the failure or refusal to supply water services, the construction, installation, operation and/or maintenance of the Water Distribution System, the Curb Stop, and the Water Distribution Line.
- b) Each Member covenants, agrees and does hereby indemnify, defend and hold harmless the Co-op, its Directors, agents, servants, employees or officers: from and against all losses, liabilities, expenses, damages, costs (including legal fees and

disbursements), suits, demands, actions and claims, including damage or injury (including death) to persons or property, suffered or incurred whether directly or indirectly, by the Co-op, due to or arising out of the provision and use of the Water Distribution System, the Curb Stop, the Water Distribution Line, and the Water Services.

- c) the Member agrees the Co-op and its Directors shall not be liable for damage caused by the escape of water from the Water Distribution System or Water Distribution Line, however so caused, whether by negligence, in nuisance or otherwise.

17. **Rural Utilities Act.** The Water Services are made available to the Members who satisfy and meet current membership requirements of the Co-op and in accordance with the *Rural Utilities Act* (Alberta).
18. **Authorization by Co-Op.** This Agreement is deemed to be an application only for Water Services until it is executed under seal by the duly authorized officers of the Co-op.
19. **Membership.** Each Member agrees to become a member of the Co-op upon purchase of a Lot and acceptance and approval by the Directors of this Agreement
20. **Membership Agreement:** This Agreement contains the entire agreement between the parties and consolidates, supersedes and replaces each of the Original Membership Agreements;
21. **Notice:** The Co-op shall not be required to provide notice of discontinuance for the reasons set out in sub clauses (15.a) to (15.d) inclusive but will make every effort to execute a notification if time allows. The Co-op will give 7 days notice of discontinuance for reasons set out in sub clauses (15.e) to (15.h) inclusive. The Co-op may serve any discontinuance notice, or other document required to be served hereunder by delivering the same to the Lands where water is being supplied by the Co-op and/or attaching the same to the door of the residence located on such Lot. In the event that clause 18 hereof applies, notice shall be given by mail to the Member and by delivery to the building located on the Lands where water is being supplied to.
22. **Rental Property:** The Member acknowledges and agrees that is shall not be released from and shall be bound by the terms of this Agreement notwithstanding that the Member may rent, lease or otherwise allow persons other than himself or herself to live in the premises supplied with water pursuant to the terms of the Agreement.
23. **Assignment:** The Member may not transfer or assign this Agreement or any rights hereunder without the prior written consent of the Co-op, which consent shall not be unreasonably withheld. Notwithstanding the above, it is understood and agreed that upon the Member disposing of his Lot such that the Member is not the beneficial owner of the Lot, the Member automatically loses all membership privileges in the Co-op and is not entitled to return of hook-up fee or any portion of the fees paid by the member of the Co-op for water. FURTHER, the member agrees to provide to the Co-op an assumption agreement in a form prescribed by the Co-op, duly executed by the purchaser of the Member's Lot agreeing to be bound by the liabilities and obligations of the Members under this Agreement.
24. **Encumbrance:** Each Member hereby charges and encumbers all his estate and interest in the Lots to the extent of the monies owing by the Member to the Co-op from time to time under the terms hereof together with any cost, including legal fees on a solicitor and client basis, incurred by the Co-op in the collection thereof. Each Member acknowledges and agrees that the Co-op may, upon default of payment of any amount owing hereunder, register a caveat against the title to the Lot respecting such debt. The foregoing shall be an addition to, and not in derogation from or substitution for, any other rights or remedies to which the Co-op may be entitled.

- 25. Enurement:** This Agreement shall be for the benefit of and be binding upon the Co-op and each Member and their respective successors and permitted assigns.
- 26. Number and Gender:** In this Agreement, unless there is something in the subject matter or context inconsistent therewith:
- a) words in the singular number include the plural and such words shall be construed as if the plural had been used;
 - b) words in the plural include the singular and such words shall be construed as if the singular had been used; and
 - c) words importing the use of any gender shall include all genders where the context or party referred to so requires, and the rest of the sentence shall be construed as if the necessary grammatical and terminological changes had been made.
- 27. Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the parties agree that the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration or area of the term or provision, to delete specific words or phrase or to replace any invalid or unenforceable term or provision with a term or provision that is valid or enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment may be appealed. The provisions of this Article 23 will survive the expiration or termination of this Agreement.
- 28. Counterparts.** This Agreement may be executed by the parties in one or more counterparts and may be delivered by facsimile or other means of electronic transmission, each of which when delivered shall be deemed to be an original and all of which shall together constitute one and the same Agreement.

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