BETWEEN:

CITY OF MOOSE JAW

(the "**City**")

- and -

NAME OF CORPORATE OWNER: _____
PHONE NO.:

EMAIL ADDRESS:

(the "**Owner**")

SERVICE LOCATION:

Municipal Address:	
City:	Moose Jaw
Province:	SK Postal Code
Legal Description:	

New Service Connection ☐
**For New Service Connections, the Owner is required to apply separately to the City for a Water Meter*

Replacement Service Connection ☐

BILLING ADDRESS:

☐ Same as the Service Location above

☐ Alternative Billing Address: _____

CONTRACT TERMS:

The Owner requests from the City permission to connect to the municipal main serving:

☐ Water Works ☐ Sanitary Sewer System

systems (the "**City System**") by way of construction of a physical service connection to the City System as further defined within this Agreement (the "**Service Connection**") as follows:

1. **Terms, Conditions and Bylaw(s) –** The Service Connection shall be constructed upon and subject to the terms, covenants and conditions contained within this Agreement including, without restriction, the standard terms and conditions attached as **Schedule "A"** to this Agreement (the "**Terms & Conditions**"). The Terms and Conditions may be overridden and replaced from time to time by the terms and conditions for a Service Connection provided within any bylaw(s) implemented from time to time by the City respecting the construction of the Service Connection (the "**Bylaw(s)**"), the terms of which Bylaws(s) shall thereafter form a part of this Agreement. In the event of any conflict between the terms of this Agreement and the Bylaw(s) respecting the Service Connection, the terms of the Bylaw(s) shall prevail.

2. **Service Connection –** Subject to the right of reimbursement under section 12 of **Schedule "A"** to this Agreement, and notwithstanding section 19(1) of *The Cities Act*, the Owner shall assume responsibility for the construction and installation of the service line, and all associated appurtenances, running from the City System to the property line or the building or buildings on the Owner's property.

☐ Full Service (service connection to the mains) or ☐ Half Service (service connection within the Owner's property)

3. **City System Modification –** the additional standard terms and conditions attached as **Schedule "B"** to this Agreement (the "**City System Modification Terms & Conditions**") shall apply to any alterations or modifications to the City System, including the mains, the service lines running from the mains to the property line up to and including the curb stop for a water line, and all associated appurtenances, which are necessary to accommodate the Service Connection (full service connection) as noted in Section 2 above (the "**City System Modification**"), but shall not apply to the portion of the Service Connection located wholly within the Owner's property (half service connection).

4. **Connection Fees** – The construction of the Service Connection shall not commence until payment of any and all connection fees charged by the City in respect of connection to the City System, which must be paid in full prior to commencement of any construction of the Service Connection under this Agreement (the "**Connection Fees**"). The Connection Fees are:

$_____, plus any applicable sales tax.

5. **Standards and Plans** – The Service Connection shall be completed in accordance with:

(a) the City of Moose Jaw Standards and Specifications, unless otherwise noted (the "**Standards**");

(b) any special terms or requirements, including the approved engineering variances, attached to this Agreement as Schedule "**C**" (the "**Special Terms**");

(c) the following plans and or specifications approved by the City and attached to this Agreement as Schedule "**D**" (the "**Plans**"):

Title:	Approval Date:
_____	_____
_____	_____

6. **Approved Contractor**- the Owner covenants and agrees to use the following contractor for the construction and installation of the service line and all associated appurtenances, which contractor holds a valid and subsisting licence from the city under the City's Sewer and Water Utility Bylaw, Bylaw 5152, as amended (the "**Approved Contractor**"), who is deemed to be an agent of the Owner for the purposes of this Agreement:

_____

7. **Notice –** All notices to the Owner may be sent to the address for the Service Location or to the email address provided by the Owner in the contact information. Notices to the City may be sent to 228 Main St N, Moose Jaw, SK, S6H 3J8, or by email to servicereplacement@moosejaw.ca.

The Owner may amend the Billing Address or email address for notice, and the City may amend its address for notice, upon written notice to the other party. All notices shall be sent by registered mail, courier, email, or personal delivery to the designated address.

8. **Information** – The information on this form is being collected for the purpose of a municipal activity under the authority of the *Local Authority Freedom of Information and Protection of Privacy Act,* Section 24. This information will be used at the discretion of the City and may be released to the public.

9. **Application & Acceptance –** The construction of the Service Connection shall not commence until the City's acceptance of this Agreement, by notice in writing confirming the City acceptance below, whereupon this Agreement shall come into

effect. The Owner acknowledges having read the information outlined in this Agreement and understands that if this Agreement is approved, it shall be bound by the terms and conditions of this Agreement.

ACKNOWLEDGED AND SIGNED BY THE CORPORATE OWNER the ____day of _____, 20___.

_____ _____

Witness **Owner Name:**

Witness must swear an Affidavit of Witness in front of a Commissioner for Oaths.
Owner Corporation must swear an Affidavit Verifying Corporation Authority in front of a Commissioner for Oaths.
See following pages.

CITY ACCEPTANCE:

Date: The ____day of _____, 20___.

Authorized by:

AFFIDAVIT OF WITNESS

I, _____ *(name)* of _____ *(place)* in the Province of Saskatchewan,

MAKE OATH AND SAY THAT:

1. I was personally present and did see _____, the person named in the within document, who is personally known by me, duly sign the document.

2. The document was executed at _____, Saskatchewan on _____, 20___, and that I am the subscribing witness thereto.

3. I know _____ and they are in my belief eighteen (18) years old or more.

SWORN BEFORE ME at the City of _____, Saskatchewan, this _____ day of _____, 20___.

_____
(witness signature)

_____
A COMMISSIONER FOR OATHS
For Saskatchewan
Being a Solicitor, OR
My commission expires: _____

AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY

I, _____ *(name)* of _____ *(place)* in the Province of Saskatchewan

MAKE OATH AND SAY THAT:

1. I am the _____ *(position)* of _____ *(corporation name)* named in this document.

2. I am authorized by the corporation to execute the document without affixing a corporate seal.

SWORN BEFORE ME at the City of _____, Saskatchewan, this _____ day of _____, 20___.

_____
(corporate officer signature)

_____
A COMMISSIONER FOR OATHS
For Saskatchewan
Being a Solicitor, OR
My commission expires: _____

Schedule "A" - Terms and Conditions

1. Construction of Service Connection

(a) The Owner shall, within _____ days of the date the City authorizes and accepts this Agreement, complete the construction, installation and commissioning of the Service Connection. In this regard, the Service Connection shall be constructed, installed and commissioned:

(i) in a good and workmanlike manner;

(ii) at the sole cost and expense of the Owner, subject to the terms of this Agreement;

(iii) in accordance with the Plans, Standards and Special Terms; and

(iv) in compliance with all permits, approvals, codes of practice, and guidelines of any government authority applicable to the City System and the Service Connection.

(b) The Owner covenants and agrees that during the construction and installation of the Service Connection, and if applicable, during the Warranty Period for the City System Modification, the Owner shall pay all contractors and other parties hired by the Owner to fulfill the Owner's obligations under this Agreement and that the failure of the Owner to pay any such contractors or other parties shall constitute a breach of this Agreement by the Owner unless there is a bona fide dispute between the Owner and the contractor or other party.

(c) The Owner shall protect City's property from damage and shall be responsible for any damage which occurs to the City's property as the result of a breach in the performance of its obligations under this Agreement.

(d) Should any damage occur to the City's property for which the Owner is responsible under applicable law, it shall repair such damage at its own expense, to the satisfaction of the City.

2. Access

The Owner hereby grants to the City the right, license, privilege and easement over the lands comprising the Service Location for the purposes of inspecting the construction, maintenance or repair of the Service Connection.

3. Disruptions to Municipal Service

(a) Unless approved otherwise by the City in writing, the installation of the Service Connection shall not disrupt service to other municipal owners.

(b) Further to sub-section (a) above, the cost to provide temporary provisions necessary to maintain uninterrupted municipal service to other users shall be at the complete expense of the Owner. All such temporary provisions shall be approved by the City.

4. Other Inspections

(a) Where the Standards do not require the involvement of a professional engineer for the installation of the Service Connection, the Owner is responsible for:

(i) arranging all municipal inspections required by the Standards and this Agreement; and

(ii) providing the required notifications to the City when all work has been completed.

(b) At minimum, the Owner is required to ensure that City inspections are completed, to the satisfaction of the City:

(i) at the time of connecting any Service Connection to the City System;

(ii) after backfilling any excavations on City lands and prior to restoration of the surface cover; and

(iii) following restoration of all surface cover on City lands.

5. Use of Professional Engineer

(a) Where the Standards require the involvement of a professional engineer for the design of the Service Connection, the Owner shall employ a professional engineer who is a member in good standing of the Association of Professional Engineers and Geoscientists of Saskatchewan, (hereinafter called the "**Owner's Engineer**") to design, supervise, inspect, monitor and certify the applicable work by, or at the expense of, the Owner.

(b) The Owner's Engineer shall be deemed to be an agent of the Owner for the purposes of this Agreement and the Owner's Engineer shall ensure that all applicable materials supplied and all work performed conforms in all respects to the Standards, or as otherwise approved by the City, and without limiting the generality of the foregoing, the Owner's Engineer shall be deemed to be the agent of the Owner for:

(i) ensuring the correction of all defects and deficiencies;

(ii) arranging City inspections under this Agreement;

(iii) the preparation, review, certification and submission of the plans, specifications and schedules which the Owner is required to supply under this Agreement; and

(iv) receiving communications from the City both orally and in writing with respect to the foregoing.

(c) The Owner shall vest adequate authority in the Owner's Engineer such that in the absence of the Owner, the Owner's Engineer can deal expediently and autonomously with emergency situations, as determined by the City.

(d) The Owner shall, during the course of the construction and installation of the Service Connection provide and maintain adequate inspection services, supervised by the Owner's Engineer.

6. Plans

(a) The Owner shall prepare and submit Plans along with this Agreement for the installation of the Service Connections, which Plans shall be in accordance with acceptable engineering standards and the City's Standards. Such Plans shall be provided to the City for acceptance prior to commencement of any work.

(b) The Owner acknowledges and agrees that the City's acceptance of the Plans is in no way intended to be a warranty, representation or guarantee by the City or its engineer respecting the content of the Plans, including, without restricting the generality of the foregoing whether the Plans are suitable for the intended purpose or whether the Plans comply with any required federal, provincial or municipal legislation or regulation, standards or engineering practices.

(c) Under no such circumstance shall the City's approval of the Plans be implied as an approval of any detail, qualification, term or condition which does not apply to the Standards; or acceptance of a variation of the Standards without the City's written approval within the Special Terms.

7. Certificate of Completion

(a) Upon the completion of the Service Connection by the Owner to the degree necessary to be operational, the Owner shall apply to the City for a certificate confirming completion of the Service Connection (the "**Certificate of Completion**").

(b) Where the Standards require the involvement of a professional engineer for the design of the Service Connection, the application for the Certificate of Completion for the Service Connection shall be under the professional seal of the Owner's Engineer certifying that the Owner's Engineer has provided adequate periodic inspection services during the course of the work and that the Owner's Engineer is satisfied that the work has been completed in a good and workmanlike manner in accordance with the Plans, Standards and Special Terms and in accordance with accepted engineering and construction practices.

(c) If the City accepts that a Certificate of Completion should be issued, the City shall issue the Certificate of Completion.

(d) If the City rejects the application for a Certificate of Completion, the City shall notify the Owner of the reasons for rejection. If the Owner receives such a notice from the City, the Owner shall correct the deficiencies identified in the notice and apply for a new Certificate of Completion. The City shall again make such

inspections and assessments as are necessary for the City to determine if the Certificate of Completion should be issued until the City is satisfied that the Owner is entitled to a Certificate of Completion.

8. Maintenance of Service Connection

(a) The responsibility for the maintenance and repair of the Service Connections shall at all times be in compliance with the City's Water and Sewer Bylaw 5152, as amended.

(b) The City may require the inspection and/or testing of the Service Connection from time to time to ensure that the condition and quality remains satisfactory to the City.

9. Indemnity

(a) The Owner shall indemnify and save harmless the City from any and all losses, costs (including, without restriction, all legal costs on a solicitor and his own client full indemnity basis), damages, actions, causes of action, suits, claims and demands resulting from anything done or omitted to be done by the Owner in pursuance or purported pursuance of this Agreement.

10. Default by the Owner

(a) In the event that the City claims that the Owner is in default in the observance and performance of any of the terms, covenants or conditions of this Agreement, the City may give the Owner Fourteen (14) days' notice in writing of such claimed default and require the Owner to rectify same within the said period of Fourteen (14) days.

(b) Without limiting in any way the rights and remedies available to the City pursuant to this Agreement, statute, or otherwise, upon a failure by the Owner to rectify a default, the City shall have the option, but not any obligation, to perform the Owner's obligations in default without further notice and at the Owner's sole cost and expense. The Owner shall reimburse the City for all such costs incurred by the City immediately upon demand.

(c) Notwithstanding the foregoing, in the event that the City, in its discretion, considers a situation to be an emergency it may undertake or cause to be done any immediate work in Service Connection with the construction, installation or repair of the Service Connections. The Owner shall reimburse the City for all such costs incurred by the City immediately upon demand.

11. Contracts for Installation of the Service Connection

(a) The Owner acknowledges, understands and agrees that the Owner shall be fully responsible to the City for the performance by the Owner of all the Owner's obligations as set forth in this Agreement.

(b) The construction of the Service Connection shall only be completed by the Approved Contractor listed in Section 6 of this Agreement, who is deemed to be an agent of the Owner for the purposes of this Agreement.

(c) The Owner covenants and agrees that the contract entered into between the Owner and the Approved Contractor in respect to the performance of all or any of the Owner's obligations as set out in this Agreement shall:

i. provide that the Approved Contractor shall indemnify and save harmless the City and the Owner from and with respect to any damages, claims or demands whatsoever (including all legal costs and disbursements on a solicitor and client basis) arising out of the performance of any work undertaken by the Approved Contractor or arising in any way from the negligence of the Approved Contractor's servants, agents or employees.

ii. include a warranty from the Approved Contractor covering the warranty obligations of Section 4 of Schedule "B".

12. Capital Contribution

(a) To compensate the Owner for the portion of a Service Connection that runs from the property line of the Service Location to the City's Water Works (the "**City-Owned Portion**"), the City shall compensate the Owner for the capital cost to construct or replace the City-Owned Portion (the "**Reimbursement**").

(b) The Owner irrevocably directs and authorizes the City to pay the Reimbursement directly to the Contractor.

(c) The Reimbursement shall be paid in two fifty percent (50%) installments:

i. the first installment shall be paid after the City has issued the Certificate of Completion and the excavation has been backfilled; and

ii. the second installment shall be paid following restoration of all City owned or controlled lands.

(d) The amount of the Reimbursement shall be determined solely by the City based on the unit costs prescribed in the City's Uniform Rates Bylaw that is in force at the time this Agreement is entered. The Owner acknowledges, understands and agrees that such compensation may be less than the costs incurred by the Owner for the construction of the City-Owned Portion.

13. General

(a) Governing Law

This Agreement shall be construed and governed by the laws of the Province of Saskatchewan.

(b) Time of Essence

Time shall be of the essence of this Agreement.

(c) No Authority

Except as may from time to time be expressly stated in writing by the one party, the other party has no authority to assume or create any obligation whatsoever, expressed or implied, on behalf of or in the name of the other party, nor to bind the other party in any manner whatsoever.

(d) Agreement Entire Relationship

This Agreement constitutes the entire agreement between the parties hereto and the parties acknowledge and agree that there are no covenants, representations, warranties, agreements or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this Agreement save as expressly set out in this Agreement.

(e) Further Assurances

Each of the parties do hereby agree to do such things and execute such further documents, agreements and assurances as may be necessary or advisable from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

(f) Waiver

A waiver of any breach of a provision of this Agreement shall not be binding upon either party, unless the waiver is in writing. The waiver shall not affect the rights of either party with respect to any other or future breach.

(g) Unenforceability

If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, the other provisions will remain in full force and effect. If legally permitted, the unenforceable provision will be replaced with an enforceable provision that as nearly as possible gives effect to the parties' intent.

(h) Survival

The parties acknowledge and agree that the provisions of this Agreement, which, by their context, are meant to survive the termination or expiry of the Term, shall survive the termination or expiry of the Term and shall not be merged therein or therewith.

(i) Remedies Generally

Mention in this Agreement of any particular remedy of a party in respect of a default by the other party does not

preclude the first party from any other remedy in respect thereof, whether available at law or in equity or by statute or expressly provided for in this Agreement. No remedy shall be exclusive or dependent upon any other remedy, but a party may from time to time exercise any one of more of such remedies generally or in combination, such remedies being cumulative and not alternative.

(j) Binding Effect

This Agreement shall enure to the benefit of and be binding upon the successors and permitted assigns of each of the parties.

(k) Assignment

Neither party shall assign its interest in this Agreement, or any part hereof, in any manner whatsoever without having first received written consent from the other party which consent may be not be arbitrarily withheld.

Schedule "B" – City System Modification Terms & Conditions

In addition to the terms and conditions of the Agreement and of Schedule "A", the following additional terms, conditions and requirements apply where the City has approved a City System Modification pursuant to the Contract Terms, Section 2.

1. Security

(a) The construction of the Service Connection shall not commence until payment of any and all Security required by the City in respect of construction of the Service Connection to the City System, which must be paid in full prior to commencement of any construction of the Service Connection under this Agreement (the "**Security**"). The Security is:

$_____

(b) The Security referred to above shall consist of an "Irrevocable Letter of Credit" issued by a "Chartered Bank" or the "Treasury Branch", or such other Security as may be approved by the solicitors for the City, or a cash Security deposit, or a combination thereof, in the amount of the Security required from time to time as described above; PROVIDED, that all Security shall be in terms and form to be approved by the City's solicitors.

(c) Any Irrevocable Letter of Credit provided as Security by the Owner shall contain provisions for either:

(i) a covenant by the issuer that if the issuer has not received a release from the City Sixty (60) days prior to the expiry date of the Security, then the Security shall automatically be renewed, upon the same terms and conditions, for a further period of One (1) year; or

(ii) a right on the part of the City to draw upon the full amount of the Irrevocable Letter of Credit, or any portion thereof, in the event that the City has not received a replacement letter, or confirmation of an extension or renewal of the existing letter, at least Sixty (60) days prior to the expiry of the Security.

(d) In regards to the Security provided under this Agreement, the following terms and conditions shall apply:

(i) any cash Security deposit, Irrevocable Letter of Credit, or other Security required or otherwise provided by the Owner to the City pursuant to this Agreement is hereby assigned and pledged to the City as Security for the performance of the Owner's obligations as contemplated herein (such assignment and pledge to be perfected by possession and/or registration);

(ii) the Owner acknowledges having received a copy of this Agreement, and the Security terms contemplated herein, and waives any right it may have to receive a copy of any Financing Statement or Financing Charge Statement in relation hereto; and

(iii) notwithstanding any other provision of this Agreement and further, without prejudice to any other right or remedy of the City, the obligation of the City or its solicitor to release any Security deposit funds held by it under or in Service Connection with this Agreement (including, without restriction, any cash deposit) is subject to the City's right to deduct or set off any amount which may be due by the Owner to the City or the amount of any claim by the City against the Owner under this Agreement (including, without limitation, the amount of any liquidated damages). Without limitation, if the Owner is in breach or default of any provision of this Agreement or of any provision of any contract with any project manager(s), subcontractor or supplier, and, after receiving notice thereof, the Owner does not promptly remedy such default or breach or commence and diligently prosecute the remedy of such breach or default, the City may (but shall not be obligated to) take any measures it considers reasonably necessary to remedy such default or breach and any costs or liabilities incurred by the City in respect thereof may be deducted from or set off against any amount(s) to be paid or released to the Owner under this Agreement. This provision shall survive the termination of this Agreement for any reason whatsoever.

(e) In the event that the City is of the opinion that:

(i) a default by the Owner has not been rectified by the Owner in accordance with the provisions of this Agreement;

(ii) a default by the Owner has been rectified by the City in accordance with the provisions of this Agreement and the Owner has failed to pay the costs and expenses of such rectification within Fourteen (14) days after receipt from the City of an account therefore;

(iii) emergency repair work has been done to Service Connection by the City in accordance with the provisions of this Agreement and the Owner fails to pay the costs and expenses of such repair work within Fourteen (14) days after receipt from the City of an account therefore;

(iv) the Owner by any act or omission is in default of any term, condition or covenant of this Agreement; or

(v) the Security to be provided by the Owner to the City pursuant to this Agreement is due to expire within a period of Sixty (60) days and the Owner has not deposited with the City a renewal or replacement of such Security in terms and form acceptable to the City's solicitors;

the City may invoke the provisions of this Section, and make demands as payee and beneficiary under the Security provided by the Owner to the City pursuant to the requirements of this Agreement

(f) In the event that the City has negotiated, called upon, or otherwise received proceeds from, the Security to be deposited by the Owner for any reason contemplated within this Agreement, then the City shall be entitled to hold and apply any such funds as a Security deposit in lieu of the original Security

(g) In the event that the City has negotiated or called upon the Security to be deposited by the Owner with the City, the City may, at its option and discretion, use any funds thereby obtained in any manner the City deems fit to discharge the obligations of the Owner pursuant to this Agreement.

(h) The Security shall be released to the Owner upon expiration of the Warranty Period in accordance with Section 4 of this Schedule.

3. Insurance

(a) The Owner covenants and agrees that it shall carry comprehensive liability insurance in the amount of $5,000,000.00, which insurance shall name the City as an additional insured (as its interest may appear, including with respect to any and all operations by the Owner or its contractors upon or affecting property owned by, or under the care, control and management of, the City) and shall contain an undertaking by the Insurers to provide the City Thirty (30) days' notice of a change or cancellation.

(b) It is understood and agreed by the Owner that the Owner shall, during the currency of this Agreement (including the Warranty Period for the City System Modification prescribed by this Agreement), maintain in full force and effect all Security and liability insurance prescribed herein.

4. Warranty

(a) After acceptance of the City System Modification by the City evidenced by the issuance of the Certificate of Completion, the City System Modification shall be subject to the Warranty Period. During this Period, the City shall assume normal operation and maintenance (excluding repairs or matters arising from inadequate or deficient design or construction) of the City System Modification.

(b) The Owner and the City agree that the warranty period for the City System Modification shall be Two (2) years following the issuance of the Certificate of Completion (the "**Warranty Period**").

(c) The Owner shall repair or replace the whole or any portion of the City System Modification at its cost and expense during the Warranty Period where such repair or replacement is required in the opinion of the City. In the event that the Owner fails to take steps to repair or replace the whole or portion of the City System Modification the City may undertake the repair or replacement, at the Owner’s cost and expense.

(d) The Owner covenants that it shall fully comply with the Standards and accepted engineering and construction practices, in undertaking and completing the repair or replacement of the City System Modification pursuant to the requirements of this Section.

(e) The Owner agrees that in the event of any emergency arising during the Warranty Period, the City being the sole judge of what constitutes an emergency, the City shall have the right in its discretion to undertake any repair or remedial work to the City System Modification deemed necessary or appropriate by the City and all costs and expenses incurred by the City in that regard shall be paid by the Owner to the City upon demand.

(f) The Owner covenants and agrees that in the event that the City is of the opinion that any repair or replacement required during the Warranty Period is of a major nature, the City shall be entitled, in its discretion, to require a further full Warranty Period for the City System Modification, or portion thereof, and such further Warranty

Period shall commence upon the City issuing a Certificate of Completion for the repair or replacement of the work.

(g) The Owner shall, at its own cost, correct or pay for any damage to the City System Modification resulting from any corrections which the Owner makes under the warranty provisions in this Agreement.

(h) The City and the Owner agree, notwithstanding the issuance of a Certificate of Completion for the Service Connection, that the Owner shall be responsible, for a period of two (2) years following the issuance of the Certificate of Completion for the City System Modification, to repair or replace any portion of the City System Modification where there were any hidden or latent defects (which were reasonably not detected by inspections or tests actually undertaken) in the City System Modification which were not discovered prior to the issuance of the Certificate of Completion.

5. Approved Contractors

(a) If applicable, the construction of the City System Modification shall only be completed by the Approved Contractor listed in Section 6 of this Agreement, who is deemed to be an agent of the Owner for the purposes of this Agreement.

_____

_____

Schedule "C" - Special Terms

The following special terms, conditions and requirements apply:

_____

_____

_____

_____

_____

Schedule "D" – Approved Plans

[City to insert approved plans]