

Dundurn Rural Water Utility Subscriber Agreement (Transfer of Property)

MADE IN DUPLICATE this _____ day of _____, A.D. 20_____

BETWEEN

DUNDURN RURAL WATER UTILITY
PO Box 442
Dundurn SK SOK 1K0
(hereinafter called the "Utility")

AND:

(Name)

(Name)

(Address)

(Address)

(Address)

(Home Phone)

(Cell Phone)

(e-mail address)
(Hereinafter called the "Subscriber")

WHEREAS the Utility owns a water delivery system which may include ancillary services installed for electronic remote metering and other forms of data transmission, (hereinafter the "Delivery System");

AND WHEREAS the Subscriber desires to subscribe for a water service connection (hereinafter the "Service Connection") from the Utility;

NOW THEREFORE In consideration of the mutual covenants herein contained and other good and valuable consideration, the parties agree as follows:

APPLICATION FOR WATER SUBSCRIPTION:

1. This Agreement contains the entire agreement between the parties and supercedes and replaces any prior agreement;
2. The Subscriber applies for a Service Connection to be made at the Subscriber's land identified in Schedule "A" hereto (hereinafter referred to as the "Land");
3. The Subscriber has paid an application fee of \$ _____ per connection and that amount shall be applied toward the Purchase Price (as hereinafter defined) of the Service Connection. After approval for a Service Connection the deposit becomes non-refundable.

4. Specify the Type of Connection

Check one box:

New curbsto; **OR** Existing curbsto;

Check one box:

New House; **OR** Existing House;

Check one box:

- (a) Standard residential connection (0.5 gpm/720 gallons per day);

OR

- Bulk User (Large Volume Connection) providing _____
GALLONS PER MINUTE (This is maximum flow not average flow. If preferred,
the Subscriber should consult with the Utility or an engineer to determine the
capacity required);

CONSTRUCTION AND INSTALLATION COSTS

5. The cost for the Service Connection is estimated to be \$_____ plus or minus adjustments. The final cost will be determined once the construction of the water service line is complete (hereinafter referred to as the "Purchase Price") and at that time payment of the Purchase Price shall be made as follows:
- a) \$_____ (40%) is payable on the signing of this agreement;
 - b) \$_____ (40%) is payable within ten (10) days prior to the start of Construction of the water service line;
 - c) The balance on completion once water is available at the curb stop;
 - d) Such balance owing (less deposits, installments and adjustments) will be billed to the Subscriber when water is available to the Subscriber at the curbstop, and is payable within 30 days after the invoice is issued by the Utility;
 - e) In the event that the balance owing is negative, the Utility shall provide the Subscriber with a refund cheque within 60 days;
 - f) Any payment not received by the Utility when due shall be subject to interest at the Bank of Canada prime rate +9%, calculated daily; AND
 - g) Any portion of the Purchase Price that is not paid by the Subscriber when due, shall be added to and collected as unpaid taxes on the property and in such event the Utility shall be entitled to discontinue water service to the Subscriber, as set out in Paragraph 17.d) hereof.

DELIVERY SYSTEM CONSTRUCTION AND INSTALLATION

6. For existing buildings, vacant land, new construction, and developments, the installation of the Service Connection performed by the Utility shall include installing a curb stop at the Subscriber's property line, or such other place designated by the Utility in consultation with the Subscriber, and the Subscriber shall be responsible for the cost of installing all necessary components from the curb stop into the Subscriber's building to a location designated by the Utility in consultation with the Subscriber, and upon completion and approval of the installation, the Utility shall install the water meter assembly, which is hereby designated as the "Point of Delivery";
7. Notwithstanding anything else herein contained, the Service Connection installed pursuant to this agreement, whether installed by the Utility or the Subscriber, shall be owned as follows
 - a) The water line from the curb stop to the building with the exception of the meter assembly shall be the property and responsibility of the Subscriber. The meter assembly is the property and responsibility of the Utility.
 - b) The main line and curb stop is the property and responsibility of the Utility.
8. The Utility shall undertake all work under this Agreement in accordance with the following limitations and standards;
 - a) All work will be done in a professional and workmanlike manner, and in compliance with all applicable laws, rules, codes and regulations;
 - b) The Utility shall obtain all permits, if required, to undertake the work pursuant to this Agreement;
 - c) The Utility shall use its best efforts to minimize disturbance and disruption of the Land and to restore the Land as close as reasonably possible to the state it was in before the work started; In the event any local condition, geological barrier, or other factor, renders completion of the installation of the Service Connection to the Subscriber impractical or economically prohibitive, and such determination shall be at the sole discretion of the Utility, then the Utility may in its sole and unfettered discretion terminate this Agreement and refund to the Subscriber any monies paid pursuant hereto, without liability or obligation to the Subscriber for failure to complete the installation of the Service Connection;

SUBSCRIBER'S FACILITIES AND WATER CONNECTION

9. The Subscriber shall supply and install, at the Subscriber's expense, all plumbing components, pumps, tanks, valves and any and all other materials required to connect the Subscriber's water system to the Point of Delivery which shall be installed in accordance with local plumbing codes and the Utility's specifications and standards, and any other applicable rules and regulations, as generally listed and shown on Schedule "D" hereto (hereinafter the "Subscriber's Facilities");
10. Upon completion of installation of the Subscriber's Facilities, the Subscriber must contact the Utility for an inspection, and upon satisfactory inspection of the Subscriber's facilities, the Service Connection shall be approved for commencement of service;

ACCESS TO PROPERTY

11. The Subscriber grants to the Utility a Public Utility Easement and Right of Way which shall be registered against and which shall run with the Land in perpetuity, in the form attached to this Agreement as Schedule "A";
12. The Subscriber grants to the Utility and its employees or agents access to the Land and the Point of Delivery inside the Subscriber's building, for the purpose of installing the Service Connection and installing the meter assembly and such other equipment necessary to complete the installation of the Service Connection, and, if required, to install such other portions of the Delivery System across the Land as may be reasonably required by the Utility as well as providing access to maintain, inspect or repair such Service Connection and all related equipment;

SUBSCRIBER'S COVENANTS

13. The Subscriber agrees:
 - a) To pay for all monthly water charges, fees, interest, penalties and surcharges levied by the Utility, commencing when water is available to the subscriber at the curb stop;
 - b) All invoices are due and payable within thirty (30) days of invoice date;
 - c) To ensure that the Utility at all time has current contact information for the Subscriber, including telephone, cell phone, mailing address and email address (if available);
14. The Subscriber shall NOT without the prior written consent of the Utility, which consent may not be unreasonably withheld:
 - a) Supply water to any other party or property;
 - b) Install or permit to be installed, any plumbing or other system or device which results in, or can result in:
 - i. a cross connection of the Service Connection to any other water supply system;
 - ii. Circumvention or malfunction of the Utility's metering device such that the Subscriber would receive any water through the Service Connection that is not metered or not accurately metered;
 - c) Change the ground elevation of the land that is subject to the Utility's Easement;
 - d) Erect or place on the land that is subject to the Utility's Easement any buildings, roadways or structures of any kind, that will impede the Utility's access to the Easement, or that will be detrimental to the service connection
15. The Subscriber shall be liable for any costs incurred by the Utility occasioned by violation of any provision of paragraph 14 of this Agreement including the cost of repairing or replacing any part of the Service Connection, or to remove any buildings, roadways or structures placed or constructed on the land that is the subject of the Utility's easement;
16. The Utility shall not be liable to repair or replace any fences, landscaping, stones, rock, dirt, rubbish or any other thing including trees, shrubs, or other obstacles erected or placed on the land that is subject to the Utility's easement and that are damaged or destroyed as a result of the Utility exercising any right in connection with the easement;

CONDITIONS AND LIMITATIONS OF SERVICE

17. The Subscriber acknowledges that:

- a) **Drip System** -- The Service Connection installed shall be a "drip system" that is not designed to provide full pressure service for domestic, farm or business use;
- b) **No Guarantee of Continuous Supply** -- The Service Connection being installed is not designed to provide an uninterrupted supply of water and the Utility does not guarantee a continuous supply of water. Temporary shutdown of the Delivery System or its source may occur leaving the Subscriber without water for varying periods of time. The Subscriber is responsible to provide a water storage facility that is sized to satisfy the Subscriber's need for an uninterrupted supply of water. The Utility's ability to deliver water is subject to any agreement or requirements of SaskWater;
- c) **No Guarantee of Quality** -- The quality of the water received by the Subscriber at the Point of Delivery is subject to limiting factors that are not within the control of the Utility, including the quality of the water delivered by SaskWater to the Utility, aggregate usage rates of all Subscribers to maintain sufficient water flow and chlorine levels in the Delivery System, the actions of other Subscribers, mechanical failures of pipes and equipment, deliberate sabotage, or other unanticipated factors and the Utility therefore makes no representation as to the quality or potability of the water delivered to the Subscriber at the Point of Delivery;
- d) **Discontinuance of Service** -- The Utility may discontinue, without notice, water service to the Subscriber under the following circumstances:
 - i. the Subscriber is in breach of any of the terms of this or any other agreement between the Utility and the Subscriber including Easement Agreement(s), Financing Agreement, (if applicable), or in the event the Subscriber fails to comply with any by-law, policy, rule, regulation, or resolution of the Utility;
 - ii. in the event any condition exists in the Subscriber's equipment that poses risk to the Utility, including, but without limiting the generality of the foregoing, contamination, reverse or negative pressure, or other condition.
 - iii. to redistribute the water supply in emergency situations such as firefighting;
 - iv. Any other condition or event that, in the Utility's sole discretion, is or is likely to:
 - i) be prejudicial to the Utility or its other subscribers;
 - ii) cause damage, harm or contamination of the Delivery system or any other property;
 - iii) constitute a breach or violation of any regulatory code, statute or other law or of any term of this Agreement;
 - iv) Force majeure, including war, strike, crime, earthquake, act of God, or any other event rendering continuous service to the Subscriber impossible or impractical;

18. Excluding for gross negligence or willful misconduct by the Utility or its Agents, or employees:

- a) The Subscriber releases the Utility, its agents, servants, employees or officials 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 Delivery System, the Service Connection or the supply of water, or the escape of water.
- b) The Subscriber agrees to indemnify and save harmless the Utility, its officials, employees and agents from and against all claims arising by reason of the construction or maintenance of the Delivery System, or the Service Connection, whether from the installation, maintenance or supply of water, including the interruption or termination of water services, the failure or refusal to provide water services, or the quality of water supplied or the construction or transportation of the water or water system, or howsoever otherwise arising out of or in respect to the delivery of water from the point of origin.
- c) The Subscriber agrees the Utility shall not be liable for damage caused by the escape of water from the Delivery System or the Service Connection, however caused, whether by negligence, in nuisance or otherwise;

GENERAL

- 19. The Subscriber may, by instrument in writing and with the consent of the Utility, transfer his interest under this Agreement to a subsequent owner of the Land, provided that the Subscriber shall notify the Utility of the change in ownership of the Land, and the Subscriber shall remain liable for all charges incurred for water service to the Land by reason of the Subscriber's failure to notify the Utility of the change in ownership.
- 20. The Subscriber further agrees:
 - a) To be bound by the Bylaw creating the Utility, the Utility Bylaws, Regulations and/or all Board Resolutions made by the Utility;
 - b) The Subscriber certifies he is the legal and beneficial owner of the Land and agrees that any unpaid amount may be added to form part of the taxes of the Land and payment enforced by the local taxing authority as unpaid property taxes;
 - c) That all disputes between the Utility and the Subscriber shall be resolved within the Complaint Procedure established by the Utility and the decision reached by such process shall be final and binding upon the parties;
- 21. Where used in this Agreement, terms importing gender shall be construed to mean either male or female gender or both genders, or the neuter gender in the case of an entity, and terms importing singular or plural numbers shall be construed to mean plural or singular numbers, where the context so requires;
- 22. This Agreement is binding upon the parties hereto, their heirs, executors, administrators, successors and assignees as the case may be and shall run with the Land. The parties hereto agree that a caveat or interest may be filed by the Utility on the lands affected to protect this Agreement;
- 23. Time shall be of the essence of this Agreement;
- 24. This agreement shall take effect from the date first written above.

IN WITNESS WHEREOF the Parties have hereunto subscribed their name (s) and seals as of the day and year first above written:

Dundurn Rural Water Utility

Chairman


(UTILITY SEAL)

Administrator


Witness

Subscriber 

Witness

Subscriber 

Witness

Subscriber 

SCHEDULE "A"
GRANT OF EASEMENT

Made in favor of DUNDURN RURAL WATER UTILITY

KNOW ALL MEN BY THESE PRESENTS THAT

Effective on the _____ day of _____, A.D. 20_____

I / We, _____

(Name(s) must appear identical as on title of the land)

the undersigned (hereinafter called "the Grantor"), being registered owner (s) or having a legal and beneficial interest or ownership in the land herein having the legal description of:

(hereinafter the "Land") in consideration of the sum of \$1.00, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged;

GRANT OF EASEMENT

DO HEREBY create, grant and convey to DUNDURN RURAL WATER UTILITY (hereinafter the "Grantee"), its employees, agents, contractors, subcontractors, nominees, successors and assigns a perpetual non-exclusive easement and right-of-way, for access to the land and any buildings (including the home) that the Utility requires in order to construct, maintain, repair or otherwise have access to the service connection and all related equipment (herein "the Utility Services"), for the Permitted Uses herein described.

1. The Easement Area shall mean so much of the land and/or buildings as may be required for the Grantee to properly access the Utility Services for the Permitted Uses, including a five (5) meter radius of the curbstop.
2. The Easement granted herein is a perpetual Easement and shall run with the land in perpetuity until discharged by the Grantee which discharge may be unreasonably withheld, and the said easement shall be enforceable against the Grantor, and his/her/its heirs, administrators, executors, successors, agents, assigns and successors in title, including without limitation, any successor in title of any subdivision which may be registered in respect of the Land.

LIMITATIONS

3. This Easement does not give the Grantor or the Grantor's heirs, assigns and successors in title, any right to access or make any connection or interfere with the Utility Services installed within the Easement Area.
4. The Grantor shall not substantially change the ground elevation where the Utility Services are located, such that the resulting depth of the pipeline will be less than 9 feet at any point, or less than 12 feet under any roadway without the prior written consent of the Grantee;
5. The Grantor shall not erect or place any fence, buildings or structure of any kind, nor pile or place any stones, rock, dirt, rubbish or any other thing including trees or shrubs where the Utility Services are located without the prior written consent of the Grantee.

PERMITTED USES




- 6. Subject to the restrictions and limitations herein contained, the Grantee may use the Easement with reasonable notice to the Grantor, when and as required for the following uses (the "Permitted Uses"):

 - (i) to enter upon the land with the necessary vehicles and equipment and to install, affix, construct and place upon, over, under, in or across the land the Utility Services and to maintain, inspect, repair, replace and remove Utility Services as required for the continued operation of the Utility Services;
 - (ii) to perform periodic maintenance, testing, metering, upgrades, and regular or emergency service to the Utility Services, and to repair or replace any part of the Utility Services, and other maintenance, service or inspection for the continued operation of the Utility Services;
 - (iii) Such other uses as the Grantee may require for the continued operation and utilization of the Utility Services;

GENERAL

- 7. The Grantee, its employees, contractors, agents, successors, and assigns shall undertake all work associated with the Permitted Uses in accordance with the following limitations and standards;
 - (i) In so far as reasonably possible the Grantee will provide the Grantor reasonable notice of its intention to perform any work within the Easement Area, except in emergency situations, when the work may be undertaken without prior notice;
 - (ii) All work will be done in compliance with all applicable laws, rules, codes and regulations;
 - (iii) Grantee is not responsible for damage to any fence, buildings or structure of any kind or any shrubs or trees which the Grantee has placed within the Easement Area, that may be damaged or destroyed by any work undertaken with the Easement Area.
- 8. Subject to the limitations herein contained, the Grantor shall be allowed free access to, and the use of, the Easement Area and except to the extent that it may be necessary for the Grantee and their agents (servants, employments, licensees, successors) to use the Easement Area for the Permitted Uses.
- 9. Nothing herein contained shall be deemed to vest in the Grantee any title to mines, ores, metals, coal, slate, oil, gas or other minerals in or under the Easement Area, except only the parts thereof that are necessary to be excavated, carried away or used in the installation, construction, operation, maintenance, inspection, alteration, removal, replacement, reconstruction and/or repair of the Utility Services.
- 10. The Grantee shall have the right to sell, assign or license all of any portion of the rights granted under this Grant of Easement to a third party for purposes consistent with the operation of the Utility Services including but not limited to management, utilization, maintenance, repair, testing and upgrading the Utility Services.
- 11. The Grantor releases the Grantee from any claim for damages, including negligence or nuisance and agrees to indemnify and save the Grantee harmless from any claim or claims howsoever arising.
- 12. This Grant of Easement shall inure to the benefit of and is binding upon the Grantor, the Grantee and their respective executors, administrators, successors and assigns.

IN WITNESS WHEREOF I / We, the Grantor(s) have hereunto subscribed (my) our name (s) the day and year first above written, in the presence of:

Witness	Grantor	
Witness	Grantor	
Witness	Grantor	

AFFIDAVIT OF EXECUTION

C A N A D A) I, _____
(NAME OF WITNESS)

PROVINCE OF SASKATCHEWAN) of the _____ of _____

TO WIT:) in the Province of Saskatchewan

MAKE OATH AND SAY:

1. THAT I was personally present and did see _____ duly sign and execute the within instrument for the purpose named therein; and:

Check ONE ONLY:

I satisfied myself that he/she is/are the person(s) named in the within instrument; OR

He/She is/are personally known to me;

2. THAT the same was executed at _____, Saskatchewan, and I am the subscribing witness thereto.

3. THAT the said _____ is/are in my belief of the full age of 18 years.

SWORN BEFORE ME at the _____ of _____)
in the Province of Saskatchewan,)
this _____ day of _____, 20_____)
)
)
_____)

(Signature of Witness)

A Notary Public/Commissioner for Oaths
in and for the Province of Saskatchewan,
My Appointment/Commission expires: _____
OR Being a solicitor

AFFIDAVIT OF EXECUTION

C A N A D A) I, _____
(NAME OF WITNESS)

PROVINCE OF SASKATCHEWAN) of the _____ of _____

TO WIT:) in the Province of Saskatchewan

MAKE OATH AND SAY:

1. THAT I was personally present and did see _____ duly sign and execute the within instrument for the purpose named therein; and:

Check ONE ONLY:

I satisfied myself that he/she is/are the person(s) named in the within instrument; OR

He/She is/are personally known to me;

2. THAT the same was executed at _____, Saskatchewan, and I am the subscribing witness thereto.

3. THAT the said _____ is/are in my belief of the full age of 18 years.

SWORN BEFORE ME at the _____ of _____)
in the Province of Saskatchewan,)
this _____ day of _____, 20_____)
)
)
_____)

(Signature of Witness)

A Notary Public/Commissioner for Oaths
in and for the Province of Saskatchewan
My Appointment/Commission expires: _____
OR Being a solicitor

HOMESTEAD AFFIDAVIT

C A N A D A) I, _____
(NAME OF SUBSCRIBER)

PROVINCE OF SASKATCHEWAN) of the _____ of _____

TO WIT:) in the Province of Saskatchewan

MAKE OATH AND SAY:

1. I am the Owner of the property described as:

Legal: _____

Civic: _____

Check ONE ONLY:

My spouse is a registered owner of the land that is the subject matter of the within disposition and co-signatory thereof.

My spouse and I have not occupied the land that is the subject matter of the within disposition as our homestead at any time.

I have no spouse

SWORN BEFORE ME at the _____ of _____)
 in the Province of Saskatchewan)
 this _____ day of _____, 20____)
)
)
)

 (Signature of Subscriber)

A Notary Public/Commissioner for Oaths
 in and for the Province of Saskatchewan
 My Appointment/Commission expires: _____
 OR Being a solicitor

CONSENT OF NON-OWNING SPOUSE

I, _____, non-owning spouse of _____ consent to the attached disposition. I declare that I have signed this consent for the purpose of relinquishing all my homestead rights in the property described in the attached disposition in to the extent necessary to give effect to the within instrument.

Date: _____

Signature of non-owning spouse

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

I, _____, a Notary Public/Practicing Solicitor, CERTIFY THAT I have examined _____, non-owning spouse of _____ the owning spouse, in the attached disposition separate and apart from the owning spouse.

The nonowning spouse acknowledged to me that he/she:

1. Signed the consent to the disposition of his or her own free will and without any compulsion on the part of the owning spouse; and
2. Understands his or her rights in the homestead.

I FURTHER CERTIFY THAT I have not, nor has my employer, partner or clerk prepared the documents contained herein AND THAT I am not, nor is my employer, partner or clerk otherwise interested in the transaction involved.

Date: _____

A Notary Public in and for the Province of
Saskatchewan
My appointment expires: _____
OR Being a Solicitor