

THIS AGREEMENT entered into as of the 14 day of NOVEMBER, 2012.

BETWEEN:

MUNICIPAL DISTRICT OF RANGLAND NO. 66

a municipal corporation governed by the *Municipal Government Act*, R.S.A. 2000, Chapter M26, as amended, (hereinafter referred to as "Ranchland")

-and-

MUNICIPAL DISTRICT OF WILLOW CREEK NO. 26

a municipal corporation governed by the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended, (hereinafter referred to as "Willow Creek")

-and-

TOWN OF NANTON

corporation governed by the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended, (hereinafter referred to as "Nanton")

(collectively referred to as the "Municipalities")

INTER-MUNICIPAL CO-OWNERSHIP AGREEMENT

WHEREAS Section 3 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, provides that the purposes of a municipality includes the provision of services that, in the opinion of council, are necessary or desirable for all or a part of the municipality;

AND WHEREAS the respective Councils for the Municipalities have deemed it expedient and advisable to enter into an agreement for the purpose of facilitating the purchase and management of the Nanton Community Health Centre located at 2216-20th Street in the Town of Nanton and the adjacent property located at 2200-20th Street for the mutual benefit of all the Municipalities and all residents within the Municipalities (the "Co-Ownership");

AND WHEREAS the respective Councils for the Municipalities have deemed it expedient and advisable to enter into this Agreement for the purpose of establishing their respective rights and obligations in relation to the Co-Ownership;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements contained herein, the parties hereto covenant and agree each with the other as follows:

ARTICLE I - DEFINITIONS

- 1.1 For the purposes of this Agreement, the following terms shall have the meanings herein specified:
- (a) "Approved Budget" means the annual capital and operating budget for the Properties which has been approved by each of the Municipalities;
 - (b) "Confidential Information" means all information relating to discussions, recommendations, advice, negotiations, actions and activities undertaken pursuant to this Agreement which is protected from disclosure by the operation of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000 Chapter F-25, as amended, and other applicable legislation;
 - (c) "Co-Ownership Proportion" means, with respect to a Municipality, the proportion of that Municipality's interest in the Properties is in relation to the aggregate interest of all the Municipalities in relation to the Properties, expressed as a percentage;
 - (d) "Committee" means the Health Centre Management Committee;
 - (e) "Councils" means the respective Council for each Municipality;
 - (f) "Expansion Property" means that property having the legal description of 959J 5 12,13 and the municipal address of 2220-20th Street, Nanton, Alberta, as described on the Certificate of Title attached as Schedule "A";
 - (g) "Health Centre" means the Nanton Community Health Centre property having the legal description of 959J 5 14-15 and the municipal address of 2216-20th Street, Nanton, Alberta, as described on the Certificate of Title attached as Schedule "B";
 - (h) "Insurance" means property insurance as described in Article 13;
 - (i) "Lease Agreements" means the current lease agreement held by Alberta Health Services with respect to the Health Centre attached as Schedule "C", the residential tenant agreement with respect to the Expansion Property attached as Schedule "D" and any new, replacement, amending or renewal lease agreements;
 - (j) "Managing Partner" means that Municipality which the Municipalities unanimously agree to designate as being the Municipality responsible to manage the Properties in accordance with Article 9 from time to time;
 - (k) "Operating Funding" means the financial contributions by each Municipality towards the amounts owing pursuant to the Approved Budget in accordance with the formula set out in Schedule "F";

- (l) "Purchase Funding" means the equal capital contributions by each Municipality to facilitate the purchase of the Properties as estimated in Schedule "E" together with such additional expenses related to the purchase of the Properties including but not limited to legal fees, interest, Land Titles fees, realtor fees, etc.;
- (m) "Properties" means both the Health Centre and the Expansion Property;
- (n) "Property" means either the Health Centre or the Expansion Property.

ARTICLE 2 - PURPOSE AND INTENT

2.1 The purpose and intent of this Agreement is to establish the terms by which the Municipalities will jointly purchase and manage the Properties for the benefit of the Municipalities and their respective residents.

ARTICLE 3- CONDITIONS PRECEDENT

3.1 The obligations of the respective Municipalities pursuant to this Agreement are subject to the following conditions, all of which are to be fulfilled or performed at or prior to December 1, 2012, provided that any or all of the following terms and conditions may be mutually waived in whole or in part by the Municipalities if same is in writing and executed by all Municipalities:

- a) Purchase Agreements for each of the Properties are duly executed by the Municipalities and the registered owner of the Properties, Mosquito Creek Foundation, having the following terms:
 - i) Each of the Municipalities will have an undivided interest in each of the Properties as a tenant-in-common with the following Co-Ownership Proportion:

| | |
|---------------|-----|
| Ranchland: | 1/3 |
| Willow Creek: | 1/3 |
| Nanton: | 1/3 |
 - ii) closing date of January 1, 2013,
 - iii) the total cumulative purchase price for both of the Properties does not exceed \$455,464.00 (excluding GST) and subject to normal adjustments, and
 - iv) upon transfer of ownership to the Municipalities, the Certificates of Title to the Properties shall be free and clear of all encumbrances except those specifically agreed to by the Municipalities,

- v) Assignment of the existing Lease Agreements to the Municipalities, effective January 1, 2013.

In the event that any of the foregoing conditions are not completed or waived by the Municipalities by December 1, 2012, this Agreement will automatically terminate and have no further force or effect.

ARTICLE 4- TERM AND TERMINATION

4.1 The Municipalities agree to be bound by the terms of this Agreement from the ____ day of _____, 2012 until such date that any Municipality terminates its participation in this Agreement in accordance with the terms of this Agreement. Notwithstanding the foregoing, in the event that any Municipality terminates its participation in this Agreement, this Agreement shall continue to be in full force and effect with respect to the remaining Municipalities.

4.2 If any Municipality wishes to withdraw from this Agreement and dispose of its interest in the Properties (the "Withdrawing Municipality"), the Withdrawing Municipality shall provide written notice of termination to the other Municipalities no later than June 30 to be effective December 31 of that calendar year.

4.3 At the same time that the Withdrawing Municipality provides notice of termination in accordance with Article 4.2, the Withdrawing Municipality shall make an offer in writing to sell its interest in the Properties (the "Offer") to the remaining Municipalities subject to the following terms:

- (a) the Offer shall be an offer to sell the Withdrawing Municipality's entire Co-Ownership Interest in the Properties to the remaining Municipalities on a pro rata basis for a purchase price which is the equivalent of the Withdrawing Municipality's contribution to the Purchase Funding as set out in Schedule "C" together with the Withdrawing Municipality's financial contributions to any renovation or improvement of the Properties paid pursuant to the terms of this Agreement (the "Purchase Price") with a closing date of December 31 of that calendar year;
- (b) as a condition to receiving payment of the Purchase Price, the Withdrawing Municipality shall transfer all of its right, title and interest in the Properties to the remaining Municipalities free and clear of all encumbrances, except those specifically agreed to by the remaining Municipalities;
- (c) Any amount due and owing by the Withdrawing Municipality pursuant to this Agreement shall be deducted from the Purchase Price;
- (d) the remaining Municipalities shall have sixty (60) days to accept the Offer in writing;
- (e) if one remaining Municipality does not accept the Offer pursuant to Article 4.3(d), the other remaining Municipality who has accepted the Offer pursuant to Article 4.3(d) may accept the Offer in writing for the Withdrawing Municipality's entire Co-Ownership

Interest in the Properties by accepting the Offer in writing thirty (30) days after the expiry of the sixty (60) day period set out in Article 4.3(d);

- (f) if the Offer is not accepted by the remaining Municipalities in accordance with Article 4.3(d)(e), then the Withdrawing Municipality may sell, transfer or otherwise dispose of its Co-Ownership Interest, or any portion thereof, to such third party purchaser and upon such terms and conditions as the Withdrawing Municipality deems appropriate after the expiry of the thirty (30) day period set out in Article 4.3(c);
- (g) no disposition of any portion of the Withdrawing Municipality's Co-Ownership interest to a third party purchaser as permitted by this Article 4.3 shall be effective unless and until the third party purchaser has entered in writing with the remaining Municipalities whereby the third party purchaser is bound by and entitled to the benefit of, all provisions of this Agreement; and
- (h) the Withdrawing Municipality shall be entitled to the benefit of and be bound by only the rights and obligations which arose pursuant to this Agreement prior to the closing of the sale of the Co-Ownership interest.

4.4 Any Municipality which terminates its participation in this Agreement in accordance with Article 4.2 remains obligated to provide its portion of Operating Funding for the balance of the calendar year in which notice of termination was given.

ARTICLE 5 - RELATIONSHIP OF PARTIES

5.1 This Agreement governs and defines the parties' respective rights, powers and obligations in the administration and operation of the Co-Ownership during the Term of this Agreement.

5.2 Nothing herein contained shall be deemed to create nor shall be interpreted as a general partnership relationship nor an agency relationship between the parties with respect to any activities whatsoever.

5.3 Nothing contained herein shall be deemed to permit nor shall be interpreted to mean that any party has the authority to act for or to assume any obligation or responsibility for or on behalf of any of the other parties.

5.4 Nothing contained herein shall be interpreted to fetter the discretion of any Council.

5.5 Unless otherwise agreed to in writing between the Municipalities and subject to Article 8, the following decisions relating to the Properties shall require unanimous agreement between the Municipalities:

- a) designation, revocation of designation, or replacement of the Managing Partner;
- b) arranging, entering into or guaranteeing any financing in relation to the Properties,

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- c) entering into, amending, terminating, or renewing any Lease Agreement or other contract or agreement relating to the Properties
- d) retaining any consultant, expert, architect, engineer or general contractor in relation to the Properties with respect to capital expansion or replacement
- e) annual capital and operating budgets,
- f) renovation or development budgets which are not included in an Approved Budget,
- g) any renovation or repair work to the Properties which is not included in an Approved Budget and which anticipated cost will exceed \$10,000.00
- h) entering into any contract for goods or services in relation to the Properties which is not included in an Approved Budget and which anticipated cost will exceed \$10,000.00,
- i) exceeding any Approved Budget by more than __% in any fiscal year,
- j) insurance coverage including determination of the scope of coverage, deductibles, policy limits and any other relevant matters, and
- k) selling or otherwise disposing of the Properties.

5.6 With the exception of those decisions outlined in Article 5.5, all other decisions required to be made by the Municipalities pursuant to this Agreement shall be made on a simple majority basis.

5.7 Each Municipality agrees that all decisions concerning the Properties shall be made by it in good faith and strictly upon the merits of the proposed action and that the making of such decisions shall not be unreasonably delayed. Subject to Article 10, any decision approval by the Municipalities shall constitute approval to undertake all steps reasonably necessary to implement, perform or carry out such decisions. Each Municipality shall do all things and execute any and all deeds, transfers, agreements, leases and other documents reasonably required to carry out such decisions.

ARTICLE 6- OBLIGATIONS OF MUNICIPALITIES

6.1 Each Municipality shall at all times:

- a) Duly and punctually pay all amounts owing pursuant to this Agreement including but not limited to the Operating Funding,

- b) Indemnify and save harmless the other Municipalities from and against all actions, proceedings, costs, claims and demands arising from the breach of such Municipality of the terms of this Agreement, and
- c) Where a lien is registered against the Properties, take all necessary action to have the lien removed from title to the Properties forthwith unless otherwise agreed to in writing by the Municipalities.

6.2 Unless otherwise agreed in writing by the Municipalities, no Municipality shall:

- a) Encumber the Properties,
- b) Cause a mortgage or other encumbrance to be registered against the Certificates of Title to the Properties or the interest of the Municipalities therein, or
- c) Sell, transfer, sign, pledge, hypothecate, mortgage, charge, grant a security interest in or in any other manner sell or encumber its interest in the Properties.

6.3 With the exception of Operating Funding which is calculated in accordance with Schedule "F" and any renovation or building expansion project which funding apportionment shall be negotiated between the Municipalities on a project by project basis, the Municipalities shall be responsible for all liabilities and obligations related to or associated with the Properties in accordance with their respective Co-Ownership Proportion.

6.4 The Municipalities shall approve a capital and operating budget for the Properties no later than November 30 of each year during the Term for the subsequent year. Such budget shall include but shall not be limited to the following:

- a) any applicable property taxes and assessments,
- b) insurance premiums,



- c) payments required to be made pursuant to any financing, lease, lien, restriction or encumbrance on the Properties and to cure any default under any such lease, lease, lien, restriction or encumbrance,
- d) any alteration, repair or replacement required with respect to the Properties by any present or future law, ordinance, rule, regulation or requirement by any federal, provincial or municipal government or any governmental or quasi-governmental agency or authority, and
- e) any administration fee, expense, charge or cost payable to the Managing Partner, and
- f) any other undertaking or expenditure approved by the Municipalities.

6.5 Where the Municipalities cannot reach agreement on an annual budget by November 30 as contemplated in Article 6.4, the matter shall be referred to Dispute Resolution in accordance with Article 14 on or before December 10 of that calendar year.

ARTICLE 7- SALE OF PROPERTIES

7.1 At any time, by the unanimous written agreement between the Municipalities, the Municipalities may sell the Properties or any Property for fair market value as assessed pursuant to Article 7.2 or such value as the Municipalities may agree by way of unanimous written agreement.

7.2 Where the Municipalities have agreed to sell the Properties or any Property and cannot reach agreement on the appropriate value of the Properties or any Property, fair market value shall be determined as follows:

- a) If possible, the Municipalities shall appoint an appraiser which is mutually agreed to by each of the Municipalities,
- b) Where the Municipalities cannot reach an agreement pursuant to Article 7.2(a), any one of the Municipalities may by written notice to the other Municipalities appoint an appraiser (the "First Appraiser"). Within ten (10) days of receipt of the written notice appointing the First Appraiser, each of the other Municipalities may by written notice provided to the Municipality appointing the First

Appraiser appoint another appraiser (the "Second Appraiser" and the "Third Appraiser"). If no Second or Third Appraiser is appointed within the 10 day period, the First Appraiser shall be the sole appraiser. Where no Third Appraiser is appointed, within ten (10) days of the Second Appraiser being appointed, the First and Second shall by written notice provided to the Municipalities appoint a third Appraiser, failing which any Municipality may on not less than 5 days' notice to the other Municipalities apply to the Court of Queen's Bench of Alberta for the appointment of a third appraiser

- c) Each appraiser shall be a disinterested person of recognized competence who is a member in good standing of the Appraisal Institute of Canada for a period of not less than 5 years. Each appraiser shall proceed with his/her appraisal independently of the other appraisers. Each appraiser shall have access to all books of account, records, vouchers, cheques, papers and documents of each Municipality which may relate to the Properties or Property and the Lease Agreements. Each Municipality shall cooperate with each appraiser and provide to all appraisers all information and documents reasonably requested by any one of them,
- d) In the determination of an appraisal, each appraiser shall have regard to all relevant considerations including historic and potential performance and shall make all proper and necessary allowances for contingent or other liabilities but shall make no allowance for goodwill and shall in the determination of such valuations take into consideration the relative rights and obligations of the Municipalities under this Agreement. Each appraiser shall have the right to retain experts as he/she may deem necessary to assist him/her in making his/her appraisal, and
- e) Within 45 days after the appointment of the Third Appraiser, each appraiser shall give written notice to the Municipalities, signed by him/her, of the amount of the fair market value of the Properties or Property. Any appraisal the amount of which differs by more than 5% from the amount of that appraisal which is neither the highest or the lowest in amount shall be disregarded and the average of the amounts of the remaining appraisals, or the amount of the remaining appraisal if the other appraisals are disregarded, shall be deemed to be the appraised fair market value of the Properties or Property.

7.3 The costs and expenses of the appraisals, including the fees of the appraisers shall be paid equally by the Municipalities.

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7.4 Upon the sale of the Properties or Property, each Municipality is entitled to a share of the sale proceeds which is equal to the sale price of the Properties or Property less the amount owing pursuant to any permitted encumbrance registered against the Properties or Property, multiplied by the Co-Ownership Proportion. Any amount owing by a Municipality pursuant to the terms of this Agreement shall be deducted from that Municipality's share of the sale proceeds.

7.5 In addition to the share of the sale proceeds set out in Article 7.4, after the Properties have been sold, each Municipality is entitled to a share of any amount remaining in the Bank Account after all expenses, liabilities, costs and charges related to the Properties have been paid out, which net amount shall be multiplied by that Municipality's Co-Ownership Proportion in order to calculate the Municipality's share amount. Any amount owing by a Municipality pursuant to the terms of this Agreement shall be deducted from that Municipality's share of any remaining amounts in the Bank Account.

ARTICLE 8 – MANAGEMENT COMMITTEE

8.1 The Committee shall be known as the "Nanton Health Centre Management Committee" and shall be comprised of three (3) representatives from each Municipality (the "Municipal Representatives") comprised of two elected officials, each of whom has voting privileges, and one senior staff member who has no voting privileges but has administrative functions.

8.2 Each Municipality shall appoint three (3) representatives to the Committee for whatever term each Municipality deems appropriate.

8.3 The purpose of the Committee shall be to facilitate the terms of this Co-Ownership Agreement including:

- a) reviewing proposed annual capital and operating budgets for the Properties and making recommendations to the Councils no later than October 30 with respect to the proposed budgets for the subsequent year,
- b) reviewing any proposed renovations or repairs to the Properties which have a total estimated cost of \$10,000.00 or more and which renovations or repairs are not included in the Approved Budget and making recommendations to the Councils,
- c) reviewing and negotiating any proposed terminations, amendments or renewals of any Lease Agreements or new Lease Agreements with respect to the Properties and making recommendations to the Councils,
- d) reviewing and negotiating any proposed agreements including but not limited to agreements for goods and services in relation to the Properties and making recommendations to the Councils;

- e) reviewing any proposed grant requests and making recommendations to the Councils;
- f) receiving and reviewing year end audited financial reports for the Properties;
- g) reporting to the Councils;
- h) providing recommendations in relation to the Properties to the Council; and
- i) other functions as deemed appropriate from time to time by the Councils.

8.4 The Committee shall take all recommendations to the Councils for final decision making and ratification by the Councils. The Committee and the Committee members cannot make binding decisions for any Municipality. Neither the Committee nor any Committee member is authorized to enter into any agreement in relation to the Properties unless specifically authorized to do so by the Municipalities in writing.

8.5 The Committee shall meet not less than once per quarter at a meeting location determined by the Committee.

8.6 At least two (2) clear business days' notice of a Committee meeting shall be given to each representative on the Committee specifying the place, day and hour of the meeting and the general nature of the business to be transacted at such meeting.

8.7 Meetings of the Committee may be held at any time without formal notice if all members of the Committee are present in person or by proxy, or if those absent give notice, either before or after such meeting, of their assent to the meeting being held in their absence.

8.8 No business shall be transacted at any meeting of the Committee unless at least one (1) elected official representative from each Municipality is present when the meeting proceeds to business.

8.9 The members of the Committee may participate in a meeting of the Committee by means of such telephone or other communications facilities as will permit all persons participating in the meeting to communicate with each other. A Committee member participating in such a meeting by such means is deemed to be present at the meeting for all purposes of this Agreement.

8.10 All Committee resolutions shall be decided by simple majority vote of Committee members in attendance at that meeting.

8.11 All Committee meetings shall be held in accordance with the provisions of the ***Municipal Government Act***, R.S.A. 2000 Chapter M-26, as amended from time to time.

8.12 The Committee shall prepare minutes of its meetings, copies of which shall be provided to the Councils.

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ARTICLE 9- MANAGEMENT OF PROPERTIES

9.1 Subject always to Articles 5.5, 8.3, 8.4 and 10, upon designation as Managing Partner by the Municipalities and until such time as the designation is revoked by the Municipalities, the Managing Partner through its Chief Administrative Officer or his/her designate, shall manage the Properties and administer the Lease Agreements on behalf of the Municipalities in accordance with the provisions of this Agreement. As part of its administrative functions, the Managing Partner shall:

- a) supervise and administer the day to day management of the Properties;
- b) administer the Lease Agreements;
- c) ensure that all Insurance is obtained and maintained on the Properties;
- d) prepare grant requests for Committee review,
- e) prepare annual capital and operating budgets for the Properties for Committee review no later than September 30 of each year for the subsequent year,
- f) prepare and maintain in good order complete, detailed and current books of account for the management of the Properties in accordance with Generally Accepted Accounting Principles,
- f) provide year end audited financial reports prepared in accordance with generally accepted accounting principles for the Properties to the Committee for review,
- g) provide information and documentation relating to the Properties, Lease Agreements and Insurance as may be requested from time to time by the Committee or by any of the Municipalities,
- h) open and administer or, where a Bank Account has already been opened, continue to administer a separate bank account at a Canadian chartered bank for the purpose of collecting the rent, funding, grants and any other monies collected, received or obtained relating to the Properties as well as for the purpose of making all required expenditures in relation to the Properties (the "Bank Account"),
- i) issue funding notices to each Municipality not later than November 30 for each year during the Term outlining all of the Municipalities' funding obligations for the subsequent year,
- j) provide copies of all executed Lease Agreements or other agreements relating to the Properties to each Municipality,
- l) expend monies from the Bank Account for the operation, maintenance, upkeep or other obligations relating to the Properties pursuant to the Approved Budget or as otherwise approved by the Municipalities from time to time,
- m) receive rent, funding, grant monies and other monies collected or obtained relating to the Properties and depositing all such monies into the Bank Account,
- n) provide a quarterly report to the Committee members detailing all administrative activity in relation to the Properties and the Lease Agreements including monthly Bank Account statements,

- o) maintain all Lease Agreements, Insurance policies and other information and documentation relating to the Properties,
- p) prepare and maintain all Committee minutes,
- q) prepare and maintain all correspondence, documentation, records and information on behalf of the Committee or in relation to the Properties,
- s) issue all Committee meeting notices,
- t) notify all Municipalities of any outstanding Operating Funding contributions within thirty (30) days of the date upon which such contribution was due;
- u) notify all Municipalities in writing when it is reasonably anticipated that any Approved Budget may be exceeded by the percentage specified in Article 5.5(i); and
- v) other administrative functions as deemed appropriate from time to time by the Committee.

9.2 All inquiries or requests relating to the management of the properties should be directed to the Managing Partner's Chief Administrative Officer or his/her designate.

9.3 Each of the Municipalities shall have the right on reasonable notice at all reasonable times during business hours to, at that Municipality's sole cost and expense, to audit, examine and make copies of extracts from the books and records relating to the Properties. Such right may be exercised by the Chief Administrative Officer of any of the Municipalities or his/her designate including any independent chartered accountant appointed by the Municipality.

ARTICLE 10- AGREEMENTS

10.1 Subject always to Council approval, each Municipality shall be a party to every agreement relating to the Properties including but not limited to Lease Agreements.

ARTICLE 11- COST SHARING

11.1 On or before December 10, 2012, each Municipality shall forward its portion of the Purchase Funding to the law firm handling the purchase of the Properties on behalf of the Municipalities to be held in trust pending the closing of the Purchase Agreement for the Properties.

11.2 Not later than January 1 of each year during the Term, each Municipality is responsible to provide the current Managing Partner with that Municipality's Operating Funding obligation pursuant to the Approved Budget for that year.

11.3 In the event that any Municipality fails to provide its Operating Funding contribution or any other contribution in accordance with this Agreement and that Municipality disputes the contribution requirement or the amount of the contribution requirement, then the dispute shall be referred to Dispute Resolution in accordance with Article 14. In the event that any Municipality fails to make

any of its contributions as required under this Agreement and does not dispute the contribution requirement or contribution amount then the following shall apply:

- a) while the contribution remains outstanding, the Municipality which fails to provide its contribution in accordance with this Agreement shall not be entitled to participate in the Management Committee nor shall any agreement from that Municipality be required with respect to any decisions about the Properties as contemplated in this Agreement and the other Municipalities shall be entitled to deal with the Properties as they deem appropriate without the involvement of the Municipality which has failed to provide its Operating Funding Contribution; and
- b) within thirty (30) days of receiving written notice of default by the other Municipalities, unless the Municipality pays its full contribution amount within this thirty (30) day period, the Municipality which fails to provide its contribution in accordance with this Agreement shall transfer its Co-Ownership Interest in the Properties to the other Municipalities on a pro-rata basis without compensation being paid by the other Municipalities.

ARTICLE 12: INDEMNITY

12.1 Subject to Article 12.2, each party hereto (the "Indemnifying Party") shall indemnify and save harmless the other party (the "Indemnified Party"), its elected officials, officers, employees, contractors, volunteers and agents from and against all liabilities, losses, costs, damages, legal fees (on a solicitor and his own client full indemnity basis), disbursements, fines, penalties, expenses, all manner of actions, causes of action, claims, demands and proceedings, all of whatever nature and kind the Indemnified Party may sustain, pay or incur or which may be brought or made against all or any of them, and whether or not incurred in connection with any action or other proceedings or claims or demands made by third parties, with respect to any occurrence, event, incident or matter caused by, and/or arising as a direct or indirect result of:

- a) the misconduct, negligent action or negligent failure to act, as the case may be, of the Indemnifying party and/or any of those persons for whom the Indemnifying Party is responsible at law (including, without limitation, any of its employees or subcontractors) in connection with the performance of its obligations pursuant to this Agreement, or