

MEMBERSHIP AGREEMENT

THIS AGREEMENT made effective the _____ day of _____ 2012.

BETWEEN:

County of St Paul No 19

(hereinafter referred to as "Member")

- and -

ELK POINT / ST PAUL REGIONAL WATER COMMISSION

(hereinafter referred to as the "Commission")

WHEREAS the Minister of Municipal Affairs has created the Commission under section 602.02 of the Municipal Government Act.

AND WHEREAS in establishing the Commission, the Member has been given membership in the Commission as outlined in the attached as Schedule A.

AND WHEREAS the Board of Directors of the Commission, subject to compliance by the Member with all requirements pursuant to the Bylaws, has resolved it is a condition of membership in the Commission, that this Agreement be executed by the Members;

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the premises and the mutual agreements and conditions herein contained the parties hereby agree as follows:

ARTICLE 1 – INTERPRETATION

1.1 Definitions

In this Agreement unless there is something in the context inconsistent therewith the following words and phrases will have the following meanings.

- (a) "Act" means the Municipal Government Act RSA 2000 c. M-26, as amended from time to time;
- (b) "Appointed" means elected and vice versa;
- (c) "Board" means the Board of Directors of the Commission;

- (d) "Bylaws" means the Bylaws of the Commission as from time to time amended or restated;
- (e) "Default" means any failure by the Member to obtain, perform or carry out any of its obligations hereunder where such failure continues for thirty (30) days after notice in writing from the Commission demanding that such default be remedied;
- (f) "Director(s)" means the person(s) who is/are appointed from time to time Director(s) of the Commission, pursuant to the Bylaw;
- (g) "Effective Date" means the date of the creation of the Commission by the Minister of Municipal Affairs;
- (h) "Manager" means the person appointed by the Board as Manager in accordance with this Bylaw;
- (i) "Officer(s)" means any officer(s) of the Commission;
- (j) "Parties" means the parties to this Agreement; and
- (k) "Prime Rate" means the percentage rate of the interest per annum which is established and charged from time to time by the financial institution of the Commission, on loans to its most creditworthy and preferred commercial borrowers. A statement or statements in writing made by the Manager of the said financial institution, as to the Prime Rate, from time to time, shall be final and conclusive as evidencing the Prime Rate during the operative time of the statement and shall not be open to dispute or challenge by the parties. Any change in the Prime Rate shall be effective on the banking day upon which the said financial institution changes its Prime Rate, and such rate of interest shall be charged automatically without notice to the parties.

1.2 Defined Terms

Words and phrases used in this Agreement and not defined herein have the same meaning assigned to them respectively in the Act.

1.3 Effective Date

All of the mutual covenants and agreements herein contained became effective and binding upon the Parties as and from the Effective Date and this Agreement shall continue in full force and effect from the Effective Date until termination in accordance with the terms of this Agreement.

1.4 Termination

This Agreement shall cease and terminate on the occurrence of any of the following events, namely:

- (a) the bankruptcy or receivership of the Commission;

- (b) the passing of a resolution for winding up the Commission;
- (c) the Lieutenant Governor in Council approving a regulation disestablishing the Commission and ordering the Commission to be wound-up; or
- (d) the execution of any agreement in writing for termination by either of the Parties.

ARTICLE 2 – CONDUCT OF THE AFFAIRS AND BUSINESS OF THE COMMISSION

2.1 Board of Directors

The Member agrees that the affairs of the Commission shall be managed by the Board of Directors appointed in accordance with the Bylaws.

2.2 Conduct of the Affairs of the Commission

The Member agrees that, unless authorized by a resolution passed by a majority of the Members or consented to in writing by all of the Members, the Commission shall not cause or permit the Commission to:

- (a) take or institute any proceedings for the dis-establishment, winding up, reorganization or dissolution of the Commission;
- (b) make any expenditure that is not authorized in accordance with the Act, the bylaws and policies of the Commission;
- (c) enter into any contract for the Commission outside of the Commission's ordinary course of business;

ARTICLE 3 – MEMBERSHIP BENEFITS

3.1 Availability of Membership Benefits

Subject to the performance of all of the obligations of the Member pursuant to this Agreement and pursuant to the Bylaws, the Commission will make available to the Member all of the benefits of membership that are available to all Members, from time to time.

ARTICLE 4 – MEMBER OBLIGATIONS

4.1 Service Agreement

The Member agrees to enter into a Water Service Agreement with the Commission at the time the member requires the services from the Commission. The Water Service Agreement will address the terms and conditions under which the Commission will treat water from the Member, and the condition in which the Member will deliver water to the Commissions.

4.2 Statutory Planning Documents

The Member agrees that in developing or amending any of its statutory planning documents where additional connections to the Commission's water system are contemplated, the Commission shall be consulted as part of the planning process and Commission's written approval in principle shall be required in order for any statement(s); about any or all contemplated direct connections; to be included in the statutory planning document(s).

ARTICLE 5 – FINANCIAL OPERATIONS

5.1 Operating and Capital Activities

The Commission acknowledges and agrees that all operating and capital expenditures of the Commission shall be made in accordance with the budget established pursuant to the Bylaws, and pursuant to the authorization contemplated in the Bylaws and policies of the Commission.

5.2 Operations and Banking

The Member acknowledges and agrees that:

- (a) the Commission shall keep detailed records and books of account prepared in accordance with generally accepted accounting principles and as required by appropriate legislation; and
- (b) The Commission shall distribute annual audited financial statements to each Member within thirty (30) days of the Commission's approval thereof.

ARTICLE 6 – DIRECTOR CONFLICT OF INTEREST

6.1 Disclosure

A Director of the Commission that is a director, officer, employee, contractor or authorized representative that is a party to a material contract or material transaction or proposed

material contract or proposed material transaction with the Commission shall disclose in writing to the Commission or request to have entered in the minutes of meetings of the Directors that such Director has a potential conflict of interest.

6.2 No Submissions or Voting

A Director referred to in Section 6.1, herein shall abstain from voting on any resolution relating to the contract or transaction; shall abstain and not be present during deliberations of the Board in relation to such contract or transaction in any manner.

6.3 Written Resolutions

Where a proposed contract or transaction is dealt with by a resolution in writing signed by all the Directors instead of in a meeting, the disclosure that would otherwise be required to be made in accordance to Section 6.1, herein, shall be made forthwith on receipt of the resolution in writing, and

- (a) the Director with a potential conflict of interest shall not execute the resolution; and
- (b) the resolution shall be deemed to have been signed by all the Directors, (except those Directors that in conflict of interest) if all of the remaining Directors sign such a resolution.

ARTICLE 7 – DIRECTORS AND OFFICERS LIABILITY

7.1 Insurance

The Member specifically acknowledges and agrees that, further to the indemnification contemplated for the benefit of the Directors in the Bylaws, the Commission may, at the discretion of the Directors, purchase and maintain Directors and Officers liability insurance on such terms and conditions as may be acceptable to the Directors.

ARTICLE 8 - DEFAULT

8.1 Remedies

Upon the occurrence of a Default, the Commission may do any one or more of the following:

- (a) pursue any remedy against the Member available to it at law or in equity, it being acknowledged that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default;
- (b) take such actions as may reasonably be required, to cure the default, in which event all payments, costs and expenses incurred therefore shall be payable by the Member to the Commission on demand with interest at a rate equal to the Prime Rate in effect at the time plus two (2%) percent per annum;
- (c) waive the default, provided, however, that any waiver of a particular default shall not operate as a waiver of any subsequent or continuing default; and / or
- (d) terminate the entitlement of the Member to the benefits of membership that are available to the Members.

ARTICLE 9 – DISPUTE RESOLUTION

9.1 Dispute Process

In the event of any Dispute, the Parties agree that prior to commencing litigation, they shall undertake a process to promote the resolution of a Dispute in the following order:

- (a) First, by negotiation;
- (b) Second, by way of Mediation; and
- (c) Third, by Arbitration

Negotiations, Mediation or Arbitration shall refer to, take into account, and apply the intentions and principals stated by the parties within this Agreement, attached Schedule “B”.

ARTICLE 10 – TERMINATION OF MEMBERSHIP

10.1 Termination

The Member shall only terminate its membership in the Commission in accordance with the Bylaws. Upon termination of its membership, the Member acknowledges and agrees

that it shall have no ownership, interests or other claim to any of the assets, including allocation amounts, of the Commission in any manner whatsoever.

ARTICLE 11 – DISTRIBUTION OF PROPERTY

11.1 Dis-establishment

Upon the dis-establishment of the Commission and after the payment of all debts and liabilities of the Commission, the remaining property of the Commission that is not addressed by the Lieutenant Governor in Council, shall be distributed among the Members, in the proportions as may be determined by the Board, in its discretion.

ARTICLE 12 – GENERAL PROVISIONS

12.1 Notices

Whether or not so stipulated herein, all notices, communication, requests and statements (the “Notice”) required or permitted hereunder shall be in writing. Notice shall be serviced by one of the following means:

- (a) in person, by delivering it to the party on whom it is to be served at the address set out herein, provided such delivery shall be during normal business hours. Personally delivered Notice shall be deemed received when actually delivered as aforesaid and addressed as specified in subsection (c) below; or
- (b) by telecopier or by any other like method by which a written or recorded message may be sent, directed to the party on whom it is to be served at that address set out herein. Notice so served shall be deemed received on the earlier of:
 - i. upon electronic transmission with answer back confirmation if received within the normal working hours of that business day; or
 - ii. at the commencement of the next ensuing business day following transmission with answer back confirmation thereof; or
- (c) by mailing via first class registered post, postage prepaid, to the party on whom it is served. Notice so served shall be deemed to be received seventy two (72) hours or three (3) business days after the date it is postmarked. In the event of postal interruption, no notice sent by means of the postal system during or within seven (7) days prior to the commencement of such postal interruption or seven (7) days after the cessation of such postal interruption shall be deemed to have been received unless actually received;

Except as herein otherwise provided, Notice required to be given pursuant to this Agreement shall be deemed to have been received by the addressee on the date received

when served by hand or courier, or five (5) days after the same has been mailed in a prepaid envelope by single registered mail to:

County of St Paul

5015- 49 Ave
St Paul, Alberta|
T0A 3A4

Attention: CAO

Phone: (780) 645-3301

Facsimile: (780) 645-3104

Elk Point/ St Paul Regional Water Commission

Box 993, Elk Point, TOA 1A0

Attention: Manager

Phone: (780) 724-3810

Facsimile: (780) 724-2762

or to such other address as each party may from time to time direct in writing.

12.2 Governing Law

This Agreement shall be construed and governed by the laws of the Province of Alberta and the laws of Canada applicable therein, and the parties hereto irrevocably attorn to the exclusive jurisdiction of the Courts of the Province of Alberta.

12.3 Time of Essence

Time shall be of essence in this Agreement.

12.4 Preamble and Schedules

The parties hereby confirm and ratify the matters contained and referred to in the Preamble to this Agreement and agree that same and the various schedule(s) hereto are expressly incorporated into and form part of this Agreement.

Schedule 'A' – Order in Council

Schedule 'B' – Dispute Resolution Process

12.5 Headings

The headings, captions, paragraph numbers, sub-paragraph numbers, article numbers and indices appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit, construct or enlarge the scope or meaning of this Agreement or any provisions thereof.

12.6 Relationship between Parties

Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party, as creating the relationship of employer and employee, principal and agent, partnership, or of a joint venture between the parties hereto, it being understood and agreed that none of the provisions contained herein nor any act of the parties hereto shall be deemed to create any relationship between the parties hereto other than an independent at arm's length agreement between the two parties.

12.7 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.

12.8 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.

12.9 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.

12.10 Amendments

This Agreement may not be altered or amended in any of its provisions, except where any such changes are reduced to writing and executed by the parties.

12.11 Waiver

No consent or waiver, express or implied, by either party to or of any breach or default by the other party in the performance by the other party of its obligations hereunder shall be deemed or constructed to be a consent or waiver to or of any other breach or default in the performance of obligations hereunder by such party hereunder. Failure on the part of either party to complain of any act or failure to act on the other party or to declare the

other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

12.12 Counterparts

This Agreement may be executed in several counterparts each of which when so executed shall be deemed to be an original, and such counterparts shall constitute the one and same instrument, and notwithstanding their date of execution shall be deemed to bear the date as of the date first above written.

12.13 Statutory Reference

Any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto and promulgated there under with all amendments made thereto and in force from time to time and any final judicial decisions interpreting the same, and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made pursuant thereto.

12.14 Unenforceability

If any term, covenant or condition of this Agreement or the application thereof to any part or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement or application of such term, covenant or condition to a party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining term, covenant or condition of this Agreement shall be valid and shall be enforceable to the fullest permitted by law.

12.15 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.

12.16 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 or more of such remedies generally or in combination, such remedies being cumulative and not alternative.

12.17 Payment of Monies

The parties acknowledge and agree that any payment of monies required to be made hereunder shall be made in Canadian funds and that any tender of monies or documents hereunder may be made upon the solicitors acting for the party upon whom the tender is desired and it shall be sufficient that a negotiable bank draft is tendered instead of cash.

12.18 Singular, Plural and Gender

Wherever the singular, plural, masculine, feminine or neuter is used throughout this Agreement the same shall be constructed as meaning the singular, plural, masculine, feminine, neuter, body politic and body corporate where the fact or context so requires and the provisions hereof.

12.19 Binding Effect

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

12.20 Assignment of Agreement

No party hereto shall assign its interest in this Agreement, or any party hereof, in any manner whatsoever without having first received written consent from all other parties hereto, such consent not to be unreasonably withheld, PROVIDED THAT in no event shall any assignment which may have been consented to release or relieve the assignor from its obligations to fully perform all of the terms, covenants and conditions of this Agreement on its part to be performed.

12.21 Requests for Consent

Each party shall provide any decision with regard to a request for consent in a timely manner.

IN WITNESS WHEREOF the parties have hereunto executed this Agreement under their respective corporate seals and by the hands of their proper officers duly authorized in that regard effective as of the day and year first above written notwithstanding the actual date or dates of execution hereof.

COUNTY OF ST PAUL NO 19

Per: _____

Per: _____

**ELK POINT/ ST PAUL REGIONAL
WATER COMMISSION**

Per: _____

Per: _____

Schedule “A”

Order in Council

O.C. 102/2012

A.R. 52/2012

March 15, 2012

The Lieutenant Governor in Council makes the Elk Point/St. Paul Regional Water Commission Regulation set out in the attached Appendix.

For Information only

Recommended by: Minister of Municipal Affairs

Authority: Municipal Government Act
(section 602.02)

APPENDIX
Municipal Government Act
ELK POINT/ST. PAUL REGIONAL WATER
COMMISSION REGULATION

Table of Contents

- 1 Definition
- 2 Establishment
- 3 Members
- 4 Services
- 5 Operating deficits
- 6 Sale of property
- 7 Profit and surpluses
- 8 Approval

Definition

- 1 In this Regulation, “member municipality” means a municipality referred to in section 3.

Establishment

- 2 A regional services commission known as the Elk Point/St. Paul Regional Water Commission is established.

Members

- 3 The following municipalities are members of the Commission:
- (a) Town of Elk Point;
 - (b) County of St. Paul No. 19.

Services

- 4 The Commission is authorized to provide potable water through the operation of a water transmission system.

Operating deficits

- 5 The Commission may not assume operating deficits that are shown on the books of any of the member municipalities.

Sale of property

- 6(1) The Commission may not, without the approval of the Minister, sell any of its land, buildings, equipment

or inventory whose purchase has been funded wholly or partly by grants from the Government of Alberta.

(2) The Minister may not approve a sale under subsection (1) unless the Minister is satisfied

- (a) as to the repayment of the grants from the Government of Alberta and outstanding debt associated with that portion of the land, buildings, equipment or inventory to be sold,
- (b) that the sale would not have a significant adverse effect on the services the Commission provides, and
- (c) that the sale will be properly reflected in the rates subsequently charged to the customers of the Commission.

Profit and surpluses

7 Unless otherwise approved by the Minister, the Commission may not

- (a) operate for the purposes of making a profit, or
- (b) distribute any of its surpluses to its member municipalities.

Approval

8 The Minister may make an approval under section 6 or 7 subject to any terms or conditions the Minister considers appropriate.

Schedule "B"

DISPUTE RESOLUTION PROCEDURE

1. **Definitions - In this Schedule, the following words and phrases have the following meanings:**

- (a) "Arbitrator" means the person appointed to act as such to resolve any Dispute;
- (b) "Arbitration" means a process whereby each of the Parties, with or without legal counsel, agrees to jointly engage and meet with an Arbitrator who will render a binding decision in respect of any Disputes;
- (c) "Dispute" means any disagreement or controversy between the Parties concerning any matter arising out of this Agreement;
- (d) "Disclosed Information" means the information disclosed by a Party for the purpose of settlement, negotiation, Mediation or Arbitration;
- (e) "Mediation" means a process whereby a Representative of each Party, with or without legal counsel, agrees to jointly engage the services and meet with a Mediator to participate in a mediation, conciliation or similar dispute resolution process;
- (f) "Mediator" means the person appointed to facilitate the resolution of a Dispute between the Parties;
- (g) "Party" means a party to the Agreement to which this Dispute Resolution Procedure is attached, and "Parties" means more than one of them; and
- (h) "Representative" means an individual who has no direct operational responsibility for the matters comprising the Dispute who holds a senior position with a Party and who has full authority to settle a Dispute.

2. **Dispute Process - In the event of any Dispute, the Parties agree that prior to commencing litigation, they shall undertake a process to promote the resolution of a Dispute in the following order:**

- (a) first, by negotiation;
- (b) second, by way of Mediation; and
- (c) third, by Arbitration,

Negotiation, Mediation or Arbitration shall refer to, take into account, and apply the intentions and principles stated by the parties within Agreement to which this Schedule is attached.

3. **Negotiation** - A Party shall give written notice ("Dispute Notice") to the other Party of a Dispute and outline in reasonable detail the relevant information concerning the Dispute. Within seven (7) days following receipt of the Dispute Notice, the Parties shall each appoint a Representative, who shall meet and attempt to resolve the Dispute through discussion and negotiation. If the Dispute is not resolved within thirty (30) days of receipt of the Dispute Notice, the negotiation shall be deemed to have failed.
4. **Mediation** - If the Representatives cannot resolve the Dispute within such thirty (30) day period, then the Dispute shall be referred to Mediation. Any one of the Parties shall provide the other Party with written notice ("Mediation Notice") specifying the subject matters remaining in Dispute, and the details of the matters in Dispute that are to be mediated. If the Mediation is not completed within sixty (60) days from the date of receipt of the Dispute Notice, the Dispute shall be deemed to have terminated and failed to be resolved by Mediation.
5. **Arbitration**
 - (a) If the Mediation fails to resolve the Dispute, the Dispute shall be submitted to binding Arbitration. One of the Parties may provide the other Party with written notice ("Arbitration Notice") specifying the subject matters remaining in Dispute and the details of the matters in Dispute that are to be arbitrated. If the other Party agrees to proceed to Arbitration, such Dispute shall proceed to Arbitration. A failure to respond to the Arbitration Notice shall be deemed to constitute a refusal to proceed with Arbitration;
 - (b) The Arbitrator shall conduct the Arbitration in accordance with the commercial arbitration rules (the "Rules") established from time to time by the ADR Institute of Canada Inc. unless the Parties agree to modify the same pursuant to any arbitration agreement. The Arbitration Act (Alberta) shall apply to all Arbitrations but if there is a conflict between the Rules and the provisions of the Act, the Rules shall prevail;
 - (c) The Arbitrator shall proceed to hear and render a written decision concerning any Dispute within:
 - (i) forty-five (45) days, if the subject matter of the Dispute is less than \$50,000.00; or
 - (ii) one hundred and twenty (120) days, if the subject matter of the Dispute is greater than \$50,000.00.
 - (d) The Arbitrator has the right to award solicitor-client costs against the unsuccessful Party and to award interest but does not have the right to award punitive, consequential or other exemplary damages.

- (e) The Arbitrator's decision is final and binding but is subject to appeal or review by any court of proper jurisdiction only with respect to an allegation of fraud.
6. **Participation** - The Parties and their Representatives will participate in good faith in the negotiation, Mediation and, if applicable, Arbitration processes and provides such assistance and Disclosed Information as may be reasonably necessary and notwithstanding that litigation may have commenced as contemplated in this Schedule.
7. **Location** - The place for Mediation and Arbitration shall be Red Deer, Alberta, unless otherwise agreed upon.
8. **Selection of Mediator and Arbitrator** - If the Parties are unable to agree upon the appointment of a single Mediator or Arbitrator within ten (10) days after receipt of the Mediation Notice or Arbitration Notice, either of the Parties may request that a single Mediator or Arbitrator, as the case may be, of suitable training, experience, and independence, and who in respect of the subject matter of the Dispute has a reasonable practical understanding, be appointed by the executive director or other individual fulfilling that role for the ADR Institute of Canada, Inc. The executive director shall be requested to make this determination within five (5) days of receipt of the request.
9. **Costs** - Subject to clause 5(d) of this Schedule in the case of Arbitration, the Parties shall bear their respective costs incurred in connection with the negotiation, Mediation and, if applicable, Arbitration except that the Parties shall equally share the fees and expenses of the Mediator and Arbitrator and the cost of the facilities required for Mediation and Arbitration.
10. **Disclosed Information** - All Disclosed Information shall be treated as confidential and neither its delivery nor disclosure shall represent any waiver of privilege by a Party disclosing such Disclosed Information. Subject only to the rules of discovery, each Party agrees not to disclose the Disclosed Information to any other Person or for any other purpose. Such Disclosed Information cannot be used in any subsequent proceedings without the consent of the Party who has made the disclosure. The Parties agree that any Representative, Mediator and, if applicable, Arbitrator shall not be subpoenaed or otherwise compelled as a witness in any proceedings for the purpose of testifying with respect to the nature or substance of any dispute resolution process that may arise in relation to any matter that is a subject of this Agreement. Nothing in this dispute resolution procedure shall require a Party to disclose information that is subject to confidentiality provisions with third parties.
11. **Litigation and Limitations Act** - No Party shall commence litigation concerning the Dispute until the negotiation and Mediation processes have concluded. The Parties agree that during the time any Dispute is subject to the negotiation and Mediation processes, the limitation periods set forth in the Limitations Act (Alberta) shall be stayed. The limitation periods shall be reinstated once the Mediation terminates or is deemed terminated so that each of the Parties shall have the respective rights and remedies that were available to them before the commencement of these processes. Any Party may

commence litigation on any date, if necessary, to preserve its legal rights and remedies if the commencement of litigation after that date would otherwise be banned by any applicable limitation period or if the commencement of litigation is otherwise necessary to prevent irreparable harm to that Party.

12. **Confidentiality** - The Parties agree that there is a real risk that substantial damage to a Party's commercial interests may result if Disclosed Information or Confidential Information is obtained by third parties because a Dispute becomes the subject matter of litigation. The Parties agree not to contest or oppose, directly or indirectly, an application by a Party to the court, that the court's file relating to such litigation, including this agreement and supporting financial information, be sealed upon commencement of the litigation.