

**THE RURAL MUNICIPALITY OF**

**WHITEMOUTH BY-LAW NO. 663/16**

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEMOUTH TO AUTHORIZE THE ENTERING INTO AND EXECUTION OF AN AGREEMENT WITH DYNO NOBEL CANADA INC.

**WHEREAS** Section 250(2) of Part 8, Division 1 of The Municipal Act provides in part as follows:

250(2) Without limiting the generality of subsection (1), a municipality may for municipal purposes do the following:

- (d) enter into agreements with a person, with an agency of the Government of Manitoba or the Government of Canada, or with another municipality, including a municipality in another province, to do with or on behalf of the municipality anything the municipality has the power to do within the municipality;

**AND WHEREAS** it is deemed expedient and in the best interests of the residents of The Rural Municipality of Whitemouth that The Rural Municipality of Whitemouth enter into an agreement with Dyno Nobel Canada Inc.;

**AND WHEREAS** the terms of the agreement have been settled and are contained in the agreement attached hereto as Schedule "A";

**NOW THEREFORE BE IT AND IT IS HEREBY ENACTED** that the Council of The Rural Municipality of Whitemouth, duly assembled, enact as follows:

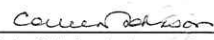
1. **THAT** the entering into the proposed Agreement attached hereto as Schedule "A" is hereby approved and authorized.
2. **THAT** the Reeve and the Chief Administrative Officer of The Rural Municipality of Whitemouth are hereby authorized and instructed to execute the agreement, as set out in Schedule "A" attached hereto, for and on behalf of the Municipality.

**DONE AND PASSED** by the Council of The Rural Municipality of Whitemouth in regular session assembled, this 7<sup>th</sup> day of December AD., 2016.

FOR:                      AGAINST:

ALL                      NONE

  
Reeve

  
Chief Administrative Officer

Read a first time this 16<sup>th</sup> day of November AD., 2016  
Read a second time this 16<sup>th</sup> day of November, AD., 2016  
Read a third time this 7<sup>th</sup> day of December, AD., 2016

**SURFACE LEASE**

**THIS AGREEMENT** made this 7<sup>th</sup> day of December, 2016.

**BETWEEN:**

**The Rural Municipality of Whitemouth**  
(called the Lessor)

**Dyno Nobel Canada Inc , OF THE FIRST PART**

**-and-**

**Dyno Nobel Inc.**

a body corporate having its Regional office located in Creighton, in the Province of Saskatchewan (called the Lessee)

**OF THE SECOND PART**

**WHEREAS** the Lessor is the registered owner of an estate in fee simple, subject, however, to the encumbrances, liens and interests contained in the existing Certificate of Title No# 2518370 or notified by memorandum underwritten or endorsed thereon, of and in that certain parcel or tract of land situate, lying and being in the Province of Manitoba and described as follows:

NE 3-13-10 EPM IN THE RURAL MUNICIPALITY OF LAC DU BONNET  
CONTAINING 160 ACRES MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AND THE RIGHT TO WORK THE SAME

(referred to as the land)

**AND WHEREAS** the Lessor has agreed to lease a certain portion of the land to the Lessee for the purposes and upon the terms and conditions hereinafter set forth:

IN CONSIDERATION OF THE PAYMENT OF THE RENT AND THE MUTUAL COVENANTS CONTAINED IN THIS AGREEMENT, THE LESSOR AND LESSEE HEREBY COVENANT AND AGREE AS FOLLOWS:

1. Leased Premises, Term and Rent

The Lessor leases to the Lessee the portion of the land shown outlined in red on the sketch or plan attached hereto as Schedule "A", consisting of ten (10) acres, more or less, (the leased premises) for a term of five years from December 1, 2016 to December 31, 2021, at and for a rent of \$400.00 per month taxes included.

2. Use of the Leased Premises

(a) the Lessee will only use the leased premises for the storage, handling and distribution of explosives and the disposal of packaging by incineration in the operation of its business. The Lessor grants to the Lessee the right to construct, maintain or remove roadways, structures and equipment necessary or incidental to the Lessee's use of the leased premises;

(b) the Lessee will maintain the leased premises and any roadways, structures or equipment in good working order and condition and make all needed repairs, maintenance and replacements;

(c) the Lessee will keep the leased premises in a clean and tidy condition and not permit garbage, waste or objectionable material to accumulate on or in the leased premises or in the vicinity of the leased premises; and

(d) the Lessee will permit the Lessor and persons authorized by it at all reasonable times to enter and examine the condition of the premises and, where such inspection reveals repairs are necessary, to repair upon notice the leased premises in accordance with the notice.

3. Payment of Rent and Charges

The Lessee will pay the rent on the first day of each and every month in advance during the continuance of this lease. The leased premises at present do not have any utility service. If the Lessee requires utility service, it will at its own cost arrange for such services and will pay all utility fees and charges.

4. Gate and Road Maintenance

The Lessee will install a gate at the entrance to the leased premises and will adequately maintain roadways within the leased premises.

5. Restoration

Upon expiry or termination of this lease, or in the event the leased premises are abandoned, the Lessee, at its expense, will remove all material, structures, buildings and equipment of any nature or kind which it placed on or in the land, will fill in all excavations, and will return the leased premises to substantially the same condition as existed immediately prior to the commencement of this lease, reasonable wear and tear excepted.

6. Compensation for Damage and Indemnity

Except where liability, damage, costs, claims, suits or actions is as a result of the actions of the Lessor, its invitees, agents or employees, the Lessee shall indemnify (such indemnification to survive expiry or termination of this agreement) the Lessor from liabilities, damages," costs, claims, suits or actions resulting from

- (i) any breach, violation, or non-performance of any covenant or term of this lease on the part of Lessee;
- (ii) the use and occupation by the Lessee of the leased premises; and
- (iii) during the term of the Lease, injury to person or persons, including death, resulting at any time therefrom, occurring in or about the leased premises.

7. Insurance

The Lessee will, during the term of this lease and at its own expense, maintain with Insurers allowed by the laws of the Province of Manitoba to issue insurance policies in Manitoba, a comprehensive general liability insurance policy in an amount of not less than \$1,000,000.00. A copy of the proof of insurance will be furnished to the Lessor at the Lessor's request.

8. Quiet Enjoyment

The Lessor has good title to the land and has good right and full power to grant and lease the leased premises. Upon observing and performing the covenants and conditions on the Lessee's part herein contained, the Lessee shall and may peacefully possess and enjoy the leased premises and the rights and privileges hereby granted during the continuance of this lease and any renewal term without any interruption or disturbance from or by the Lessor or any other person.

9. Assignment by Lessee

This Lease and all or any of the powers, rights and interests obtained by or conferred upon the Lessee hereunder, may not be assigned, or otherwise transferred to a third party, by the Lessee without the written consent of the Lessor, which shall not be unreasonably withheld.

10. Caveat

The Lessee is entitled to place a caveat on the land to protect its interests as set out in this lease.

11. Option to Renew

The Lessee, when not in material default of this lease, has the option to renew the term of this lease for one additional five year term (the renewal term) at a rental rate of \$400.00 taxes included. The Lessee must provide the Lessor with a written notice of its intention to renew this lease for the additional term on or before December 31, 2021.

12. Termination

If at any time the Lessee is in breach of any term of this lease, or becomes bankrupt or into receivership, the Lessor may terminate this lease upon notice to the Lessee. Either party may terminate this lease upon 12 months written notice to the other party.

13. Notices

All notices may be given by registered letter addressed to the party to whom the notice is to be given and any such notice is deemed to be given to, and received by, the addressee seven days after the mailing thereof, postage prepaid.

14. Renewal Term

The same terms and conditions will prevail during the renewal term, excluding any further option to renew beyond the renewal term.

15. Addresses

Unless changed by notice, the addresses of the parties are:

Lessor:           The Rural Municipality of Whitemouth  
                      Box 248  
                      Whitemouth, Manitoba  
                      ROE2GO  
                      Attention: Chief Administrative Officer

Lessee:           Dyno Nobel Canada  
                      115 Roche St.  
                      Box 38  
                      Creighton, Saskatchewan  
                      S0P 0A0  
                      Attention: Area Operations Manager


16. Inurement

This agreement inures to the benefit of and is binding upon the Lessor, its successors and assigns, and upon the Lessee, its successors and assigns.

**DYNO NOBEL CANADA INC.** hereby accepts this lease to be held by it as tenant and subject to the conditions, restrictions and covenants above set forth.

**IN WITNESS WHEREOF** the parties have executed this agreement as of the date first set out above.

**RURAL MUNICIPALITY OF  
WHITEMOUTH**

  
\_\_\_\_\_  
Bill Dowbyhuz, Reeve

  
\_\_\_\_\_  
Colleen Johnson, Chief Administrative Officer

**DYNO NOBEL INC.**

Per:   
\_\_\_\_\_

Name: Tyrone McLean

Title: Area Operations Manager

SCHEDULE "A"

