

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "**Agreement**") is made as of January 1, 2009, by and between the **APPOMATTOX RIVER WATER AUTHORITY**, a public body politic and corporate of the Commonwealth of Virginia (the "**Authority**"), and _____, a resident of _____ County who resides at _____, Virginia 23___ (the "**Licensee**").

RECITALS

WHEREAS, the Authority is a public body politic and corporate of the Commonwealth of Virginia duly created pursuant to the Virginia Water and Waste Authorities Act, Title 15.2, Chapter 51 of the Code of Virginia of 1950, as amended, by the Cities of Colonial Heights and Petersburg and the Counties of Chesterfield, Dinwiddie and Prince George (the "**Participating Jurisdictions**");

WHEREAS, the Authority is the owner and manager of Lake Chesdin ("**Lake Chesdin**"), a 3,100-acre reservoir located on the Appomattox River on the Chesterfield-Dinwiddie County line that provides a drinking water supply for the Participating Jurisdictions;

WHEREAS, the Authority faces significant increases in demand for drinking water for all purposes throughout the Authority's service area;

WHEREAS, it has come to the attention of the Authority that a number of persons residing near Lake Chesdin, including Licensee, have installed pumps, intake devices, and other equipment and taken other measures for the purpose of withdrawing water directly from Lake Chesdin for the purpose of lawn and garden irrigation ("**Direct Irrigation Withdrawals**");

WHEREAS, none of the Direct Irrigation Withdrawals or pumps, intake devices, or other equipment for making Direct Irrigation Withdrawals ("**Systems**") have been approved previously by the Authority's Board of Directors (the "**Board**");

WHEREAS, the Board adopted a policy pertaining to Direct Irrigation Withdrawals and the licensing thereof at its meeting held on November 20, 2008 (the "**Policy**");

WHEREAS, the Licensee desires to continue to make Direct Irrigation Withdrawals in accordance with the Policy, as it may be amended from time to time, and upon the terms of this Agreement as set forth below, for the purposes stated herein;

WHEREAS, the Authority desires to grant to Licensee, and the Licensee hereby accepts from the Authority, a license to make Direct Irrigation Withdrawals in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are

hereby acknowledged, the Recitals are hereby incorporated herein and the Authority and the Licensee represent, warrant, covenant, and agree as follows:

AGREEMENT

1. **License.** The Authority hereby grants to the Licensee a non-exclusive, revocable license to make Direct Irrigation Withdrawals in accordance with the terms hereof (the "**License**").

2. **Term of License.** The term of this Agreement shall be five (5) years, commencing on January 1, 2009 and ending on December 31, 2013 (the "Initial Term"), unless sooner terminated as provided herein. On or prior to December 31, 2013, the Licensee may exercise his option to renew the term of the License for one additional five (5) year term commencing on January 1, 2014 (the "Additional Term"), by prior written notice to the Authority. The Board may consider granting extensions of Licenses beyond the Additional Term, but the granting of any extension shall be at the Board's sole discretion. If the Board receives any request for a License extension beyond the Additional Term, the Board shall conduct a public hearing on the Policy before granting or denying any such request.

3. **License Fee.** The fees for the License shall be three hundred dollars (\$300) for the Initial Term and the sum of \$300 plus an inflation adjustment to be based on the All Items Consumer Price Index for All Urban Consumers for the U.S. City Average (Current Series) for the sixty months ended on the previous October 1 for the Additional Term, such inflation adjustment not to exceed seventy-five dollars (\$75). If the Board grants an extension of the License beyond the Additional Term, the fee for such License extension shall also be adjusted for inflation based on the All Items Consumer Price Index for All Urban Consumers for the U.S. City Average (Current Series). License fees are payable immediately upon the issuance of a License or its renewal, as applicable.

4. **Conservation.** The Licensee agrees to abide by irrigation and other water use restrictions imposed by the Participating Jurisdiction in which he lives.

5. **Health, Environmental, or Other Restrictions Required by Law or Governmental Entity.** The Licensee agrees to abide by all local, state, and federal laws and regulations now or hereafter in effect and applicable to his Direct Irrigation Withdrawal or System and that the Authority may, as Licensor, impose upon him or her, as Licensee, any health, environmental, or other restrictions required under local, state, or federal law or as may be required by any local, state, or federal governmental entities that regulate or provide assistance to the Authority, including restrictions imposed as a requirement to obtaining permits to construct improvements or enlargements of the Authority's water treatment and/or storage capacity. The Licensee shall not cause or permit the use, generation, storage, release, or disposal in, on, or about Lake Chesdin of any substances, materials, or wastes in violation of local, state, or federal law.

6. **Current Parcel Ownership Required; Limitation on Number and Transferability of Licenses.** The Licensee represents that he is a current owner of a parcel of land fronting Lake Chesdin shown on the map attached as Exhibit A hereto and made a part hereof (the "Parcel"). The Licensee acknowledges and agrees that he is limited to one License for the Parcel, regardless of whether he subdivides or intends to subdivide the Parcel. The Licensee may, with the prior written consent of the Authority, transfer his License to a single successor owner of the Parcel, but may not transfer, assign, divide, allocate, or distribute duplicates of the License among the successor owners of any subdivided portions of the Parcel, and any attempt on the part of the Licensee to do so may result in the immediate termination of the License by the Board, acting in its sole discretion.

7. **System Limitations.** The Licensee's System shall originate from a single withdrawal point from Lake Chesdin, which has been identified by Licensee as part of the application for the License, and use a single pump or other intake device. Licensee's System shall not: (i) have a pump capacity greater than 20 gallons per minute, (ii) have a pumps or other intake device located beyond the end of the Licensee's dock, pier, or bulkhead, or, in the absence of a dock, pier, or bulkhead, thirty (30) feet from the normal pool limit, and (iii) be used to pump or intake water for storage (i.e., all water removed from Lake Chesdin by the System must be immediately applied to irrigation). Licensee may replace failing equipment that is part of his System with functioning equipment that is the same or, if the same equipment is not available, the functional equivalent of the failing equipment, but may not extend, expand, or otherwise improve his System or increase its ability to make Direct Irrigation Withdrawals.

8. **Right to Enter, Inspect, and Remediate.** The Licensee grants the Authority and any of its duly authorized agents or representatives the rights (i) to enter, at reasonable times and under reasonable circumstances, his Parcel for the purposes of obtaining information about or conducting a survey or inspection of his System and its operation to ensure compliance with any laws, regulations, rules, permits, standards, or policies of the Authority and any applicable local, state, or federal government or governmental entity and (ii) to the extent permitted by law, to remove, dismantle, or otherwise remediate a noncompliant System or portion thereof after written notice of noncompliance has been given by the Authority to the Licensee, unless the Licensee has caused the System to become compliant, as determined by the Authority, within thirty (30) days after the notice was given.

9. **Licensee Has No Other Privileges or Any Right or Interest in Authority Property.** This Agreement grants to the Licensee only a license to make Direct Irrigation Withdrawals in accordance with its terms, and this Agreement shall not be construed as granting any other privileges or any right or interest in Lake Chesdin or other Authority property. The Licensee does not have and shall not claim at any time any right or interest of any kind or nature whatsoever in Lake Chesdin or other Authority property by virtue of this Agreement, the License, or the Licensee's use hereunder or thereunder. The License granted pursuant to this Agreement is personal to the Licensee, and except as may be provided pursuant to paragraph 6 of this Agreement, the privileges appurtenant thereto shall not inure to the successors and/or assigns of the Licensee.

10. Required Licenses, Permits, and Approvals Sole Responsibility of Licensee. The Licensee hereby represents and warrants that he is solely responsible for obtaining, and has obtained, all licenses, permits, and approvals from the appropriate governmental or other entities that are required or necessary for complying with the governmental or other entities' codes, rules, regulations, or standards applicable to the Licensee's Direct Irrigation Withdrawal or System. The Licensee shall maintain all such required or necessary licenses, permits, and approvals during the term of this Agreement, and the Authority shall not be responsible for obtaining or maintaining any such licenses, permits, or approvals.

11. Indemnity. The Licensee shall defend, indemnify, and save harmless the Authority, its agents, employees, contractors, representatives, affiliates, and related entities (the "**Indemnitees**" or an "**Indemnitee**") from and against any loss, claims, expenses (including reasonable attorney's fees), or damage incurred or suffered by an Indemnitee, by reasons directly or indirectly arising out of, caused (in whole or in part) by, or in any way connected with the Licensee's Direct Irrigation Withdrawal and use of Lake Chesdin. The Authority shall have no responsibility, liability, or obligation with respect to any property of the Licensee at, in, or on Lake Chesdin, it being acknowledged and understood by the Licensee that the safety, security, and effects of any such property are the sole responsibility and risk of the Licensee.

12. Amendment of Policy and Termination of License. The Board may, in its sole discretion, at any time or from time to time, unilaterally amend the Policy and, as a result, this Agreement, to the extent it is inconsistent with the amended Policy. The Board shall provide written notice of the amendment of the Policy and the License to the Licensee within thirty (30) days of its adoption by the Board.

This Agreement and the privileges created and conferred on the Licensee are terminable at will by either the Board or the Licensee. Termination of the License, this Agreement, and the privileges granted by this Agreement shall occur immediately upon providing written notice to the other party. Upon termination hereof, the Licensee shall proceed with diligence to remove his System at his sole expense.

Notwithstanding the foregoing, before the Board amends the Policy or terminates the License, the Board shall make a finding that such amendment or termination furthers the public purposes for which the Authority was created, including without limitation the conservation, protection, and beneficial utilization of the surface water in Lake Chesdin to ensure the public welfare, safety, and health of the inhabitants of the Participating Jurisdictions who rely upon Lake Chesdin as a source of drinking water and enabling the Authority to obtain permits for additional water sources reasonably required to serve such inhabitants.

If an amendment of the Policy results in the termination of the License and the privileges granted thereby, or if the License is directly terminated by the Board, the Board shall cause a pro rata portion of the License fee based on the months remaining in the Initial Term or Additional Term, as the case may be, to be returned to Licensee.

13. Ownership of System. Any and all equipment comprising the System placed in or about Lake Chesdin or on property owned by the Authority is, and shall remain, the property of the Licensee. The Licensee is exclusively responsible for the

14. maintenance of all equipment utilized for Direct Irrigation Withdrawal or the effects of any defects thereof.

15. **Notices.** All notices in connection with this Agreement shall be sent by certified U.S. Mail, return receipt requested, addressed to the parties as follows:

If to the Authority: Appomattox River Water Authority
Executive Director
21300 Chesdin Road
Petersburg, Virginia 23803
Phone: (804) 590-1145

If to the Licensee: _____

_____, Virginia 23____
Phone: (804) _____

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to conflicts of law principles thereof.

17. **Entire Agreement.** This Agreement contains the full and final Agreement between the parties to this Agreement with respect to the subject matter of this Agreement. This Agreement supersedes all prior negotiations, representations, and agreements, written or oral, regarding the subject matter hereof, and the parties hereto shall not be bound by any terms, conditions, statements, warranties, or representations, oral or written, not contained in this Agreement. The headings of the several sections of this Agreement are for convenience only and do not comprise a part of this Agreement.

18. **Enforcement and Attorney's Fees.** The Authority shall have the right to bring legal and/or equitable actions to enforce the terms of this Agreement. Upon a finding by a court that there has been a breach of this Agreement, the prevailing party may recover all damages, costs, reasonable attorney's fees, and/or injunctive relief as the court deems appropriate in any such dispute arising out of or relating to this Agreement.

19. **No Partnership.** Nothing contained in this Agreement shall be deemed or construed to create any other relationship between the Authority and the Licensee other than the licensor-licensee relationship described herein.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first above written.

Appomattox River Water Authority

_____, Licensee

James C. Dawson, P.E.
Executive Director

[Signature]