

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "**Agreement**") is made as of _____, 20____, 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 of certain property surrounding and lying underneath 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 increases in demand for drinking water for all purposes throughout the Authority's service area;

WHEREAS, on January 16, 2019, the Board of the Authority (the "**Board**") adopted a resolution approving an amended and restated policy pertaining to direct irrigation withdrawals (the "**Policy**") to enable the owners of certain parcels, including the Licensee, to continue using or to install pumps, intake devices, and other equipment to withdraw water directly from Lake Chesdin for the purpose of lawn and garden irrigation ("**Direct Irrigation Withdrawals**");

WHEREAS, the pump, intake device, and other equipment for making Direct Irrigation Withdrawals that the Licensee will continue to use or install shall be referred to in this Agreement as the "**System**";

WHEREAS, the Licensee desires to commence making or 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 Policy and the terms and conditions set forth in this Agreement;

WHEREAS, unless otherwise defined, each capitalized term used in this Agreement will have the meaning set forth in the Policy; and

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 the License provided by this Agreement shall commence on the date of this Agreement and end on October 31, 2028 (the "Term"), unless sooner terminated as provided herein.

3. **License Fee.** [To be altered depending on date of this Agreement] [The fee (the "License Fee") for the License if newly issued or renewed between January 17, 2019, and June 30, 2019, shall be six hundred seventy-four dollars (\$674). The License Fee for the License if renewed or issued after June 30, 2019, shall be prorated over the remaining Term at \$6.00 per month, including the full month in which the License is renewed or issued. The License Fee is payable immediately upon the renewal or issuance of a License; provided that any current Licensee as of December 31, 2018, who renews his or her License before June 30, 2019, may pay the License Fee in two installments of \$337 on the renewal date and \$337 on June 30, 2024.] The License Fee is nonrefundable except as provided in paragraph 13(d) of the Policy and section 12(d) of this Agreement.

4. **Conservation.** For purposes of this Agreement, the Policy and the water conservation measures of the Participating Jurisdictions, the Licensee's System shall be considered to be connected to the public water supply of the Participating Jurisdiction in which the Licensee lives. The Licensee agrees to abide by irrigation and other water use restrictions imposed by the Participating Jurisdiction in which the Licensee lives, regardless of the level of Lake Chesdin.

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 Representation; 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 "Licensed Parcel"). The Licensee acknowledges and agrees that he or she is limited to one License for the Licensed Parcel, regardless of whether he subdivides or intends to subdivide the Licensed Parcel. The Licensee shall promptly report to the Authority the subdivision of his or her Licensed Parcel and may transfer the License applicable thereto to a single successor owner of a Eligible Parcel subdivided out of the Licensed Parcel, but may not transfer, assign, divide, allocate, or distribute duplicates of his or her License among the successor owners of any subdivided portions of the Licensed Parcel, regardless of whether the subdivided portions constitute Eligible Parcels in their own right. Any attempt on the part of a Licensee to do so, or any failure by a Licensee to promptly report the subdivision of their Licensed Parcel(s), may result in the immediate termination of such Licensee's License(s) by the Authority, 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 or her 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 or her 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 Board members, 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. (a) 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.

(b) 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.

(c) 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.

(d) 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 Authority shall return to the Licensee a pro rata portion of the License Fee based on the same methodology provided in paragraph 5 of the Policy.

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

14. Notices. All notices in connection with this Agreement shall be sent by first class U.S. Mail, addressed to the parties as follows:

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

If to the Licensee: _____

_____, Virginia 23____
Phone: (804) _____

15. 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.

16. 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.

17. 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.

18. 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

Executive Director

_____, **Licensee**

[Signature]

EXHIBIT A

MAP OR PLAT OF LICENSED PARCEL

(See Attached)