

## CONTRACT FOR SERVICES

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between Choctaw Lake Property Owners' Association (hereinafter referred to as "Choctaw") with its principal place of business at \_\_\_\_\_, London, Ohio 43140, and Board of Commissioners, Madison County, Ohio (hereinafter referred to as "Commissioners"). WHEREAS, Choctaw desires to engage the Commissioners to perform services for Choctaw, and the Commissioners desire to perform such services for Choctaw;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. Services to be Performed. The Commissioners agree to perform the services described on Schedule I attached hereto (hereinafter referred to as the "Project"). The Commissioners will reasonably determine the method, details, and means of performing the services for Choctaw; Choctaw may specify only the desired results. The Commissioners may, at the Commissioners' own expense, employ any assistants or employees that the Commissioners deem necessary to perform the services required of the Commissioners by this Agreement, and Choctaw may not control, direct or supervise the Commissioners' assistants or employees in the performance of those services. The services shall be performed at such time or times as may be agreed to by Choctaw and the Commissioners.
2. Compensation. In consideration for the services to be performed by the Commissioners, Choctaw agrees to pay to the Commissioners as described on Schedule I attached hereto. Unless otherwise set forth on Schedule I, the compensation will be paid pursuant to Schedule I.
3. Scope of Obligations of the Commissioners. Except as is specifically set forth in writing by the parties, Commissioners shall supply all tools, equipment, instruments, supplies and other materials required to perform the services under this Agreement. The Commissioners agrees to provide workers' compensation insurance for the Commissioners and the Commissioners' employees or agents. The Commissioners agree to maintain a policy of insurance to cover any negligent acts committed by the Commissioners and the Commissioners' employees or agents during the performance of any duties under this Agreement, and to name Choctaw as an additional insured under that policy of insurance.
4. Independent Contractor. Choctaw and the Commissioners expressly acknowledge and agree that the services to be provided by the Commissioners under this Agreement shall be performed as an

independent contractor, and not as an agent, employee, joint venture or partner of Choctaw.

5. *Length of Services.* This Agreement shall be for a term of fifteen (15) years with an option for an additional fifteen (15) years
6. *Confidential Information.* During the term hereof and thereafter, Choctaw may disclose to the Commissioners trade secrets and other confidential and/or proprietary information (collectively, "Confidential Information"). Such Confidential Information includes, without limitation: inventions; manufacturing know-how, designs, formulae, and processes; business development plans and strategies; advertising and promotional programs; research or developmental projects; financial or statistical data; customer information, including but not limited to, the names of Choctaw's customer, the nature of Choctaw's relationship to its customers, customer lists, sales records, account records, pricing matters, and account strategies and reports; sales and marketing plans and strategies; legal documents and records; personal information; information about suppliers, inventions; information disclosed to Choctaw by others in confidence; and any other information of a similar nature that is not known or made available to the public or to Choctaw's competitors. Confidential Information at all items is the exclusive property of Choctaw.
7. *Return of Choctaw Property.* The Commissioners agree that they will not use any Choctaw property for their personal gain or in any manner that might be adverse to Choctaw's interests. After the termination of this Agreement, the Commissioners will return to Choctaw any Choctaw property that comes into the Commissioners' possession, custody, or control.
8. *Non-solicitation of Employees and Customers.* During the period that the Commissioners are providing services to Choctaw and for six (6) months after the termination date, the Commissioners will not, directly or indirectly, solicit or induce any employee of Choctaw to leave his or her employment with Choctaw.
9. *Arbitration of Disputes.* In the event that any dispute or disagreement should arise with regard to any provision of this Agreement, the parties will first attempt to resolve such dispute or disagreement by good faith, information negotiations. If such efforts are unsuccessful, such dispute will be decided by arbitration in accordance with the rules of the American Arbitration Association in Cuyahoga County, Ohio. Such arbitration will be governed by the laws of the State of Ohio. The costs and arbitrators' fees of such arbitration will be borne equally by the parties, and each party will be responsible for its own

attorney' fees and other expenses. The parties agree to keep any such dispute and any proceeding related thereto, including any determination of the arbitrators and any resolution of the dispute, as confidential as possible, and to that end agree not to disclose or comment on such matters except to their attorneys, accountants, other advisors, or as may be required by law.

10. Liability. THE COMMISSIONERS DO NOT MAKE ANY, AND EXPRESSLY DISCLAIM ALL, WARRANTIES WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR ARISING BY USAGE OF TRADE OR COURSE OF DEALING, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE COMMISSIONERS SHALL IN NO EVENT BE LIABLE FOR ECONOMIC, INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, WHETHER CLAIMED UNDER CONTRACT, TORT OR ANY OTHER LEGAL THEORY OR FOR LOSS OR DAMAGE TO CHOCTAW DATA OR PROGRAMMING. CHOCTAW AND THE COMMISSIONERS EXPRESSLY AGREE THAT THE MAXIMUM AGGREGATE LIABILITY OF THE COMMISSIONERS FOR ALL CLAIMS HEREUNDER OR OTHERWISE SHALL NOT EXCEED ONE HUNDRED PERCENT (100%) OF THE TOTAL SERVICE FEES PAID HEREUNDER BY CHOCTAW TO THE COMMISSIONERS DURING THE TWELVE (12) PERIOD ENDING AT THE TIME A CLAIM AROSE. ANY CLAIM AGAINST THE COMMISSIONERS MUST BE BROUGHT WITHIN ONE HUNDRED AND EIGHTY (180) DAYS AFTER THE CLAIM OR CAUSE OF ACTION AROSE AND ANY CLAIM NOT TIMELY BROUGHT SHALL BE DEEMED BARRED. REFERENCES IN THIS PARAGRAPH TO THE COMMISSIONERS SHALL INCLUDE CHOCTAW'S DIRECTORS, OFFICERS, EMPLOYEES, ASSISTANTS, CONTRACTORS AND AGENTS.
11. Entire Agreement of the Parties; Modification. This Agreement supersedes any and all agreements, both oral and written, between the parties with respect to the rendering of services by the Commissioners for Choctaw, and contains all of the covenants and agreements between the parties with respect to the rendering of these services in any manner whatsoever. Each party acknowledges that no representations, inducements, promises or agreements, written or oral, have been made by either party, or by anyone acting on behalf of either party, that are not embodied in this Agreement. Any modification of this Agreement will be effective only if it is in a writing signed by the party to be charged.
12. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions

hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

13. Force Majeure. If the performance of either party hereunder is delayed or prevented at any time due to circumstances beyond the control of the other, including, without limitation, those resulting from labor disputes, fire, floods, riots, civil disturbances, weather conditions, control exercised by a governmental entity, unavoidable casualties or acts of God or a public enemy, the performance of such party shall be excused party shall be excused for so long as the circumstance shall prevent such performance.

14. Governing Law. This Agreement will be governed by the construed in accordance with the laws of the State of Ohio.

CHOCTAW LAKE PROPERTY OWNERS' ASSOCIATION

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## SCHEDULE 1

Services to be performed:

To provide softened water to Choctaw Lake Residents  
Commissioners will assume maintenance and repair and/or replacement  
of Choctaw water distribution infrastructure

Water usage rates are as follows:

1. \$38.00 per month per residential household.
2. \$76.00 per month per commissioned user.
3. 2.5% annual increase to user usage rates.
4. Commissioners will provide all custom billing and payment collection.

If Commissioners decide to install water meters at Choctaw Lake to track water usage per property, the following is to be the cost of service:

1. The cost of the meters and installation shall be at the Commissioners expense.
2. Rates charged will be set in two ways, a flat fee of \$20.00 along with a prorated fee based upon the number of gallons used at each residence or business.
3. The prorated charge will be .00208 dollars multiplied by the number of gallons used by the residence or business.
4. There will be a 2.5% increase each year of the contract on the flat fee amount.

November 13, 2018

**MADISON COUNTY COMMISSIONERS**

*Deanne D. Durre*

*D. B. Holt*

*Mark A. Forest*

**PROSECUTOR ATTORNEY**

*Stephen Proulx*