

## MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (“**Agreement**”) is made and entered into as of the \_\_\_\_ day of November, 2004, by and between WATERPRO, INC., a Utah corporation (hereinafter “**WaterPro**”) and DRAPER IRRIGATION COMPANY, a Utah nonprofit corporation (hereinafter “**DIC**”).

### PREMISES

A. DIC is a mutual water company, organized in 1888, that owns or otherwise adequately controls the assets necessary to provide pressurized irrigation water service to its Class A stockholders and desires to obtain the management, maintenance, and administrative facilities and services of WaterPro required for DIC’s pressurized irrigation water system and services.

B. WaterPro, a wholly-owned subsidiary of DIC, is engaged in providing water service and related management, maintenance, administrative and related services and desires to provide facilities and services to DIC related to the delivery of pressurized irrigation water.

### AGREEMENT

NOW, THEREFORE, upon the foregoing premises, which are incorporated herein by reference, and for and in consideration of the mutual promises and covenants set forth herein, it is hereby agreed as follows:

1. Services Provided. During the term of this Agreement, WaterPro will:
  - (a) manage, maintain, and administer the delivery of pressurized irrigation water;
  - (b) provide equipment necessary or convenient to maintain and service water collection, treatment, distribution, delivery, and measurement facilities;
  - (c) provide emergency maintenance supported by continuously available personnel to appropriately respond to unscheduled delivery interruptions, line breaks, casualties, flooding, or similar situations;
  - (d) collect from irrigation customers fees and charges in accordance with rate schedules established by DIC and safely preserve and protect and promptly transmit to DIC such collected funds;
  - (e) establish, implement, and operate monitoring systems necessary for orderly service operation and administration, management, long-term planning, and government reporting;
  - (f) prepare such reports, notices, applications, and other filings with governmental agencies as may be required, either over the signature of DIC or WaterPro, as DIC may from time to time designate;
  - (g) bill pressurized irrigation users on a periodic basis and collect payments from such customers;

(h) maintain true and correct books of account and other records of the services provided, billings to and payments by customers, and funds collected and transmitted under this Agreement; and

(i) provide all related or ancillary services necessary or convenient to the timely and orderly delivery of pressurized irrigation water to DIC's Class A stockholders;

all in accordance with such specifications, policies, and procedures as DIC may from time to time establish.

2. Expenses. WaterPro shall incur only those costs and expenses on behalf of DIC under this Agreement that are in accordance with the budget specifications, policies, and procedures established by DIC from time to time or as otherwise instructed or approved by DIC, except that WaterPro may incur costs and expenses without DIC's prior approval in situations deemed by WaterPro to constitute emergencies when DIC's prior approval cannot reasonably be obtained prior to incurring such expenses.

3. Compensation. DIC shall reimburse to WaterPro all of its direct and indirect costs incurred in furnishing the services required to be provided under this Agreement, including an allocable portion of all general and administrative costs or expenses, depreciation, amortization, and all and other indirect expenses, all with the purpose and effect of avoiding any incremental cost or expense by WaterPro attributable to or resulting from the performance of its obligations under this Agreement. In addition, DIC shall pay WaterPro an amount equal to eight percent (8%) of the foregoing reimbursement as profit, subject to the limitations set forth in paragraph 18.

4. DIC Inspection of Books and Records. DIC shall have the right to inspect WaterPro's books and records relating to its activities under this Agreement. Such inspection shall be conducted during WaterPro's regular business hours. DIC shall provide WaterPro with written notice of its intent to conduct an inspection of WaterPro's books and records at least two business days in advance of any such inspection. WaterPro shall be entitled to reimbursement from DIC for any fees, expenses, or costs incurred by WaterPro in allowing DIC to inspect WaterPro's books and records.

5. Performance Standards. DIC and WaterPro will cooperate from time to time as appropriate to develop plans, specifications, and budgets for new construction, scheduled maintenance, emergency response, and other services under this Agreement. WaterPro shall provide services in accordance with such mutually acceptable plans and specifications and such other policies and procedures as DIC may from time to time promulgate, and shall promptly correct any work that fails to conform to such requirements. All work provided by WaterPro shall be performed in a good, quality, and workmanlike manner.

6. Purchase of Equipment; Limited Warranty. All equipment, fixtures, and other tangible property will, to the extent practicable, be purchased by DIC or, upon proper authorization, purchased by WaterPro in the name of DIC. To the extent purchased in the name of WaterPro, it hereby assigns to DIC all of the rights and remedies in and to any warranties for any equipment, fixtures or other goods installed in connection with providing the services under this Agreement. Any and all equipment, parts, materials, supplies, and other goods purchased by WaterPro in the name of, or for or on behalf of, DIC hereunder or provided to its facilities in connection with WaterPro's services under this Agreement shall immediately be and become the exclusive property of DIC. WaterPro's sole right and interest shall be to obtain payment for its services in accordance with the terms of this Agreement. In order to evidence the ownership of DIC any items acquired by WaterPro on behalf of DIC, WaterPro shall execute and deliver to DIC deeds, bills of sale, assignments, or other conveyances in such form as DIC may reasonably request. In such conveyances, WaterPro shall represent and warranty good and marketable title to all

property conveyed, free and clear of any all liens, claims, or encumbrances arising by or through WaterPro, covenant to protect and defend title and quiet and peaceable enjoyment against all persons claiming by, through or under WaterPro, and assign the rights of WaterPro in any and all manufacturers' and materialmen's warranties.

7. Access. DIC hereby grants to WaterPro, its agents, employees, and other duly authorized representatives, a nonexclusive license to enter into or upon the premises in or upon which the facilities of DIC are located for the purpose of providing the services hereunder.

8. Limitation on Services. WaterPro shall be responsible only for providing those services relating to DIC's pressurized irrigation system set forth in this Agreement. WaterPro shall have no responsibility or liability with respect to any other DIC services, activities, or facilities.

9. Effective Date. This Agreement shall become on the effective date (the "**Effective Date**") of Public Service Commission ("**PSC**") jurisdiction over and regulation of the operations of WaterPro as specified in the Public Service Commission Certificate of Convenience and Necessity To Operate as a Public Utility Rendering Culinary Water Service ("**PSC Certificate**") or, if no Effective Date is specified therein, on a date mutually acceptable to DIC and WaterPro and in compliance with the PSC Certificate.

10. Limitation on Liability. A party shall be liable to the other or to those claiming through or on behalf of it only for losses, injuries, claims, or damage resulting from the gross negligence or willful misconduct of its employees, officers, directors, contractors, or agents. Each party agrees to hold the other harmless from and to indemnify the other from any losses, damages, injuries, claims, or lawsuits, including reasonable attorneys' fees that arise because of any conduct, action, or failure to act on the part of the gross negligence or willful misconduct of such party or its officials, agents, or employees.

11. Insurance; Waiver of Subrogation.

(a) At all times during the term of this Agreement, WaterPro shall carry and maintain bodily injury liability insurance with limits in amounts and with coverage as specified by DIC. All such bodily injury liability insurance and property damage or liability insurance shall specifically insure the performance by WaterPro of the indemnity agreement as to liability for injury to or death of persons and injury or damage to property set forth in this Agreement.

(b) All policies of insurance provided for herein shall be issued by insurance companies with the best available general policyholder and financial ratings, as rated in the most current available Best's Insurance Reports, and qualified to do business in the state of Utah, in the names of WaterPro and DIC for the mutual and joint benefit and protection of DIC and WaterPro. Executed copies of such policies of insurance or certificates thereof shall be delivered by each of WaterPro and DIC to the other within 10 days after the Effective Date of this Agreement and thereafter within 30 days prior to the expiration of the term of each expiring policy. All public liability and property damage policies shall contain a provision that DIC, although named as an insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to it or its servants, agents, and employees by reason of the negligence of WaterPro. All policies of insurance delivered by either WaterPro or DIC to the other must contain a provision that the insurer writing such policy will give to the other 20 days' notice in writing in advance of any cancellation or lapse or the effective date of any reduction in the amounts of insurance. All public liability, property damage, and other casualty policies shall be written as primary policies, not contributing with and not in excess of coverage that DIC may otherwise carry.

(c) Notwithstanding anything to the contrary contained within this section, the obligations of DIC and WaterPro to carry the insurance provided for herein may be brought within the coverage of a so-called “blanket” policy or policies of insurance carried and maintained by DIC and WaterPro together, *provided, however*, that each shall be named as an insured thereunder as its interest may appear and that the coverage afforded to either party will not be reduced or diminished by reason of the use of such blanket policy of insurance.

12. Authorized DIC Agents. DIC may, by written notice to WaterPro, designate a duly authorized agent, employee or other person to act as the designated Authorized DIC Agents to act on behalf of DIC. Any of the Authorized DIC Agents shall have the power to authorize WaterPro to incur expenses as provided in section 2 of this Agreement.

13. Term; Evergreen Extension; Termination. The term of this Agreement shall commence on the Effective Date and continue to 12:00 midnight, December 31, 2014, and shall be extended automatically from year to year thereafter, *provided, however*, that at any time after December 31, 2014, either party may terminate this Agreement upon written notice to the other specifying the time and date not less than 180 days thereafter on which this Agreement shall terminate, in which case this Agreement shall terminate on the termination time and date specified in such termination notice.

14. Ownership. WaterPro will acquire no ownership of, title to, or liability for DIC’s water system by virtue of this Agreement.

15. Notification by DIC. DIC shall immediately notify WaterPro of any condition involving DIC’s pressurized irrigation water system known to DIC that poses an imminent threat of injury to people, loss of life, destruction of property, or any condition constituting an emergency involving the DIC pressurized irrigation water system. DIC shall also notify WaterPro of any other condition, problem, issue, or maintenance or repair need that is known to DIC affecting DIC’s pressurized irrigation water system or any other pressurized irrigation water system that is connected to DIC’s water supply or distribution system.

16. Notices. Any notice, demand, request, or other communication permitted or required under this Agreement shall be in writing and shall be deemed to have been given as of the date so delivered, if personally served; as of the date so sent, if transmitted by facsimile and receipt is confirmed by the facsimile operator of the recipient; as of the date so sent, if sent by electronic mail and receipt is acknowledged by the recipient; one day after the date so sent, if delivered by overnight courier service; or three days after the date so mailed, if mailed by certified mail, return receipt requested, addressed as follows:

If to DIC, to: Draper Irrigation Company  
Attention: President  
12421 South 800 East  
Draper, Utah 84020  
Facsimile: (801) 571-8054

If to WaterPro, to: Draper Irrigation Company  
Attention: Chief Executive Officer  
12421 South 800 East  
Draper, Utah 84020  
Facsimile: (801) 571-8054

or such other addresses, facsimile numbers, or electronic mail address as shall be furnished in writing by any party in the manner for giving notices hereunder.

17. DIC Cooperation. DIC agrees to fully cooperate with WaterPro, and without charge to WaterPro, in WaterPro's activities pursuant to this Agreement. DIC shall promptly provide WaterPro or, as appropriate, shall reasonably assist WaterPro in securing any necessary permits, construction permits, authorizations, or approvals reasonably required by WaterPro to carry out its responsibilities under this Agreement. WaterPro shall not be charged any fee, assessment, or charge by DIC for WaterPro's services on behalf of DIC.

18. Savings Clause; Reformation. If, in any administrative or judicial proceeding, the PSC or other administrative agency or court refuses to enforce any provision of this Agreement, then such unenforceable provision shall be reformed to the extent required by the final, nonappealable order of the PSC or other administrative agency or court, as the case may be. If the PSC determines that any amount charged hereunder is unjust, unreasonable, discriminatory, preferential, in any way in violation of any provision of law, or insufficient, the PSC shall fix the amount of such charge, then the amount so fixed by the PSC in the final, nonappealable order of the PSC or court shall thereafter be observed and in force under this Agreement.

19. No Third-Party Beneficiaries. This Agreement is for the sole and exclusive benefit of DIC and WaterPro, and no other entity or person, including any pressurized irrigation customer, shall have any right or remedy under, or by virtue of, this Agreement.

20. Governing Law. This Agreement shall be governed by and construed under and in accordance with the laws of the state of Utah without giving effect to any choice or conflict of law provision or rule (whether the state of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the state of Utah.

21. Costs of Suit. If a legal action or other proceeding is brought for enforcement of this Agreement because of an alleged dispute, breach, or misrepresentation in connection with any of the provisions hereof, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and costs incurred, both before and after judgment, in addition to any other relief to which they may be entitled.

22. No Assignment. The rights and responsibilities of either party under this Agreement may not be assigned without the prior written consent of the other party.

23. Successors and Assigns. The rights and obligations of each party under this Agreement shall inure to the benefit of and be imposed upon the successors and assigns of either party under this Agreement.

24. Construction. Any reference to any federal, state, or local statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation. This Agreement shall be construed as though all parties drafted it.

25. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

26. General. Whenever the context or circumstance so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall

include other genders. The parties agree to use their best efforts to provide all information required hereunder to satisfy the obligations set forth herein and to otherwise consummate the transactions contemplated hereby. Each right or remedy accorded by the provisions of this Agreement shall be in addition to, and not in substitution of, any rights or remedies available under now existing or hereafter arising applicable law. All rights and remedies provided for in this Agreement or afforded by law or equity are distinct and cumulative and may be exercised concurrently, independently, or successively.

27. Incorporation of Exhibits. The exhibits identified in this Agreement are incorporated herein by reference and made a part hereof. Capitalized terms used in said exhibits shall have the same meaning as specified above in this Agreement unless the context clearly indicates otherwise.

28. Severability. The provisions of this Agreement are severable and should any provision hereof be void, voidable, or unenforceable under any applicable law, such void, voidable, or unenforceable provision shall not affect or invalidate any other provision of this Agreement, which shall continue to govern the relative rights and duties of the parties as though the void, voidable, or unenforceable provision was not a part hereof. In addition, it is the intention and agreement of the parties that all of the terms and conditions hereof be enforced to the fullest extent permitted by law.

29. Amendment. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by all parties.

30. Entire Agreement. This Agreement constitutes the entire agreement between the parties. This Agreement may not be modified or altered unless such modification or alteration is in writing and executed by both parties to this Agreement.

31. Counterpart Signatures. This Agreement may be executed in multiple counterparts of like tenor, each of which shall be deemed an original but all of which taken together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

DRAPER IRRIGATION COMPANY

By /s/ Stephen L. Tripp  
Stephen L. Tripp, President

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

The foregoing instrument was acknowledged before me this 9 day of November, 2004, by Stephen L. Tripp, President of Draper Irrigation Company, a Utah nonprofit corporation, who executed the foregoing Management Services Agreement on behalf of and with authorization of said corporation.

/s/ Helen Erickson  
NOTARY PUBLIC

WATERPRO, INC.

By /s/ Bruce C. Cuppett  
Bruce C. Cuppett, Chief Executive Officer

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

The foregoing instrument was acknowledged before me this 9 day of November, 2004, by Bruce C. Cuppett, Chief Executive Officer of WaterPro, Inc., a Utah profit corporation, who executed the foregoing Water Management Agreement on behalf of and with authorization of said corporation.

/s/ Helen Erickson  
NOTARY PUBLIC