

DRAFT

WATER USAGE DATA AND SHUT-OFF AGREEMENT

THIS WATER USAGE DATA AND SHUT-OFF AGREEMENT (the "Agreement") is made effective as of the first day of September, 2012 (the "Effective Date"), by and between **Kentucky-American Water Company**, a Kentucky corporation, with offices located at 2300 Richmond Road, Lexington, Kentucky 40502 (the "Company"), and the **Lexington-Fayette Urban County Government**, an urban county government of the Commonwealth of Kentucky pursuant to Chapter 67A of the Kentucky Revised Statutes, 200 East Main Street, Lexington, Kentucky 40507 (the "Government"). Hereinafter the Company and the Government may be referred to individually as a "Party," and collectively as the "Parties."

WHEREAS, the Government is the operator of the sanitary sewer system and appurtenances thereto serving Fayette County, Kentucky; and

WHEREAS, the Government has established rates and charges for sanitary sewer services rendered to its customers based upon water usage by such customers and bills (the "Users") such charges on a periodic basis to its customers so served; and

WHEREAS, Chapter 96 of the Kentucky Revised Statutes permits the Government to enforce collection of lawful rates and charges for the use of sewer facilities by requiring that water service be discontinued until payment is made or some satisfactory arrangement is reached; and

WHEREAS, the Company is engaged in the business of providing water service to substantially the same area and customers as are served by the Government and the Company is in a position to supply to the Government the customer water usage data the Government requires to compute and monitor collection of its sanitary sewer service charges and to terminate water service for reason of delinquency in the payment of any sanitary sewer service charge by a customer of the Government; and

WHEREAS, the Company is authorized, pursuant to Chapter 96 of the Kentucky Revised Statutes, to furnish the Government with customer Water Usage Data, which is defined below; and

WHEREAS, the Company is authorized, pursuant to Chapter 96 of the Kentucky Revised Statutes, to enter into an agreement with the Government for the termination of water service from its system to any premises at which any sanitary sewer charge for sanitary service supplied by the Government is unpaid and delinquent; and

WHEREAS, the Government has requested the Company to provide customer Water Usage Data to the Government that will enable the Government to compute and bill Users the charges for sanitary sewer service; and

WHEREAS, the Government has requested the Company to perform services for the termination of water service for reason of delinquency in the payment of any sanitary sewer service charge and to reconnect such water service upon repayment of all charges, including reconnect charges; and

WHEREAS, the Company is willing to furnish the requested customer Water Usage Data to the Government and to terminate and reconnect such service pursuant to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

I. **Definitions.** Capitalized terms used herein shall have the following meanings:

“Sewer Collection and Treatment Charges” means the charges, including any applicable fees, charges, penalties, interest, or taxes, billed by the Government to a User related to use of the Government’s sewer collection and treatment system.

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“Term” means the period of time the Agreement is in force (including any renewal) with the initial period beginning on the Effective Date and ending on the fourth anniversary thereof (the “Initial Term”), unless terminated earlier pursuant to Section VI. This Agreement shall automatically renew at the end of the Initial Term, and thereafter at the end of each twelve-month renewal term upon the same terms and conditions contained in this Agreement or applicable revised version of this Agreement.

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“User” or “Users” means any person(s), entity(s) or premise that discharges sewage or wastewater into the Government’s sewer collection and treatment system and is a customer of the Company.

“Water Usage Data” means customer name, mailing address, service address, account number, status of account, class of customer, days in billing period, type/size of meter, date of current meter reading, water usage for the billing period stated in the units of measure used by the Company, and all other information identified in Appendix A.

II. **Customer Water Usage Data**

1. The Government shall be responsible for sanitary sewer customer billing, accounting and collecting payments for Users.

2. The Company will provide the Government with a list of current water customers by no later than August 30, 2012. In an initial transmission that will occur no later than August 31, 2012, the Government shall identify the Users. Thereafter, the Company shall furnish to the Government Water Usage Data of each User pursuant to paragraph 3, below.

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After the initial transmission above, the Company will provide to the Government, on a monthly basis, a listing of all new water taps performed by the Company in Fayette County for the preceding month. Within thirty (30) days after receipt of that listing, the Government will provide a list of premises of new Users for which Water Usage Data will be provided pursuant to this Agreement. In providing this list, the Government may also provide additional premises for which it seeks Water Usage Data pursuant to this Agreement due to the addition of new Users as a result of existing water accounts with recently added sewer service. Within thirty (30) days after receipt of that listing, the Company will add the premises and start furnishing the

Government Water Usage Data for the new Users. In the event the premises cannot be reconciled, the Company will notify the Government within thirty (30) days and the parties shall work together to reconcile.

3. Beginning on September 4, 2012 and continuing through June 30, 2013, the Company will provide Water Usage Data for all Users to the Government on or about every Friday. Beginning in July, 2013 and as a result of new software that will be utilized by the Company, the Company will provide Water Usage Data for all Users every Monday.

The initial transmission of Water Usage Data will be performed by the Company's delivery of all of its historical Water Usage Data for Users to a secure website maintained by the Company. That historical Water Usage Data will remain on the secure website for downloading by the Government for at least ninety (90) days. During the first ninety (90) days following the initial transmission of the Water Usage Data by the Company, a listing of Users will be built through the addition of the weekly Water Usage Data. Thereafter, the Company will maintain on the website the most recent ninety (90) days' worth of Water Usage Data which will be accessible for download by the Government. The website will also be accessible by any billing agents assigned by the Government. This most recent ninety (90) days' worth of Water Usage Data will be updated every Monday.

4. The Company will continue to apply payments received on unified bills computed and issued by the Company on the same basis as is currently done between the parties under the previous billing and collection agreements as amended and revised. The obligation to continue to apply payments in this manner ceases on October 15, 2012, at which time the Company will be entitled to retain all portions of payments received.

The Company will make timely available to Government or its billing agent upon request records or information of how payments were applied to the Government's fee billings during the Company's performance of the previous billing and collection agreement in order to support the Government's application of payments on any past balances as of September 1, 2012. The Company's obligation to do so will continue through December 31, 2012.

5. The Government agrees to pay the Company at the rate of \$0.03 (three cents) per unit for the initial information listed in Section (II)(2)-(3) above, and for each month in which the Government obtains Water Usage Data from the Company. Upon conversion of Company's billing system to SAP, like data will be delivered by the Company at the same rate. It is understood and agreed by the Parties hereto that the word "unit" as used herein shall mean the specific current meter readings for each User and all data related to each corresponding reading. The ninety (90) days' worth of information that will be updated weekly will include Water Usage Data for the most recent month. The Government shall pay \$0.03 (three cents) per unit only for the most recent month's updated information and will not be obligated to pay again for the historical information that will range in age from greater than one month to ninety (90) days. In no case shall the Government be obligated to pay for the same Water Usage Data twice.

6. It is understood and agreed by the Parties hereto that the above unit rate shall remain in effect through September 30, 2014. Thereafter, this rate shall be subject to adjustment for each succeeding calendar year, beginning October 1 2014, based on charges in the All Cities

Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor (BLI). The amount to be charged per bill shall be adjusted by a factor determined by averaging the monthly CPI-u published for the twelve-month period ending, and including August of the year before the adjustment. In the event that said BLI index is discontinued at any time during the term hereof, the Parties shall use the BLI index that replaces it, or another index mutually agreed upon by the Parties.

7. The Company shall bill the Government for Water Usage Data furnished to the Government within fourteen (14) days of the close of each month. The Government shall pay for such information within thirty (30) days of receipt of the Government's invoice.

8. In computing and furnishing the information requested by the Government, the Company agrees to observe the same diligence, policy and procedure as is used by it in computing its water service accounts, but the Company assumes no liability for errors in the computation or furnishing of Water Usage Data.

III. Shut-off Services

1. When the Government determines, in accordance with applicable Kentucky law, that a User's Sewer Collection and Treatment Charges are in arrears after rendition to the User of a written notice of such charges, it may choose to make a specific written request to the Company to terminate water service to the Government's User. In doing so, the Government shall in a writing signed by an authorized representative, certify to the Company, at an office or location so designated by the Company, the following:

- a) the name of the User that is in arrears in payment of Sewer Collection and Treatment Charges;
- b) the address of the premises where such sewer service is received;
- c) the premise number where such sewer service is received;
- d) that the Government has complied with its policies and procedures regarding the billing and shut-off notification process.

2. In accordance with the "Lexington Fayette Urban County Government Shut-off / Release Procedure," which is attached hereto as Appendix B, and incorporated herein by reference, upon receipt of the written request and certification as set out above, the Company shall, within twenty (20) days, send an employee of the Company to the premises as identified by the Government and terminate the water service to such premises. For each termination, the Government shall send a representative to accompany the Company's employee. The Government shall require each of its representatives to carry an appropriate means of identification that identifies them as a Government employee. To the extent required, said representatives shall interact with the Government's delinquent Users. If there is no contact with the delinquent User at the time of the termination of water services, the Government will post the property with a notice which includes the telephone number of the appropriate Government

agency and relevant instructions of the actions necessary prior to reconnection of water service and any other information deemed necessary by the parties to the Agreement.

3. Notwithstanding anything to the contrary herein stated the Company reserves the exclusive right, at its sole discretion, to process the Government's requests for termination of water service on such schedules and at such times as is convenient to the Company and are consistent with the Company's normal business practice and procedure subject to the delay penalty in paragraph 5, below.

4. The Company's actions required under this Agreement shall be excused if, due to matters beyond its control, including but not limited to employee work stoppages, strikes, inclement weather and emergencies requiring utilization of manpower or resources elsewhere. Termination will not be completed if the Kentucky Public Service Commission ("Commission"), a local board of health, municipality, fire district, court of competent jurisdiction or other governmental entity having jurisdiction issues an instruction to the Company so stating. At such time, the Company will relay such conflicting instructions to the Government and the Company will not knowingly take further actions toward termination until the appropriate governmental entity or the Government notifies the Company in writing that the conflict with the termination(s) has been resolved and provides written evidence thereof.

5. If the Company wrongfully fails or refuses to terminate water service in accordance with this Agreement and continues such failure or refusal for a period of thirty (30) days after receipt of written notice from the Government to do so, the Company shall be liable to the Government for any amount due from the User involved. The Parties agree that this is the exclusive remedy for the Company's failure or refusal to terminate water service pursuant to this Agreement.

6. In no event shall the Company be required to disconnect a fire line service,

IV. Shut-off Services Fees.

1. In all cases in which termination is requested by the Government, the Company shall charge a Fifteen Dollar (\$15.00) fee for administrative costs related to shut off notifications. Such invoice shall be sent and payable following termination of service, even if restoration is not requested.

2. The Government shall also pay to the Company, within thirty (30) days of receipt of an invoice from the Company, the sum of Seventy Dollars (\$70.00) to cover the Company's cost of terminating and restoring water supply to each premise in which, a one person shut-off crew was utilized. For premises in which a two-person crew is required to perform the termination and restoration of water supply, the sum of One-Hundred Dollars (\$100.00) will be charged for each premise.

V. Covenants of the Government.

1. The Government hereby acknowledges that it cannot unilaterally alter the terms of this Agreement through the adoption of an ordinance.

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2. Pursuant to KRS 96.942, unless negligent or otherwise improper in its conduct, the Company shall not be liable for any loss, damage, or other claim asserted by the Government's users, the owner and/or tenant of the premises, the water customer, the Government or any other person, corporation or entity based upon or arising out of the termination of water service at the request of the Government.

3. Notwithstanding anything to the contrary, should a new customer who was not a User at the time the arrearage owed to the Government was incurred at a terminated premises apply for water service to that premises, the Company may provide such service and the Government will not look to such new water customer for payment of the prior sewer arrearage for that premises.

4. The Government shall handle all User communications regarding service terminations implemented pursuant to this Agreement. Communications from Users to the Company shall be referred and directed to the Government at a phone number provided by the Government.

VI. Termination. Either Party shall have the right to terminate this Agreement upon ninety (90) days written notice to the other Party. Upon termination of the Agreement by either Party, the Company shall be compensated only for the services provided to the effective date of the termination. Notwithstanding any language to the contrary above, and recognizing that the Government is dependent upon the Company to provide it with accurate data regarding water usage by the Government's sanitary sewer customers, upon the written request of the Government the Company will continue to provide the Government with Water Usage Data (as defined in this Agreement) for a period of six (6) months while the Parties attempt to negotiate a new agreement. During those six (6) months, Payment for Water Usage Data shall be at the last rate provided for in this Agreement and upon such other terms as agreed to by the parties. At the conclusion of those six (6) months, if no new agreement is reached, the Company will still continue to provide Water Usage Data, but the Company shall have the right to make reasonable adjustments to the rate charged for Water Usage Data based on the Company's costs in providing Water Usage Data.

VII. Notices. Any notice, demand or communication required herein or permitted hereunder shall be deemed to have been sufficiently given or served for all purposes if (a) delivered personally to the party or to an authorized representative of the party to whom the same is directed, (b) if sent by a nationally recognized overnight delivery service, charges prepaid, or (c) if sent by certified mail (return receipt requested), postage and charges prepaid, in each case addressed as follows:

If to the Government: Lexington-Fayette Urban County Government
 Attention: Mayor
 Government Center
 200 East Main Street
 Lexington, KY 40507

 Lexington-Fayette Urban County Government
 Attention: Commissioner of Law

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Government Center
200 East Main Street
Lexington, KY 40507

If to the Company: Kentucky-American Water Company
Attn: Vice President of Operations
2300 Richmond Road
Lexington, KY 40502

With a copy to: Kentucky-American Water Company
Attn: Corporate Counsel
2300 Richmond Road
Lexington, KY 40502

or to such other address with respect to a party as such party shall notify the other in writing as above provided. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given on the day personally delivered, one (1) day after the date on which the same was deposited with a nationally recognized overnight delivery service, or five (5) business days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, in each case addressed and sent as aforesaid.

VIII. Applicable Law. This Agreement shall be construed and its performance shall be determined in accordance with the laws of the Commonwealth of Kentucky, without regard to its conflict of laws rules.

IX. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, but shall not be assignable by any third party hereto without the prior written consent of the other Party. Any attempted assignment shall be void.

X. Severability. The invalidity of any provision or part of this Agreement shall not be deemed to affect the validity of any other provision. In the event that any provision or part hereof is held illegal, unenforceable or invalid, both Parties agree that the remaining provisions shall be and remain valid and enforceable to the fullest extent permitted by law.

XI. Complete Agreement. This Agreement contains the entire agreement between the Parties hereto with respect to the obligations contained herein and supersedes all prior agreements and understandings between the Parties with respect to the subject matter thereof.

XII. Amendment. This Agreement may be amended at any time by mutual agreement of the Parties that is reduced to writing and signed by all Parties.

XIII. Captions. The captions in this Agreement are included for purposes of convenience only and shall not be considered a part of this Agreement in construing or interpreting any provision hereof or herein contained.

XIV. Waiver and Other Action. The failure of any Party to exercise any right, power or option given it hereunder, or to insist upon strict compliance with the provisions hereof, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such Party of its rights at any time to require exact and strict compliance with all the terms hereof. The rights and remedies under this Agreement are cumulative to any other rights or remedies which may be warranted by law.

XV. Warranties as to Authority; No Conflict. The individuals executing this Agreement hereby warrant that they have the proper authority to enter into this Agreement on behalf of the Party for whom they are signing and that any and all necessary corporate actions or resolutions, if any, necessary to that Party's entry into this Agreement have been duly adopted. Neither the execution of this Agreement, nor the consummation or performance of any of the transactions contemplated hereby will, directly or indirectly (a) contravene, conflict with, or result in a violation of any resolution, ordinance or other law adopted by the Government, or (b) give any person the right to challenge any of the transactions contemplated hereby or to exercise any remedy or obtain any relief under any such resolution, ordinance or law.

XVI. Counterpart Execution. This Agreement may be executed in one or more counterparts, all of which taken together will constitute one and the same instrument, and this Agreement shall not be binding on the signatories hereto until all such parties have executed this Agreement.

XVII. Regulatory Filing. Notwithstanding any language to the contrary, after the Agreement is executed by the Parties, the Company shall file the Agreement with the Commission. The Parties agree that the provisions of this Agreement shall not become effective unless filed with the Commission.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement effective as of the day and year first above written.

The Company

KENTUCKY-AMERICAN WATER
COMPANY, INC.

By: _____
Keith Cartier, Vice President of
Operations

The Government

LEXINGTON FAYETTE UBAN COUNTY
GOVERNMENT

By: _____
Jim Gray, Mayor

APPENDIX B

Lexington Fayette County Urban County Government Shut-off/Release Procedure

1. Lexington Fayette County Urban County Government (the "Government") shall send a water termination notification letter to any User that is eligible for shut-off due to the non-payment of the Government's sewer treatment charges.

- When the Government's User is different from Kentucky American Water Company's ("Company") customer of record (e.g., owners and tenants of a multi-family dwelling), the Government shall also provide appropriate notification to the Company's customer of record.
- Any User who receives a termination notice from the Government shall be afforded a ten (10) day grace period to submit payment to the Government before the actual termination. It is the Government's sole responsibility to keep track of the 10-day grace period and determine whether a premise is eligible for disconnection.

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2. The Government shall provide a list of delinquent accounts to be shut-off to the Company's Special Accounts Department by no later than 4 p.m. each day. The Company will complete the shut-off work orders on a single day each week (Monday through Thursday) between the hours of 8:00 am to 2:00 pm. The Company will attempt to complete as many shut-off orders as the Government requests up to a maximum of fifty (50) per week, but the Company shall only be obligated to complete up to twenty (20) shut-offs per week. Any orders in excess of twenty (20) per week that are not completed in 20 days shall be cancelled by the Company and communicated to the Government and shall not be subject to any penalty. Section III(5) of the Agreement shall only apply to the extent the Company receives but fails to complete twenty (20) orders per week and Section III(5) shall not apply to a failure to complete more than (20) per week. The Parties agree to have further discussions concerning the quantity of weekly shut-offs six (6) months after the effective date of the Agreement.

3. Based on the actual shut-offs performed, the Special Accounts Department of the Company will review the above list the next business day and note those accounts that were actually shut-off. If an account was unable to be shut-off, that information will also be noted. Special Accounts will notify both the Government and its billing agent via e-mail.

4. The Company will create an invoice to the Government for the accounts processed based upon the list of actual shut-offs provided by the Special Accounts Department of the Company.

To initiate release for turn-on after a customer has paid the outstanding charges:

- The Government will notify the Company that the customer has paid the outstanding charges and get a confirmation that Special Accounts has received their notification by contacting the Special Accounts Department at (866) 772-2228.
- Note: *Customer turn-on is scheduled under the standard provisions for all Company customers. Order will be scheduled for the same day if placed prior to 3:00 pm. If placed after 3:00 pm the order will be scheduled for the next business day.*

- The Company will immediately update the service order noting that the account has been released for turn-on by the Government and will notify the Government and its billing agent via e-mail upon doing so.

CONTACT INFORMATION

LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT

200 East Main Street, Lexington, KY 40507

PHONE _____

FAX _____

KENTUCKY AMERICAN WATER COMPANY

2300 Richmond Road

Lexington, KY 40502

PHONE _____

FAX _____

SPECIAL ACCOUNTS

PHONE _____

FAX _____