

NOTE: This form is provided as a sample only. Please do not prepare your own form to try to transfer the leasehold interest. You must use a form prepared by and provided to you by MWCD. Please contact the Lease Assistant, Wendy Derr, at (234) 801-7047 or via e-mail at wderr@mwcd.org in order to discuss what will be required to transfer the lease.

(Cancels and Replaces Lease # _____)

Lease No. _____

COTTAGE SITE LEASE

This cottage site lease is made by and between the MUSKINGUM WATERSHED CONSERVANCY DISTRICT, a body corporate and political subdivision of the State of Ohio hereinafter called LESSOR, and _____, hereinafter called LESSEE.

The LESSOR does hereby lease to the LESSEE the premises known as:

Lot _____ (formerly known as Lot _____), located at **Leesville** Reservoir, and situated in the Township of _____, County of _____, **Sec. No.** _____, **T-**_____, **R-**_____, State of Ohio, being a part of a parcel having file number _____, and acquired by the LESSOR by deed recorded in **D.B.** _____, **Page** _____ of the deed records of said county; together with a non-exclusive right-of-way for ingress and egress to and from the public highway and said reservoir as designated by the LESSOR, to be used by the LESSEE in common with others over the public access rights-of-way, streets, drives, shoreline and surface waters in accordance with the rules and regulations of the LESSOR and any applicable local, state or federal law, excepting and reserving from this lease all the coal, clay, oil, gas, shale and other minerals underlying said premises, without, however, reserving any surface rights; subject, however, to the following:

- 1) Any flood or flowage easement that may have been or may hereafter be conveyed by the LESSOR to the United States of America which may be necessary for the proper operation and control of said reservoir for flood control purposes, together with the right of the LESSOR and/or the United States of America to maintain and operate said dam and reservoir in accordance with the official plan of the LESSOR or any operating plan(s) of the United States of America or the U. S. Army Corps of Engineers, and LESSOR and the United States of America or the U. S. Army Corps of Engineers shall not be liable for damages of any kind to the property of the LESSEE located upon the leased premises or used in connection with the rights granted under this lease resulting from the operation of said dam or reservoir or from any other structure owned, constructed, operated or maintained by the LESSOR or the United States of America or the U. S. Army Corps of Engineers.
- 2) All setbacks and other items which may, from time to time, be revised by the LESSOR for the purpose of erecting, maintaining or laying utility lines or cables, above or below ground, so long as it does not substantially interfere with the LESSEE'S use of the premises, including the right of the LESSOR, its agents or assigns to enter upon the premises to erect, maintain or lay said utility lines.
- 3) All existing oil, gas or mineral leases and utility easements.

To have and to hold said premises unto the LESSEE, upon the following terms and conditions:

1. Term of Lease

This lease shall be for a term of _____ years, beginning on the 1st day of _____, 20_____, and ending on the _____ day of _____, 20_____.

2. Rent

The LESSEE shall pay, without demand, to the LESSOR an annual rent of _____ Dollars (\$_____), in advance, on the **1st** day of _____, of each year for and during the term of this lease. In addition, for each year this lease continues in effect after the first full year, the annual rent shall be subject to annual change and adjustment determined by the LESSOR as follows:

- a) If the "Index of Change in Prices of Goods and Services Purchased by City-Wage Earners and Clerical-Worker Families to Maintain their Level of Living" issued by the United States Bureau of Labor Statistics, which index is commonly called the "BLS Cost of Living Index" or "Consumers Price Index," for the month of January of any year subsequent to the first year this lease is in effect, shows a rise from the index figures for the month of January of the year immediately preceding, the annual rental payment due and payable under this lease for the calendar year beginning with the month of January for which such rise of said index figure occurred shall be correspondingly increased to the nearest full dollar figure from that annual rent paid the preceding calendar year by the percentage difference representing the increase of the January index figure of the year in which said annual rent is payable as compared to the January index figure of the last previous year, and
- b) In addition to and simultaneously with any change or adjustment of annual rent made in accordance with paragraph 2(a) above, the LESSOR may, in its discretion, increase the amount of annual rent due from the LESSEE for that year by an amount not to exceed an additional four percent (4%) of the total annual rental with changes or adjustments as determined by paragraph 2(a) above, rounded to the nearest full dollar figure.

Any such rent payments that are due and unpaid shall be a lien on any existing structures, improvements or other property of the LESSEE located on the leased premises until such rentals, together with any interest or other charges have been paid.

3. Taxes and Assessments

The LESSEE shall pay and save the LESSOR free and harmless from all taxes and assessments levied upon said premises; and shall pay or reimburse the LESSOR for LESSEE'S proportionate share of the payment of any installments or charges or special assessments which are levied, charged or assessed upon real estate parcels which include the premises demised herein and the buildings and improvements now or hereafter located, placed or erected thereon.

4. Use of Leased Premises

The LESSEE shall use the leased premises for residential and recreational purposes for the LESSEE, members of the LESSEE'S family and invited guests. The LESSEE shall not use said premises for rental, commercial or business purposes of any type or character, except that the LESSEE may pursue in-home commercial and business purposes so long as there is no external evidence of such commercial or business activity, including, but not limited to signage and increased traffic or parking. The LESSEE shall not store or allow to remain on or near the leased premises, without permission of the LESSOR, any docks, watercraft, commercial vehicles or trucks, buses, recreational vehicles, unlicensed or inoperative vehicles, or other items which may be deemed a nuisance by the LESSOR. The LESSEE shall not harbor any livestock on said premises. The LESSEE shall not use said premises for any illegal purpose, nor commit any illegal, disorderly or boisterous acts on said premises or on the land and water controlled by the LESSOR at said reservoir. The LESSEE shall not permit or suffer any nuisance on said premises nor permit said premises to be used in any way or for any purpose that might endanger the health or unreasonably disturb the peace and quiet of persons occupying other lands of the LESSOR.

5. Construction, Alteration and Maintenance

The LESSEE must, within five (5) years from the date of this lease, construct and maintain an approved residential dwelling on said premises. If, after five years from the date of this lease, LESSEE fails to construct and

maintain an approved residential dwelling on said premises, then this lease shall terminate in accordance with paragraph 18. The LESSEE shall submit, in advance to LESSOR, detailed plans and specifications for all buildings, structures, improvements, alterations, and other structures to be constructed or placed on said premises, and to pay any fee to obtain a permit from LESSOR prior to construction. Said plans and specifications must include color samples of materials to be used on the outside of any buildings or structures. The LESSOR shall have the right to reject any plans or specifications which it deems inappropriate or insufficient for any reason, and to cause the removal, modification or alteration at the LESSEE'S sole expense of any building or structure constructed or placed on said premises without permission of the LESSOR. The LESSEE may construct no more than one (1) dwelling on said premises, and shall erect no buildings, structures or improvements below the spillway elevation. The LESSEE shall keep all buildings, structures and improvements on said premises in good, clean and sanitary condition and repair satisfactory to the LESSOR and shall make no external alteration to any building, structure or improvement on the leased premises without prior written permission of the LESSOR. The LESSOR may, in its sole discretion, impose any fees or penalties upon LESSEE for failure by LESSEE to comply with these requirements. Nothing in this lease shall relieve the LESSEE from the responsibility or requirement to obtain any permit or license necessary from any other duly authorized government agency, or from compliance with any law, ordinance or regulation thereof.

6. Water, Sewer and Waste Disposal

The LESSEE shall be solely responsible for providing adequate supplies of potable water to the leased premises and for the appropriate and lawful removal and disposal of sewage, waste, refuse, garbage, debris and storm water therefrom. This responsibility shall include, but may not be limited to, obtaining necessary permits, the cost of construction, maintenance, repair or improvement of any well, line or facility used either individually or collectively with other LESSEES or adjoining property owners, in connection therewith. The LESSEE, either individually, or collectively with other LESSEES or adjoining property owners, must comply with all laws, rules, regulations or mandates of any local, state or federal agency with jurisdiction thereof. A permit for the construction of any well, line or facility related hereto must be obtained from the LESSOR in accordance with paragraph 5 above. The LESSOR shall have no obligation to construct, improve or maintain a joint or centralized water, sewer and/or storm water system for the benefit of the LESSEE, nor shall LESSOR be required to bear any cost thereof. However, if the LESSOR or any other local, state or federal agency having jurisdiction thereof, determines in its sole discretion that it would be in the best interest of the LESSEE or a group of LESSEES or adjoining property owners to construct, improve, maintain and connect to such a system or systems, then the LESSOR shall have the right to do so and the LESSEE shall pay the cost or proportionate share of the associated costs thereof and connect to the system as determined and assessed by the LESSOR.

7. Roads and Rights-of-Way

The LESSOR shall be responsible for the construction and maintenance of all roads and rights-of-way, which it determines necessary to provide the LESSEE with access to the leased premises. The LESSOR shall be responsible for the cost of construction and maintenance of a gravel road, signage, periodic mowing, berm and ditch work, and for keeping roads and rights-of-way clear of debris and other obstructions. The LESSEE, or a group of LESSEES may elect to improve a road by asphalt surfacing or other methods approved by the LESSOR. Said election must be made by a majority of the lessees affected by said improvement who respond to a poll conducted by the LESSOR or a LESSEE association. If the LESSOR approves said improvement, then LESSOR or the association will cause said improvement to be made and shall assess each LESSEE affected the proportionate share of the cost of such improvement. Thereafter, the LESSOR or association shall determine when improvement of the road shall be made and each LESSEE will be assessed the proportionate cost thereof. The LESSOR shall be responsible for any damage caused to any road or right-of-way by its employees or agents. The LESSEE shall be responsible for any damage caused to any road or right-of-way by LESSEE, its agents or guests.

8. Transfer of Leasehold Rights; Subletting Prohibited

If the LESSEE, through sale, transfer, foreclosure or other legal proceeding, voluntarily or involuntarily ceases to be the owner of the physical improvements made to the leased premises, this lease will be terminated and a new lease executed with the new owner or successor in interest, except that if the LESSEE is married, or is a co-LESSEE of this leasehold, this lease may be continued in the name of the spouse or co-LESSEE. The LESSEE may not transfer, sell, sublet or otherwise dispose of this lease or any interest in it without the prior consent of the LESSOR. The LESSEE may not transfer, sell, or otherwise dispose of this lease or any interest in it to any association or entity engaged in commercial activity. The lease may only be transferred by the LESSEE to natural persons, partnerships, trusts, or other legal entities created exclusively for estate planning purposes. The LESSEE may not rent or lease to a third party any of the buildings, structures, improvements or other buildings situated on or associated with this lease nor use a portion of the leased property for any commercial activity, including subletting.

9. Conservation; Permit to Cut Trees Required

The LESSEE shall do nothing to cause pollution, erosion or the degradation of the leased premises or adjoining lands and waters owned and controlled by the LESSOR. The LESSEE shall not cut, bark, trim, attach items that damage, or otherwise damage or destroy any standing trees or shrubs of any size on the leased premises or on the adjoining lands owned and controlled by the LESSOR, without the prior written consent of the LESSOR. The LESSEE shall not destroy or in any manner interfere with the nests or natural habitat of any birds, fish or wildlife.

10. Fires, Open Flames; Other Casualty

The LESSEE shall not permit any open burning, bonfires or campfires on the leased premises or on adjoining lands owned and controlled by the LESSOR except as specifically permitted by the State Fire Marshal in compliance with any applicable statutes, codes, or regulations. The LESSEE shall maintain all chimneys, fireplaces and other fire containers so as to minimize any risk or danger of fire from sparks or open flames. The LESSEE shall be responsible for all damages caused by any fire or flame caused by LESSEE. In the event the approved residential dwelling constructed or placed on the leased premises is destroyed by fire, or other casualty, then the LESSEE must, at the sole cost of the LESSEE, rebuild or reconstruct the residential dwelling in accordance with paragraph 5 of this lease, within five (5) years from the date of destruction of the dwelling. If after five (5) years from the date of destruction of the residential dwelling, the LESSEE fails to rebuild or reconstruct the residential dwelling, then this lease shall terminate in accordance with paragraph 18.

11. Compliance with Laws; Liability of LESSEE

The LESSEE shall at all times observe and comply with all laws, ordinances, rules and regulations which in any manner affect this lease. The LESSEE shall be directly responsible for the acts and omissions of all guests, invitees, family members, agents, contractors or any other person using or occupying the leased premises. The LESSEE shall save and hold harmless the LESSOR from any liability from damage to or loss of life or property arising from the use or occupancy of the leased premises by the LESSEE, or LESSEE'S guests, invitees, family members, agents, contractors or any other person using or occupying the leased premises.

12. Liens and Encumbrances

The LESSEE shall keep the leased premises, together with any buildings, structures or improvements constructed or placed on the leased premises free from all liens, mortgages, charges and encumbrances, except as may be first approved by the LESSOR, in writing, and LESSEE shall bear, pay and discharge all taxes and assessments as set forth in paragraph 3 above. LESSEE shall save and hold harmless LESSOR from any obligation for payment of any liens, mortgages, charges, encumbrances, taxes or assessments.

13. Abatement

The LESSOR shall have the right to immediately enter upon said leased premises and summarily abate and/or remove any building, structure, improvement, thing or condition which was constructed or placed on or off the leased

premises by the LESSEE without permission of the LESSOR, or which, in the sole discretion of the LESSOR be deemed to be a nuisance or creates a danger to any persons or property, and the LESSOR shall not, by reason thereof, be deemed guilty of any trespass, nor liable for any damages to LESSEE for said abatement or removal. The entire cost incurred by LESSOR hereunder shall be paid by the LESSEE upon notice, without demand, and any amount unpaid by the LESSEE shall be a lien upon any building, structure or improvement on the leased premises. In the event the LESSEE fails to maintain or repair the leased premises or any building, structure, improvement, thing or condition thereon, in accordance with the terms of this lease, and upon notice given by the LESSOR, the LESSEE fails to remedy the condition to the satisfaction of LESSOR within thirty (30) days after delivery of said notice, then the LESSOR may either cause the maintenance and repair to be made to the satisfaction of the LESSOR, and the entire cost thereof shall be paid by the LESSEE, upon notice and without demand, and such cost shall be a lien on any building, structure, or improvement on the leased premises, or the LESSOR may proceed as provided in paragraph 18 to terminate this lease. Any building, structure, improvement, thing or condition constructed or placed by the LESSEE off or outside the boundaries of the leased premises without the written permission of the LESSOR, shall be treated as unlawful encroachments by the LESSEE and the LESSOR may take whatever action it deems necessary, without notice to the LESSEE, and at LESSEE'S sole expense, to summarily abate or remove said encroachment without liability whatsoever to the LESSOR.

14. Renewal Option

The LESSEE shall have the first preferential right and option to enter into a new lease agreement with the LESSOR upon expiration of the term of this lease, subject to any revision in rent, terms or other conditions deemed necessary by the LESSOR, and the LESSEE shall have the same right to enter into a new lease with the LESSOR upon the expiration of the term of each subsequent lease, provided that in all cases, all of the terms, conditions, covenants and agreements of the LESSEE have been fully performed by the LESSEE.

15. Lessee Association or Organization

In the event the LESSOR deems it necessary for any group of lessees to join an association or organization of lessees for the benefit of administering or carrying out the terms and conditions of this lease within any cottage site area, reservoir area or conservancy district area, then the LESSEE shall become a member of said association or organization and shall pay any membership fees or other fees or assessments levied by said association or organization.

16. Fees and Charges

The LESSEE shall promptly pay any fees and charges when due without demand, for any permit or transaction as set by the LESSOR, including, but not limited to, fees for transfer of the leasehold, lease assignment, lease renewal, construction permit, late payment of rent, penalty, or other assessment.

17. Quiet Enjoyment

So long as the LESSEE is in compliance with all of the terms and conditions of this lease, then the LESSEE shall peaceably hold and enjoy possession and control of the leased premises during the term hereof, without interruption by the LESSOR, its agents or assigns, except as provided herein.

18. Termination of Lease

If at any time any of the terms and conditions of this lease required of the LESSEE shall not be performed or observed, or if the LESSEE fails to pay any part of the rent provided for herein, or if the LESSEE fails to comply with any applicable, law, ordinance, rule or regulation, then the LESSOR may cancel this lease and use every remedy provided in this agreement or at law, and this lease shall become void to all intents and purposes whatsoever, at the election of the LESSOR, by mailing to the LESSEE written notice thereof. If any of the defaults set forth are not cured within thirty (30) days after notice by the LESSOR, all right, title and interest of the LESSEE in the leased premises shall terminate and cease and shall revert to the LESSOR, together with the full right of LESSOR to re-enter upon said premises, take and possess the same, together with all buildings, structures, and improvements thereon, except as provided herein, in the same manner as if this lease had never been executed. Notice under this section shall

be by certified mail. If certified mail notice is refused or unclaimed, then notice may be by ordinary mail. In the alternative, notice may be made by any method which is allowed by law.

19. Removal of Buildings, Structures or Improvements

Any buildings, structures or improvements erected by the LESSEE on said premises shall be the property of the LESSEE except as herein provided, and may be removed by LESSEE, provided all moneys due or to become due under this agreement shall have been paid; provided also that all liens placed upon the property covered by this lease, including said buildings, by the act or default of the LESSEE shall have been satisfied whether such liens have been made with the approval of the LESSOR or otherwise; provided also that said buildings are removed within thirty (30) days after the termination of this lease for any cause, provided also that the removal is done in an approved manner that will not cause damage to any property of the LESSOR and will leave the premises in a neat and orderly condition; and provided further that before said buildings are removed the LESSEE shall furnish surety bond in such form and in such amount as will be satisfactory to the LESSOR conditioned upon the removal being made in a satisfactory manner. Any building or other property of LESSEE not removed within thirty (30) days after the termination of this lease for any cause shall become the property of LESSOR, but LESSEE shall not thereby be relieved of liability for the costs of its removal and restoration of the site.

20. Surrender

The LESSEE shall yield up and surrender the leased premises at the termination of this lease to the LESSOR, in as good order and condition as the same now are or may be put by the LESSOR, reasonable use and wear and damage by fire and other unavoidable casualties excepted.

21. Notices

All notices required herein shall be by regular ordinary mail, unless otherwise specified herein, at the following addresses:

LESSOR
Muskingum Watershed Conservancy District
1319 3rd St NW
New Philadelphia, OH 44663

LESSEE

The parties hereto agree to promptly notify the other of any change in address. Any notice period provided in this lease shall begin to run from the date of mailing to the last known address of the LESSOR or LESSEE.

22. Construction and Invalidity

The language used in this lease is to be reasonably construed; nothing herein is meant to be construed against either party. If one or more provisions of this lease are declared invalid, such invalidity shall in no way impair or affect the validity, enforceability or effect of the remainder of this lease.

23. Waiver

No provision contained in this lease will be deemed waived by reason of any failure by the LESSOR to enforce the same, irrespective of the number of violations or the consistency of the failure of enforcement.

24. Captions

Captions are inserted in this lease for convenience and reference only, and will not be taken in any way to limit or describe the scope of this lease or any of its provisions.

IN WITNESS WHEREOF, the parties hereunto have caused this instrument to be executed in duplicate the day and year first above written.

Signed and Acknowledged by
LESSOR in the Presence of:

MUSKINGUM WATERSHED CONSERVANCY
DISTRICT LESSOR

By: _____
Craig W. Butler,
Executive Director/Secretary

Signed and Acknowledged by
in the Presence of:

LESSEE

State of _____

§

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____.

Notary Public

State of Ohio

§

County of Tuscarawas

The foregoing instrument was acknowledged before me this _____ day of _____, A.D.,
20_____ by **Craig W. Butler, Executive Director/Secretary** of the Muskingum Watershed Conservancy District,
a body corporate and political subdivision of the State of Ohio, on behalf of the Muskingum Watershed Conservancy
District.

Notary Public

This instrument was prepared by _____, Attorney at Law, and
Muskingum Watershed Conservancy District.

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