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**BEFORE THE ARIZONA CORPORAT**

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COMMISSIONERS

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

2014 APR 14 P 3:34

AZ CORP COMMISSION  
BUCKET CONTROL

**ORIGINAL**

IN THE MATTER OF THE APPLICATION OF  
TUSAYAN WATER DEVELOPMENT  
ASSOCIATION, INC. FOR ESTABLISHMENT OF  
RATES FOR WATER SERVICE.

DOCKET NO. W-02350A-10-0163

IN THE MATTER OF THE APPLICATION OF  
ANASAZI WATER CO., LLC FOR  
ADJUDICATION "NOT A PUBLIC SERVICE  
CORPORATION."

DOCKET NO. W-20765A-10-0432

IN THE MATTER OF THE APPLICATION OF  
HYDRO-RESOURCES, INC. FOR  
ADJUDICATION "NOT A PUBLIC SERVICE  
CORPORATION."

DOCKET NO. W-20770A-10-0473

IN THE MATTER OF THE APPLICATION  
OF TUSAYAN WATER DEVELOPMENT  
ASSOCIATION, INC. FOR CANCELLATION  
OF CERTIFICATE OF CONVENIENCE AND  
NECESSITY.

DOCKET NO. W-02350A-13-0312

IN THE MATTER OF THE APPLICATION OF  
HYDRO-RESOURCES, INC. FOR A  
CERTIFICATE OF CONVIENCE AND  
NECESSITY TO PROVIDE WATER SERVICE.

DOCKET NO. W-20770A-13-0313

**NOTICE OF FILING  
DIRECT TESTIMONY**

Intervenor Squire Motor Inns, Incorporated ("Squire") files the attached pre-filed Direct  
Testimony of Greg Bryan.

Arizona Corporation Commission

**DOCKETED**

APR 14 2014

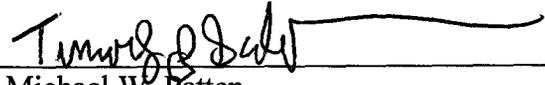
DOCKETED BY

**ROSHKA DEWULF & PATTEN, PLC**  
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RESPECTFULLY SUBMITTED this 14<sup>th</sup> day of April, 2014.

ROSHKA DEWULF & PATTEN, PLC

By   
Michael W. Patten  
Timothy J. Sabo  
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Phoenix, Arizona 85004

*Attorneys for Squire Motor Inns, Incorporated*

Original + 13 copies of the foregoing  
filed this 14<sup>th</sup> day of April, 2014, with:

Docket Control  
ARIZONA CORPORATION COMMISSION  
1200 West Washington  
Phoenix, Arizona 85007

Copies of the foregoing hand-delivered/mailed  
this 14<sup>th</sup> day of April, 2014, to:

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Hearing Division  
Arizona Corporation Commission  
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Phoenix, Arizona 85007

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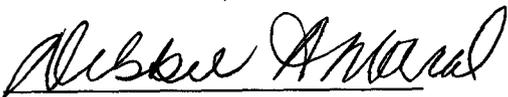
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27 *Attorney for the Town of Tusayan*

Will Wright  
Town Manager  
TOWN OF TUSAYAN  
P.O. Box 709  
Tusayan, AZ 86023

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF  
TUSAYAN WATER DEVELOPMENT  
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HYDRO-RESOURCES, INC. FOR A  
CERTIFICATE OF CONVIENCE AND  
NECESSITY TO PROVIDE WATER SERVICE.

DOCKET NO. W-20770A-13-0313

**DIRECT TESTIMONY  
OF  
GREG BRYAN  
APRIL 14, 2014**

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**Q. Please state your name and business address for the record.**

A. My name is Greg Bryan. My business address is 74 Highway 64, Tusayan, AZ, and the mailing address is P.O. Box 130, Grand Canyon, AZ 86023.

**Q. By whom are you employed, and in what capacity.**

A. I am the Vice President and General Manager of Squire Motor Inns, Inc. (Squire). In that capacity, I manage Squire's hotel, the Best Western Premier Grand Canyon Squire Inn. I am also the Mayor of the Town of Tusayan, but I have recused myself from acting as Mayor with respect to this docket, and I am not testifying in my capacity as Mayor. Vice Mayor Al Montoya is testifying on behalf of the Town.

**Q. Why did Squire intervene in this case?**

A. Squire owns a well that is used to serve its hotel, and which also provides significant water to Hydro Resources, Inc. (Hydro).

**Q. Have Squire and Hydro entered into a new Water Sales Agreement?**

A. Yes, as a result of concerns expressed by the Commission Staff regarding the previous agreement, and as contemplated in the Settlement Agreement in this case, Squire and Hydro entered into a new Water Sales Agreement, dated January 1, 2013. A copy of the agreement is attached as Exhibit A.

**Q. Have you reviewed the Staff Report filed on March 14, 2014?**

A. Yes.

1 **Q. Do you believe that the January 1, 2013 Water Sales Agreement addresses the**  
2 **concerns expressed in Condition 7 of the Staff Report?**

3 A. Yes. Unfortunately, due to a miscommunication, Staff did not have a copy of the new  
4 agreement when they prepared the report. I believe the new agreement should satisfy the  
5 concerns expressed by Staff.

6  
7 **Q. Does Squire have any other concerns or comments regarding the Staff Report?**

8 A. No.

9  
10 **Q. Did Squire sign the settlement agreement in this case?**

11 A. Yes.

12  
13 **Q. Squire request that the Commission approve the settlement agreement?**

14 A. Yes. The settlement agreement is reasonable, fair and in the public interest.

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16 **Q. Does this conclude your testimony?**

17 A. Yes.

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# Exhibit

"A"

## WATER SALES AGREEMENT

This Water Sales Agreement ("Agreement") is entered into as of this 1st day of January, 2013 by and between Squire Motor Inns, Incorporated ("Squire"), a Washington corporation and Hydro Resources, Inc. ("Hydro"), an Arizona corporation (Squire and Hydro each a "Party" and together, the "Parties").

### Recitals

1. Squire is the owner of land located in the Town of Tusayan, Arizona (the "Land"). Squire conducts business on the Land, including operation of a hotel.
2. Squire owns a well ("Well"), ADWR Registration Number 55-523284. Squire also owns a water storage tank ("Tank") located on Forest Service land, and water distribution facilities ("Squire Distribution System", and together with the Well and Tank, the "Squire Water Facilities") connecting the Well and Tank to Squire's buildings and to a connection point with Hydro.
3. Hydro owns portions of a water distribution system and well (the "Hydro System") in the Town of Tusayan, Arizona.
4. On July 18, 2000, Squire and Hydro entered into a Water System Agreement ("2000 Agreement") under which Squire agreed to provide excess potable water to Hydro. Squire and Hydro entered into a "Water System Agreement Modification" ("2011 Agreement") on January 1, 2011.

### Agreement

**NOW THEREFORE**, for good and sufficient consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

#### **1.0 Sale of Water.**

**1.1 Sale.** Squire agrees to sell to Hydro water from the Squire Water Facilities.

**1.2 Excess Water.** Squire's obligation to sell water to Hydro under this Agreement is limited to the amount of water (the "Excess Water") produced by the Well, plus the amount held in storage in the Tank, less the amount used by Squire, currently and in the future. In no event shall the annual sales of water to Hydro exceed 12.5 million gallons. The parties expressly acknowledge that water in Tusayan is a precious commodity and that it is not anticipated that additional users or supplies will be able to be accommodated without additional production and storage facilities.

**1.3 Consumptive use by Squire.** The amount used by Squire as set forth in Section 1.2 shall be limited to the amount used by Squire for domestic, landscaping and related incidental uses by Squire on the Land, including use by the hotel and its guests.

**1.4 Hydro water production.** Hydro produces potable water and stores it in the Tank. During certain periods Squire utilizes Hydro's water in the Tank for Squire's purposes. For purposes of calculating the total gallons of water sold to Hydro under the Agreement in any given month, Hydro shall deduct the amount of any such usage by Squire from the total gallons of water sold to Hydro in that month.

## **2.0 Price.**

**2.1 Initial Price.** The initial price for the Excess Water sold to Hydro shall be \$14.35 per thousand gallons. Squire may annually increase the price for inflation in accordance with the CPI Adjustment described below.

**2.2 CPI Adjustment.** CPI Adjustment shall be based on the Consumer Price Index – United States City Average – for All Urban Consumers and all Items published by the United States Department of Labor, Bureau of Labor Statistics (the "CPI Index"). The index for the month this Agreement is signed shall be treated as the base Index. If the CPI Index is discontinued or revised during the term of this Agreement, such other government index or computation with which it is replaced shall be utilized, and modified as necessary, to obtain substantially the same result as would be obtained if the CPI Index had not been discontinued or revised.

**2.3 Electric Surcharge.** Squire currently purchases the electricity used to operate the Squire Water Facilities. If the rate Squire pays for electricity is increased in an amount greater than that year's annual CPI Adjustment, Squire may (at its option) cause a separate meter to be installed to meter electricity used by the Squire Water Facilities. In that case, Squire may include in the bill to Hydro (and Hydro shall pay to Squire) an electric surcharge. If billed, the electric surcharge shall be based on Hydro's portion of the electricity used by the Squire Water Facilities, calculated as follows: (water delivered to Hydro / total water delivered through the Squire Water Facilities) \* total electric bill for the separately metered Squire Water Facilities.

**2.4 Maintenance Services.** Hydro shall provide all necessary routine maintenance, supervision, and water testing to the Squire Water Facilities at Hydro Expense. Hydro shall keep the Squire Water Facilities in good repair, mechanical condition and running order. Squire shall pay Hydro a base monthly fee for the services provided under this section of \$2,500 per month.

## **3.0 Billing and Payment**

**3.1 Meter Reading.** Squire shall be responsible for reading the meters and calculating the amount of Excess Water provided to Hydro.

**3.2 Meters.** Currently, the Well is metered and Squire's business facilities are metered, allowing Squire to calculate the amount of Excess Water provided to Hydro. However, either Party (at their sole expense) may cause meters to be installed that directly measure the amount of Excess Water flowing into the Hydro System.

**3.3 Meter Testing.** Either Party may, at their sole expense, test the accuracy of the meters. A Party that tests one or more meters shall provide the results of the test to the other Party within thirty (30) days after the test is completed. If, after such test, the meters are found to be in error by more than five percent (5%), Squire shall, at its sole cost and expense, repair or replace the meters, and Squire shall make an equitable adjustment to the Fees in the month following correction of the error.

**3.4 Monthly Invoicing.** Squire shall render a monthly invoice to Hydro for the Excess Water sold to Hydro for the preceding month. Each monthly invoice shall be due and payable twenty (20) days from the date of the invoice.

**3.5 Late Payments.** If Hydro fails to pay Squire an amount owed by Hydro pursuant to this Agreement in full when due, interest shall accrue on the overdue amount, from the date overdue until the date paid, at a rate equal to three percent (3%) per annum plus the prime lending rate as may be published from time to time by The Wall Street Journal under the "Money Rates" section, provided, that in no event shall such interest rate exceed the maximum rate permitted by law.

**3.6 Unaccounted for usage.** The Parties agree that there is water that may unaccounted for due to leakage, theft or other means that are unidentifiable as to which parties' system may be responsible. In the case of unaccountable variances in water supply and usage, the difference shall be born equally by the Parties.

#### **4.0 Hydro Rights.**

**4.1 Operational Control.** At all times while the Agreement remains in effect, Hydro shall have full operational control of the Squire Water Facilities. Hydro shall ensure that it has one or more operators with the required ADEQ certifications to operate the Squire Water Facilities and the Hydro System.

**4.2 Physical access.** Hydro may, at any time, physically access the Squire Water Facilities through its officers, employees or contractors.

**4.3 Access by Regulators.** Hydro may allow duly-authorized employees, inspectors, officers, or agents of the ACC, ADEQ, ADWR, USFS or any other regulatory agency with jurisdiction over Hydro, the Hydro System or the Squire Water Facilities to inspect the Squire Water Facilities.

**4.4 Access to books and records.** Hydro may (for its own purposes, or as necessary to comply with any request or requirement of the ACC, ADEQ, ADWR or any other regulatory agency with jurisdiction over Hydro, the Hydro System or the Squire

Water Facilities) obtain copies from Squire of any books, records, or accounts of Squire pertaining to the Squire Water Facilities.

**4.5 Continuity of Service.** Subject to the provisions of Section 2.5, if any repairs or replacements are required to ensure that the Squire Water Facilities are able to continue to provide Excess Water to Hydro in accordance with this Agreement, Hydro may cause such repairs or replacements to be made. Hydro may take any necessary steps to ensure that the Excess Water meets all regulatory requirements for potable water. In case of repairs or replacements to Squire Water facilities, Hydro shall make every effort to provide necessary water service from its facilities to Squire for Squire's use in the interim.

**4.6 License.** Squire grants Hydro a license to access Squire's Land for any of purposes set forth in this Section 4 or in Section 2.4.

**5.0 Hydro obligations.**

**5.1 Compliance with Law.** Subject to the provisions of Section 2.4 regarding a monthly fee, Hydro, at its sole cost and expense, shall comply in all material respects with all laws, ordinances, statutes, orders and regulations of any governmental agency applicable to the Squire Water Facilities or the Excess Water.

**5.2 Conduct on the Land.** Hydro shall conduct its activities on the Land in a safe manner. Hydro shall not commit or permit any waste or any unlawful, improper or offensive use of the Land or the Squire Water Facilities, or create or permit any public or private nuisance or act. Hydro's activities on the Land shall comply with all existing and future rules, regulations, ordinances, orders, codes, laws and requirements of all federal, state, local or other governmental agency or entity including all Environmental Laws (as herein defined).

**5.3 Environmental Matters.**

**5.3.1 No Hazardous Materials.** Without limiting any other provisions of this Agreement, Hydro may not, except in compliance with all Environmental Laws, cause, permit or suffer any Hazardous Materials to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Land or the Squire Water Facilities or any portion thereof by Hydro, its agents, employees, invitees or contractors; provided, however, that Hydro is not responsible for any existing environmental conditions on the Land except to the extent such condition is exacerbated by Hydro's activities. Further, Hydro may not use, stock or store any type or quantity of Hazardous Materials upon the Land or the Squire Water Facilities or any portion thereof except that which is customary and ordinary in the operation of a potable water system. Hydro shall immediately notify Squire and provide Squire with copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to any Hazardous Materials.

**5.3.2 Remediation.** With regard to the presence or release of any Hazardous Materials caused by Hydro, its employees, agents or invitees, concessionaires, or contractors, Hydro shall promptly remove or remediate same in compliance with Environmental Laws, at Hydro's sole cost and expense.

**5.3.3 Indemnification.** Hydro shall indemnify, defend (with counsel reasonably acceptable to Squire and at Hydro's sole cost and expense), and hold Squire and the Squire Indemnitees (as hereafter defined) harmless for, from and against any claims that may be imposed upon, incurred by or asserted or awarded against Squire in connection with or arising out of (in whole or in part and whether directly or indirectly) the transportation, treatment, storage, disposal, production, manufacture, generation, refinement or use or the actual or threatened escape, dispersal, seepage, migration, emission, discharge or release of any Hazardous Materials placed on the Land or the Squire Facilities by Hydro, its employees, agents or invitees, concessionaires, or contractors from or at the Land or the Squire Water Facilities. This indemnity shall survive the expiration or termination of this Agreement.

#### **5.3.4 Definitions.**

**5.3.4.1 "Hazardous Materials"** shall mean (i) "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) "PCBs" as defined in 40 C.F.R. § 761, et seq., or analogous regulations promulgated under the Toxic Substances Control Act, as amended; (iii) "asbestos" as defined in 29 C.F.R. § 910.1001, et seq., or analogous regulations promulgated under the Occupational Safety and Health Act of 1970, as amended; (iv) oil and petroleum based products; (v) radioactive material or waste; (vi) biological and other medical products and waste material; and (vii) "hazardous wastes" as defined in Resource Conservation and Recovery Act, as amended; as such acts may be amended from time to time, and as such terms may be expanded by additional legislation of a general nature.

**5.3.4.2 "Environmental Laws"** shall mean any federal, state and local law, statute, ordinance, regulation or order and all amendments thereto pertaining to industrial hygiene, environmental conditions or Hazardous Materials, and to public health and safety, public nuisance or menace.

**5.3.5 Environmental Notification.** Hydro and its employees, agents, representatives, contractors, and invitees shall promptly notify Squire: (i) upon becoming aware of any release or threatened release of Hazardous Materials under, on, from or about the Land or the Squire Water Facilities; (ii) of any proceeding, inquiry or notice from any federal, state, local or other governmental agency or entity with respect to the use or presence of any Hazardous Materials on the Land or the Squire Water Facilities, or the migration thereof to or from other property; and (iii) of all claims made or threatened by any third party against the Land or the Squire Water Facilities relating to loss or injury from any Hazardous Materials.

**5.4 Insurance.** Hydro shall immediately procure and maintain for so long as this Agreement remains in effect the following policies of insurance, naming Squire as an additional named insured with insurers rated "A" or better:

**5.4.1 Property damage insurance** in amounts agreed to by Squire and Hydro, not less than replacement cost, including the Squire Water Facilities insurance against Special Perils and mechanical breakdown, with waiver of co-insurance agreed value, and deductible not to exceed \$5,000 per occurrence.

**5.4.2 Comprehensive General liability insurance** in an amount not less than \$1,000,000 per occurrence, \$2,000,000 General Aggregate and \$20,000,000 umbrella coverage.

**5.4.3 Worker's compensation, casualty and any other appropriate insurance** in amounts satisfactory to Squire and Hydro and as required by law.

**5.4.4 Certificates.** Squire shall be provided certificates of insurance at inception and on each renewal.

## **6.0 Nature of Agreement.**

**6.1 No partnership.** Nothing in this Agreement shall be interpreted or construed to create an association, joint venture, partnership or franchise between the Parties.

**6.2 Water Rights.** This Agreement shall not be construed to sever, transfer, forfeit, abandon or impair in any way, any rights to water from any source that may be held by Squire.

**6.3. Not a Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of the Squire Water Facilities or any portion of Squire's property, or the Excess Water, or any Water Rights held by Squire, to the general public or for any public purpose whatsoever, and this Agreement is strictly limited to and for the purposes expressed herein.

**6.4 No Utility.** This Agreement shall not be construed to impose on Squire any obligations, requirements or burdens of a public utility or public service corporation. Nothing contained in this Agreement shall be deemed to impart to Squire the status of a public utility or public service corporation.

**6.5 Title.** This Agreement is not a sale or creation of any right, title, interest, easement, or security interest in the Land or the Squire Water Facilities. Squire shall remain the sole owner of the Squire Water Facilities. Hydro expressly disclaims any right, title or interest in or to the Land or the Squire Water Facilities.

**7.0 Term.**

**7.1 Term.** The term of this Agreement shall be fifteen (15) years.

**7.2 Renewal.** Upon the expiration of this Agreement, the Agreement shall automatically renew for an additional five (5) years, unless either Party sends to the other Party a Notice of Termination not less than six months before the expiration date. Likewise, after the expiration of each five (5) year renewal term, this Agreement shall automatically renew for an additional five (5) years, unless either Party sends to the other Party a Notice of Termination not less than six months before the expiration date.

**7.3 Termination.** This Agreement and all rights and obligations hereunder, unless expressly provided otherwise herein, shall terminate sixty (60) days following Squire providing written notice to Hydro that any of the following circumstances has occurred:

- (a) It is determined as a result of final, non-appealable legal proceeding that Squire does not have the legal right to withdraw or transport the Excess Water or to sell the Excess Water to Hydro;
- (b) It is determined by the ACC (or any court with jurisdiction over the matter) that by virtue of this Agreement, or otherwise, Squire is a public service corporation as that term is defined in Article 15, Section 2 of the Arizona Constitution and as such is regulated by the ACC;
- (c) Hydro remains in default of any of its obligations under this Agreement for more than one hundred and eighty (180) days after Squire provides Hydro with written notice of the default;
- (d) The Hydro system (or any substantial portion thereof) is conveyed in lieu of condemnation or acquired through condemnation by the Town of Tusayan or any other political subdivision, governmental authority, or person; or
- (e) A controlling interest in shares of Hydro (or any other right to control the activities of Hydro) is conveyed in lieu of condemnation or acquired through condemnation by the Town of Tusayan or any other political subdivision, governmental authority, or person.

**7.4 Squire Cooperation.** In the event of termination of this Agreement, Squire shall cooperate with Hydro, to the reasonable extent possible, to minimize any disruption to Hydro resulting from an event of termination.

**8.0 Condemnation.** In the event of actual or threatened condemnation of the Squire Water Facilities (or any portion thereof) or any right related thereto, including Hydro's rights under this Agreement, each of the parties shall have the right to seek just compensation and relocation benefits for their respective interests being acquired.

## **9.0 Dispute Resolution.**

**9.1 Arbitration.** Any and all claims, demands, damages, disputes, and controversies of every kind and nature whatsoever, known or unknown, fixed or contingent, whether at law or in equity, that either Party may have arising out of or related to this Agreement or the actions of either Party hereunder shall be finally resolved pursuant to the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association (AAA) and the Revised Uniform Arbitration Act, A.R.S. Sec. 12-3001 *et seq.* Any arbitration conducted under this Agreement shall be held in Phoenix, Arizona. The arbitration shall be decided by a single arbitrator appointed by both parties, or if they cannot agree, by the AAA. The arbitrator's final award shall be binding and enforceable against the Parties in accordance with Arizona law.

**9.2 Injunction.** Notwithstanding the provisions of Section 9.1, either Party may apply to any court of competent jurisdiction in Arizona for a preliminary injunction or other preliminary remedies to preserve the Squire Water Facilities or their rights under this Agreement pending resolution of any disputed issues by arbitration.

**9.3 Fees, expenses and costs.** The prevailing party in any dispute under this Agreement (including arbitration) is entitled to their reasonable attorney's fees, expert witness fees, arbitrator's fees, and other litigation or arbitration expenses and costs.

## **10. General Indemnification.**

**10.1 By Hydro.** Squire shall not be liable for, and Hydro covenants and agrees to indemnify and save Squire and its officers, directors, employees, agents, successors and assigns (collectively with Squire, the "Squire Indemnitees"), entirely harmless for, from and against any and all claims (including third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, penalties, fines, costs, liabilities, interest or losses (including sums paid in reasonable settlement of claims, attorney's fees, consultant fees, expert fees and any fees and expenses incurred in enforcing this indemnity) (collectively, "Claims"), arising out of or related to (i) any accident or other occurrence causing injury to or death of persons or damage to property by reason of Hydro's sole negligence or intentionally wrongful use or operation of the Squire Water Facilities or the Excess Water; (ii) the quality of the Excess Water used by Hydro or its customers; (iii) the use, management or any other handling of the Excess Water by Hydro or any agent, employee, invitee, contractor, or customer of Hydro; or (iv) the sole negligence or intentionally wrongful conduct of Hydro or any agent, employee or contractor of Hydro related to the Squire Water Facilities or the Excess Water. Hydro further agrees to indemnify and save all Squire Indemnitees entirely harmless for, from and against all Claims arising out of any failure of Hydro to comply with any of Hydro's obligations under this Agreement. These indemnities shall survive the expiration or termination of this Agreement.

**10.2 By Squire.** Hydro shall not be liable for, and Squire covenants and agrees to indemnify and save Hydro and its officers, directors, employees, agents, successors,

and assigns (collectively with Hydro, the "Hydro Indemnitees"), entirely harmless for, from and against any and all Claims, arising out of or related to (i) Squire's activities, and the activities of Squire's guests and invitees and third persons under Squire's control on the Land, except to the extent such damage or injury is caused by the operations, activities, sole negligence or willful misconduct of Hydro; or (ii) Squire's use of its own water; (iii) the sole negligence or intentionally wrongful conduct of Squire or any agent, employee or contractor of Squire occurring in relation to the Squire Water Facilities; or (iv) existing environmental conditions on the Land, except to the extent the condition(s) are exacerbated by the Hydro's activities. This indemnity shall survive the expiration or termination of this Agreement.

#### **11.0 Miscellaneous Provisions.**

**11.1 Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and any prior or contemporaneous agreements, discussions or understandings, written or oral are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by each of the Parties.

**11.2. Governing Law.** The validity, interpretation and enforcement of this Agreement are governed by the laws of the State of Arizona.

**11.3. Interpretation.** The Parties agree that the terms and provisions of this Agreement embody their mutual intent and that such terms and conditions are not to be construed more liberally in favor of, or more strictly against, either Party. Headings used herein are for convenience of reference only and do not define, limit or otherwise affect the scope, meaning or intent hereof. Squire and Hydro each acknowledge that they had access to legal counsel in drafting this Agreement. The Parties agree that any principle of law concerning construction of terms against the drafter shall not apply to this Agreement.

**11.4 Counterparts; Facsimiles.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each Party shall be entitled to rely upon executed copies of this Agreement transmitted by facsimile or electronic mail to the same and full extent as the originals.

**11.5. No Waiver.** No waiver of any right under this Agreement shall be effective for any purpose unless it is in writing and is signed by the Party hereto possessing the right, nor shall any such waiver be construed to be a waiver of any subsequent right, term or provision of this Agreement.

**11.6. Notices.** All notices or other communications required or permitted hereunder, including payments to Squire, shall, unless otherwise provided herein, be in writing, and shall be personally delivered, delivered by reputable overnight courier, or

sent by registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

**If to Squire:**

Greg Bryan  
Vice President and General Manager  
Best Western Premier Grand Canyon Squire Inn  
Street Address:

74 Highway 64  
Tusayan, AZ 86023

Mailing Address:

P.O. Box 130  
Grand Canyon, AZ 86023

**With a copy to:**

Timothy J. Sabo, Esq.  
Roshka, DeWulf, & Patten, PLC  
One Arizona Center  
400 East Van Buren, Suite 800  
Phoenix, Arizona 85004

**If to Hydro:**

John W. Rueter  
President  
Hydro-Resources, Inc.  
P.O. Box 3246, 549 Camper Village  
Grand Canyon AZ 86023

**With a copy to:**

Steven A. Hirsch, Esq.  
Rodney W. Ott, Esq.  
Bryan Cave LLP  
2 N. Central Avenue, Suite 2200  
Phoenix, AZ 85004

Notices personally delivered shall be deemed given the day so delivered. Notices given by overnight courier shall be deemed given on the first business day following the mailing date. Notices mailed as provided herein shall be deemed given on the third business day following the mailing date. Either Party may change its address for purposes of this subsection by giving written notice of such change to the other Party in the manner provided in this subsection.

**11.7 Force Majeure.** A Party is not liable for failure to perform the Party's obligations under this Agreement if such failure is as a result of:

- (a) Acts of God (including fire, flood, drought, earthquake, storm, hurricane, epidemic, famine, plague or other natural disaster);
- (b) war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, or riot;
- (c) labor dispute, strike, lockout or interruption;
- (d) pollution of water sources, chemical or radioactive contamination or ionizing radiation;
- (e) failure of electricity service; or
- (f) Any order, judgment, decree, preliminary or permanent injunction, rule, regulation, requirement, mandate, statute, ordinance, or other governmental action issued by any court, agency, city, county, political subdivision, tribe, or other governmental authority.

If any of the above occurs that prevents a Party from performing some or all of its obligations under this Agreement, then the nonperforming party shall take reasonable steps to minimize delay or damages.

**11.8 Authority.** Each of the Parties executing this Agreement warrants and represents that they have authority to do so and have obtained all necessary consents and resolutions to perform the acts set forth in this Agreement.

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first above written.

**SQUIRE MOTOR INNS, INCORPORATED**

By: 

Print Name: Gregory Byrnes

Title: Vice President

**HYDRO RESOURCES, INC.**

By: John W. Rueter

Print Name: JOHN W. RUETER

Title: PRESIDENT