

## DRAFT AFFILIATION AGREEMENT

This Agreement, effective as of January 1, 2009, between the American Water Works Association ("AWWA") and the undersigned Section of AWWA (the "Section"), sets forth the terms and conditions of the relationship between AWWA and the Section.

**WHEREAS**, the parties wish to prescribe the manner in which the parties may use the intellectual property that one party elects to provide to the other for its use from time to time, including logos, emblems, names, marks, free publications and other proprietary material, in each case excluding property that is covered by a separate license or other agreement (the "IP");

**WHEREAS**, the parties also wish to ensure that AWWA can continue to indemnify all "Eligible Persons" of the Section who are to be indemnified under Section 6.01 of AWWA's Bylaws and, if practicable, support that indemnification with a directors and officers liability insurance policy (a "D&O Policy"); and

**WHEREAS**, the parties recognize that AWWA's qualification as a non-profit tax-exempt entity requires it to ensure that activities conducted by the parties under its name are consistent with AWWA's stated mission of promoting education, scientific scholarship, and technical advancement related to water quality and safety by, among other things, funding research, publishing information, standards and journals and creating vital forums for technical experts and commercial entities to exchange knowledge and expertise (the "Mission").

### NOW, THEREFORE, IT IS AGREED:

1. **Guiding Principles.** AWWA and the Section will adhere to the Guiding Principles of this Affiliation Agreement, namely: (a) Conducting their daily operations and relationships with one another in a manner consistent with AWWA's Strategic Plan, Vision, Guiding Principles and Mission; (b) Striving to protect, develop, and enhance the reputation and value of the AWWA brand; (c) Maintaining reasonable indemnification policies consistent with AWWA's Articles of Incorporation, Bylaws and Governing Documents for the benefit of all parties; and (d) Cooperatively developing means to maintain D&O Policy coverage for Eligible Persons and to preserve the tax exempt status of the parties, including the modification of existing business practices when it is reasonable and advisable to do so.

2. **License.** (a) AWWA grants to the Section a nonexclusive license to use AWWA's IP in connection with the Section's activities in furtherance of the Mission, but only after the Section gives written notice to AWWA of each intended use of the IP and, after such notice, AWWA does not decline permission to use the IP as proposed. Correspondingly, the Section grants to AWWA a nonexclusive license to use the Section's IP in connection with AWWA's activities in furtherance of the Mission, but only after AWWA gives written notice to the Section of each intended use of the IP and, after such notice, the Section does not decline permission to use the IP as proposed. (b) Each of the Section and AWWA will strictly abide by the other's guidelines and requirements related to use of the IP if and to the extent that such guidelines and requirements are provided in writing to the using party. (c) Each party will only use the IP exactly as provided or published by the other party, without any changes, omissions or

additions except those approved in writing by the licensor of the IP. (d) If the owner of the IP changes any of the licensed IP, the using party will promptly adopt and incorporate such changes to the extent practicable. The using party will also promptly notify the owner of the IP if it becomes aware of any use of the licensor's IP that is unauthorized or clearly inconsistent with the Mission. (e) AWWA may revoke the Section's IP license if the Section materially breaches this Agreement and the Section may revoke AWWA's IP license if AWWA materially breaches this Agreement. The revocation of one party's IP license on account of such breach will not cause the revocation of the non-breaching party's license, which will remain in full force and effect subject to the terms of this Agreement. (f) Nothing herein obligates either party to license any particular IP to the other party or precludes a party from requiring the payment of licensing fees or other charges pursuant to existing or future separate agreements relating to such IP.

3. **Fidelity to Mission.** (a) Each of the parties will conduct its business in a manner that is consistent with the Mission and with AWWA's Bylaws, Governing Documents and Statements of Policy (collectively, the "Documents"), as currently in effect and as they may be amended from time to time. (b) In order to avoid potential conflicts of interest, the Section will not engage in any business or activity other than acting as a Section of AWWA. The parties acknowledge, however, that the Section may be affiliated, by common membership or ownership, joint offices, shared assets, overlapping Boards of Directors or otherwise, with other entities that are involved in other businesses or activities, so long as the activities of such affiliated entities that conflict with AWWA or the Mission are fully disclosed to AWWA.

4. **Activities.** Each of the parties will give the other access to information concerning new fundraising campaigns, events and other significant activities ("Activities") and to final versions of new literature, brochures, or other written materials that are to be published or circulated by the other party ("Materials") in connection with Activities. Such access may be afforded by posting on a website or intranet or in the party's other written publications. If AWWA believes that any Activities or Materials are contrary to the Mission or are likely to materially and adversely affect the tax exempt status of the Section or AWWA, then AWWA will so advise the Section, and the Section will take reasonable steps to eliminate or reduce such effect by modifying or terminating the Activities or Materials. Correspondingly, if the Section believes that any Activities or Materials of AWWA are contrary to the Mission or are likely to materially and adversely affect the tax exempt status of the Section or AWWA, then the Section will inform AWWA's Board of Directors of its concern, and the AWWA Board will consider the appropriate response to the issue at its next regularly scheduled meeting. Activities of AWWA or the Section that are declared to be in support of a specific affiliated corporation, subgroup, council or committee of AWWA (a "Group") will be conducted in a manner consistent with the narrower mission and purpose of such Group. If the Section engages in fundraising activities that are represented to be for the benefit of a particular Group, the funds so raised will be promptly remitted to that Group and, when practicable, within the same calendar year.

5. **Training Regarding Tax Exempt Status.** In order to support the Section's efforts to ensure that its Activities do not inadvertently endanger the tax exempt status of either party, AWWA will make available, at no cost to the Section, specialized training to officers, directors, employees, managers and volunteers of the Section concerning the requirements of applicable tax exemptions, including but not limited to restrictions on political activities,

fundraising, outside business activities, conflicts of interest and other corporate governance issues. Such training shall be provided to the Section no less often than once per year, typically in conjunction with other scheduled AWWA or Section meetings. Correspondingly, the Section agrees that, in order to ensure the efficacy of such training, it will cause appropriate personnel to participate in such training, in person and that the Section will in any event cause at least one Section officer, director or other person who is meaningfully involved with management of the Section's Activities to attend or otherwise participate in one training session each year, provided, however, that the Section's obligations to participate in such training shall not under any circumstances require the Section to expend any funds on travel, lodging or other expenses.

6. **D&O Policy.** During the term of this Agreement, AWWA will take all reasonable steps necessary to keep in effect a D&O Policy that covers all "Eligible Persons" of the Section who are entitled to indemnification from AWWA under Section 6.01 of AWWA's Bylaws. AWWA shall not be obligated to provide D&O Policy coverage or indemnify any Eligible Person with respect to actions or omissions for which indemnification is not permitted by law.

7. **Parties' Responsibilities.** While the Section will receive some funding from AWWA, the parties acknowledge that each party is responsible for the costs of its own operations and activities. Each party is also responsible for the conduct of its own business and activities, including its own tax, corporate and organizational filings and compliance, employees, including payroll, insurance and benefits requirements, and all other legal or business requirements arising from its activities.

8. **Proceedings.** If AWWA's Board of Directors determines, by a majority vote, that the Section has willfully and materially breached this Agreement or the Documents, then AWWA may, after notice and a reasonable opportunity to cure has been given to the Section, commence a disciplinary proceeding against the Section (a "Proceeding"). A Proceeding shall be conducted in accordance with rules adopted by the Board of Directors that ensure fairness and a reasonable opportunity for the Section to defend its actions. In a Proceeding, only progressive sanctions may be imposed against the Section, beginning with a formal reprimand of the Section for the first Proceeding that finds a willful and material breach, then financial sanctions may be imposed in the second such Proceeding, and finally suspension or termination of the Section's affiliation with AWWA may be imposed in the third such Proceeding. If the Section is the prevailing party in a Proceeding, then AWWA shall reimburse the Section for the reasonable travel expenses incurred by the Section in connection with a Proceeding.

9. **Miscellaneous.** (a) This Agreement has an initial term of one (1) year but such term shall be automatically extended for another year each year on the anniversary of its effective date. (b) This Agreement may be terminated prior to the end of its original term or any extension thereof (i) by written agreement of the parties or (ii) a Proceeding or another action authorized by the Documents that dissolves the Section or otherwise terminates the Section's affiliation with AWWA. (c) Each of the parties agrees to defend and indemnify the other party against any loss, damage or liability (including reasonable attorneys fees) that the other party incurs as a result of the indemnifying party's breach of this Agreement. (d) This Agreement does not create a partnership, agency, or joint venture between the parties and does not entitle

either party to enter into contracts, assume liabilities or obligations, or take any other action that binds the other party. (e) This Agreement, considered together with the Documents, (i) is the entire agreement of the Parties with respect to its subject matter, (ii) supersedes all prior agreements, arrangements or understandings of the parties, (iii) may not be assigned by either party without the permission of the other party, and (iv) may be amended only by a writing signed by the parties, provided, however, that the parties acknowledge that it is their mutual intent to amend this Agreement or to enter into a new agreement for the purpose of memorializing the parties' understanding as to the "Business Relationship Issues" previously identified by the parties, including but not limited to training and education, membership and communications, and such other issues as the parties may choose to address, and provided further, that the parties acknowledge that this Agreement does not give the Section any right to veto or block amendments to the Documents, which may continue to be amended in accordance with their terms. (f) The failure of a party to enforce a provision of this Agreement in one instance shall not waive the party's right to enforce that or any other provision thereafter. (g) If any term of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity or enforceability of the remainder of the Agreement, which shall remain in full force and effect. (h) The parties acknowledge that, in addition to the remedies prescribed by this Agreement, they retain the other remedies existing at law or in equity, including the right to seek injunctive relief to protect a party's IP, which right is expressly acknowledged to be reasonable and necessary to ensure such protection, and such other remedies shall remain available to the parties. (i) Other than a dispute concerning a party's IP, any dispute between the parties concerning this Agreement must be first considered in a Proceeding and only thereafter may be the subject of litigation or arbitration between the parties. (j) This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

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

**AMERICAN WATER WORKS ASSOCIATION**  
**("AWWA")**

\_\_\_\_\_  
**("the Section")**

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By: \_\_\_\_\_

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By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_