MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement (“Agreement”) is entered into as of July 1st, 2024 (the “Effective Date”) between Inscription Canyon Water Company, an Arizona nonprofit corporation, (“Company”) and Mark Armstrong, an individual (“Contract Manager”). Company and Contract Manager are each referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

1. WHEREAS, Company provides potable water service to residential and commercial customers within a service area located northwest of Prescott, Arizona, in unincorporated Yavapai County. Company is managed by a volunteer board of directors (the “Board of Directors”). Company has no employees but contracts with professionals to provide accounting and billing services, certified operator services, contractor services, and other services. Certain management functions are provided by the members of the Board of Directors and various subcommittees as volunteers;
2. WHEREAS, Contract Manager is a member of the Board of Directors with substantial knowledge and expertise regarding the management and operation of the Company;
3. WHEREAS, Company desires to contract with Contract Manager to provide certain management services as described herein, and Contract Manager is willing to act as contract manager while simultaneously retaining his position on the Board of Directors, subject to the terms and conditions set forth herein;
4. AND WHEREAS, Company’s bylaws (“Bylaws”)[[1]](#footnote-1) provide that (i) a member of the Board of Directors may be a party to a contract or transaction with the Company so long as the relationship is disclosed to the Board of Directors; and (ii) the Company may compensate a member of the Board of Directors for services provided to the Company;

NOW, THEREFORE, the Parties agree as follows:

TERMS AND CONDITIONS

1. Management Services.Company hereby retains Contract Manager to provide those management services (“Management Services”) described on the attached Exhibit A. The Board of Directors may modify the list of Management Services from time to time by notifying Contract Manager in writing. Contract Manager shall not work more than sixteen (16) hours per calendar week without the prior written authorization of the Board of Directors. Company shall reimburse Contract Manager for any expenses incurred by Contract Manager in performing the Management Services; provided, however, that Contract Manager shall not incur any single expense exceeding $500 during a calendar week or aggregate expenses exceeding $500 during a calendar week without the prior written authorization of the Board of Directors. Contract Manager shall be reimbursed for mileage at a rate of $0.67 per mile in the event he uses his personal vehicle to perform any Management Services.
2. Compensation and Billing. Company shall compensate Contract Manager at the rate of Thirty Dollars ($30) per hour. On or about the last business day of each month, Contract Manager shall render an invoice to Company detailing the Management Services provided and the hours expended on a per-task basis, rounded to the nearest one-quarter (1/4) hour, since the date of the last invoice. Expenses incurred by Contract Manager during the invoice period shall be listed separately on the invoice with copies of supporting receipts and invoices attached. Contract Manager shall send invoices to Company via e-mail at the address set forth in Section 8.2. Company shall pay invoices within fifteen (15) days of the date on the invoice.
3. Term. This Agreement shall commence on the Effective Date and shall continue for a period of three (3) years (the “Term”) unless terminated earlier by either Party. Company may terminate this Agreement for any reason by providing thirty (30) days’ advance written notice to Contract Manager. Contract Manager may terminate this Agreement for any reason by providing ninety (90) days’ advance written notice to Company. Once written notice is provided by a Party, this Agreement shall terminate at the end of the applicable notice period without any further action required.
4. Standard of Care. Contract Manager shall exercise reasonable care, prudence and diligence in performing Management Services. Additionally, because Contract Manager is simultaneously a member of the Board of Directors, he is subject to A.R.S. § 10-3830(A)(3) which requires that he discharge his duties: (i) in good faith; (ii) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (iii) in a manner he reasonably believes to be in the best interests of the Company.
5. Independent Contractor. While performing Management Services within the scope of this Agreement, Contract Manager is acting as an independent contractor and not an employee of Company. Thus, Company has no obligation to provide workers compensation insurance, health insurance or any other type of employee benefit to Contract Manager.
6. Liability Insurance. While this Agreement shall remain in effect, Contract Manager shall maintain a personal liability insurance policy with a limit not less than One Million Dollars ($1,000,000) per occurrence covering any negligent acts or omissions of Contract Manager while performing Management Services resulting in injuries or claims by third parties against Contract Manager or Company. Company shall reimburse Contract Manager for the premiums of the personal liability insurance policy.
7. Disclosure of Director’s Conflicting Interest Transaction. Under A.R.S. § 10-3860(2), a transaction where a director of a company receives compensation for services or enters into a contract with that company is deemed a “director’s conflicting interest transaction.” A director’s conflicting interest transaction is not prohibited but may be approved where (i) the transaction has been fully and fairly disclosed to the company’s board of directors; (ii) the transaction, judged according to the circumstances at the time of commitment, is established by the board of directors to be fair to the company; and (iii) the transaction is approved by a majority vote of the board of directors (acting upon a quorum) with the director who is the party to the director’s conflicting interest transaction abstaining from the vote. Because this Agreement presents a director’s conflicting interest transaction, and consistent with the requirements of A.R.S. § 10-3860(2), the Board of Directors makes the following findings:
	1. The Agreement was presented to and carefully reviewed by the Board of Directors at a properly noticed meeting held June 10, 2024;
	2. The Board of Directors finds that the Agreement is fair to the Company; and
	3. The Agreement was approved by a vote of 3 to 0 at the June 10, 2024 board meeting, acting upon a quorum, with the Contract Manager abstaining from the vote.
8. Miscellaneous.
	1. Recitals. The Recitals are an integral part of this Agreement and are incorporated herein.
	2. Notices. Any notice given to a Party under this Agreement must be in writing and given by (i) personal delivery or registered mail, postage prepaid, to the address below, (ii) e-mail transmission to the e-mail address below, or (iii) personal delivery, registered mail or confirmed e-mail transmission to such other address, e-mail address or individual for notice as may be designated by such Party.

If to Company:

Inscription Canyon Water Company

302 W. Willis Street, Suite 203

Prescott, Arizona 86302

Attention: Board President

Phone: (928) 445-5606

E-mail: cherylibbotson@gmail.com

With a copy to:

Jeffrey W. Crockett, Esq.

CROCKETT LAW GROUP PLLC

2198 E. Camelback Road, Suite 305

Phoenix, Arizona 85016-4747

Phone: (602) 441-2775

E-mail: jeff@jeffcrockettlaw.com

If to Contractor:

Mark Armstrong

5500 W. Cameo Circle

Prescott, Arizona 86305

Phone: 480-330-8695

E-mail: armstrongmark039@gmail.com

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* 1. Assignment.Contract Manager may not assign or transfer its interest in this Agreement. Company may assign this Agreement to any person or entity in its sole discretion.
	2. Governing Law; Venue. This Agreement and any claims arising hereunder shall be governed by and construed in accordance with the laws of the State of Arizona. The Parties agree to the jurisdiction and venue of the Superior Court of Yavapai County.
	3. Amendments; Waiver. No waiver, consent, modification, amendment or change to the terms and conditions of this Agreement shall bind either Party unless in writing signed by the Parties.
	4. Drafting. For the purposes of contractual interpretation, the terms, conditions and provisions of this Agreement shall not be construed against either Party as a result of the preparation or drafting.
	5. Severability. Each provision and the subparts of each provision of this Agreement shall be treated as separate and independent clauses, and the unenforceability of any one clause will in no way impair the enforceability of any of the other clauses of this Agreement, and the remaining provisions shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts had not been included therein.
	6. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties regarding the subject matter hereof. This Agreement supersedes all prior or contemporaneous understandings or agreements between the Parties, whether oral or written.
	7. Counterparts. This Agreement may be executed in multiple counterparts, all of which together will constitute one and the same instrument. A facsimile, PDF or other electronic signature shall be considered an original.

The Parties have executed this Agreement as of the Effective Date written above.

**COMPANY:**

INSCRIPTION CANYON WATER COMPANY

By: Mike Hubbard

Its: VP Operations

**CONTRACT MANAGER:**

MARK ARMSTRONG

Mark Armstrong

1. Article IV, Section 2 of the Bylaws states:

*No stated salary shall be paid Directors; however, nothing shall preclude any Director from receiving compensation for services to the Corporation. This likewise extends to members of committees and Officers. Directors and Officers shall be entitled to reimbursement for reasonable expenses incurred in the discharge of their duties for the Corporation.*

Article IV, Section 3 of the Bylaws states:

*Any Director, personally and individually, may be a party to or may be interested in any contract or transaction of this Corporation, and no Director shall be liable in any way by reason of such interest, provided that the fact of such interest be disclosed or made known the Board of Directors, and provided that the Board of Directors shall authorize, approve or ratify such contract or transaction by the vote (not counting the vote of any such Director) of a majority of a quorum, notwithstanding the presence of any such Director at the meeting at which such action is taken. Such Director or Directors may be counted in determining the presence of a quorum at such meeting. This Section shall not be construed to impair or invalidate or in any such way affect any contract or other transaction which would otherwise be valid under the law (common, statutory or otherwise) applicable thereto*. [↑](#footnote-ref-1)