

### LEASE

THIS LEASE AGREEMENT is made this 15 of October, 1996, between Hilton Cochran and his wife, Betty C. Cochran, of 508 Broughton Street, Troy, North Carolina 27371, hereinafter called Lessor; and Hydro Dyns Industries LLC, with its principal office at 5312 Groomtown Road, Greensboro, North Carolina 27407, hereinafter called Lessee;

In consideration of the mutual promises in this Lease, Lessor leases to Lessee a tract of land on the Little River which is shown on "Exhibit A" hereto attached and incorporated herein, and known as the "Robertson Dam," including all water rights, dam privileges and other land uses necessary or desirable to operate an electricity generating facility, and including access on the road to the premises in the area so marked on Exhibit A, on the following terms and conditions:

1. TERM OF LEASE. The lease term is thirty-one (31) years, beginning November 1, 1996 and ending October 31, 2027. However, Lessee may terminate this Lease at any time with 30 days' prior notice if Lessee determines in its sole discretion that its operations at the premises are not economically viable.

2. USE OF PREMISES. The premises may be used for the operation of a hydroelectric plant and associated businesses, including construction of buildings and installation of equipment for the production and sale of electricity. IF ADDITION OF EQUIPMENT + BUILDING FOR THE PRODUCTION + SALE OF ELECTRICITY USING FUEL OTHER THAN WATER IS ADDED, THE RATE PAID TO LESSOR WILL BE

*→ HAVING TO DO WITH THE PRODUCTION + SALE OF ELECTRICITY*

3. RENTAL. Before the start-up of its hydroelectric plant, Lessee shall pay a total rent for the first year (October, 1996 to October, 1997) of four thousand dollars (\$4,000), partial year periods prorated, to be paid in 2 installments. Lessee shall pay the first installment of one thousand dollars (\$1,000) at the signing of this Lease, and shall pay the second installment of three thousand dollars (\$3,000.00) within sixty days after the later of (a) February 1, 1997; and (b) the resolution of the equipment removal and equipment removal litigation going on at the date of this Lease so that Lessee can use any equipment remaining on site at that time. If start-up of the hydroelectric plant is delayed past October 31, 1997 through no fault of the Lessor and not due to any cause beyond Lessee's reasonable control (such as Act of God, governmental delays, and unavailability of labor, materials, or equipment), Lessee shall pay to Lessor, beginning on that date, four hundred dollars (\$400) per month until the Plant goes on line selling electricity. After the start-up of the hydroelectric plant, rental shall be computed as set forth below.

Beginning with the first day of commercial operation of the hydroelectric plant and for the balance of the term, Lessee shall pay rental of ten percent (10%) of the rate paid by a power company for the electricity produced by Lessee at the premises. With each payment to Lessor, Lessee shall provide the Lessor with a record of the amount of electricity sold to the power company and a copy of Lessee's check from the power company. Lessor may inspect Lessee's

*→ GROSS SALES*

books and records at any time after reasonable notice. Lessee may sell the electricity on terms and conditions as determined by Lessee, in its sole discretion.

Lessee shall make all payments under this Lease by the 10th of each month. Lessee shall compute the royalty amount due on each power company payment by the 10th of the following month.

4. **IMPROVEMENTS AND ALTERATIONS.** Lessor acknowledges that Lessee needs to make substantial alterations and improvements to the premises (including possible resloping and regrading of the road to the premises), which Lessee may make as long as they do not impair the value of Lessor's interest in the premises. Lessor may inspect all alterations and improvements. Lessee shall make all necessary alterations, improvements, and installations at the premises at no expense to Lessor. Lessee may use and alter any equipment remaining on-site after the dispute referenced above is resolved. Lessee may remove its equipment at or prior to Lease termination as long as it repairs any removal damage. Upon termination, all other improvements become Lessor's property.

5. **MAINTENANCE.** Lessee shall keep the buildings and equipment installed by Lessee on the premises in good condition and repair. Neither Lessee nor Lessor assume any responsibility to repair the dam or other water structures at the premises, such as the raceway. Lessee accepts the dam and other water structures in their "as is" condition (subject to Lessee's right to terminate for economic unviability), and Lessor understands the stress to the dam associated with the repeated filling and drawing down of the reservoir. However, if Lessee chooses to make repairs to the dam or other water structures, Lessee may do so, and rent abates while Lessee's operations are suspended to make such repairs.

6. **TAXES.** Lessee shall pay all ad valorem taxes attributable to the premises during the lease term.

7. **COMPLIANCE WITH LAWS.** Lessor and Lessee shall observe all laws and regulations bearing on the premises. Lessee shall obtain all licenses and other approvals from State or Federal agencies, including the application to FERC for a non-jurisdictional finding to operate the hydroelectric plant. At the termination of this Lease, Lessee shall transfer the non-jurisdictional finding to Lessor.

8. **ASSIGNMENT AND SUBLEASE.** Lessee may assign this Lease or sublet the premises with Lessor's prior approval, not to be unreasonably withheld.

9. **INSURANCE.** Lessee shall carry liability insurance for the premises that includes Lessor as an additional insured, in an amount determined by Lessee.

10. **DEFAULT.** If Lessee defaults under this Lease, and fails to cure the default within 30 days after written notice of the default from Lessor (or if the failure is such that it cannot reasonably be cured within 30 days, then if Lessee fails to diligently cure at all times after such

30-day period), Lessor may lawfully enter upon the premises or any part hereof and repossess the same, eject the Lessee, and remove any property of Lessee, forcibly if necessary, without being guilty of any trespass and without prejudice to any remedies which may be available to the Lessor for Lessee's default. Upon such reentry, this Lease terminates. However, if Lessee disputes the existence of a default or the failure of a cure by notice to Lessor, then each party shall use all reasonable efforts to mediate the matter in good faith.

11. SURRENDER OF THE PREMISES. Lessee shall deliver the premises to Lessor at the termination of this Lease in as good condition as the same were in the beginning of the Lease, reasonable wear and tear, casualty damage, and condemnation excepted.

12. NOTICES. All notices permitted or required under this Lease must be written and shall be given by personal delivery, or by certified mail (return receipt requested), or by overnight courier with provision for acknowledgment of receipt to each party at its address in the introductory paragraph.

13. INDEMNITY. Lessee shall indemnify Lessor against any actions or claims against the Lessor based upon any acts or omissions of Lessee in connection with the use and occupancy of the premises, including reasonable costs and attorney's fees, except to the extent connected with the negligence of Lessor or those for whose acts Lessor is legally responsible.

14. SALE OF PREMISES. If Lessor wants to sell the premises or any property that includes the premises, Lessor shall notify Lessee and give Lessee a chance to negotiate with Lessor to purchase the property Lessor wants to sell.

15. BINDING EFFECT. This Lease binds and benefits the parties and their respective heirs, personal representatives, assigns, and successors.

16. RECORDATION. Neither party may record this Lease. However, at the request of either party, both shall execute a memorandum of lease in recordable form.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

  
\_\_\_\_\_  
Hilton Cochran

  
\_\_\_\_\_  
Betty C. Cochran

**Hydro Dyne Industries LLC**

By: Steve Cook (Manager)  
Steve Cook, Manager

May 11, 1976

North Carolina

Watauga County

Thomas M. Gray, Registered Surveyor, personally prepared before me on this day and said that this map or plat was prepared by him from an actual survey made by him in April 1976 and that the error of closure was 1 in 910' and that the area is 65 acres.

That this map or plat was prepared in accordance with G.S. 41-30 as amended by the General Assembly.

My Comm. Expires 12-15-80

OFFICE OF THE REGISTER OF DEEDS  
FILED FOR REGISTRATION IN PUBLIC OFFICE THIS  
DAY OF \_\_\_\_\_ 1976 AT \_\_\_\_\_  
CLOCK \_\_\_\_\_ AND DUTY RECORDED AND  
SERIALIZED IN PLAT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
REGISTER OF DEEDS

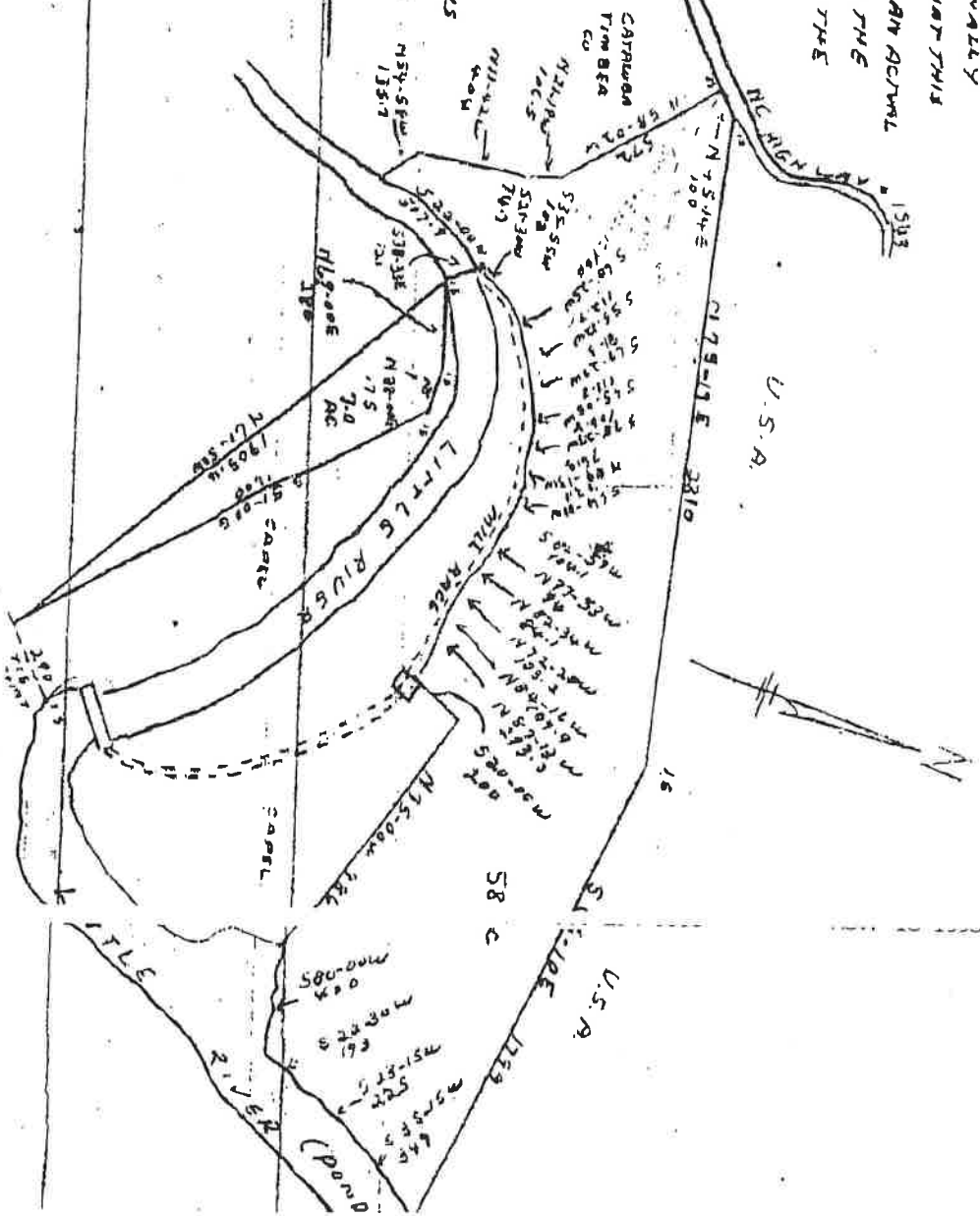


EXHIBIT A