

## **ROADWAY USE, REPAIR AND MAINTENANCE AGREEMENT**

**THIS ROADWAY USE, REPAIR AND MAINTENANCE AGREEMENT**, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between **JEFFERSON COUNTY, OHIO** (County), acting by and through its Board of Commissioners, and its respective TOWNSHIPS and **CHESAPEAKE APPALACHIA LLC** (Chesapeake) by and thru its contractors and subcontractors and each of their respective agents, employees, representatives etc.

Whereas, Chesapeake Appalachia LLC, whose address is 6100 N. Western Avenue, Oklahoma City, OK 73118 is the Operator of certain oil and gas wells located in Jefferson County, State of Ohio. The Project Sites consists of developing oil and gas wells, extracting the oil and gas, and maintaining those wells and sites during construction, drilling and completion.

Whereas, in connection with the development, construction, operation, or maintenance of the oil and gas wells, it will be necessary for Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc. to;

- 1.) transport heavy and/or oversized equipment and materials over designated haul routes on roads located in the County, which may in certain cases be in excess of the design limits of such roads;
- 2.) transport certain locally sourced materials, such as water and gravel etc., on such roads;
- 3.) widen such roads and make certain modifications and improvements (both temporary and permanent) to such roads (including to certain culverts, bridges, road shoulders, crest corrections, and other related fixtures) to permit such equipment and materials to pass; and
- 4.) encroach within the County's established maintenance right-of-ways.

Whereas, Chesapeake acknowledges that it may not conduct the above activities without the express consent and permission of the County, which has exclusive authority and control over the County and authority over township roads, evidenced by attached Township signatures, bridges, culverts, drains, and other County property; and

Whereas, Chesapeake shall provide an Appendix A with the following information;

- 1.) location of all proposed well sites,
- 2.) designated haul routes,
- 3.) schedule of events
- 4.) list of overload/ oversized vehicles;

5.) list of subcontractors.  
Chesapeake shall update Appendix A as necessary or at the request of the County.

Whereas, the County will permit Chesapeake to perform the above activities in connection with the Project on County and Township roads, culverts, bridges, pursuant to the terms and conditions as set forth in this Agreement.

Any reference to County roads in this document shall include Township Roads.

## **ROADWAYS**

### **PRIOR CONDITIONS OF ROADS:**

With respect to any County or Township road that is identified in Appendix A hereto (together with appurtenant bridges, culverts, road shoulders, intersections, and all other County or Township-owned or controlled property, each a "Designated Road" and collectively, the "Designated Roads"), the County will video and create a detailed video record and textual narrative of the pre-existing condition of such Designated Roads, thru the County Engineer. Chesapeake may send a representative to review the roads with the County Engineer. This video and textual narrative will be considered the Road Condition Report. The County shall deliver the Road Condition Report for the Designated Roads to Chesapeake, prior to the earlier of either:

- i.) Chesapeake's commencement of any improvement to such Designated Road or
- ii.) Any use by Chesapeake of such Designated Road for operation of a motor vehicle or other equipment weighing more than five (5) tons.

If Chesapeake disagrees with the County Engineer's determination, the Parties shall promptly meet to confer and attempt to reach an agreement.

### **PRE-PROJECT ROAD IMPROVEMENTS:**

Prior to Chesapeake use of the Designated Roads, and after review of the Road Condition Report, Chesapeake and the County must determine if any improvements need to be made prior to the use of the Designated Road. The County hereby acknowledges and agrees and consents to Chesapeake's completion of such modifications and permanent improvements to such Designated Roads as are reasonably necessary to accommodate the then-anticipated use of such Designated Road by Chesapeake. Such modifications and permanent improvements may include the widening of certain roads, the strengthening and /or spanning to existing culverts and bridges, and other improvements and modifications reasonably necessary to accommodate the heavy equipment and materials to be transported on the Designated Roads.

Chesapeake agrees that all modifications and improvements to Designated Roads, including any temporary turning radius, corner or intersection wide-out, intersections or corner improvements shall comply with all applicable engineering standards and stamped engineering drawings that are submitted by Chesapeake to the County prior to the commencement of the modifications and improvements.

#### **THAW LOAD REDUCTION:**

Per Ohio Revised Code 5577.07 the county reduces Ohio legal loads on numerous county roads, during late Winter and early Spring. Vehicles exceeding these limits will require an overload permit.

#### **USE OF DESIGNATED ROADS BY CHESAPEAKE:**

In connection with the development, construction, operation and maintenance of the Project, the County hereby acknowledges and agrees that Chesapeake may use the Designated Roads at any time, seven days a week, 365 days a year, beginning \_\_\_\_\_, 2011 and for the duration of the development, construction, operation, and maintenance of the Project. Such use may include the movement and transportation of overweight and oversized vehicles, equipment, water, loads and other necessary equipment and materials to and from the Project.

Chesapeake is still required to request an overweight/oversized vehicle from the County Engineer's Department. All such vehicles will be escorted along the Designated Roads by the County Weight Enforcement Officer.

In addition, to identifying the Designated Roads, Appendix A identifies the routes over the Designated Roads that will be used for, travel and transportation. If Chesapeake desires to include additional roads or portions thereof of Designated Roads, Chesapeake shall submit an updated version of Appendix A to the County that includes such additional road and to the extent appropriate, revise or supplement the Road Condition Report in order to report of the pre-existing road conditions of such additional roads or portions thereof.

#### **DAMAGES AND REPAIRS:**

If any County or Township Road or related appurtenances, including bridges, culverts, signage, or other road fixtures, or any County or Township-owned drainage tile or open ditch, is damaged by Chesapeake, Chesapeake shall repair (or caused to be repaired) such damage. With respect to damage to a County or Township road or related appurtenance, the County and Chesapeake shall rely upon Ohio Department of Transportation's Construction

and Material specifications latest addition and the County's specifications to determine whether the repair has been performed in accordance with the standard set forth. Subject to considerations of safety, the presence of emergency conditions, and the costs of such repairs, any repair and restoration shall commence and be completed promptly by Chesapeake. Following completion of such repair, the County Engineer and Chesapeake shall jointly inspect the repair to confirm that it has been completed to the satisfaction of the County Engineer. Damages to any County or Township owned drainage or open ditch may also include damages occurring within the County's or Township's maintenance right-of-way, if such damages deny, impede, or affect the County's ability to exercise drain maintenance within its right-of-way and results in additional costs to the County.

#### **EXCESSIVE DAMAGES:**

If during the well site construction, road damage becomes excessive in nature, Chesapeake will make additional improvements to strengthen the road base and surface immediately upon written notice from the County Engineer. All work on the well site will cease until repairs are done to correct the problem.

#### **COMPLETION OF WELL:**

After completion of each well project, the County Engineer will inspect the Designated Roads for road damage during the well construction period including damage to road base, culverts, bridges, ditches, guardrails, signs or other road appurtenances. The County Engineer will provide a list of damages to Chesapeake. Chesapeake shall make the necessary repairs based on County and/or Ohio Department of Transportation specifications. Chesapeake will notify the County Engineer when repairs are to be made and the name of the Contractor performing such repairs.

After the above repairs are made, Chesapeake will insure that the final condition of the road surface as follows:

**Gravel Road** – provide 2 inches of aggregate

**Chip and Seal Road** – provide a new single coat of chip and seal per Ohio Department of Transportation 422

**Asphalt Road** – provide 2 ½ inches of hot mix asphalt per Ohio Department of Transportation 448 and with Ohio Department of Transportation 407.

The above work shall be performed in accordance with County and Ohio Department of Transportation Specifications. The work shall be completed within

a two (2) month period after expiration of the well construction project unless an extension is approved by the County for just cause.

Chesapeake shall provide a written notice to the County Engineer that the work has been completed and provide proof of payment for the work performed to the subcontractor.

Upon receipt of the completion notice the County Engineer will have thirty (30) days to accept or reject the above work. If a rejection notice is tendered by the County Engineer, Chesapeake will make the necessary repairs as identified in the rejection notice.

#### **FAILURE TO REPAIR:**

If Chesapeake fails to repair any damage to County or Township owned property that Chesapeake is required by this Agreement to repair, the County Engineer may request in writing that Chesapeake perform such repair. If Chesapeake fails to commence such repairs with ten (10) days and thereafter to maintain reasonable progress in the performance of such repairs, then the County may make such repairs and shall invoice Chesapeake for costs incurred in connection with repairs. Chesapeake shall pay such invoiced amounts within 30 days following receipt of such invoice.

**If Chesapeake does not fulfill obligation to repair roads after well site completed, the County can stop all activities on ongoing and/or new well sites.**

#### **BASIC TERMS OF ROAD USE**

##### **OBEY ALL TRAFFIC LAW:**

All vehicles driven by Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc. shall abide by all local, state, and federal speed limits as posted or, if not posted, as otherwise applicable.

All vehicles driven by Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc. shall comply with all reasonable requests of the County Engineer to take necessary precautions designed to protect the traveling public. These precautions include the immediate removal of dirt, mud, and debris carried onto the said road by trucks and trailers hauling material to the Project sites.

**SIGNAGE:**

During construction of the Project Sites, Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc. shall be responsible for placing and maintaining signage in compliance with applicable provisions of the Ohio Manual on Uniform Control Devices.

**NOTICE OF ROAD CLOSURES:**

Chesapeake shall provide to the Jefferson County Engineer, and any other agency or office reasonably designated by the County,

- 1.) notice of Designated Road closures (including time and expected duration) by fax and e-mail five (5) business days in advance of such closures and
- 2.) current maps of the Designated Roads.

Chesapeake shall designate a person to coordinate the transportation related activities of Chesapeake during construction of the Project.

If the County objects to such road closures, they must notify Chesapeake within two (2) business days after they receive notice and current maps, and the County may object to such closure or limited access on grounds of public safety or substantial public inconvenience. The Parties shall cooperate reasonably to find an alternative to the planned closure or limited access or otherwise minimize disruption to County road traffic and Chesapeake construction activities and schedule. If the County does not object within such time, the County shall be deemed to have no objection to such planned closure.

This Agreement shall not prohibit the Township from closing a road to any vehicle or combination if such closing is authorized by law and is necessary for safety or is temporary closing due to climatic conditions or an act of God or war.

**WEIGHT OF VEHICLES:**

Vehicles used by Chesapeake and its parties weighing more than five (5) ton shall travel only on Designated Roads.

**IMPROVEMENTS:**

Upon completions of the portion of the Well Sites requiring temporary improvements, all such temporary improvements shall be removed by Chesapeake. However upon written request from the County prior to removal, any such temporary improvement may permanently remain as property of the County or Township, or as a part of a County or Township right-of-way.

## **DUST CONTROL:**

During the construction and maintenance of the Well Sites, Chesapeake shall use a commercially recognized dust palliative to control the airborne dust created or contributed to by Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc. on gravel covered Designated Roads. Watering alone shall not be considered to be sufficient dust control, unless agreed upon in advance by the County Engineer. The County Engineer or his/her designee may provide a written request to Chesapeake for additional dust control measures.

The dust control measures required by this Agreement and requested by the County Engineer shall be applied within twenty-four (24) hours of written notification.

## **PERFORMANCE ASSURANCE BOND:**

Chesapeake shall post a bond to cover the costs of any damages made to the roads used by Chesapeake during the Project. The amount of the bond shall not exceed **\$250,000 per mile** of the Designated Roads affected by Chesapeake. The Bond amount for each well site's Designated Roads will be provided by the County Engineer based on the length, width and type of roads utilized.

The Performance Assurance Bond shall be made payable to the County and a surety bond issued by a corporation licensed to do business in Ohio and approved by the County or may be posted in the form of cash deposit. The Performance Assurance Bond shall remain in full force and effect during the term of the Project and continuing in full force and effect for **two (2) years** after the final completion. The Performance Assurance Bond is intended to provide the County with assurance that it will be paid by Chesapeake for its obligations under this Agreement, but shall not in any way limit the amount of Chesapeake's obligations or liabilities under this Agreement.

## **DRAW CONDITIONS:**

The County may draw upon the Performance Assurance Bond only if and to the extent that Chesapeake fails or refuses to perform repairs or to pay the costs of performing repairs. Draw conditions are as follows:

- 1.) The County Engineer or a member of the Board of Commissioners shall certify that all the following draw conditions have been met:
  - a.) That the County Engineer has complied with the requirements; and
  - b.) That Chesapeake has failed or refused to perform repairs or to pay the costs of performing repairs; and

- c.) That the County has performed such work and/or had such work performed; and
- d.) That the County has incurred expenses for the performance of such work; and
- e.) The County has evidenced to Chesapeake the amount of such expenses.

If the County draws upon the Performance Assurance Bond, the County Engineer shall provide a full accounting of the amount of the draw(s) and the costs of repairs to Chesapeake.

## **GENERAL PROVISIONS**

### **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

Chesapeake shall indemnify, defend, and hold the County harmless for any and all claims, demands, suits, actions, proceedings, or causes of actions brought against the County, its officers, Board of Commissioners, affiliates, agents and employees of the foregoing for any judgments, liabilities, obligations, fines, penalties or expenses, including reasonable attorneys' fees and expenditures, including for personal injury or damage to third persons or property, but only to the extent that such arise directly from the actions or omissions of Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc., in interest or, in the course of performance by Chesapeake under or in connection with the Agreement.

Chesapeake assumes all liability for Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc. working on behalf of Chesapeake.

### **LETTERS OF AUTHORITY:**

Upon the request of Chesapeake, the County shall countersign a letter for use by Chesapeake evidencing whether the movement and transportation of overweight and oversized vehicles, equipment, loads and other necessary equipment and materials to and from the Project sites have been properly permitted by the County and they have been completed and the assurance performance bond has been received by the County.

### **REIMBURSEMENT:**

If Chesapeake is required to reimburse the County for any expense incurred by the County, Chesapeake shall be required to reimburse such County



for any expenses as are reasonable, direct, reasonably documented, and which the County has incurred.

#### **GOVERNING LAW – STATE OF OHIO:**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio, without regard to the conflict of laws provisions in such state. Any disputes arising under this Agreement between the Parties shall be decided by a court of competent jurisdiction in Jefferson County.

#### **AMENDMENTS TO AGREEMENT:**

This Agreement shall constitute the complete and entire agreement between the Parties with respect to the subject matter hereof. No prior statement or agreement, oral or written, shall vary or modify the written terms hereof. This Agreement may be amended only by a written agreement signed by the Parties.

#### **NOTICES:**

All notices, requests, demands and other communications required or permitted to be given by the Parties hereunder shall be in writing and shall be delivered in person or by facsimile, or by first class certified mail, postage and fees prepaid, to the address of the intended recipient as set forth below. All notices, requests, demands and other communications shall be sent to the following addresses:

**To the County:     James F. Branagan, County Engineer  
                             598 State Route 43  
                             Steubenville, Ohio 43952  
                             Office: (740) 283-8574  
                             Cell: (740) 632-1339**

**To Chesapeake:   Ryan Dean  
                             171 Hill Pointe Drive  
                             Canonsburg, PA 15317  
                             Office: (724)-873-5059  
                             Fax: (724)-873-5184  
                             Cell: (724)-249-4093**

The foregoing addresses may be changed by any Party by giving written notice to the other Party as provided above.

**RIGHTS AND WAIVERS:**

The failure of a Party to exercise any right under this Agreement shall not, unless otherwise provided or agreed to in writing, be deemed a waiver thereof; nor shall a waiver by a Party of any provisions hereof be deemed a waiver of any future compliance therewith, and such provisions shall remain in full force and effect.

**SEVERABILITY:**

In any event that any clause, provision or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be affected, impaired or invalidated and shall remain in full force and effect.

The status of Chesapeake under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, Chesapeake and its contractors and subcontractors and each of their respective agents, employees, representatives etc shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of the County. As an independent contractor, Chesapeake shall accept full responsibility for providing to its employees all statutory coverage for worker's compensation, unemployment, disability or other coverage required by law.

**TERMINATION AND/OR ABANDONMENT:**

If Chesapeake abandons or terminates construction of the Project, Chesapeake shall provide written notice to the County of such abandonment or termination of construction. If such event, this Agreement shall terminate one (1) years thereafter, or such earlier time as the parties shall otherwise agree to.

**RENEWAL:**

This Agreement has a term of one (1) year and can be renewed yearly.

***IN WITNESS WHEREOF***, the Parties hereto have executed this Agreement the day and year first written above.

[Signatures appear on following pages)

**Jefferson County**

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

Name: **Jane M. Hanlin**

Title: Jefferson County Prosecuting Attorney

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

Name: **David C. Maple, Jr.**

Title: County Commissioner, Chairman

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

Name: **Dr. Thomas E. Graham**

Title: County Commissioner

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

Name: **Thomas G. Gentile**

Title: County Commissioner

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

Name: **Linda L. Porter**

Title: Clerk, County Commissioner's Office

**Brush Creek Township**

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

Name: Brenda Chronister

Title: Fiscal Officer

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

Name: Christopher T. Rawlings

Title: Trustee

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

Name: Matthew Rose

Title: Trustee

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

Name: Dan Morgan

Title: Trustee

**Cross Creek Township**

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

Name: Kathy Collopy

Title: Fiscal Officer

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

Name: Robert Nottingham

Title: Trustee

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

Name: Geno Morelli

Title: Trustee

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

Name: Louis Vandeborne II

Title: Trustee

**Island Creek Township**

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

Name: Darla Van Fossen

Title: Fiscal Officer

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

Name: Samuel Grafton

Title: Trustee

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

Name: Mark Clark

Title: Trustee

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

Name: Bryan Marcino

Title: Trustee

**Knox Township**

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

Name: Angie Allison

Title: Fiscal Officer

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

Name: Donald L. Miller

Title: Trustee

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

Name: Terry Gooch

Title: Trustee

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

Name: Donald R. Elder

Title: Trustee

**Mount Pleasant Township**

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

Name: Linda Steffl

Title: Fiscal Officer

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

Name: Larry Zelek

Title: Trustee

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

Name: Charles Strizak

Title: Trustee

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

Name: Charles Kokiko, Jr.

Title: Trustee



**Ross Township**

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

Name: Odessa Pethel

Title: Fiscal Officer

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

Name: Charles Henry

Title: Trustee

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

Name: Phil Jordan

Title: Trustee

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

Name: David Ramsey

Title: Trustee

**Salem Township**

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

Name: Judith Greer

Title: Fiscal Officer

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

Name: Terry Bell

Title: Trustee

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

Name: Thomas McConnell

Title: Trustee

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

Name: Eric Mercer

Title: Trustee

**Saline Township**

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

Name: Donald Fraley

Title: Fiscal Officer

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

Name: Donald Wilson

Title: Trustee

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

Name: Charles Crawford

Title: Trustee

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

Name: Danny Householder

Title: Trustee

**Smithfield Township**

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

Name: Tina Boyle

Title: Fiscal Officer

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

Name: Ronald Malin

Title: Trustee

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

Name: John Sebring

Title: Trustee

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

Name: William Cermak

Title: Trustee

**Springfield Township**

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

Name: Tracey L. Matta

Title: Fiscal Officer

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

Name: Daniel Stone

Title: Trustee

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

Name: Mike Dubetz

Title: Trustee

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

Name: Joseph Kmatz

Title: Trustee

**Steubenville Township**

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

Name: Joseph Mannarino

Title: Fiscal Officer

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

Name: John Scott Fabian

Title: Trustee

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

Name: Tim Eddy

Title: Trustee

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

Name: Harry Freiling

Title: Trustee

**Warren Township**

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

Name: Robert Fetty

Title: Fiscal Officer

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

Name: Carl Sgalla

Title: Trustee

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

Name: Daniel Meeker

Title: Trustee

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

Name: Frank Litva

Title: Trustee

**Wayne Township**

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

Name: Sue Campbell

Title: Fiscal Officer

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

Name: Charles Newburn

Title: Trustee

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

Name: Brian S. Wilson

Title: Trustee

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

Name: Jeffrey Bonecutter

Title: Trustee



**Wells Township**

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

Name: Joseph Matthews

Title: Fiscal Officer

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

Name: Larry Owens

Title: Trustee

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

Name: Joseph Ellis

Title: Trustee

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

Name: John Cook

Title: Trustee