



**DUKE POWER NANTAHALA AREA (DPNA) PRIVATE FACILITIES  
“APPLICANT’S USER AGREEMENT” LETTER**  
(You may use this letter and fill in the requested information. **Please Print**)

Date \_\_\_\_\_

TO: Duke Power  
c/o Lake Management - EC12Q  
P. O. Box 1006  
Charlotte, NC 28201-1006

RE: (Lake Name) \_\_\_\_\_

(Street Address) \_\_\_\_\_

(Subdivision / Lot #) \_\_\_\_\_

*(Applicant’s full name)* \_\_\_\_\_

hereby agrees to comply with all requirements and conditions set forth by Duke Power’s Nantahala Area (DPNA) Lake Management office, or any federal, state or local agencies pertaining to our application to construct a

\_\_\_\_\_ on Lake \_\_\_\_\_. In addition, *I/we* have read and agree to comply with **DPNA Shoreline Management Guidelines’ (SMG)** and understand that written authorization must be obtained from Duke’s Lake Management office **prior to** beginning any activity/construction within the project boundary. The construction will be completed as described in the approved application and within twelve (12) months following the date of written approval by Lake Management. An extension will be considered for legitimate extenuating circumstances provided a specific timeframe in which to complete the construction, not to exceed an additional 12 months, is provided in writing to DPNA by the applicant. Failure to complete construction within the 12-month build-out period or any DPNA-approved extension will require the applicant to file a new application that complies with the then-current guidelines. The application filing will include any applicable fees and security deposits.

*I/we* attest to be the owner or lease holder of the tract of land immediately adjoining the project boundary where the proposed facility is to be constructed.

*I/we* understand the physical location on *my/our* lot in relation to the common property line with Duke Power, the FERC project boundary, and any deeded flood easements or required building setbacks.

*I/we* understand that this lake was constructed as a working hydropower reservoir for the primary purpose of producing cost-effective electric energy and that this remains as the lake's primary purpose. *I/we* understand that the lake and its associated hydropower station are operated by DPNA under the terms of a license issued by the Federal Energy Regulatory Commission (FERC) and that there will be no change in hydro project operations as a result of the construction and/or use of any facilities that *I/we* may be allowed to place within the FERC project boundary or on DPNA-owned property.

*I/we* understand that lake levels will rise and fall over time in response to weather events and hydro project operations.

*I/we* acknowledge that DPNA provides no guarantee of any specific quantities (except those identified in the Low Inflow or Hydro Project Maintenance and Emergency Protocols) or quality of water in the lake.

*I/we* acknowledge that DPNA does not guarantee that an approved facility will always have sufficient water depth to be accessible by boat or for other water depth related recreation activities.

*I/we* understand that the structures to be installed are *my/our* property and *I/we* therefore agree to be fully responsible for the permitted reservoir use including maintaining structures in good repair. If the facility is deemed unsafe by a Lake Management Representative, *I/we* agree to repair or remove the facility at *my/our* own expense and within the specified timeframe. This responsibility is considered to transfer automatically along with ownership and leases of the adjoining tract.

*I/we* understand that as an owner or lease holder of property directly adjacent to DPNA's project boundary *I/we* enjoy the same rights and privileges for general recreational use and enjoyment of the project lands and waters as are afforded the general public. *I/we* understand that as an adjoining property owner *I/we* may, with proper written approval, be considered for expanded privileges as specified in the DPNA Shoreline Management Guidelines (SMG).

*I/we* understand that certain activities specified in the SMG are prohibited because of the DPNA lakes small size, environmental concerns, boating capacity limitations, safety considerations and other reasons.

*I/we* understand that ownership/interest in a Common Use Facility eliminates the option for *me/us* to also have a separate facility on any other lot within the affected subdivision that *I/we* own or lease..

*I/we* understand that Lake Management’s approval of the requested reservoir use in no way constitutes assignment of an interest in real property (i.e. land rights). *I/we* also understand that the permitted use may be revoked at any time by Duke Power or its successors, if deemed necessary to operate its electric business.

*I/we* understand that there will be no change in hydro project operations as a result of construction and/or utilization of the permitted proposed structures.

*I/we* understand that the proposed structure will be used only for the purposes described in the information submitted to Lake Management and other appropriate governing bodies for approval.

*I/we* understand that this lake is open for use by the general public and that maintaining safe and lawful public use is one of the primary lake management objectives of DPNA.

*I/we* understand that the use for which we are applying is a private use and it should not interfere with the general public’s safe and lawful use of the lake.

*I/we* understand lake use permit holders have the authority to prevent others from trespassing on the structures they have built. *I/we* also understand that *I/we*, however, do not have any authority to impede anyone from pursuit of the lawful public recreation enjoyment of FERC project lands and waters. Except as specified otherwise in the Shoreline Management Guidelines or other DPNA documents (e.g. Public Safety Plans), anyone may fish around/under structures built by others, may walk/wade/fish within the FERC project boundary or any DPNA-owned peripheral strip, boat in the lake’s waters, etc. without having to get anyone’s permission to do so. Boaters may not block ingress/egress to piers/docks.

*I/we* understand that every reasonable effort must be made to minimize any adverse impact on fish, wildlife, and other natural resources.

*I/we* understand that trees and vegetation growing within the project boundary play an important role in the overall environmental condition of the lake. The ecological benefit the vegetation has on the fish and wildlife habitat supports a sound and healthy lake environment. *I/we* also understand that unauthorized removal of shoreline vegetation (i.e. button bushes, willows, cattails, etc.) and/or disturbance of the shoreline buffer may result in suspension or denial of lake use permitting requests and require me/us to re-establish the vegetation, if the disturbance is found to be in violation of the state or county watershed buffer regulations or Duke Power Nantahala Area Vegetation Management Requirements.

*I/we* agree to notify Lake Management when construction is completed. During the construction period, the weather-proof “Duke Power Approved Lake Use Activity” sign (to be provided by Lake Management) must be posted at the job site, visible from the water’s edge.

*I/we* agree to notify Lake Management if the property is sold and provide the name and address of the new owner. The new owner has 180 days following the date of closing on the property purchase to sign this agreement and its conditions.

*I/we* agree that Duke Power may enter into agreements with third parties permitting use of the project property that promotes the overall recreational purposes of the project.

*I/we* agree that this agreement confers no right to construct or maintain public and private beaches, marinas or campgrounds.

*I/we* agree that the adjacent Duke Power project property shall be used exclusively for non-commercial recreational purposes.

*I/we* agree not to rent, lease or otherwise allow third parties (except for temporary use by guests, family members, and renters of the residential property) to use any structures permitted to *me/us* by DPNA..

*I/we* agree not to allow any use of the adjacent property and will exercise due care and diligence to prevent all other persons that are affiliated with *my/our* property (including invitees, family members, guests, etc.) to violate an applicable federal, state or local law or regulation. Examples include but are not limited to nudity, illegal discharge of firearms or fireworks, controlled substance abuse, public drunkenness, public urination or defecation, or other activities determined to be a nuisance by law enforcement officials.

*I/we* agree to exercise all care and due diligence to preserve and maintain the character of the DPNA's adjacent property. *I/we* agree to comply with the DPNA Vegetation Management Requirements. *I/we* agree further to not allow sewage, including discharge from septic tanks (or similar facilities) or boat holding tanks, garbage, trash, or other waste material to be discharged or dumped into the reservoir, tributaries or adjacent property.

*I/we* understand that as an adjoining property owner *I/we* can make no change in land form of land within the FERC project boundary or land owned by DPNA, such as grading, excavation or filling without prior written approval by Lake Management.

*I/we* agree that only floating piers/docks (unless otherwise authorized by DPNA in writing) will be placed on the project property and that no piers/docks or structures will be built on project property without prior written authorization by DPNA.

*I/we* agree for *myself/ourselves*, members of *my/our* family, guests and invitees that *I/we* assume all risks of personal injury or property damage incident to *my/our* occupancy and use of the premises; including but not limited to any personal injury or property damage which may be sustained as a result of flood waters or in connection with the rise and fall of water in the reservoir as a result of floods or of the operation of Duke Power's hydro electric facilities. *I/we* as the adjoining property owner further agree that *I/we* will indemnify, protect, defend, and save harmless Duke Power from any and all loss, cost,

claims damages, expenses, judgments and causes of action for all injuries and damages sustained by the members of *my/our* family, guests, and invitees arising or claimed to have arisen in connection with their occupancy or use of the DPNA-permitted facility(s).

*I/we* agree to comply with all FERC orders (as modified or interpreted by FERC), with all other applicable FERC Rules and Regulations imposed by Duke Power, and with all rules or regulations imposed on Duke Power by any governmental agency.

*I/we* understand this user's agreement does not have an expiration date and is transferable to the next property owner provided the new owner signs a new agreement within 180 days following the date of closing on the property purchase.

*I/we* have included a check for the applicable filing fees and security deposits and copies of all other necessary permits.

*I/we* acknowledge that DPNA has the right to charge reasonable user's fees for private use of its property and that failure to pay any applicable user's fees in a timely manner can result in the suspension or cancellation of any previously approved lake use permit.

*I/we* agree to maintain any prescribed mitigation activities, that are required in order to gain approval for facility construction, as long as the facility exists.

*I/we* agree that camping is only allowed in designated areas.

*I/we* recognize that *I/we* have the continuing responsibility to ensure that the constructed structures are maintained in good repair, including, but not limited to maintenance of the dock and boat slips, and proper erosion control within the permit area and along the shoreline, and agree to take all reasonable steps necessary to meet this responsibility. *I/we* agree to maintain all structures within the project boundary on DPNA-owned property in a sound condition and in a neat appearance and pay all costs for said maintenance.

*I/we* agree that if any action is taken by Duke Power to enforce any provision, covenant or agreement contained in this user agreement or DPNA Shoreline Management Guidelines (SMG) or if Duke Power is required to retain an attorney to enforce any provision, covenant or agreement contained in this user agreement or SMG (including, without limitation, the payment of fees due hereunder or the removal of an encroachment constructed in violation of this user agreement or SMG), then Duke Power shall be entitled to recover all of Duke Power's reasonable costs associated with such an action including, but not limited to, attorneys' fees and court costs incurred in such action and/or enforcement.

*I/we* agree that *I/we* have read and will abide by the DPNA Shoreline Management Guidelines published under separate cover.

*I/we* understand that Lake Management representatives may issue Stop Work Directives for any violations of the SMG or engagement in prohibited acts or activities on DPNA

property as specifically identified in the SMG. I/we understand that persons found to be in violation will be subject to DPNA sanctions which can include: 1) restoration of the impacted area at the person's expense; 2) loss of consideration of any future lake use permitting activities for up to five years for improper vegetation removal or until vegetation is satisfactorily re-established (even if there is a change in property ownership); 3) revocation of a previously issued permit and loss of consideration of any future lake use permitting activities and/or reinstatement of the revoked permit; 4) increases in fees; 5) modification or removal of non-complying structures; and/or 6) further legal action being taken by DPNA.

\_\_\_\_\_  
(Applicant's Name)

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Lake Street Address

\_\_\_\_\_  
Home Street Address

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Lake Phone Number

\_\_\_\_\_  
Home Phone Number

Date: \_\_\_\_\_

\_\_\_\_\_  
(Designated Duke Power Agent)

Date: \_\_\_\_\_