

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
SAN LUIS WATER DISTRICT  
PROVIDING FOR PROJECT WATER SERVICE  
SAN LUIS UNIT AND DELTA DIVISION AND FACILITIES REPAYMENT

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Exhibit A – Contractor’s Service Area

Exhibit B – Rates and Charges

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AND  
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1           THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_, 20XX, in  
2   pursuance generally of the Act of June 17, 1902, (32 Stat. 388), and acts amendatory thereof or  
3   supplementary thereto, including but not limited to, the Acts of August 26, 1937 (50 Stat. 844),  
4   as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,  
5   July 2, 1956 (70 Stat. 483), June 3 1960 (74 Stat. 156), June 21, 1963 (77 Stat. 68), October 12,  
6   1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of  
7   October 30, 1992 (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for  
8   the Nation Act (Public Law (Pub. L.) 114-322, 130 Stat. 1628), Section 4011 (a-d) and (f)  
9   (“WIIN Act”), all collectively hereinafter referred to as Federal Reclamation law, between the  
10   UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by  
11   the officer executing this Contract, hereinafter referred to as the Contracting Officer, and SAN  
12   LUIS WATER DISTRICT, hereinafter referred to as the Contractor, a public agency of the State  
13   of California, duly organized, existing, and acting pursuant to the laws thereof;

14           WITNESSETH, That:

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EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the California Central Valley Project (Project), for diversion, storage, carriage, distribution, and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation, and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2<sup>nd</sup>] WHEREAS, the United States constructed the Delta Division Facilities, including the San Luis Unit facilities (which include the San Luis Canal, the Coalinga Canal, the Pleasant Valley Pumping Plant, and the Dos Amigos Pumping Plant), which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3<sup>rd</sup>] WHEREAS, the rights to Project Water were acquired by the United States pursuant to California law for operation of the Project; and

[4<sup>th</sup>] WHEREAS, the United States and the Contractor entered into Contract No. 14-06-200-7773A, as amended, which provided the Contractor, Project Water from the Project facilities from January 1, 1975 to December 31, 2008; and

[5<sup>th</sup>] WHEREAS, the Existing Contract originally provided that the Contracting Officer would make available for delivery to the Contractor 128,000 acre-feet of Project Water for irrigation and M&I purposes each year, but was subsequently revised by mutual agreement of the Contracting Officer and the Contractor to provide that the Contracting Officer would make

37 available for delivery to the Contractor 125,080 acre-feet of Project Water for irrigation and  
38 M&I purposes each year; and

39 [6<sup>th</sup>] WHEREAS, the United States and the Contractor have pursuant to  
40 Subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA),  
41 subsequently entered into binding agreements identified as Binding Agreement No. 14-  
42 06-200-495A-BA, and Binding Agreement No. CV 79-106-EDP-BA, which sets out the  
43 terms pursuant to which the Contractor agreed to renew its contract before the  
44 expiration date after completion of the Programmatic Environmental Impact Statement  
45 (PEIS) and other appropriate environmental documentation and negotiation of a renewal  
46 contract; and which also sets out the consequences of a subsequent decision not to  
47 renew; and

48 [7<sup>th</sup>] WHEREAS, the United States and the Contractor entered into Delta  
49 Division and San Luis Unit Contract Number 14-06-200-7773A-IR1 and subsequent Interim  
50 Renewal Contracts 14-06-200-7773A-IR2 through 14-06-200-7773A-IR6, the last of which is  
51 hereinafter referred to as the “Existing Contract”, which established terms for the delivery of  
52 Project Water to the Contractor from the Delta Division and San Luis Unit, and which was in  
53 effect the date the WIIN Act was enacted; and

54 [8<sup>th</sup>] WHEREAS, on December 16, 2016, the 114<sup>th</sup> Congress of the United  
55 States of America enacted the WIIN Act; and

56 [9<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the  
57 contractor, the Secretary of the Interior shall convert any water service contract in effect on the  
58 date of enactment of this subtitle and between the United States and a water users’ association

59 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under  
60 mutually agreeable terms and conditions.”; and

61 [10<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of  
62 conversion under this paragraph shall be as follows: (A) Water service contracts that were  
63 entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under  
64 this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat.  
65 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9  
66 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be  
67 converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

68 [11<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered  
69 into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service,  
70 repayment, exchange and transfer contractual rights between the water users’ association  
71 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the  
72 water users’ association [Contractor] and their landowners as provided under State law.”; and

73 [12<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that  
74 “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water  
75 service or repayment contractor to receive water; or (4) except as expressly provided in this  
76 section, any obligations under the Federal Reclamation law, including the continuation of  
77 Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and  
78 repayment contractors making prepayments pursuant to this section.”; and

79 [13<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the  
80 Secretary to convert irrigation water service contracts and municipal and industrial (M&I) water

81 service contracts into repayment contracts, amend existing repayment contracts, and allow  
82 contractors to prepay their construction cost obligations pursuant to applicable Federal  
83 Reclamation law; and

84 [14<sup>th</sup>] WHEREAS, the United States has determined that the Contractor  
85 has fulfilled all of its obligations under the Existing Contract; and

86 [15<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the  
87 Contracting Officer that the Contractor has utilized the Project Water supplies available  
88 to it for reasonable and beneficial use and expects to utilize fully for reasonable and  
89 beneficial use the quantity of Project Water to be made available to it pursuant to this  
90 Contract; and

91 [16<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by  
92 urban and agricultural areas within California for more than 50 years, and is considered  
93 by the Contractor as an essential portion of its water supply; and

94 [17<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the  
95 Contractor's, depend upon the continued availability of water, including water service  
96 from the Project; and

97 [18<sup>th</sup>] WHEREAS, the United States Court of Appeals for the Ninth Circuit has  
98 held that Section 1(a) of the San Luis Act, Pub. L. 86-488 (74 Stat. 156) imposes on the  
99 Secretary of the Interior a duty to provide drainage service to the San Luis Unit; and

100 [19<sup>th</sup>] WHEREAS, the Contractor and the Contracting Officer recognize that  
101 adequate drainage service is required to maintain agricultural production within certain  
102 areas served with Project Water made available under this Contract; and

103                   [20<sup>th</sup>] WHEREAS, the Contracting Officer intends, to the extent appropriated  
104 funds are available, to develop and implement effective solutions to drainage problems in  
105 the San Luis Unit; and

106                   [21<sup>st</sup>] WHEREAS, the Contracting Officer and the Contractor  
107 acknowledge that such drainage solutions may involve actions not originally  
108 contemplated and/or the construction or use of facilities, other than the San Luis Drain;  
109 that the Contractor is investing in drainage solutions for lands within its boundaries that  
110 should be considered by the Contracting Officer in determining drainage solutions; and that the  
111 existing ratesetting policy as it relates to the allocation and collection of drainage costs may  
112 require amendment to recognize those investments by the Contractor and other relevant  
113 circumstances; and

114                   [22<sup>nd</sup>] WHEREAS, the Department of the Interior, Bureau of Reclamation  
115 published in June 2006 the San Luis Drainage Feature Re-evaluation Final  
116 Environmental Impact Statement, which considers alternatives to provide agricultural  
117 drainage service to the San Luis Unit; and

118                   [23<sup>rd</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
119 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
120 Project for all Project purposes; and

121                   [24<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor  
122 include: to provide for reliable Project Water supplies; to control costs of those supplies;  
123 to achieve repayment of the Project as required by law; to guard reasonably against Project  
124 Water shortages; to achieve a reasonable balance among competing demands for use of



125 Project Water; and to comply with all applicable environmental statutes, all consistent with  
126 the legal obligations of the United States relative to the Project; and

127 [25<sup>th</sup>] WHEREAS, the parties intend by this Contract to maintain a cooperative  
128 relationship in order to achieve their mutual goals; and

129 [26<sup>th</sup>] WHEREAS, the Contractor has utilized or may utilize transfers, contract  
130 assignments, rescheduling, and conveyance of Project Water and non-Project water under this  
131 Contract as tools to minimize the impacts of a Condition of Shortage and to maximize the  
132 beneficial use of water; and

133 [27<sup>th</sup>] WHEREAS, the parties desire and intend that this Contract not provide a  
134 disincentive to the Contractor in continuing to carry out the beneficial activities set out in  
135 the Explanatory Recital immediately above; and

136 [28<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this  
137 Contract complies with Section 4011 of the WIIN Act; and

138 [29<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend  
139 and convert the Existing Contract pursuant to section 4011 of the WIIN Act and other Federal  
140 Reclamation law on the terms and conditions set forth below.

141 NOW, THEREFORE, in consideration of the mutual and dependent covenants  
142 herein contained, it is hereby mutually agreed by the parties hereto as follows:

143 DEFINITIONS

144 1. When used herein unless otherwise distinctly expressed, or manifestly  
145 incompatible with the intent of the parties as expressed in this Contract, the term:

146 (a) "Additional Capital Obligation" shall mean construction costs or other  
147 capitalized costs incurred after the Effective Date or not reflected in the Existing Capital  
148 Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and  
149 (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130  
150 Stat. 1628) ("WIIN Act");

151 (b) "Calendar Year" shall mean the period January 1 through December 31,  
152 both dates inclusive;

153 (c) "Charges" shall mean the payments required by Federal Reclamation law  
154 in addition to the Rates and Tiered Pricing Component specified in this Contract as  
155 determined annually by the Contracting Officer pursuant to this Contract;

156 (d) "Condition of Shortage" shall mean a condition respecting the Project  
157 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the  
158 Contract;

159 (e) "Contracting Officer" shall mean the Secretary of the Interior's duly  
160 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law  
161 or regulation;

162 (f) "Contract Total" shall mean the maximum amount of water to which the  
163 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

164 (g) "Contractor's Service Area" shall mean the area to which the Contractor is  
165 permitted to provide Project Water under this Contract as described in Exhibit "A"  
166 attached hereto, which may be modified from time to time in accordance with Article 36  
167 of this Contract without amendment of this Contract;

168 (h) “CVPIA” shall mean the Central Valley Project Improvement Act, Title  
169 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

170 (i) “Delta Division Facilities” shall mean those existing and future Project  
171 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not  
172 limited to, the C.W. “Bill” Jones Pumping Plant, the O’Neill Forebay, the O’Neill  
173 Pumping/Generating Plant, and the San Luis Reservoir, used to divert, store, and convey  
174 water to those Project Contractors entitled to receive water conveyed through the Delta-  
175 Mendota Canal;

176 (j) “Eligible Lands” shall mean all lands to which Irrigation Water may be  
177 delivered in accordance with Section 204 of the Reclamation Reform Act of 1982 (96 Stat.  
178 1263), as amended;

179 (k) “Excess Lands” shall mean all lands in excess of the limitations  
180 contained in Section 204 of the Reclamation Reform Act of 1982, other than those lands  
181 exempt from acreage limitation under Federal Reclamation law;

182 (l) “Existing Capital Obligation” shall mean the remaining amount of  
183 construction costs or other capitalized costs allocable to the Contractor as described in section  
184 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central  
185 Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively,  
186 dated **Month/Day/Year [specify ratebook year for all contractors.] [contractor specific to**  
187 **address the intertie]**, as adjusted to reflect payments not reflected in such schedule. The  
188 Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in  
189 Exhibit “C”, which is incorporated herein by reference;

190 (m) “Full Cost Rate”, pursuant to CVPIA section 3405(d), shall mean an  
191 annual rate, as determined by the Contracting Officer that shall amortize the  
192 expenditures for construction properly allocable to the Project irrigation or M&I  
193 functions, as appropriate, of facilities in service including all O&M deficits funded, less  
194 payments, over such periods as may be required under Federal Reclamation law, or  
195 applicable contract provisions. Interest will accrue on both the construction  
196 expenditures and funded O&M deficits from October 12, 1982, on costs outstanding at  
197 that date, or from the date incurred in the case of costs arising subsequent to October 12  
198 1982, and shall be calculated in accordance with subsections 202(3)(B) and (3)(C) of the  
199 Reclamation Reform Act of 1982. The Full Cost Rate includes actual operation,  
200 maintenance, and replacement costs consistent with Section 426.2 of the Rules and  
201 Regulations for the Reclamation Reform Act of 1982;

202 (n) “Ineligible Lands” shall mean all lands to which Irrigation Water may  
203 not be delivered in accordance with Section 204 of the Reclamation Reform Act of 1982;

204 (o) “Irrigation Full Cost Water Rate”, pursuant to CVPIA section  
205 3405(d), shall mean the Full Cost Rate applicable to the delivery of Irrigation Water;

206 (p) “Irrigation Water” shall mean the use of Project Water to irrigate  
207 lands primarily for the production of commercial agricultural crops or livestock, and  
208 domestic and other uses that are incidental thereto;

209 (q) “Landholder” shall mean a party that directly or indirectly owns or  
210 leases nonexempt land, as provided in 43 CFR 426.2;

211 (r) “Municipal and Industrial (M&I) Water” shall mean the use of Project  
212 Water for municipal, industrial, and miscellaneous other purposes not falling under the

213 definition of “Irrigation Water” or within another category of water use under an  
214 applicable Federal authority;

215 (s) “M&I Full Cost Water Rate”, pursuant to CVPIA section 3405(d),  
216 shall mean the Full Cost Rate applicable to the delivery of M&I Water;

217 (t) “Operation and Maintenance” or “O&M” shall mean normal and  
218 reasonable care, control, operation, repair, replacement (other than capital replacement),  
219 and maintenance of Project facilities;

220 (u) “Operating Non-Federal Entity” shall mean the entity(ies), its (their)  
221 successors or assigns, which has (have) the obligation to operate and maintain all or a  
222 portion of the Delta Division Facilities pursuant to written agreement(s) with the United  
223 States. When this Contract was entered into, the Operating Non-Federal Entities were the  
224 San Luis & Delta-Mendota Water Authority and, with respect to San Luis Unit facilities,  
225 the California Department of Water Resources, and the Contractor;

226 (v) “Project” shall mean the Central Valley Project owned by the United  
227 States and managed by the Department of the Interior, Bureau of Reclamation;

228 (w) “Project Contractors” shall mean all parties who have contracts for  
229 water service for Project Water from the Project with the United States pursuant to Federal  
230 Reclamation law;

231 (x) “Project Water” shall mean all water that is developed, diverted,  
232 stored, or delivered by the Secretary in accordance with the statutes authorizing the  
233 Project and in accordance with the terms and conditions of water rights acquired  
234 pursuant to California law;

235 (y) "Rates" shall mean the payments determined annually by the  
236 Contracting Officer in accordance with the then-current applicable water ratesetting  
237 policies for the Project, as described in subdivision (a) of Article 7 of this Contract;

238 (z) Omitted

239 (aa) "Repayment Obligation" for Water Delivered as Irrigation Water shall  
240 mean the Existing Capital Obligation discounted by  $\frac{1}{2}$  of the Treasury rate, which shall be the  
241 amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN Act;  
242 and for Water Delivered as M&I Water shall mean the amount due and payable to the United  
243 States, pursuant to section 4011(a)(3)(A) of the WIIN Act;

244 (bb) "Secretary" shall mean the Secretary of the Interior, a duly appointed  
245 successor, or an authorized representative acting pursuant to any authority of the  
246 Secretary and through any agency of the Department of the Interior;

247 (cc) "Tiered Pricing Component" shall be the incremental amount to be  
248 paid for each acre-foot of Water Delivered as described in Article 7 of this Contract and  
249 as provided for in Exhibit "B";

250 (dd) "Water Delivered" or "Delivered Water" shall mean Project Water  
251 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting  
252 Officer;

253 (ee) "Water Made Available" shall mean the estimated amount of  
254 Project Water that can be delivered to the Contractor for the upcoming Year as declared  
255 by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

256 (ff) “Water Scheduled” shall mean Project Water made available to the  
257 Contractor for which times and quantities for delivery have been established by the  
258 Contractor and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract;  
259 and

260 (gg) “Year” shall mean the period from and including March 1 of each  
261 Calendar Year through the last day of February of the following Calendar Year.

262 TERM OF CONTRACT – RIGHT TO USE OF WATER

263 2. (a) This Contract shall be effective [Effective Date], hereinafter known as the  
264 “Effective Date”, and shall continue so long as the Contractor pays applicable Rates and Charges  
265 under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat.  
266 1195) as applicable, and applicable law;

267 (1) *Provided, That* the Contracting Officer shall not seek to terminate  
268 this Contract for failure to fully or timely pay applicable Rates and Charges by the Contractor,  
269 unless the Contracting Officer has first provided at least sixty (60) calendar days written notice  
270 to the Contractor of such failure to pay and the Contractor has failed to cure such failure to pay,  
271 or to diligently commence and maintain full curative payments satisfactory to the Contracting  
272 Officer within the sixty (60) calendar days’ notice period;

273 (2) *Provided, further, That* the Contracting Officer shall not seek to  
274 suspend making water available or declaring Water Made Available pursuant to this Contract for  
275 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the  
276 Contracting Officer has first provided at least thirty (30) calendar days written notice to the  
277 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence

278 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully  
279 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has  
280 suspended making water available pursuant to this paragraph, upon cure of such non-compliance  
281 satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water  
282 available and declaring Water Made Available pursuant to this Contract;

283 (3) Provided, further, That this Contract may be terminated at any  
284 time by mutual consent of the parties hereto.

285 (b) Upon complete payment of the Repayment Obligation by the Contractor,  
286 and notwithstanding any Additional Capital Obligation that may later be established, the acreage  
287 limitations, reporting, and full cost pricing provisions of the Reclamation Reform Act of 1982,  
288 and subdivisions (j) Eligible Lands, (k) Excess Lands, and (n) Ineligible Lands of Article 1 of  
289 this Contract shall no longer be applicable.

290 (c) Notwithstanding any provision of this Contract, the Contractor reserves  
291 and shall have all rights and benefits under the Act of July 2, 1956 (70 Stat. 483), to the extent  
292 allowed by law.

293 (d) Notwithstanding any provision of this Contract, the Contractor reserves  
294 and shall have all rights and benefits under the Act of June 21, 1963 (77 Stat. 68), to the extent  
295 allowed by law.

296 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

297 3. (a) During each Year, consistent with all applicable State water rights  
298 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and  
299 12 of this Contract, the Contracting Officer shall make available for delivery to the



300 Contractor 125,080 acre-feet of Project Water for irrigation and M&I purposes. Water  
301 Delivered to the Contractor in accordance with this subdivision shall be scheduled and  
302 paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

303 (b) Because the capacity of the Project to deliver Project Water has been  
304 constrained in recent years and may be constrained in the future due to many factors  
305 including hydrologic conditions and implementation of Federal and State laws, the  
306 likelihood of the Contractor actually receiving the amount of Project Water set out in  
307 subdivision (a) of this Article in any given Year is uncertain. The Contracting Officer's  
308 modeling referenced in the PEIS projected that the Contract Total set forth in this Contract  
309 will not be available to the Contractor in many years. Nothing in this subdivision (b) of this  
310 Article shall affect the rights and obligations of the parties under any provision of this Contract.

311 (c) The Contractor shall utilize the Project Water in accordance with all  
312 applicable legal requirements.

313 (1) In the event any Project Contractor (other than a Cross Valley  
314 Contractor) that receives Project Water through the Delta Division Facilities obtains a  
315 contractual agreement that the Contracting Officer shall make Project Water available at  
316 a point or points of delivery in or north of the Delta, at the request of the Contractor and  
317 upon completion of any required environmental documentation, this Contract shall be  
318 amended to provide for deliveries in or north of the Delta on mutually agreeable terms.  
319 Such amendments to this Contract shall be limited solely to those changes made necessary by  
320 the addition of such alternate points of delivery in or north of the Delta; *Provided, That*

321 the Contracting Officer's use of the Harvey O. Banks Pumping Plant to deliver Project  
322 Water does not trigger this right of amendment.

323 (d) The Contractor shall make reasonable and beneficial use of all water  
324 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or  
325 in lieu), groundwater banking programs, surface water storage programs, and other  
326 similar programs utilizing Project Water or other water furnished pursuant to this  
327 Contract conducted within the Contractor's Service Area which are consistent with  
328 applicable State law and result in use consistent with Federal Reclamation law will be  
329 allowed; Provided, That any direct recharge program(s) is (are) described in the  
330 Contractor's water conservation plan submitted pursuant to Article 25 of this Contract;  
331 Provided, further, That such water conservation plan demonstrates sufficient lawful uses  
332 exist in the Contractor's Service Area so that using a long-term average, the quantity of  
333 Delivered Water is demonstrated to be reasonable for such uses and in compliance with  
334 Federal Reclamation law. Groundwater recharge programs, groundwater banking  
335 programs, surface water storage programs, and other similar programs utilizing Project  
336 Water or other water furnished pursuant to this Contract conducted outside the  
337 Contractor's Service Area may be permitted upon written approval of the Contracting  
338 Officer, which approval will be based upon environmental documentation, Project Water  
339 rights, and Project operational concerns. The Contracting Officer will address such  
340 concerns in regulations, policies, or guidelines.

341 (e) The Contractor shall comply with requirements applicable to the  
342 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution

343 of any water service contract between the Contracting Officer and the Contractor in effect  
344 immediately prior to the Effective Date undertaken pursuant to Section 7 of the Endangered  
345 Species Act of 1973 (ESA), as amended, that are within the Contractor's legal authority to  
346 implement. The Existing Contract, which evidences in excess of 33 years of diversions for  
347 irrigation and/or M&I purposes of the quantities of Project Water provided in subdivision (a) of  
348 Article 3 of this Contract, will be considered in developing an appropriate baseline for any  
349 required biological assessment(s) prepared pursuant to the ESA, and any other needed  
350 environmental review. Nothing herein shall be construed to prevent the Contractor from  
351 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any  
352 biological opinion or other environmental documentation referred to in this Article.

353 (f) Following the declaration of Water Made Available under Article 4 of  
354 this Contract, the Contracting Officer will make a determination whether Project Water, or  
355 other water available to the Project, can be made available to the Contractor in addition to  
356 the Contract Total under this Article during the Year without adversely impacting other  
357 Project Contractors. At the request of the Contractor, the Contracting Officer will  
358 consult with the Contractor prior to making such a determination. If the Contracting  
359 Officer determines that Project Water, or other water available to the Project, can be  
360 made available to the Contractor, the Contracting Officer will announce the availability of  
361 such water and shall so notify the Contractor as soon as practical. The Contracting  
362 Officer will thereafter meet with the Contractor and other Project Contractors capable of  
363 taking such water to determine the most equitable and efficient allocation of such water.  
364 If the Contractor requests the delivery of any quantity of such water, the Contracting

365 Officer shall make such water available to the Contractor in accordance with applicable  
366 statutes, regulations, guidelines, and policies. Subject to existing long-term contractual  
367 commitments, water rights and operational constraints, long-term Project Contractors shall  
368 have a first right to acquire such water, including Project Water made available pursuant  
369 to Section 215 of the Reclamation Reform Act of 1982.

370 (g) The Contractor may request permission to reschedule for use during  
371 the subsequent Year some or all of the Water Made Available to the Contractor during  
372 the current Year, referred to as “rescheduled water.” The Contractor may request  
373 permission to use during the current Year a quantity of Project Water which may be  
374 made available by the United States to the Contractor during the subsequent Year referred  
375 to as “preuse.” The Contracting Officer's written approval may permit such uses in  
376 accordance with applicable statutes, regulations, guidelines, and policies.

377 (h) The Contractor’s right pursuant to Federal Reclamation law and  
378 applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to  
379 this Contract shall not be disturbed, and this Contract shall continue so long as the  
380 Contractor pays applicable Rates and Charges under this Contract consistent with Section  
381 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable  
382 law. Nothing in the preceding sentence shall affect the Contracting Officer’s ability to impose  
383 shortages under Article 11 or subdivision (b) of Article 12 of this Contract.

384 (i) Project Water furnished to the Contractor pursuant to this Contract  
385 may be delivered for purposes other than those described in subdivisions (p) and (r) of

386 Article 1 of this Contract upon written approval by the Contracting Officer in  
387 accordance with the terms and conditions of such approval.

388 (j) The Contracting Officer shall make reasonable efforts to protect the  
389 water rights necessary for the Project and to provide the water available under this Contract.  
390 The Contracting Officer shall not object to participation by the Contractor, in the capacity  
391 and to the extent permitted by law, in administrative proceedings related to the Project  
392 Water rights; *Provided, That* the Contracting Officer retains the right to object to the  
393 substance of the Contractor's position in such a proceeding; *Provided, further, That* in  
394 such proceedings the Contracting Officer shall recognize the Contractor has a legal right  
395 under the terms of this Contract to use Project Water.

396 TIME FOR DELIVERY OF WATER

397 4. (a) On or about February 20 each Calendar Year, the Contracting Officer  
398 shall announce the Contracting Officer's expected declaration of the Water Made  
399 Available. Such declaration will be expressed in terms of Water Made Available and  
400 will be updated monthly, and more frequently if necessary, based on the then-current  
401 operational and hydrologic conditions and a new declaration with changes, if any, to the  
402 Water Made Available will be made. The Contracting Officer shall provide forecasts of  
403 Project operations and the basis of the estimate, with relevant supporting information,  
404 upon the written request of the Contractor.

405 (b) On or before each March 1 and at such other times as necessary, the  
406 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the  
407 Contracting Officer, showing the monthly quantities of Project Water to be delivered by

408 the United States to the Contractor pursuant to this Contract for the Year commencing  
409 on such March 1. The Contracting Officer shall use all reasonable means to deliver  
410 Project Water according to the approved schedule for the Year commencing on such  
411 March 1.

412 (c) The Contractor shall not schedule Project Water in excess of the  
413 quantity of Project Water the Contractor intends to put to reasonable and beneficial use  
414 within the Contractor's Service Area or to sell, transfer, or exchange pursuant to Article  
415 9 of this Contract during any Year.

416 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this  
417 Contract, the United States shall deliver Project Water to the Contractor in accordance  
418 with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this  
419 Article, or any written revision(s) thereto satisfactory to the Contracting Officer, submitted  
420 within a reasonable time prior to the date(s) on which the requested change(s) is/are to be  
421 implemented.

422 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

423 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
424 Contract shall be delivered to the Contractor at Project facilities and any additional point or  
425 points of delivery either on Project facilities or another location or locations mutually  
426 agreed to in writing by the Contracting Officer and the Contractor.

427 (b) The Contracting Officer, either directly or indirectly through its  
428 written agreements(s) with the Operating Non-Federal Entity(ies), shall make all  
429 reasonable efforts to maintain sufficient flows and levels of water in the Project facilities

430 to deliver Project Water to the Contractor at the point or points of delivery established  
431 pursuant to subdivision (a) of this Article.

432 (c) The Contractor shall deliver Irrigation Water in accordance with any  
433 applicable land classification provisions of Federal Reclamation law and the associated  
434 regulations. The Contractor shall not deliver Project Water to land outside the  
435 Contractor's Service Area unless approved in advance by the Contracting Officer.

436 (d) All Water Delivered to the Contractor pursuant to this Contract shall  
437 be measured and recorded with equipment furnished, installed, operated, and maintained  
438 by the Contracting Officer either directly or indirectly through its written agreements(s)  
439 with the Operating Non-Federal Entity(ies), unless undertaken by the Contractor with  
440 the consent of the Contracting Officer at the point or points of delivery established  
441 pursuant to subdivision (a) of this Article. Upon the request of either party to this  
442 Contract, the Contracting Officer shall investigate, or cause to be investigated by the  
443 appropriate Operating Non-Federal Entity(ies), the accuracy of such measurements and  
444 shall take any necessary steps to adjust any errors appearing therein. For any period of  
445 time when accurate measurements have not been made, the Contracting Officer shall  
446 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any,  
447 prior to making a final determination of the quantity delivered for that period of time.

448 (e) Absent a separate contrary written agreement with the Contractor,  
449 neither the Contracting Officer nor any Operating Non-Federal Entity(ies) shall be  
450 responsible for the control, carriage, handling, use, disposal, or distribution of Water  
451 Delivered to the Contractor pursuant to this Contract beyond the point or points of

452 delivery established pursuant to subdivision (a) of this Article. The Contractor shall  
453 indemnify the United States, its officers, employees, agents, and assigns on account of  
454 damage or claim of damage of any nature whatsoever for which there is legal  
455 responsibility, including property damage, personal injury, or death arising out of or  
456 connected with the control, carriage, handling, use, disposal, or distribution of such Water  
457 Delivered beyond such point or points of delivery except for any damage or claim arising  
458 out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees,  
459 agents, and assigns, including the Operating Non-Federal Entity(ies) with the intent of  
460 creating the situation resulting in any damage or claim; (ii) willful misconduct of the  
461 Contracting Officer or any of its officers, employees, agents, and assigns, including the  
462 Operating Non-Federal Entity(ies); (iii) negligence of the Contracting Officer or any of its  
463 officers, employees, agents, and assigns, including the Operating Non-Federal Entity(ies);  
464 (iv) a malfunction of facilities owned and/or operated by the United States or the Operating  
465 Non-Federal Entity(ies); or (v) failure of the United States, its officers, employees, agents,  
466 and assigns, including the Operating Non-Federal Entity(ies), to provide drainage service.

467 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

468 6. (a) The Contractor has established a measuring program satisfactory to  
469 the Contracting Officer. The Contractor shall ensure that all surface water delivered for  
470 irrigation purposes within the Contractor's Service Area is measured at each agricultural  
471 turnout and such water delivered for M&I purposes is measured at each M&I service  
472 connection. The water measuring devices or water measuring methods of comparable  
473 effectiveness must be acceptable to the Contracting Officer. The Contractor shall be



474 responsible for installing, operating, maintaining, and repairing all such measuring devices  
475 and implementing all such water measuring methods at no cost to the United States. The  
476 Contractor shall use the information obtained from such water measuring devices or  
477 water measuring methods to ensure its proper management of the water; to bill water users for  
478 water delivered by the Contractor; and, if applicable, to record water delivered for M&I  
479 purposes by customer class as defined in the Contractor's water conservation plan  
480 provided for in Article 25 of this Contract. Nothing herein contained, however, shall  
481 preclude the Contractor from establishing and collecting any charges, assessments, or  
482 other revenues authorized by California law. The Contractor shall include a summary of  
483 all its annual surface water deliveries in the annual report described in subdivision (c) of  
484 Article 25 of this Contract.

485           (b) To the extent the information has not otherwise been provided, upon  
486 execution of this Contract, the Contractor shall provide to the Contracting Officer a written  
487 report describing the measurement devices or water measuring methods being used or to  
488 be used to implement subdivision (a) of this Article and identifying the agricultural  
489 turnouts and the M&I service connections or alternative measurement programs  
490 approved by the Contracting Officer, at which such measurement devices or water  
491 measuring methods are being used, and, if applicable, identifying the locations at which  
492 such devices and/or methods are not yet being used including a time schedule for  
493 implementation at such locations. The Contracting Officer shall advise the Contractor  
494 in writing within 60 days as to the adequacy and necessary modifications, if any, of the  
495 measuring devices or water measuring methods identified in the Contractor's report and

496 if the Contracting Officer does not respond in such time, they shall be deemed adequate.  
497 If the Contracting Officer notifies the Contractor that the measuring devices or methods  
498 are inadequate, the parties shall within 60 days following the Contracting Officer's  
499 response, negotiate in good faith the earliest practicable date by which the Contractor shall  
500 modify said measuring devices and/or measuring methods as required by the Contracting  
501 Officer to ensure compliance with subdivision (a) of this Article.

502 (c) All new surface water delivery systems installed within the Contractor's  
503 Service Area after the Effective Date of this Contract shall also comply with the  
504 measurement provisions described in subdivision (a) of this Article.

505 (d) The Contractor shall inform the Contracting Officer and the State of  
506 California in writing by April 30 of each Year of the monthly volume of surface water  
507 delivered within the Contractor's Service Area during the previous Year.

508 (e) The Contractor shall inform the Contracting Officer and the Operating  
509 Non-Federal Entity(ies) on or before the 20<sup>th</sup> calendar day of each month of the quantity  
510 of Irrigation Water and M&I Water taken during the preceding month.

511 RATES, METHOD OF PAYMENT FOR WATER AND ACCELERATED  
512 REPAYMENT OF FACILITIES

513 7. (a) Notwithstanding the Contractor's full prepayment of the  
514 Repayment Obligation pursuant to section 4011, subsection (a)(2)(A) and subsection  
515 (a)(3)(A) of the WIIN Act, as set forth in Exhibit "C", and any payments required  
516 pursuant to section 4011, subsection (b) of the WIIN Act, to reflect the adjustment for  
517 the final cost allocation as described in this Article, subsection (b), the Contractor's

518 Project construction and other obligations shall be determined in accordance with: (i)  
519 the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's  
520 then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such  
521 ratesetting policies shall be amended, modified, or superseded only through a public  
522 notice and comment procedure; (ii) applicable Federal Reclamation law and associated  
523 rules and regulations, or policies, and (iii) other applicable provisions of this Contract.  
524 Payments shall be made by cash transaction, electronic funds transfers, or any other  
525 mechanism as may be agreed to in writing by the Contractor and the Contracting Officer.  
526 The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon  
527 execution of this Contract are set forth in Exhibit "B", as may be revised annually.

528 (1) The Contractor shall pay the United States as provided for in this  
529 Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing  
530 Component in accordance with policies for Irrigation Water and M&I Water. The Contractor's  
531 Rates shall be established to recover its estimated reimbursable costs included in the operation  
532 and maintenance component of the Rate and amounts established to recover deficits and other  
533 charges, if any, including construction costs as identified in the following subdivisions.

534 (2) In accordance with the WIIN Act, the Contractor's allocable share  
535 of Project construction costs will be repaid pursuant to the provisions of this Contract.

536 (A) The amount due and payable to the United States, pursuant  
537 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been  
538 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth  
539 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual

540 installments (Irrigation Only) to be repaid no later than three (3) years after the Effective Date of  
541 this Contract as set forth in Exhibit “C”. The Repayment Obligation is due in lump sum by  
542 **[Month, Day, Year]** as provided by the WIIN Act. The Contractor must provide appropriate  
543 notice to the Contracting Officer in writing no later than thirty (30) days prior to **[Month, Day,**  
544 **Year] [Division Level: consider the effective date of the contract being converted]** if  
545 electing to repay the amount due using the lump sum alternative. If such notice is not provided  
546 by such date, the Contractor shall be deemed to have elected the installment payment alternative,  
547 in which case, the first such payment shall be made no later than **[Month, Day, Year] [Division**  
548 **Level: consider the effective date of the contract being converted]**. The second payment  
549 shall be made no later than the first anniversary of the first payment date. The third payment  
550 shall be made no later than the second anniversary of the first payment date. The final payment  
551 shall be made no later than **[Month, Day, Year] [no later than the third anniversary of the**  
552 **effective date of the contract]**. If the installment payment option is elected by the Contractor,  
553 the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving the  
554 Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall  
555 re-compute the remaining amount due to reflect the pre-payment using the same methodology as  
556 was used to compute the initial annual installment payment amount, which is illustrated in  
557 Exhibit “C”. Notwithstanding any Additional Capital Obligation that may later be established,  
558 receipt of the Contractor’s payment of the Repayment Obligation to the United States shall fully  
559 and permanently satisfy the Existing Capital Obligation.

560 (B) Additional Capital Obligations that are not reflected in, the  
561 schedules referenced in Exhibit “C” and properly assignable to the Contractor, shall be repaid as

562 prescribed by the WIIN Act without interest except as required by law. Consistent with Federal  
563 Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital  
564 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the  
565 Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of  
566 the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not  
567 be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),  
568 however, will be considered under subdivision (b) of this Article. A separate agreement shall be  
569 established by the Contractor and the Contracting Officer to accomplish repayment of the  
570 Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the  
571 WIIN Act, subject to the following:

572 (1) If the collective Additional Capital Obligation  
573 properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act  
574 is less than five million dollars (\$5,000,000), then the portion of such costs properly assignable  
575 to the Contractor shall be repaid not more than five (5)-years after the Contracting Officer  
576 notifies the Contractor of the Additional Capital Obligation; *Provided, That* the reference to the  
577 amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

578 (2) If the collective Additional Capital Obligation  
579 properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act  
580 is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs  
581 properly assignable to the Contractor shall be repaid as provided by applicable Federal  
582 Reclamation law and Project ratesetting policy; *Provided, That* the reference to the amount of  
583 five million dollars (\$5,000,000) shall not be a precedent in any other context.

584                   (b)     In the event that the final cost allocation referenced in Section 4011(b) of  
585 the WIIN Act determines that the costs properly assignable to the Contractor are greater than  
586 what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining  
587 allocated costs. The term of such additional repayment contract shall be not less than one (1)  
588 year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate  
589 of repayment of such amount may be developed by the Contractor and Contracting Officer. In  
590 the event that the final cost allocation indicates that the costs properly assignable to the  
591 Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such  
592 overpayment as an offset against any outstanding or future obligations of the Contractor, with the  
593 exception of Restoration Fund charges pursuant to section 3407(d) of Pub. L. 102-575.

594                   (c)     The Contracting Officer shall notify the Contractor of the Rates, Charges,  
595 and Tiered Pricing Component as follows:

596                   (1)     Prior to July 1 of each Calendar Year, the Contracting Officer shall  
597 provide the Contractor an estimate of the Charges for Project Water that will be applied  
598 to the period October 1, of the current Calendar Year, through September 30, of the  
599 following Calendar Year, and the basis for such estimate. The Contractor shall be  
600 allowed not less than two months to review and comment on such estimates. On or  
601 before September 15 of each Calendar Year, the Contracting Officer shall notify the  
602 Contractor in writing of the Charges to be in effect during the period October 1 of the current  
603 Calendar Year, through September 30, of the following Calendar Year, and such  
604 notification shall revise Exhibit "B."

605                   (2)     Prior to October 1 of each Calendar Year, the Contracting Officer

606 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component  
607 for Project Water for the following Year and the computations and cost allocations upon which  
608 those Rates are based. The Contractor shall be allowed not less than two months to review and  
609 comment on such computations and cost allocations. By December 31 of each Calendar Year,  
610 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing  
611 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit  
612 “B”.

613 (d) At the time the Contractor submits the initial schedule for the delivery of  
614 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the  
615 Contractor shall make an advance payment to the United States equal to the total amount  
616 payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the  
617 Project Water scheduled to be delivered pursuant to this Contract during the first two  
618 calendar months of the Year. Before the end of the first month and before the end of  
619 each calendar month thereafter, the Contractor shall make an advance payment to the  
620 United States, at the Rate(s) set under subdivision (a) of this Article, for the Water  
621 Scheduled to be delivered pursuant to this Contract during the second month  
622 immediately following. Adjustments between advance payments for Water Scheduled  
623 and payments at Rates due for Water Delivered shall be made before the end of the  
624 following month; *Provided, That* any revised schedule submitted by the Contractor  
625 pursuant to Article 4 of this Contract which increases the amount of Water Delivered  
626 pursuant to this Contract during any month shall be accompanied with appropriate  
627 advance payment, at the Rates then in effect, to assure that Project Water is not

628 delivered to the Contractor in advance of such payment. In any month in which the  
629 quantity of Water Delivered to the Contractor pursuant to this Contract equals the  
630 quantity of Water Scheduled and paid for by the Contractor, no additional Project Water  
631 shall be delivered to the Contractor unless and until an advance payment at the Rates  
632 then in effect for such additional Project Water is made. Final adjustment between the  
633 advance payments for the Water Scheduled and payments for the quantities of Water  
634 Delivered during each Year pursuant to this Contract shall be made as soon as  
635 practicable but no later than April 30th of the following Year, or 60 days after the  
636 delivery of Project Water rescheduled under subdivision (g) of Article 3 of this Contract  
637 if such water is not delivered by the last day of February.

638 (e) The Contractor shall also make a payment in addition to the Rate(s) in  
639 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and the  
640 appropriate Tiered Pricing Component then in effect, before the end of the month following  
641 the month of delivery; *Provided, That* the Contractor may be granted an exception from  
642 the Tiered Pricing Component pursuant to subdivision (k)(2) of this Article. The  
643 payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as  
644 shown in the water delivery report for the subject month prepared by the Operating Non-Federal  
645 Entity(ies) or, if there is no Operating Non-Federal Entity(ies), by the Contracting Officer. The  
646 water delivery report shall be deemed a bill for the payment of Charges and the applicable  
647 Tiered Pricing Component for Water Delivered. Adjustment for overpayment or  
648 underpayment of Charges shall be made through the adjustment of payments due to the United  
649 States for Charges for the next month. Any amount to be paid for past due payment of Charges



650 and Tiered Pricing Component shall be computed pursuant to Article 19 of this Contract.

651 (f) The Contractor shall pay for any Water Delivered under subdivision  
652 (a), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer  
653 pursuant to applicable statutes, associated regulations, any applicable provisions of  
654 guidelines or ratesetting policies; *Provided, That* the Rate for Water Delivered under  
655 subdivision (f) of Article 3 of this Contract shall be no more than the otherwise  
656 applicable Rate for Irrigation Water or M&I Water under subdivision (a) of this Article.

657 (g) Payments to be made by the Contractor to the United States under this  
658 Contract may be paid from any revenues available to the Contractor.

659 (h) All revenues received by the United States from the Contractor  
660 relating to the delivery of Project Water or the delivery of non-Project water through  
661 Project facilities shall be allocated and applied in accordance with Federal Reclamation  
662 law and the associated rules or regulations, and the then-current Project ratesetting policies  
663 for M&I Water or Irrigation Water.

664 (i) The Contracting Officer shall keep its accounts pertaining to the  
665 administration of the financial terms and conditions of its long-term contracts, in accordance  
666 with applicable Federal standards, so as to reflect the application of Project costs and  
667 revenues. The Contracting Officer shall, each Year upon request of the Contractor,  
668 provide to the Contractor a detailed accounting of all Project and Contractor expense  
669 allocations, the disposition of all Project and Contractor revenues, and a summary of all  
670 water delivery information. The Contracting Officer and the Contractor shall enter into  
671 good faith negotiations to resolve any discrepancies or disputes relating to accountings,

672 reports, or information.

673           (j)     The parties acknowledge and agree that the efficient administration of this  
674 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,  
675 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,  
676 and/or for making and allocating payments, other than those set forth in this Article may be in  
677 the mutual best interest of the parties, it is expressly agreed that the parties may enter into  
678 agreements to modify the mechanisms, policies, and procedures for any of those purposes while  
679 this Contract is in effect without amending this Contract.

680           (k)     (1)     Beginning at such time as deliveries of Project Water in a Year  
681 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
682 delivery the Contractor shall make an additional payment to the United States equal to the  
683 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
684 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
685 Contract Total, shall equal one-half of the difference between the Rate established under  
686 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water  
687 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water  
688 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i)  
689 the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water  
690 Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to  
691 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract  
692 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in  
693 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

694                               (2)     Subject to the Contracting Officer's written approval, the  
695 Contractor may request and receive an exemption from such Tiered Pricing Component for  
696 Project Water delivered to produce a crop which the Contracting Officer determines will provide  
697 significant and quantifiable habitat values for waterfowl in fields where the water is used and the  
698 crops are produced; *Provided, That* the exemption from the Tiered Pricing Component for  
699 Irrigation Water shall apply only if such habitat values can be assured consistent with the  
700 purposes of the CVPIA through binding agreements executed with or approved by the  
701 Contracting Officer prior to use of such water.

702                               (3)     For purposes of determining the applicability of the Tiered Pricing  
703 Component pursuant to this Article, Water Delivered shall include Project Water that the  
704 Contractor transfers to others but shall not include Project Water transferred to the Contractor,  
705 nor shall it include the additional water provided to the Contractor under the provisions of  
706 subdivision (f) of Article 3 of this Contract.

707                               (1)     For the term of this Contract, Rates applied under the respective  
708 ratesetting policies will be established to recover only reimbursable O&M (including any  
709 deficits) and capital costs of the Project, as those terms are used in the then-current Project  
710 ratesetting policies, and interest, where appropriate, except in instances where a minimum  
711 Rate is applicable in accordance with the relevant Project ratesetting policy. Changes of  
712 significance in practices which implement the Contracting Officer's ratesetting policies will  
713 not be implemented until the Contracting Officer has provided the Contractor an opportunity  
714 to discuss the nature, need, and impact of the proposed change.

715                               (m)     Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the

716 CVPIA, the Rates for Project Water transferred by the Contractor shall be the  
717 Contractor's Rates, in accordance with the applicable Project ratesetting policy, adjusted  
718 upward or downward to reflect the changed costs, if any, incurred by the Contracting Officer  
719 in the delivery of the transferred Project Water to the transferee's point of delivery. If the  
720 Contractor is receiving lower Rates and Charges because of inability to pay and is  
721 transferring Project Water to another entity whose Rates and Charges are not adjusted  
722 due to inability to pay, the Rates and Charges for transferred Project Water shall not be  
723 adjusted to reflect the Contractor's inability to pay.

724 (n) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting  
725 Officer is authorized to adjust determinations of ability to pay every five years.

726 NON-INTEREST BEARING O&M DEFICITS

727 8. The Contractor and the Contracting Officer concur that, as of the Effective Date  
728 of this Contract the Contractor has no non-interest bearing O&M deficits and shall have  
729 no further liability therefore.

730 SALES, TRANSFERS, OR EXCHANGES OF WATER

731 9. (a) The right to receive Project Water provided for in this Contract may be  
732 sold, transferred, or exchanged to others for reasonable and beneficial uses within the  
733 State of California if such sale, transfer, or exchange is authorized by applicable Federal  
734 and State laws, and applicable guidelines or regulations then in effect. No sale, transfer,  
735 or exchange of Project Water under this Contract may take place without the prior  
736 written approval of the Contracting Officer, except as provided for in subdivision (b) of  
737 this Article, and no such sales, transfers, or exchanges shall be approved absent all

738 appropriate environmental documentation, including, but not limited to, documents  
739 prepared pursuant to the NEPA and ESA. Such environmental documentation should  
740 include, as appropriate, an analysis of groundwater impacts and economic and social  
741 effects, including environmental justice, of the proposed water transfers on both the  
742 transferor and transferee.

743           (b) In order to facilitate efficient water management by means of water  
744 transfers of the type historically carried out among Project Contractors located within the  
745 same geographical area and to allow the Contractor to participate in an accelerated water  
746 transfer program during the term of this Contract, the Contracting Officer shall prepare, as  
747 appropriate, all necessary environmental documentation, including, but not limited to,  
748 documents prepared pursuant to the NEPA and ESA, analyzing annual transfers within  
749 such geographical areas and the Contracting Officer shall determine whether such  
750 transfers comply with applicable law. Following the completion of the environmental  
751 documentation, such transfers addressed in such documentation shall be conducted with  
752 advance notice to the Contracting Officer, but shall not require prior written approval by  
753 the Contracting Officer. Such environmental documentation and the Contracting  
754 Officer's compliance determination shall be reviewed every five years and updated, as  
755 necessary, prior to the expiration of the then existing five (5)-year period. All subsequent  
756 environmental documentation shall include an alternative to evaluate not less than the quantity of  
757 Project Water historically transferred within the same geographical area.

758           (c) For a water transfer to qualify under subdivision (b) of this Article, such  
759 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three

760 years, for M&I use, groundwater recharge, groundwater banking, or similar groundwater  
761 activities, surface water storage, or fish and wildlife resources; not lead to land  
762 conversion; and be delivered to established cropland, wildlife refuges, groundwater basins, or  
763 M&I use; (ii) occur within a single Year; (iii) occur between a willing seller and a willing  
764 buyer; (iv) convey water through existing facilities with no new construction or  
765 modifications to facilities and be between existing Project Contractors and/or the Contractor  
766 and the United States, Department of the Interior; and (v) comply with all applicable  
767 Federal, State, and local or tribal laws and requirements imposed for protection of the  
768 environment and Indian Trust Assets, as defined under Federal law.

769 APPLICATION OF PAYMENTS AND ADJUSTMENTS

770 10. (a) The amount of any overpayment by the Contractor of the Contractor's  
771 O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current  
772 liabilities of the Contractor arising out of this Contract then due and payable.  
773 Overpayments of more than \$1,000 shall be refunded at the Contractor's request. In lieu of a  
774 refund, any amount of such overpayment, at the option of the Contractor, may be credited  
775 against amounts to become due to the United States by the Contractor. With respect to  
776 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or  
777 anyone having or claiming to have the right to the use of any of the Project Water supply  
778 provided for in this Contract. All credits and refunds of overpayments shall be made  
779 within 30 days of the Contracting Officer obtaining direction as to how to credit or  
780 refund such overpayment in response to the notice to the Contractor that it has finalized the  
781 accounts for the Year in which the overpayment was made.

782 (b) All advances for miscellaneous costs incurred for work requested by the  
783 Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual  
784 costs when the work has been completed. If the advances exceed the actual costs incurred, the  
785 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's  
786 advances, the Contractor will be billed for the additional costs pursuant to Article 24 of this  
787 Contract.

788 TEMPORARY REDUCTIONS – RETURN FLOWS

789 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the  
790 requirements of Federal law, and (ii) the obligations of the United States under existing  
791 contracts, or renewals thereof, providing for water deliveries from the Project, the  
792 Contracting Officer shall make all reasonable efforts to optimize Project Water deliveries to  
793 the Contractor as provided in this Contract.

794 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may  
795 temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as  
796 herein provided for the purposes of investigation, inspection, maintenance, repair, or  
797 replacement of any of the Project facilities or any part thereof necessary for the delivery of  
798 Project Water to the Contractor, but so far as feasible the Contracting Officer or Operating  
799 Non-Federal Entity(ies) will give the Contractor due notice in advance of such temporary  
800 discontinuance or reduction, except in case of emergency, in which case no notice need be  
801 given; Provided, That the United States shall use its best efforts to avoid any  
802 discontinuance or reduction in such service. Upon resumption of service after such  
803 discontinuance or reduction, and if requested by the Contractor, the United States will, if

804 possible, deliver the quantity of Project Water which would have been delivered  
805 hereunder in the absence of such discontinuance or reduction.

806 (c) The United States reserves the right to all seepage and return flow  
807 water derived from Water Delivered to the Contractor hereunder which escapes or is  
808 discharged beyond the Contractor's Service Area; *Provided, That* this shall not be construed  
809 as claiming for the United States any right to seepage or return flow being put to  
810 reasonable and beneficial use pursuant to this Contract within the Contractor's Service  
811 Area by the Contractor or those claiming by, through, or under the Contractor.

812 CONSTRAINTS ON THE AVAILABILITY OF WATER

813 12. (a) In its operation of the Project, the Contracting Officer will use all  
814 reasonable means to guard against a Condition of Shortage in the quantity of Project  
815 Water to be made available to the Contractor pursuant to this Contract. In the event the  
816 Contracting Officer determines that a Condition of Shortage appears probable, the  
817 Contracting Officer will notify the Contractor of said determination as soon as practicable.

818 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting  
819 or other similar operational errors affecting the Project; drought and other physical or natural  
820 causes beyond the control of the Contracting Officer; or actions taken by the Contracting  
821 Officer to meet current and future legal obligations, then, except as provided in subdivision (a) of  
822 Article 17 of this Contract, no liability shall accrue against the United States or any of its  
823 officers, agents, or employees for any damage, direct or indirect, arising therefrom.

824 (c) In any Year in which there may occur a Condition of Shortage for any of  
825 the reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this  
826 Article, the Contracting Officer will first allocate the available Project Water consistent  
827 with the Project M&I Water Shortage Policy in its form applicable under this Article 12(c) of  
828 water service contracts in effect on the date of this Contract which provide water service  
829 from Delta Division Facilities for determining the amount of Project Water Available



830 for delivery to the Project Contractors. Subject to the foregoing allocation, in any year  
831 in which there may occur a Condition of Shortage, the Contracting Officer shall then  
832 apportion Project Water among the Contractor and others entitled to Project Water from  
833 Delta Division Facilities under long-term water service or repayment contracts (or  
834 renewals thereof or binding commitments therefore) in force on February 28, 2005, as  
835 follows:

836 (1) The Contracting Officer shall make an initial and subsequent  
837 determination as necessary of the total quantity of Project Water estimated to be  
838 scheduled or actually scheduled under subdivision (b) of Article 4 of this Contract and  
839 under all other interim renewal, long-term water service or repayment contracts then in  
840 force for the delivery of Project Water by the United States from Delta Division Facilities  
841 during the relevant Year, the quantity so determined being hereinafter referred to as the  
842 scheduled total;

843 (2) A determination shall be made of the total quantity of Project  
844 Water that is available for meeting the scheduled total, the quantity so determined being  
845 hereinafter referred to as the available supply;

846 (3) The total quantity of Project Water estimated to be scheduled or  
847 actually scheduled by the Contractor during the relevant Year, under subdivision (b) of  
848 Article 4 of this Contract, shall be divided by the scheduled total, the quotient thus  
849 obtained being hereinafter referred to as the Contractor's proportionate share; and

850 (4) The available supply shall be multiplied by the Contractor's  
851 proportionate share and the result shall be the quantity of Project Water made available

852 by the United States to the Contractor for the relevant Year in accordance with the  
853 schedule developed by the Contracting Officer under subdivision (c)(1) of this Article 12,  
854 but in no event shall such amount exceed the Contract Total. In the event the  
855 Contracting Officer subsequently determines that the Contracting Officer can increase or  
856 needs to decrease the available supply for delivery from Delta Division Facilities to  
857 interim renewal, long-term water service, and repayment contractors during the relevant  
858 Year, such additions or reductions to the available supply shall be apportioned consistent  
859 with subparagraphs (1) through (4), inclusive.

860 (d) By entering into this Contract, the Contractor does not waive any legal  
861 rights or remedies it may have to file or participate in any administrative or judicial  
862 proceeding contesting: (i) the sufficiency of the Project M&I Water Shortage Policy; (ii)  
863 the substance of such a policy; (iii) the applicability of such a policy; or (iv) the manner in  
864 which such policy is implemented in order to allocate Project Water between M&I and  
865 irrigation purposes; *Provided, That* the Contractor has commenced any such judicial  
866 challenge or any administrative procedures necessary to institute any judicial challenge  
867 within six months of the policy becoming final. By agreeing to the foregoing, the  
868 Contracting Officer does not waive any legal defenses or remedies that it may have to  
869 assert in such a proceeding. Nothing contained herein shall be interpreted to validate or  
870 invalidate the Project M&I Water Shortage Policy.

871 (e) Omitted

872 UNAVOIDABLE GROUNDWATER PERCOLATION

873 13. (a) To the extent applicable, the Contractor shall not be deemed to have

874 delivered Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this  
875 Contract if such lands are irrigated with groundwater that reaches the underground strata  
876 as an unavoidable result of the delivery of Irrigation Water by the Contractor to Eligible  
877 Lands.

878 (b) Upon complete payment of the Repayment Obligation by the Contractor,  
879 this Article 13 shall no longer be applicable.

880 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

881 14. The parties agree that the delivery of Irrigation Water or use of Federal facilities  
882 pursuant to this Contract is subject to Federal Reclamation law, including but not limited  
883 to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa *et seq.*), as amended and  
884 supplemented, and the rules and regulations promulgated by the Secretary of the Interior  
885 under Federal Reclamation law.

886 PROTECTION OF WATER AND AIR QUALITY

887 15. (a) The Contractor, without expense to the United States, will care for,  
888 operate and maintain transferred works in a manner that preserves the quality of the water at the  
889 highest feasible level as determined by the Contracting Officer.

890 (b) The United States will care for, operate and maintain reserved works in a  
891 manner that preserves the quality of the water at the highest level possible as determined by the  
892 Contracting Officer. The United States does not warrant the quality of the water delivered to the  
893 Contractor and is under no obligation to furnish or construct water treatment facilities to  
894 maintain or improve the quality of water delivered to the Contractor.

895 (c) The Contractor will comply with all applicable water and air pollution  
896 laws and regulations of the United States and the State of California; and will obtain all required  
897 permits or licenses from the appropriate Federal, State, or local authorities necessary for the  
898 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,  
899 State, and local water quality standards applicable to surface and subsurface drainage and/or  
900 discharges generated through the use of Federal or Contractor facilities or Project Water  
901 provided by the Contractor within its Service Area.

902 (d) This Article shall not affect or alter any legal obligations of the Secretary  
903 to provide drainage or other discharge services.

904 (e) The Contracting Officer shall notify the Contractor in writing when

905 drainage service becomes available. Thereafter, the Contracting Officer shall provide  
906 drainage service to the Contractor at rates established pursuant to the then-existing  
907 ratesetting policy for Irrigation Water; Provided, That such ratesetting policy shall be  
908 amended, modified, or superseded only through the process described in subdivision (a)  
909 of Article 7 of this Contract.

910 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED  
911 STATES

912 16. (a) Water or water rights now owned or hereafter acquired by the Contractor  
913 other than from the United States and Irrigation Water furnished pursuant to the terms of  
914 this Contract may be simultaneously transported through the same distribution facilities  
915 of the Contractor subject to the following: (i) if the facilities utilized for commingling  
916 Irrigation Water and non-Project water were constructed without funds made available  
917 pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be  
918 applicable only to the Landholders of lands which receive Irrigation Water; (ii) the  
919 eligibility of land to receive Irrigation Water must be established through the certification  
920 requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part  
921 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area  
922 can be established and the quantity of Irrigation Water to be utilized is less than or equal to  
923 the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for  
924 commingling Irrigation Water and non-Project water are (were) constructed with funds  
925 made available pursuant to Federal Reclamation law, the non-Project water will be  
926 subject to the acreage limitation provisions of Federal Reclamation law, unless the

927 Contractor pays to the United States the incremental fee described in 43 CFR 426.15. In  
928 determining the incremental fee, the Contracting Officer will calculate annually the cost  
929 to the Federal Government, including interest, of storing or delivering non-Project water,  
930 which for purposes of this Contract shall be determined as follows: The quotient shall  
931 be the unpaid distribution system costs divided by the total irrigable acreage within the  
932 Contractor's Service Area. The incremental fee per acre is the mathematical result of  
933 such quotient times the interest rate determined using Section 202 (3) of the Act of  
934 October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of  
935 excess or full-cost land within the Contractor's Service Area that receives non-Project  
936 water through Federally financed or constructed facilities. The incremental fee calculation  
937 methodology will continue during the term of this Contract absent the promulgation of a  
938 contrary Bureau of Reclamation-wide rule, regulation, or policy adopted after the  
939 Contractor has been afforded the opportunity to review and comment on the proposed  
940 rule, regulation, or policy. If such rule, regulation, or policy is adopted, it shall supersede  
941 this provision.

942 (b) Water or water rights now owned or hereafter acquired by the  
943 Contractor, other than from the United States may be stored, conveyed, and/or diverted  
944 through Project facilities, subject to the completion of appropriate environmental  
945 documentation, with the approval of the Contracting Officer and the execution of any  
946 contract determined by the Contracting Officer to be necessary, consistent with the  
947 following provisions:

948 (1) The Contractor may introduce non-Project water into Project

949 facilities and deliver said water to lands within the Contractor's Service Area, including  
950 Ineligible Lands, subject to payment to the United States and/or to any applicable  
951 Operating Non-Federal Entity of an appropriate rate as determined by the applicable  
952 Project ratesetting policy, the Reclamation Reform Act of 1982, and the Project use  
953 power policy, if such Project use power policy is applicable, each as amended, modified, or  
954 superseded from time to time.

955                   (2)     Delivery of such non-Project water in and through Project  
956 facilities shall only be allowed to the extent such deliveries do not: (i) interfere with  
957 other Project purposes as determined by the Contracting Officer; (ii) reduce the quantity or  
958 quality of water available to other Project Contractors; (iii) interfere with the delivery of  
959 contractual water entitlements to any other Project Contractors; or (iv) interfere with the  
960 physical maintenance of the Project facilities.

961                   (3)     Neither the United States nor the Operating Non-Federal  
962 Entity(ies) shall be responsible for control, care, or distribution of the non-Project water  
963 before it is introduced into or after it is delivered from the Project facilities. The  
964 Contractor hereby releases and agrees to defend and indemnify the United States and the  
965 Operating Non-Federal Entity(ies), and their respective officers, agents, and employees,  
966 from any claim for damage to persons or property, direct or indirect, resulting from the  
967 act(s) of the Contractor, its officers, employees, agents, or assigns, in (i) extracting or  
968 diverting non-Project water from any source, or (ii) diverting such non-Project water into  
969 Project facilities.

970                   (4)     Diversion of such non-Project water into Project facilities shall

971 be consistent with all applicable laws, and if involving groundwater, consistent with any  
972 applicable groundwater management plan for the area from which it was extracted.

973 (5) After Project purposes are met, as determined by the  
974 Contracting Officer, the United States and Project Contractors entitled to Project Water  
975 from Delta Division Facilities shall share priority to utilize the remaining capacity of the  
976 facilities declared to be available by the Contracting Officer for conveyance and  
977 transportation of non-Project water prior to any such remaining capacity being made  
978 available to non-Project contractors. Other Project Contractors shall have a second priority  
979 to any remaining capacity of facilities declared to be available by the Contracting Officer  
980 for conveyance and transportation of non-Project water prior to any such remaining  
981 capacity being made available to non-Project contractors.

982 (c) Upon complete payment of the Repayment Obligation by the Contractor,  
983 subdivision (a) of this Article 16 shall no longer be applicable.

984 OPINIONS AND DETERMINATIONS

985 17. (a) Where the terms of this Contract provide for actions to be based upon  
986 the opinion or determination of either party to this Contract, said terms shall not be  
987 construed as permitting such action to be predicated upon arbitrary, capricious, or  
988 unreasonable opinions or determinations. Both parties, notwithstanding any other  
989 provisions of this Contract, expressly reserve the right to seek relief from and appropriate  
990 adjustment for any such arbitrary, capricious, or unreasonable opinion or determination.  
991 Each opinion or determination by either party shall be provided in a timely manner.  
992 Nothing in this subdivision (a) of this Article is intended to or shall affect or alter the

993 standard of judicial review applicable under Federal law to any opinion or determination  
994 implementing a specific provision of Federal law embodied in statute or regulation.

995 (b) The Contracting Officer shall have the right to make determinations  
996 necessary to administer this Contract that are consistent with the provisions of this  
997 Contract, the laws of the United States and of the State of California, and the rules and  
998 regulations promulgated by the Secretary. Such determinations shall be made in  
999 consultation with the Contractor to the extent reasonably practicable.

1000 COORDINATION AND COOPERATION

1001 18. (a) In order to further their mutual goals and objectives, the Contracting  
1002 Officer and the Contractor shall communicate, coordinate, and cooperate with each other,  
1003 and with other affected Project Contractors, in order to improve the O&M of the  
1004 Project. The communication, coordination, and cooperation regarding O&M shall  
1005 include, but not be limited to, any action which will or may materially affect the quantity  
1006 or quality of Project Water supply, the allocation of Project Water supply, and Project  
1007 financial matters including, but not limited to, budget issues. The communication,  
1008 coordination, and cooperation provided for hereunder shall extend to all provisions of  
1009 this Contract. Each party shall retain exclusive decision making authority for all actions,  
1010 opinions, and determinations to be made by the respective party.

1011 (b) Within 120 days following the Effective Date of this Contract, the  
1012 Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to  
1013 meet with interested Project Contractors to develop a mutually agreeable, written Project-  
1014 wide process, which may be amended as necessary separate and apart from this Contract.



1015 The goal of this process shall be to provide, to the extent practicable, the means of  
1016 mutual communication and interaction regarding significant decisions concerning  
1017 Project O&M on a real-time basis.

1018 (c) In light of the factors referred to in subdivision (b) of Article 3 of this  
1019 Contract, it is the intent of the Secretary to improve water supply reliability. To carry out  
1020 this intent:

1021 (1) The Contracting Officer will, at the request of the Contractor,  
1022 assist in the development of integrated resource management plans for the Contractor.

1023 Further, the Contracting Officer will, as appropriate, seek authorizations for implementation  
1024 of partnerships to improve water supply, water quality, and reliability.

1025 (2) The Secretary will, as appropriate, pursue program and project  
1026 implementation and authorization in coordination with Project Contractors to improve the  
1027 water supply, water quality, and reliability of the Project for all Project purposes.

1028 (3) The Secretary will coordinate with Project Contractors and the  
1029 State of California to seek improved water resource management.

1030 (4) The Secretary will coordinate actions of agencies within the  
1031 Department of the Interior that may impact the availability of water for Project purposes.

1032 (5) The Contracting Officer shall periodically, but not less than  
1033 annually, hold division-level meetings to discuss Project operations, division-level water  
1034 management activities, and other issues as appropriate.

1035 (d) Without limiting the contractual obligations of the Contracting Officer  
1036 under the other Articles of this Contract, nothing in this Article shall be construed to limit

1037 or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate  
1038 with the Contractor or other interested stakeholders or to make decisions in a timely fashion  
1039 as needed to protect health, safety, or the physical integrity of structures or facilities.

1040 CHARGES FOR DELINQUENT PAYMENTS

1041 19. (a) The Contractor shall be subject to interest, administrative, and penalty  
1042 charges on delinquent payments. If a payment is not received by the due date, the  
1043 Contractor shall pay an interest charge on the delinquent payment for each day the payment  
1044 is delinquent beyond the due date. If a payment becomes 60 days delinquent, the  
1045 Contractor shall pay, in addition to the interest charge, an administrative charge to  
1046 cover additional costs of billing and processing the delinquent payment. If a payment is  
1047 delinquent 90 days or more, the Contractor shall pay, in addition to the interest and  
1048 administrative charges, a penalty charge for each day the payment is delinquent beyond the  
1049 due date, based on the remaining balance of the payment due at the rate of 6 percent per  
1050 year. The Contractor shall also pay any fees incurred for debt collection services associated  
1051 with a delinquent payment.

1052 (b) The interest rate charged shall be the greater of either the rate prescribed  
1053 quarterly in the Federal Register by the Department of the Treasury for application to  
1054 overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged  
1055 will be determined as of the due date and remain fixed for the duration of the delinquent  
1056 period.

1057 (c) When a partial payment on a delinquent account is received, the amount  
1058 received shall be applied first to the penalty charges, second to the administrative charges,  
1059 third to the accrued interest, and finally to the overdue payment.

1060 EQUAL EMPLOYMENT OPPORTUNITY

1061 20. During the performance of this Contract, the Contractor agrees as follows:

1062 (a) The Contractor will not discriminate against any employee or applicant  
1063 for employment because of race, color, religion, sex, sexual orientation, gender identity, or  
1064 national origin. The Contractor will take affirmative action to ensure that applicants are  
1065 employed, and that employees are treated during employment, without regard to their race,  
1066 color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall  
1067 include, but not be limited to, the following: employment, upgrading, demotion, or  
1068 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other  
1069 forms of compensation; and selection for training, including apprenticeship. The Contractor  
1070 agrees to post in conspicuous places, available to employees and applicants for employment,

1071 notices to be provided by the Contracting Officer setting forth the provisions of this  
1072 nondiscrimination clause.

1073 (b) The Contractor will, in all solicitations or advertisements for employees  
1074 placed by or on behalf of the Contractor, state that all qualified applicants will receive  
1075 consideration for employment without regard to race, color, religion, sex, sexual orientation,  
1076 gender identity, or national origin.

1077 (c) The Contractor will not discharge or in any other manner discriminate  
1078 against any employee or applicant for employment because such employee or applicant has  
1079 inquired about, discussed, or disclosed the compensation of the employee or applicant or  
1080 another employee or applicant. This provision shall not apply to instances in which an  
1081 employee who has access to the compensation information of other employees or applicants as  
1082 part of such employee's essential job functions discloses the compensation of such other  
1083 employees or applicants to individuals who do not otherwise have access to such information,  
1084 unless such disclosure is in response to a formal complaint or charge, in furtherance of an  
1085 investigation, proceeding, hearing, or action, including an investigation conducted by the  
1086 employer, or is consistent with the Contractor's legal duty to furnish information.

1087 (d) The Contractor will send to each labor union or representative of  
1088 workers with which it has a collective bargaining agreement or other contract or understanding,  
1089 a notice, to be provided by the Contracting Officer, advising the labor union or workers'  
1090 representative of the Contractor's commitments under section 202 of Executive Order No.  
1091 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places  
1092 available to employees and applicants for employment.

1093 (e) The Contractor will comply with all provisions of Executive Order No.  
1094 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary  
1095 of Labor.

1096 (f) The Contractor will furnish all information and reports required by  
1097 Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of  
1098 the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and  
1099 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation  
1100 to ascertain compliance with such rules, regulations, and orders.

1101 (g) In the event of the Contractor's noncompliance with the  
1102 nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this  
1103 Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may  
1104 be declared ineligible for further Government contracts in accordance with procedures  
1105 authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may  
1106 be imposed and remedies invoked as provided in Executive Order No. 11246 of Sept. 24,  
1107 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by  
1108 law.

1109 (h) The Contractor will include the provisions of paragraphs (a) through (g)  
1110 in every subcontract or purchase order unless exempted by the rules, regulations, or orders  
1111 of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of Sept.  
1112 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The  
1113 Contractor will take such action with respect to any subcontract or purchase order as may be  
1114 directed by the Secretary of Labor as a means of enforcing such provisions, including  
1115 sanctions for noncompliance: *Provided, however, That* in the event the Contractor  
1116 becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a  
1117 result of such direction, the Contractor may request the United States to enter into such  
1118 litigation to protect the interests of the United States.

1119 GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

1120 21. (a) The obligation of the Contractor to pay the United States as provided in  
1121 this Contract is a general obligation of the Contractor notwithstanding the manner in which the  
1122 obligation may be distributed among the Contractor's water users and notwithstanding the default  
1123 of individual water users in their obligation to the Contractor.

1124 (b) The payment of charges becoming due pursuant to this Contract is a  
1125 condition precedent to receiving benefits under this Contract. The United States shall not make  
1126 water available to the Contractor through Project facilities during any period in which the  
1127 Contractor is in arrears in the advance payment of water rates due the United States. The  
1128 Contractor shall not deliver water under the terms and conditions of this Contract for lands or  
1129 parties that are in arrears in the advance payment of water rates as levied or established by the  
1130 Contractor.

1131 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
1132 obligation to require advance payment for water rates which it levies.

1133 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1134 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
1135 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
1136 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title  
1137 III; 42 U.S.C. 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-  
1138 336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
1139 applicable implementing regulations and any guidelines imposed by the U.S.  
1140 Department of the Interior and/or Bureau of Reclamation.

1141 (b) These statutes prohibit any person in the United States from being  
1142 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
1143 discrimination under any program or activity receiving financial assistance from the Bureau  
1144 of Reclamation on the grounds of race, color, national origin, disability, or age. By

1145 executing this Contract, the Contractor agrees to immediately take any measures necessary  
1146 to implement this obligation, including permitting officials of the United States to inspect  
1147 premises, programs, and documents.

1148 (c) The Contractor makes this Contract in consideration of and for the  
1149 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
1150 Federal financial assistance extended after the date hereof to the Contractor by the Bureau  
1151 of Reclamation, including installment payments after such date on account of  
1152 arrangements for Federal financial assistance which were approved before such date.  
1153 The Contractor recognizes and agrees that such Federal assistance will be extended in  
1154 reliance on the representations and agreements made in this Article and that the United  
1155 States reserves the right to seek judicial enforcement thereof.

1156 (d) Complaints of discrimination against the Contractor shall be investigated  
1157 by the Contracting Officer's Office of Civil Rights.

1158 PRIVACY ACT COMPLIANCE

1159 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)  
1160 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy  
1161 Act (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting  
1162 records required to be submitted to the Contractor for compliance with Sections 206,  
1163 224(c), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and  
1164 390zz), and pursuant to 43 C.F.R. § 426.18.

1165 (b) With respect to the application and administration of the criminal penalty  
1166 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's  
1167 employees who are responsible for maintaining the certification and reporting records  
1168 referenced in paragraph (a) above are considered to be employees of the Department of the  
1169 Interior. See 5 U.S.C. § 552a(m).

1170 (c) The Contracting Officer or a designated representative shall provide the  
1171 Contractor with current copies of the Department of the Interior Privacy Act regulations  
1172 and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice  
1173 (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding,  
1174 and disclosure of information contained in the Landholders' certification and reporting  
1175 records.

1176 (d) The Contracting Officer shall designate a full-time employee of the  
1177 Bureau of Reclamation to be the System Manager responsible for making decisions on  
1178 denials pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43  
1179 C.F.R. § 2.72. The Contractor is authorized to grant requests by individuals for access to  
1180 their own records.

1181 (e) The Contractor shall forward promptly to the System Manager each  
1182 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of  
1183 records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral;  
1184 and provide the System Manager with information and records necessary to prepare an  
1185 appropriate response to the requester. These requirements do not apply to individuals  
1186 seeking access to their own certification and reporting forms filed with the Contractor  
1187 pursuant to 43 C.F.R. § 426.18 unless the requester elects to cite the Privacy Act as an  
1188 authority for the request.

1189 (f) Upon complete payment of the Repayment Obligation by the  
1190 Contractor, this Article 23 will no longer be applicable.

1191 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1192 24. In addition to all other payments to be made by the Contractor pursuant to this  
1193 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill  
1194 and detailed statement submitted by the Contracting Officer to the Contractor for such  
1195 specific items of direct cost incurred by the United States for work requested by the  
1196 Contractor associated with this Contract plus indirect costs in accordance with applicable  
1197 Bureau of Reclamation policies and procedures. All such amounts referred to in this  
1198 Article shall not exceed the amount agreed to in writing in advance by the Contractor.  
1199 This Article shall not apply to costs for routine contract administration.

1200 WATER CONSERVATION

1201 25. (a) Prior to the delivery of water provided from or conveyed through  
1202 Federally constructed or Federally financed facilities pursuant to this Contract, the  
1203 Contractor shall develop a water conservation plan, as required by subsection 210(b) of the  
1204 Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and  
1205 Regulations).

1206 Additionally, an effective water conservation and efficiency program shall be based on the  
1207 Contractor's water conservation plan that has been determined by the Contracting Officer to  
1208 meet the conservation and efficiency criteria for evaluating water conservation plans

1209 established under Federal law. The water conservation and efficiency program shall  
1210 contain definite water conservation objectives, appropriate economically feasible water  
1211 conservation measures, and time schedules for meeting those objectives. Continued  
1212 Project Water delivery pursuant to this Contract shall be contingent upon the  
1213 Contractor's continued implementation of such water conservation program. In the  
1214 event the Contractor's water conservation plan or any revised water conservation plan  
1215 completed pursuant to subdivision (d) of this Article 25 have not yet been determined by  
1216 the Contracting Officer to meet such criteria, due to circumstances which the  
1217 Contracting Officer determines are beyond the control of the Contractor, water deliveries  
1218 shall be made under this Contract so long as the Contractor diligently works with the  
1219 Contracting Officer to obtain such determination at the earliest practicable date, and  
1220 thereafter the Contractor immediately begins implementing its water conservation and  
1221 efficiency program in accordance with the time schedules therein.

1222 (b) Should the amount of M&I Water delivered pursuant to subdivision  
1223 (a) of Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year,  
1224 the Contractor shall implement the Best Management Practices identified by the time  
1225 frames issued by the Mid-Pacific Region's then-existing conservation and efficiency  
1226 criteria for such M&I Water unless any such practice is determined by the Contracting  
1227 Officer to be inappropriate for the Contractor.

1228 (c) The Contractor shall submit to the Contracting Officer a report on the  
1229 status of its implementation of the water conservation plan on the reporting dates specified in the  
1230 then-existing conservation and efficiency criteria established under Federal law.

1231 (d) At five (5)-year intervals, the Contractor shall revise its water  
1232 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating  
1233 water conservation plans established under Federal law and submit such revised water  
1234 management plan to the Contracting Officer for review and evaluation. The Contracting Officer  
1235 will then determine if the water conservation plan meets the Bureau of Reclamation's then-  
1236 existing conservation and efficiency criteria for evaluating water conservation plans established  
1237 under Federal law.

1238 (e) If the Contractor is engaged in direct groundwater recharge, such activity  
1239 shall be described in the Contractor's water conservation plan.

1240 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1241 26. Except as specifically provided in Article 16 of this Contract, the provisions  
1242 of this Contract shall not be applicable to or affect non-Project water or water rights now owned  
1243 or hereafter acquired by the Contractor or any user of such water within the Contractor's Service  
1244 Area. Any such water shall not be considered Project Water under this Contract. In addition,  
1245 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or  
1246 any water user within the Contractor's Service Area acquires or has available under any other  
1247 contract pursuant to Federal Reclamation law.

1248 OPERATION AND MAINTENANCE OF TRANSFERRED WORKS

1249 27. (a) Upon substantial completion of the Project works, or as otherwise  
1250 determined by the Contracting Officer, and following written notification, the care, operation,  
1251 and maintenance of any or all of those Project works may be transferred to the Contractor. Title  
1252 to the transferred works will remain in the name of the United States, unless otherwise provided  
1253 by the Congress of the United States.



1254 (b) The Contractor, without expense to the United States, will care for,  
1255 operate, and maintain the transferred works in full compliance with the terms of this Contract  
1256 and in such a manner that the transferred works remain in good and efficient condition.

1257 (c) Necessary repairs of the transferred works shall be made promptly by the  
1258 Contractor. In case of unusual conditions or serious deficiencies in the care, operation, and  
1259 maintenance of the transferred works threatening or causing interruption of water service, the  
1260 Contracting Officer may issue to the Contractor a special written notice of those necessary  
1261 repairs. Except in the case of an emergency, the Contractor will be given 60 days to either: 1)  
1262 make the necessary repairs; or 2) submit a plan for accomplishing the repairs acceptable to the  
1263 Contracting Officer that contains a timeframe for completing the necessary repairs. In the case  
1264 of an emergency the written notice of necessary repairs will include a timeframe for completion  
1265 of the repairs. If the Contractor fails to either: 1) make the necessary repairs within the identified  
1266 timeframe; or 2) submit a plan for accomplishing the repairs acceptable to the Contracting  
1267 Officer within 60 days of receipt of the notice and accomplish the repairs within the timeframe  
1268 identified therein, the Contracting Officer may cause the repairs to be made, and the cost of those  
1269 repairs shall be paid by the Contractor as directed by the Contracting Officer.

1270 (d) The Contractor shall not make any substantial changes in the transferred  
1271 works without first obtaining written consent of the Contracting Officer. The Contractor will  
1272 take all reasonable measures to prevent any unauthorized encroachment on project land and  
1273 rights-of-way and address any such encroachment as soon as the Contractor becomes aware of its  
1274 existence.

1275 (e) The Contractor agrees to indemnify the United States for, and hold the  
1276 United States and all of its representatives harmless from, all damages resulting from suits,  
1277 actions, or claims of any character, except for intentional torts committed by employees of the  
1278 United States, brought on account of any injury to any person or property arising out of any act,  
1279 omission, neglect, or misconduct in the manner or method of performing any construction, care,  
1280 operation, maintenance, supervision, examination, inspection, or other duties of the Contractor or  
1281 the United States on transferred works required under this Contract, regardless of who performs  
1282 those duties.

1283 (f) The Contractor will cooperate with the Contracting Officer in  
1284 implementing an effective dam safety program. The United States agrees to provide the  
1285 Contractor and the appropriate agency of the State or States in which the Project facilities are  
1286 located with design data, designs, and an operating plan for the dam(s) and related facilities  
1287 consistent with the current memorandum of understanding between the United States and the  
1288 State of California relating to the coordination of planning, design, construction, operation, and  
1289 maintenance processes for dams and related facilities.

1290 (g) In the event the Contractor is found to be operating the transferred works  
1291 or any part thereof in violation of this Contract or the Contractor is found to be failing any  
1292 financial commitments or other commitments to the United States under the terms and conditions

1293 of this Contract, then upon the election of the Contracting Officer, the United States may take  
1294 over from the Contractor the care, operation, and maintenance of the transferred works by giving  
1295 written notice to the Contractor of such election and the effective date thereof. Thereafter,  
1296 during the period of operation by the United States, upon notification by the Contracting Officer  
1297 the Contractor will pay to the United States, annually in advance, the cost of operation and  
1298 maintenance of the works as determined by the Contracting Officer. Following written  
1299 notification from the Contracting Officer the care, operation, and maintenance of the works may  
1300 be transferred back to the Contractor.

1301 (h) In addition to all other payments to be made by the Contractor under this  
1302 Contract, the Contractor will reimburse to the United States, following the receipt of a statement  
1303 from the Contracting Officer, all miscellaneous costs incurred by the United States for any work  
1304 involved in the administration and supervision of this Contract.

1305 (i) Nothing in this article will be deemed to waive the sovereign immunity of  
1306 the United States.

1307 O&M BY THE SAN LUIS & DELTA – MENDOTA WATER AUTHORITY

1308 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1309 and responsibility for funding a portion of the costs of such O&M, have been transferred to the  
1310 San Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate  
1311 agreement (8-07-20-X0354-X) between the United States and Operating Non-Federal Entity San  
1312 Luis & Delta-Mendota Water Authority. That separate agreement shall not interfere with or  
1313 affect the rights or obligations of the Contractor or the United States hereunder.

1314 (b) The Contracting Officer has previously notified the Contractor in  
1315 writing that the Operation and Maintenance of a portion of the Project facilities which  
1316 serve the Contractor has been transferred to the Operating Non-Federal Entity San Luis &  
1317 Delta-Mendota Water Authority, and therefore, the Contractor shall pay directly to the  
1318 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or to any  
1319 successor approved by the Contracting Officer under the terms and conditions of the  
1320 separate agreement between the United States and the Operating Non-Federal Entity San

1321 Luis & Delta-Mendota Water Authority described in subdivision (a) of this Article, all rates,  
1322 charges, or assessments of any kind, including any assessment for reserve funds, which the  
1323 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or such successor  
1324 determines, sets, or establishes for the Operation and Maintenance of the portion of the Project  
1325 facilities operated and maintained by the Operating Non-Federal Entity San Luis & Delta-  
1326 Mendota Water Authority or such successor. Such direct payments to Operating Non-Federal  
1327 Entity San Luis & Delta-Mendota Water Authority or such successor shall not relieve the  
1328 Contractor of its obligation to pay directly to the United States the Contractor's share of  
1329 the Project Rates, Charges, and Tiered Pricing Component except to the extent the  
1330 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority collects payments  
1331 on behalf of the United States in accordance with the separate agreement identified in  
1332 subdivision (a) of this Article.

1333 (c) For so long as the O&M of any portion of the Project facilities  
1334 serving the Contractor is performed by Operating Non-Federal Entity San Luis &  
1335 Delta-Mendota Water Authority, or any successor thereto, the Contracting Officer  
1336 shall adjust those components of the Rates for Water Delivered under this Contract  
1337 representing the cost associated with the activity being performed by Operating Non-  
1338 Federal Entity San Luis & Delta-Mendota Water Authority, or its successor.

1339 (d) In the event the Operation and Maintenance of the Project facilities  
1340 operated and maintained by the Operating Non-Federal Entity San Luis & Delta-Mendota  
1341 Water Authority is re-assumed by the United States during the term of this Contract, the  
1342 Contracting Officer shall so notify the Contractor, in writing, and present to the

1343 Contractor a revised Exhibit “B” which shall include the portion of the Rates to be paid  
1344 by the Contractor for Project Water under this Contract representing the Operation and  
1345 Maintenance costs of the portion of such Project facilities which have been re-assumed. The  
1346 Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to  
1347 the contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the revised  
1348 Exhibit “B” directly to the United States in compliance with Article 7 of this Contract.

1349 O&M BY THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

1350 28.1 (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1351 and responsibility for funding a portion of the costs of such O&M, have been transferred to the  
1352 California Department of Water Resources, an Operating Non-Federal Entity by a separate  
1353 agreement (14-06-200-9755) between the United States and Operating Non-Federal  
1354 Entity California Department of Water Resources. This separate agreement shall not  
1355 interfere with or affect the rights or obligations of the Contractor or the United States  
1356 hereunder.

1357 (b) The Contracting Officer has previously notified the Contractor in writing  
1358 that the O&M of a portion of the Project facilities which serve the Contractor has been  
1359 transferred to the Operating Non-Federal Entity California Department of Water  
1360 Resources, and the Contractor shall pay directly to Operating Non-Federal Entity San  
1361 Luis & Delta-Mendota Water Authority, or to any successor approved by the Contracting  
1362 Officer under the terms and conditions of the separate agreement between the United  
1363 States and Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority,  
1364 described in subdivision (a) of Article 28 of this Contract, all rates, charges, or assessments of

1365 any kind, including any assessment for reserve funds, which Operating Non-Federal Entity  
1366 California Department of Water Resources, or such successor determines, sets, or establishes for  
1367 the O&M of the conveyance and conveyance pumping portion of the Project facilities  
1368 operated and maintained by Operating Non-Federal Entity California Department of  
1369 Water Resources, or such successor. Such direct payments to Operating Non-Federal  
1370 Entity San Luis & Delta-Mendota Water Authority, or such successor, shall not relieve  
1371 the Contractor of its obligation to pay directly to the United States the Contractor's  
1372 share of the Project Rates, Charges, and Tiered Pricing Component except to the extent  
1373 the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority collects  
1374 payments on behalf of the United States in accordance with the separate agreement  
1375 identified in subdivision (a) of Article 28 of this Contract.

1376 (c) For so long as the O&M of any portion of the Project facilities serving  
1377 the Contractor is performed by Operating Non-Federal Entity California Department of  
1378 Water Resources, or any successor thereto, the Contracting Officer shall adjust those  
1379 components of the Rates for Water Delivered under this Contract representing the cost associated  
1380 with the activity being performed by Operating Non-Federal Entity California Department of  
1381 Water Resources, or its successor.

1382 (d) In the event the O&M of the Project facilities operated and maintained by  
1383 Operating Non-Federal Entity California Department of Water Resources is re-assumed by the  
1384 United States during the term of this Contract, the Contracting Officer shall so notify the  
1385 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall  
1386 include the portion of the Rates and Charges, to be paid by the Contractor for Project

1387 Water under this Contract representing the O&M costs of the portion of such Project  
1388 facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of  
1389 written notification from the Contracting Officer to the contrary, pay the Rates, Charges,  
1390 and Tiered Pricing Component specified in the revised Exhibit "B" directly to the United  
1391 States in compliance with Article 7 of this Contract.

1392 PUMPING PLANTS, POWER FOR PUMPING PLANTS

1393 28.2. (a) The United States shall furnish and install pumping plants and furnish  
1394 the amount of Project power the Contracting Officer determines is necessary to deliver Project  
1395 Water to the Contractor from the Delta-Mendota and San Luis Canals, at the point(s) of  
1396 delivery identified pursuant to subdivision (a) of Article 5 of this Contract at heads and  
1397 elevations sufficient to irrigate by gravity the areas within the Contractor's Service Area  
1398 below 700 feet mean sea level elevation.

1399 (b) With advance approval of the Contracting Officer, the Contractor  
1400 may, at its own expense, furnish and install pumping facilities, and related electrical  
1401 equipment, to enable it to divert and deliver Project Water from the Delta-Mendota and  
1402 San Luis Canals before the United States furnishes and installs all the pumping plants  
1403 referred to in subdivision (a) of this Article. The United States shall furnish the amount of  
1404 Project power needed to operate such pumping facilities; *Provided, That* the Contractor  
1405 maintains an agreement with an entity to convey such power to such facilities, and the  
1406 Contractor agrees to pay any and all charges assessed by that entity for such service,

1407 (c) The furnishing of power by the United States shall be in conformance  
1408 with operating criteria, rules, and regulations, including the Project use power policy,

1409 established by the Contracting Officer; *Provided, That* any such operating criteria, rules,  
1410 and regulations, including the Project use power policy, established by the Contracting  
1411 Officer shall not excuse the United States from its obligation under subdivision (a) of this  
1412 Article. Such operating criteria, rules, and regulations shall be developed in cooperation  
1413 with the Contractor and shall be based on acceptable irrigation management practices and the  
1414 power generation capacity available to the United States for the furnishing of Project Water to  
1415 the Contractor.

1416 (d) The Contracting Officer or his representative shall at all times have  
1417 access to and may inspect and investigate the pumping facilities for the purpose of ascertaining  
1418 if they are being kept in safe and proper operating condition.

1419 EXAMINATION, INSPECTION, AND AUDIT OF PROJECT WORKS, RECORDS, AND  
1420 REPORTS FOR DETERMINING ADEQUACY OF OPERATION AND MAINTENANCE

1421 29 (a) The Contracting Officer may, from time to time, examine the following:  
1422 the Contractor's books, records, and reports; the project works being operated by the Contractor;  
1423 the adequacy of the operation and maintenance program[s]; the reserve fund; and the water  
1424 conservation program including the water conservation fund, if applicable. Notwithstanding title  
1425 ownership, where the United States retains a financial, physical, or liability interest in facilities  
1426 either constructed by the United States or with funds provided by the United States, the  
1427 Contracting Officer may examine any or all of the project works providing such interest to the  
1428 United States.

1429 (b) The Contracting Officer may, or the Contractor may ask the Contracting  
1430 Officer to, conduct special inspections of any project works being operated by the Contractor and  
1431 special audits of the Contractor's books and records to ascertain the extent of any operation and  
1432 maintenance deficiencies to determine the remedial measures required for their correction and to  
1433 assist the Contractor in solving specific problems. Except in an emergency, any special  
1434 inspection or audit shall be made only after written notice thereof has been delivered to the  
1435 Contractor by the Contracting Officer.

1436 (c) The Contractor shall provide access to the project works, operate any  
1437 mechanical or electrical equipment, and be available to assist in the examination, inspection, or  
1438 audit.

1439 (d) The Contracting Officer shall prepare reports based on the examinations,  
1440 inspections, or audits and furnish copies of such reports and any recommendations to the  
1441 Contractor.

1442 (e) The costs incurred by the United States in conducting operation and  
1443 maintenance examinations, inspections, and audits and preparing associated reports and  
1444 recommendations related to high- and significant-hazard dams and associated facilities shall be  
1445 nonreimbursable. Associated facilities include carriage, distribution, and drainage systems;  
1446 pumping and pump-generating plants; powerplant structures; tunnels/pipelines; diversion and  
1447 storage dams (low-hazard); Type 2 bridges which are Bureau of Reclamation-owned bridges not  
1448 located on a public road; regulating reservoirs (low-hazard); fish passage and protective  
1449 facilities, including hatcheries; river channelization features; rural/municipal water systems;  
1450 desalting and other water treatment plants; maintenance buildings and service yards; facilities  
1451 constructed under Federal loan programs (until paid out); and recreation facilities (reserved  
1452 works only); and any other facilities as determined by the Contracting Officer.

1453 (e) (1) The Contractor shall reimburse the actual cost incurred by the  
1454 United States in making O&M examinations, inspections, and audits, and preparing  
1455 associated reports and recommendations.

1456 (f) Expenses incurred by the Contractor, as applicable, in participating in the  
1457 operation and maintenance site examination will be borne by the Contractor.

1458 (g) Requests by the Contractor for consultations, design services, or  
1459 modification reviews, and the completion of any operation and maintenance activities identified  
1460 in the formal recommendations resulting from the examination (unless otherwise noted) are to be  
1461 funded as project operation and maintenance and are reimbursable by the Contractor to the extent  
1462 of current project operation and maintenance allocations.

1463 (h) Site visit special inspections that are beyond the regularly scheduled  
1464 operation and maintenance examinations conducted to evaluate particular concerns or problems  
1465 and provide assistance relative to any corrective action (either as a follow up to an operation and  
1466 maintenance examination or when requested by the Contractor) shall be nonreimbursable.

1467 (i) The Contracting Officer may provide the State(s) an opportunity to  
1468 observe and participate in, at its (their) own expense, the examinations and inspections. The  
1469 State(s) may be provided copies of reports and any recommendations relating to such  
1470 examinations and inspections.



1471 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1472 30. The expenditure or advance of any money or the performance of any obligation of  
1473 the United States under this Contract shall be contingent upon appropriation or allotment  
1474 of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor  
1475 from any obligations under this Contract. No liability shall accrue to the United States in case  
1476 funds are not appropriated or allotted.

1477 BOOKS, RECORDS, AND REPORTS

1478 31. (a) The Contractor shall establish and maintain accounts and other books and  
1479 records pertaining to administration of the terms and conditions of this Contract, including  
1480 the Contractor's financial transactions; water supply data; project operations, maintenance, and  
1481 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop  
1482 census), land-ownership, land-leasing, and water-use data; and other matters that the  
1483 Contracting Officer may require. Reports shall be furnished to the Contracting Officer  
1484 in such form and on such date or dates as the Contracting Officer may require. Subject to  
1485 applicable Federal laws and regulations, each party to this Contract shall have the right during  
1486 office hours to examine and make copies of the other party's books and records relating to  
1487 matters covered by this Contract.

1488 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1489 books, records, or other information shall be requested from the Contractor by the  
1490 Contracting Officer unless such books, records, or information are reasonably related to the  
1491 administration or performance of this Contract. Any such request shall allow the Contractor a  
1492 reasonable period of time within which to provide the requested books, records, or  
1493 information.

1494 (c) At such time as the Contractor provides information to the Contracting  
1495 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided  
1496 to the Operating Non-Federal Entity(ies).

1497 ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

1498 32. (a) The provisions of this Contract shall apply to and bind the successors and  
1499 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1500 therein by either party shall be valid until approved in writing by the other party.

1501 (b) The assignment of any right or interest in this Contract by either party  
1502 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1503 written concurrence of said other party.

1504 (c) The Contracting Officer shall not unreasonably condition or withhold  
1505 approval of any proposed assignment.

1506 SEVERABILITY

1507 33. In the event that a person or entity who is neither (i) a party to a Project contract,  
1508 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
1509 an association or other form of organization whose primary function is to represent parties to  
1510 Project contracts, brings an action in a court of competent jurisdiction challenging the  
1511 legality or enforceability of a provision included in this Contract and said person, entity,  
1512 association, or organization obtains a final court decision holding that such provision is  
1513 legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in  
1514 support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i)  
1515 within 30 days of the date of such final court decision identify by mutual agreement the  
1516 provisions in this Contract which must be revised and (ii) within three months thereafter  
1517 promptly agree on the appropriate revision(s). The time periods specified above may be  
1518 extended by mutual agreement of the parties. Pending the completion of the actions  
1519 designated above, to the extent it can do so without violating any applicable provisions of  
1520 law, the United States shall continue to make the quantities of Project Water specified in this  
1521 Contract available to the Contractor pursuant to the provisions of this Contract which were not  
1522 found to be legally invalid or unenforceable in the final court decision.

1523 RESOLUTION OF DISPUTES

1524 34. Should any dispute arise concerning any provisions of this Contract, or the  
1525 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt  
1526 to resolve the dispute. Prior to the Contractor commencing any legal action, or the  
1527 Contracting Officer referring any matter to the Department of Justice, the party shall  
1528 provide to the other party 30 days' written notice of the intent to take such action;  
1529 *Provided, That* such notice shall not be required where a delay in commencing an action  
1530 would prejudice the interests of the party that intends to file suit. During the 30-day  
1531 notice period, the Contractor and the Contracting Officer shall meet and confer in an  
1532 attempt to resolve the dispute. Except as specifically provided, nothing herein is intended  
1533 to waive or abridge any right or remedy that the Contractor or the United States may have.

1534 OFFICIALS NOT TO BENEFIT

1535 35. No Member of or Delegate to the Congress, Resident Commissioner, or official of  
1536 the Contractor shall benefit from this Contract other than as a water user or landowner in the  
1537 same manner as other water users or landowners.

1538 CHANGES IN CONTRACTOR'S ORGANIZATION AND/OR SERVICE AREA

1539 36. (a) While this Contract is in effect, no change may be made in the  
1540 Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other  
1541 changes which may affect the respective rights, obligations, privileges, and duties of either the  
1542 United States or the Contractor under this Contract, including, but not limited to, dissolution,  
1543 consolidation, or merger, except upon the Contracting Officer's written consent.

1544 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1545 Officer will notify the Contractor of any additional information required by the Contracting  
1546 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
1547 schedule for timely completion of the process. Such process will analyze whether the proposed

1548 change, is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;  
1549 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or  
1550 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)  
1551 have an impact on any Project Water rights applications, permits, or licenses. In addition,  
1552 the Contracting Officer shall comply with the NEPA and the ESA. The Contractor will  
1553 be responsible for all costs incurred by the Contracting Officer in this process, and such  
1554 costs will be paid in accordance with Article 24 of this Contract.

1555 FEDERAL LAWS

1556 37. By entering into this Contract, the Contractor does not waive its rights to contest  
1557 the validity or application in connection with the performance of the terms and  
1558 conditions of this Contract of any Federal law or regulation; *Provided, That* the  
1559 Contractor agrees to comply with the terms and conditions of this Contract unless and  
1560 until relief from application of such Federal law or regulation to the implementing  
1561 provision of the Contract is granted by a court of competent jurisdiction.

1562 NOTICES

1563 38. Any notice, demand, or request authorized or required by this Contract shall be  
1564 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1565 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,  
1566 California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed,  
1567 postage prepaid, or delivered to the Board of Directors of the San Luis Water District, 1015 6<sup>th</sup>  
1568 Street, Los Banos, CA 93635. The designation of the addressee or the address may be changed  
1569 by notice given in the same manner as provided in this Article for other notices.

1570 EMERGENCY RESERVE FUND

1571 39. (a) Commencing on [Effective Date], the Contractor shall accumulate and  
1572 maintain a reserve fund or demonstrate to the satisfaction of the Contracting Officer that other  
1573 funds are available for use as an emergency reserve fund. The Contractor shall establish and  
1574 maintain that emergency reserve fund to meet costs incurred during periods of special stress

1575 caused by damaging droughts, storms, earthquakes, floods, or other emergencies threatening or  
1576 causing interruption of water service.

1577 (b) The Contractor shall accumulate the reserve fund with annual deposits or  
1578 investments of not less than [CONTRACTOR SPECIFIC] to a Federally insured, interest- or  
1579 dividend-bearing account or in securities guaranteed by the Federal Government: *Provided, That*  
1580 money in the reserve fund, including accrued interest, shall be available within a reasonable time  
1581 to meet expenses for such purposes as those identified in paragraph (d) herein. Such annual  
1582 deposits and the accumulation of interest to the reserve fund shall continue until the basic  
1583 amount of [CONTRACTOR SPECIFIC] is accumulated. Following an emergency  
1584 expenditure from the fund, the annual deposits shall continue from the year following the  
1585 emergency expenditure until the previous balance is restored. After the initial amount is  
1586 accumulated or after the previous balance is restored, the annual deposits may be discontinued,  
1587 and the interest earnings shall continue to accumulate and be retained as part of the reserve fund.

1588 (c) Upon mutual written agreement between the Contractor and the  
1589 Contracting Officer, the basic reserve fund or the accumulated reserve fund may be adjusted to  
1590 account for risk and uncertainty stemming from the size and complexity of the project; the size  
1591 of the annual operation and maintenance budget; additions to, deletions from, or changes in  
1592 project works; and operation and maintenance costs not contemplated when this Contract was  
1593 executed.

1594 (d) The Contractor may make expenditures from the reserve fund only for  
1595 meeting routine or recurring operation and maintenance costs incurred during periods of special  
1596 stress, as described in paragraph (a) herein; or for meeting unforeseen extraordinary operation  
1597 and maintenance costs; or for meeting unusual or extraordinary repair or replacement costs; or  
1598 for meeting betterment costs (in situations where recurrence of severe problems can be  
1599 eliminated) during periods of special stress. Proposed expenditures from the fund shall be  
1600 submitted to the Contracting Officer in writing for review and written approval prior to  
1601 disbursement. Whenever the reserve fund is reduced below the current balance by expenditures

1602 therefrom, the Contractor shall restore that balance by the accumulation of annual deposits as  
1603 specified in paragraph (b) herein.

1604 (e) During any period in which any of the project works are operated and  
1605 maintained by the United States, the Contractor agrees the reserve fund shall be available for like  
1606 use by the United States.

1607 (f) On or **before** \_\_\_\_\_ **of each year**, the Contractor shall provide a current  
1608 statement of the principal and accumulated interest of the reserve fund account to the Contracting  
1609 Officer.

1610 ADMINISTRATION OF FEDERAL PROJECT LANDS

1611 40. (a) The lands and interests in lands acquired, withdrawn, or reserved and  
1612 needed by the United States for the purposes of care, operation, and maintenance of San Luis  
1613 Unit facilities may be used by the Contractor for such purposes. The Contractor shall ensure that  
1614 no unauthorized encroachment occurs on Federal project lands and rights-of-way. The  
1615 Contractor does not have the authority to issue any land-use agreement or grant that conveys an  
1616 interest in Federal real property, nor to lease or dispose of any interest of the United States.

1617 (b) The United States retains responsibility for compliance with the National  
1618 Historic Preservation Act of 1966 (NHPA), and the Native American Graves Protection and  
1619 Repatriation Act of 1990 (NAGPRA). The Contractor will notify the Contracting Officer and,  
1620 only when on tribal land, also notify the appropriate tribal official, immediately upon the  
1621 discovery of any potential historic properties or Native American human remains, funerary  
1622 objects, sacred objects, or objects of cultural patrimony.

1623 CONTAMINATION OR POLLUTION OF FEDERAL PROPERTY

1624 41. (a) The Contractor shall not allow contamination or pollution of Federal  
1625 project lands, project waters, or project works of the United States or administered by the United  
1626 States and for which the Contractor has the responsibility for care, operation, and maintenance  
1627 by its employees or agents. The Contractor shall also take reasonable precautions to prevent  
1628 such contamination or pollution by third parties.

1629 (b) The Contractor shall comply with all applicable Federal, State, and local  
1630 laws and regulations and Bureau of Reclamation policies and instructions existing, or hereafter  
1631 enacted or promulgated, concerning any hazardous material that will be used, produced,  
1632 transported, stored, released, or disposed of on or in Federal project lands, project waters, or  
1633 project works.

1634 (c) "Hazardous material" means (1) any substance falling within the  
1635 definition of "hazardous substance," "pollutant or contaminant," or "hazardous waste" under the  
1636 Comprehensive Environmental Response, Compensation and Liability Act

1637 (42 U.S.C. § 9601(14), (29), and (33)); (2) oil, as defined by the Clean Water Act  
1638 (33 U.S.C. § 1321(a)) and the Oil Pollution Act (33 U.S.C. § 2701(23)); (3) thermal pollution,  
1639 refuse, garbage, sewage effluent, industrial waste, mine or mill tailings, mineral salts, pesticides,  
1640 and other solid waste, and (4) any other substance regulated as hazardous or toxic under Federal,  
1641 State, local or Tribal law.

1642 (d) Upon discovery of any event which may or does result in contamination or  
1643 pollution of Federal project lands, project water, or project works, the Contractor shall  
1644 immediately undertake all measures necessary to protect public health and the environment,  
1645 including measures necessary to contain or abate any such contamination or pollution, and shall  
1646 report such discovery with full details of the actions taken to the Contracting Officer. Reporting  
1647 shall be within a reasonable time period but shall not exceed 24 hours from the time of discovery  
1648 if it is an emergency and the first working day following discovery in the event of a non-  
1649 emergency.

1650 (e) If violation of the provisions of this Article occurs and the Contractor does  
1651 not take immediate corrective action, as determined by the Contracting Officer, the Contractor  
1652 may be subject to remedies imposed by the Contracting Officer, which may include termination  
1653 of this Contract.

1654 (f) The Contractor shall be liable for any response action or corrective  
1655 measure necessary to protect public health and the environment or to restore Federal project  
1656 lands, project waters, or project works that are adversely affected as a result of such violation,  
1657 and for all costs, penalties or other sanctions that are imposed for violation of any Federal, State,  
1658 local, or Tribal laws and regulations concerning hazardous material. At the discretion of the  
1659 Contracting Officer, the United States may also terminate this Contract, as a result of such  
1660 violation.

1661 (g) The Contractor shall defend, indemnify, protect and save the United States  
1662 harmless from and against any costs, expenses, claims, damages, demands, or other liability  
1663 arising from or relating to Contractor's violation of this Article.

1664 (h) The Bureau of Reclamation agrees to provide information necessary for  
1665 the Contractor, using reasonable diligence, to comply with the provisions of this Article.

1666 RECLAMATION REFORM ACT OF 1982

1667 42. (a) Upon a Contractor's compliance with and discharge of the Repayment  
1668 Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation  
1669 Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

1670 (b) The obligation of a Contractor to pay the Additional Capital Obligation  
1671 shall not affect the Contractor's status as having repaid all of the construction costs assignable to  
1672 the Contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation  
1673 Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

1674 CERTIFICATION OF NONSEGREGATED FACILITIES

1675 43. The Contractor hereby certifies that it does not maintain or provide for its  
1676 employees any segregated facilities at any of its establishments and that it does not permit its  
1677 employees to perform their services at any location under its control where segregated facilities  
1678 are maintained. It certifies further that it will not maintain or provide for its employees any  
1679 segregated facilities at any of its establishments and that it will not permit its employees to  
1680 perform their services at any location under its control where segregated facilities are  
1681 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal  
1682 Employment Opportunity clause in this Contract. As used in this certification, the term  
1683 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
1684 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
1685 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
1686 facilities provided for employees which are segregated by explicit directive or are in fact  
1687 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
1688 disability, or otherwise. The Contractor further agrees that (except where it has obtained  
1689 identical certifications from proposed subcontractors for specific time periods) it will obtain  
1690 identical certifications from proposed subcontractors prior to the award of subcontracts  
1691 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment  
1692 Opportunity clause; that it will retain such certifications in its files; and that it will forward the  
1693 following notice to such proposed subcontractors (except where the proposed subcontractors  
1694 have submitted identical certifications for specific time periods):

1695 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
1696 CERTIFICATIONS OF NONSEGREGATED FACILITIES

1697 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract  
1698 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment



1699 Opportunity clause. The certification may be submitted either for each subcontract or for all  
1700 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for  
1701 making false statements in offers is prescribed in 18 U.S.C. § 1001.

1702 PEST MANAGEMENT

1703 44. (a) The Contractor is responsible for complying with applicable Federal,  
1704 State, and local laws, rules, and regulations related to pest management in performing its  
1705 responsibilities under this contract.

1706 (b) The Contractor is responsible for effectively avoiding the introduction and  
1707 spread of, and for otherwise controlling, undesirable plants and animals, as defined by the  
1708 Contracting Officer, on or in Federal project lands, Federal project waters, and Federal project  
1709 works for which and to the extent that the Contractor has operation and maintenance  
1710 responsibility. The Contractor is responsible for exercising the level of precaution necessary in  
1711 meeting this responsibility, including inspecting its vehicles, watercraft, and equipment for  
1712 reproductive and vegetative parts, foreign soil, mud, or other debris that may cause the spread of  
1713 weeds, invasive species and other pests, and removing such materials before moving its vehicles,  
1714 watercraft, and equipment onto any Federal land, into any Federal project facility waters, or out  
1715 of any area on Federal project land where work is performed.

1716 (c) Where decontamination of the Contractor's vehicles, watercraft, or  
1717 equipment is required prior to entering Federal project land or waters, the decontamination shall  
1718 be performed by the Contractor at the point of prior use, or at an approved offsite facility able to  
1719 process generated cleaning wastes, pursuant to applicable laws, rules, and regulations. Upon the  
1720 completion of work, the Contractor will perform any required decontamination within the work  
1721 area before moving the vehicles, watercraft, and equipment from Federal project lands and  
1722 waters.

1723 (d) Programs for the control of undesirable plants and animals on Federal  
1724 project lands, and in Federal project waters and Federal project works for which the Contractor  
1725 has operation and maintenance responsibility will incorporate Integrated Pest Management  
1726 (IPM) concepts and practices. IPM refers to a systematic and environmentally compatible  
1727 program to maintain pest populations within economically and environmentally tolerable levels.  
1728 In implementing an IPM program, the Contractor will adhere to applicable Federal and State  
1729 laws and regulations and Department of the Interior and Bureau of Reclamation policies,  
1730 directives, guidelines, and manuals, including but not limited to, the Department of the Interior  
1731 Manual, Part 517 *Integrated Pest Management Policy* and Part 609 *Weed Control Program*, the  
1732 Plant Protection Act of June 20, 2000 (Pub. L. 106-224), and Executive Order 13112 of February  
1733 3, 1999.

1734

MEDIUM FOR TRANSMITTING PAYMENT

1735           45.   (a)   All payments from the Contractor to the United States under this Contract  
1736 shall be by the medium requested by the United States on or before the date payment is due. The  
1737 required method of payment may include checks, wire transfers, or other types of payment  
1738 specified by the United States.

1739                   (b)   Upon execution of this Contract, the Contractor shall furnish the  
1740 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose  
1741 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising  
1742 out of the Contractor's relationship with the United States.

1743

CONTRACT DRAFTING CONSIDERATIONS

1744           46.   This amended Contract has been negotiated and reviewed by the parties hereto,  
1745 each of whom is sophisticated in the matters to which this amended Contract pertains. The  
1746 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by  
1747 the parties, and no one party shall be considered to have drafted the stated Articles. Single-  
1748 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1749

CONFIRMATION OF CONTRACT

1750           47.   Promptly after the execution of this amended Contract, the Contractor will  
1751 provide to the Contracting Officer a certified copy of a final decree of a court of competent  
1752 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor  
1753 for the authorization of the execution of this amended Contract. This amended Contract shall not  
1754 be binding on the United States until the Contractor secures a final decree.

1755

1756 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day  
1757 and year first above written.

1758 UNITED STATES OF AMERICA

1759 By: \_\_\_\_\_  
1760 Regional Director  
1761 Interior Region 10:California-Great Basin  
1762 Bureau of Reclamation

1763 SAN LUIS WATER DISTRICT  
1764 (SEAL)

1765 By: \_\_\_\_\_  
1766 President of the Board of Directors

1767 Attest:

1768 By: \_\_\_\_\_  
1769 Secretary of the Board of Directors