

## **Appendix 8. Standard Provisions for Water Supply Contracts**

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**LOST HILLS WATER DISTRICT**

TABLE OF CONTENTS  
FOR  
STANDARD PROVISIONS FOR WATER SUPPLY CONTRACTS  
FOR  
SUPPLY OF STATE WATER PROJECT WATER

**ARTICLE I.**

**INTERPRETATION OF AGREEMENT**

<u>Section</u>	<u>Page</u>
1.00. Introduction.....	1
1.01. Captions.....	2
1.02. Exhibits.....	2
1.03. Definitions.....	2
1.04. Amendments.....	2
1.05. Tenses.....	2
1.06. Gender.....	2
1.07. Singular; Plural.....	2
1.08. Civil Code Section 1654.....	2

**ARTICLE II.**

**DEFINITIONS**

2.00. Agency.....	2
2.01. Annual Entitlement.....	3
2.02. Board.....	3
2.03. Buyer.....	3
2.04. Buyer's Address.....	3
2.05. Buyer's Administrative Charge.....	3
2.06. Buyer's Agency Charge.....	3
2.07. Buyer's Delivery Charge.....	3

<u>Section</u>	<u>Page</u>
2.08. Buyer's District Capital Charge.....	3
2.09. Buyer's ID9 Charge.....	3
2.10. Buyer's Land.....	3
2.11. Buyer's Turnout.....	4
2.12. Contract Entitlement.....	4
2.13. District.....	4
2.14. District's Address.....	4
2.15. District Contract.....	4
2.16. Drainage Charge.....	4
2.17. Entitlement Water.....	4
2.18. ID9.....	4
2.19. Master Contract.....	4
2.20. Project Water.....	5
2.21. Rules.....	5
2.22. Service Area.....	5
2.23. State.....	5
2.24. Supplemental Water.....	5
2.25. Water Shortage.....	5
2.26. Water Supply Contract.....	5
2.27. Water User.....	5
2.28. Year.....	6
2.29. Zone 1.....	6
2.30. Zone 1 Charge.....	6
2.31. Zone 2.....	6
2.32. Zone 2 Charge.....	6

### ARTICLE III.

#### RELATIONSHIP TO OTHER AGREEMENTS

3.00. Relationship to Master Contract and District Contract.....	6
--	---

### ARTICLE IV.

#### TERM

4.00. Term.....	7
-----------------	---

### ARTICLE V.

#### ANNUAL ENTITLEMENT

5.00. Annual Entitlement.....	7
5.01. Deliveries in Excess of Annual Entitlement.....	7
5.02. Request for Delivery of Less Than Annual Entitlement.....	7

ARTICLE VI.

DELIVERY OF WATER

<u>Section</u>	<u>Page</u>
6.00. Delivery.....	8
6.01. Operation of Delivery Structures.....	8
6.02. Measuring Devices.....	8
6.03. Delivery Schedules.....	8
6.04. Capacity in District Conveyance Facilities.....	8
6.05. Limitations.....	9

ARTICLE VII.

LIMITATIONS ON OBLIGATIONS OF DISTRICT

7.00. Failure of State or Agency to Perform.....	9
7.01. Inadequate Supplies of Entitlement Water.....	9
(a) Introduction.....	9
(b) Apportionment of Entitlement Water During Water Shortage.....	9
(c) No District Liability.....	10
7.02. Curtailment of Deliveries for Maintenance Purposes.....	10
7.03. Non-Responsibility for Delivery and Distribution of Project Water.....	10
7.04. Non-Responsibility for Quality of Water.....	11

ARTICLE VIII.

PAYMENT FOR WATER

8.00. Buyer's Annual Payment Obligation.....	11
(a) Introduction.....	11
(b) Buyer's Agency Charge.....	11
(c) Buyer's District Capital Charge.....	12
(d) Buyer's Delivery Charge.....	13
(e) Buyer's Administrative Charge.....	14
(f) Buyer's ID9 Charge.....	14
(1) Introduction.....	14
(2) Zone 1 and Zone 2 Charges.....	15
(3) Drainage Charge.....	16
8.01. Payments for Additional Deliveries of Water.....	17
(a) Introduction.....	17
(b) Entitlement Water Available Under Section 5.02 Hereof.....	17
(c) Other Water.....	18
8.02. Reduction in Payment for Reduced Deliveries of Entitlement Water Under Section 5.02 Hereof.....	18

<u>Section</u>	<u>Page</u>
8.03. Reduction in Payment for Reduced Deliveries of Entitlement Water Under Section 7.01(b) Hereof.....	18
8.04. Reduction in Payment for Other Reduced Deliveries of Entitlement Water.....	19
8.05. Adjustments of Payments for Drainage Discharge.....	19
(a) Additional Payments for Excess Drainage Discharge.....	19
(b) Credits for Reduced Drainage Discharge.....	19
8.06. Default and Penalty for Late Payment of Water Charges.....	20
8.07. Default and Penalty for Late Payment of ID9 Charge.....	20

#### ARTICLE IX.

##### APPURTENANCY AND NON-ASSIGNABILITY

9.00. Appurtenancy.....	20
9.01. Non-Assignability.....	22

#### ARTICLE X.

##### GENERAL PROVISIONS

10.00. Remedies Not Exclusive.....	22
10.01. Amendments.....	22
10.02. Opinion and Determinations.....	22
10.03. Waiver of Rights.....	22
10.04. Notices.....	23
10.05. Execution of Documents.....	23
10.06. Application of Water Supply Contract.....	23

## LOST HILLS WATER DISTRICT

### STANDARD PROVISIONS FOR WATER SUPPLY CONTRACTS FOR SUPPLY OF STATE WATER PROJECT WATER

THIS DOCUMENT contains the standard provisions to be incorporated by reference in water supply contracts to be subsequently executed between LOST HILLS WATER DISTRICT, a California water district (the "District"), and Water Users [defined in section 2.27 hereof] in the District for the supply of State Water Project water;

#### W I T N E S S E T H:

WHEREAS, the District has a Contract Entitlement [defined in section 2.12 hereof] of 134,110 acre feet of Entitlement Water [defined in section 2.17 hereof] under the District Contract [identified in section 2.15 hereof]; and

WHEREAS, on November 17, 1987 the Board [defined in section 2.02 hereof] adopted Resolution 595 which established the policy of the District with respect to the allocation and delivery of Project Water [defined in section 2.20 hereof] for agricultural use within the District under the authority of Water Code sections 35421, 35423 and 35470; and

WHEREAS, Water Code section 35554 now authorizes the District to enter into long-term water service contracts with the holders of title to land for the apportionment of all or any part of the District's water supply; and

WHEREAS, the Board has adopted these standard provisions for the long-term water supply contracts and desires to record these standard provisions to reduce the quantity of documents that would otherwise need to be recorded with the County Recorder; and

NOW, THEREFORE, the Board hereby sets forth in the records of the County Recorder the following standard provisions for incorporation by reference in any subsequently executed or amended Water Supply Contract [defined in section 2.26 hereof]:

#### ARTICLE I.

##### INTERPRETATION OF AGREEMENT

###### 1.00. Introduction.

Unless the context otherwise requires, the rules of interpretation set forth in this article I shall govern the interpretation of the Water Supply Contract and all documents executed pursuant thereto.



1.01. Captions.

The captions of articles and sections of the Water Supply Contract do not define the scope, meaning or intent of the Water Supply Contract or any documents executed pursuant thereto.

1.02. Exhibits.

All exhibits referred to in the Water Supply Contract are deemed to be incorporated by reference as though set forth therein.

1.03. Definitions.

Unless the context otherwise requires, the words and phrases defined in articles II and XI hereof shall govern the interpretation of the Water Supply Contract.

1.04. Amendments.

When any reference is made to any law, such reference shall apply to all amendments and additions thereto, heretofore or hereafter made.

1.05. Tenses.

The present tense includes the past and future tenses and the future tense includes the present.

1.06. Gender.

The masculine, feminine or neuter gender shall be deemed to include the other.

1.07. Singular; Plural.

The singular or plural numbers shall be deemed to include the other.

1.08. Civil Code Section 1654.

The normal rule of interpretation that any ambiguity is to be resolved against the drafting party shall not be employed in the interpretation of the Water Supply Contract or any amendment hereof or exhibit hereto and Civil Code section 1654 shall not be applied to resolve any ambiguity in the Water Supply Contract.

**ARTICLE II.**

**DEFINITIONS**

2.00. Agency.

"Agency" means the Kern County Water Agency.

2.01. Annual Entitlement.

"Annual Entitlement" means the amount of Entitlement Water set forth in section 11.00 of the Water Supply Contract.

2.02. Board.

"Board" means the Board of Directors of the District.

2.03. Buyer.

"Buyer" means a holder of title to land who is a party to a Water Supply Contract and any successor in interest of the Buyer in all or any part of the Buyer's Land.

2.04. Buyer's Address.

"Buyer's Address" means the address of the Buyer set forth in section 11.01 of the Water Supply Contract unless changed as provided in section 10.04 hereof.

2.05. Buyer's Administrative Charge.

"Buyer's Administrative Charge" means the charge computed in the manner provided in section 8.00(e) hereof.

2.06. Buyer's Agency Charge.

"Buyer's Agency Charge" means the charge computed in the manner provided in section 8.00(b) hereof.

2.07. Buyer's Delivery Charge.

"Buyer's Delivery Charge" means the charge computed in the manner provided in section 8.00(d) hereof.

2.08. Buyer's District Capital Charge.

"Buyer's District Capital Charge" means the charge computed in the manner provided in section 8.00(c) hereof.

2.09. Buyer's ID9 Charge.

"Buyer's ID9 Charge" means the charge computed in the manner provided in section 8.00(f) hereof.

2.10. Buyer's Land.

"Buyer's Land" means the real property described in section 11.02 of the Water Supply Contract.



2.11. Buyer's Turnout.

"Buyer's Turnout" means the District turnout designated in Exhibit A to the Water Supply Contract.

2.12. Contract Entitlement.

"Contract Entitlement" means the amount of Entitlement Water set forth in Table 1 of the District Contract.

2.13. District.

"District" means Lost Hills Water District, a California water district organized and existing under and by virtue of Division 13 (commencing with section 34000) of the Water Code.

2.14. District's Address.

"District's Address" means 3008 Sillect Avenue, Suite 205, Bakersfield, California 93308 unless changed as provided in section 10.04 hereof.

2.15. District Contract.

"District Contract" means the agreement between the Agency and the District dated November 10, 1966 as heretofore amended and as may be hereafter amended, supplemented or replaced.

2.16. Drainage Charge.

"Drainage Charge" means the charge computed in the manner provided in section 8.00(f)(3) hereof.

2.17. Entitlement Water.

"Entitlement Water" means water delivered by the Agency to the District as part of the District's Contract Entitlement and water delivered by the District to a Buyer as part of the Buyer's Annual Entitlement.

2.18. ID9.

"ID9" means Improvement District No. 9 of the District formed by the Board under Chapter 4.9 (commencing with section 36410) of Part 6 of Division 13 of the Water Code on November 15, 1984 by adoption of its Resolution 569.

2.19. Master Contract.

"Master Contract" means the agreement between the State and the Agency dated November 15, 1963 as heretofore amended and as may be hereafter amended, supplemented or replaced.

2.20. Project Water.

"Project Water" means all water made available to the District by the Agency under or because of the District Contract.

2.21. Rules.

"Rules" means the District's Rules and Regulations for Distribution and Use of Water adopted by the Board on October 22, 1998, and recorded on October 23, 1998 as Document No. 0198145349 in the Official Records in the office of the County Recorder of the County of Kern, State of California, as hereafter amended, supplemented or replaced.

2.22. Service Area.

"Service Area" means a geographical area of the District within which (a) the District is obligated to deliver Entitlement Water, (b) the Water Users are obligated to pay for the delivery of Entitlement Water, and (c) the Water Users are generally served through the same system of works.

2.23. State.

"State" means the State of California, acting by and through its Department of Water Resources.

2.24. Supplemental Water.

"Supplemental Water" means any water acquired by the District from the Agency, other than Project Water, and any other water acquired by the District from any source other than the Agency.

2.25. Water Shortage.

"Water Shortage" means a condition during a particular Year when the total amount of Entitlement Water to be made available by the Agency to the District during that Year under the District Contract is less than the District's Contract Entitlement for that Year.

2.26. Water Supply Contract.

"Water Supply Contract" means a separate written agreement between the District and the Buyer which incorporates these standard provisions.

2.27. Water User.

"Water User" means any holder of title to land in the District with whom the District has executed a Water Supply Contract and its successors and assigns.

2.28. Year.

"Year" means the twelve month period from January 1 through December 31.

2.29. Zone 1.

"Zone 1" means Zone 1 of ID9. The boundaries of Zone 1 may be changed from time-to-time in the manner provided in Chapter 2.2 (commencing with section 35520) of Part 5 of Division 13 of the Water Code.

2.30. Zone 1 Charge.

"Zone 1 Charge" means the charge computed in the manner provided in section 8.00(f)(2) hereof with respect to Zone 1.

2.31. Zone 2.

"Zone 2" means zone 2 of ID9. The boundaries of Zone 2 may be changed from time-to-time in the manner provided in Chapter 2.2 (commencing with section 35520) of Part 5 of Division 13 of the Water Code.

2.32. Zone 2 Charge.

"Zone 2 Charge" means the charge computed in the manner provided in section 8.00(f)(2) hereof with respect to Zone 2.

**ARTICLE III.**

**RELATIONSHIP TO OTHER AGREEMENTS**

3.00. Relationship to Master Contract and District Contract.

The Water Supply Contract is subject to the obligations and limitations imposed by the District Contract which, in turn, is subject to the obligations and limitations imposed by the Master Contract. The Water Supply Contract is intended to be in conformance and harmony with both the District Contract and the Master Contract. The District Contract and the Master Contract are hereby incorporated in these standard provisions by reference as though set forth in full herein. Nothing in the Water Supply Contract shall be deemed to require the District to perform any act in conflict with the District Contract or the Master Contract. The District shall at all times keep and maintain at its office, available for examination by the Buyer, copies of the District Contract and the Master Contract and all amendments thereto.

#### ARTICLE IV.

##### TERM

##### 4.00. Term.

The Water Supply Contract shall become effective on the Effective Date stated in section 11.03 of the Water Supply Contract and shall remain in effect throughout the term provided in article 2 of the Master Contract; provided, however, that if the Master Contract or the District Contract is terminated or suspended in any manner and for any cause specified therein, then the Water Supply Contract similarly shall be terminated or suspended.

#### ARTICLE V.

##### ANNUAL ENTITLEMENT

##### 5.00. Annual Entitlement.

The District shall sell and the Buyer shall purchase the Annual Entitlement set forth in section 11.00 of the Water Supply Contract under the terms of the Water Supply Contract.

##### 5.01. Deliveries in Excess of Annual Entitlement.

The Buyer may at any time or times during the term of the Water Supply Contract, by timely written notice to the District, request that water be made available to it in any Year in an amount greater than the Buyer's Annual Entitlement for such Year. With the approval of the District and subject to the District's ability to obtain such additional water and the Buyer's payment therefor, the District shall deliver to the Buyer such additional water.

##### 5.02. Request for Delivery of Less Than Annual Entitlement.

The Buyer may at any time or times during the term of the Water Supply Contract, by timely written notice to the District, request that Entitlement Water be made available to it in any Year in amounts less than the Buyer's Annual Entitlement. With the approval of the District and subject to the District's ability to dispose of such Entitlement Water elsewhere, the District shall reduce deliveries to the Buyer during such Year by the amounts requested and, in such event, the Buyer's obligation to make payments to the District during the next Year shall be reduced in the manner provided in section 8.02 hereof.



## ARTICLE VI.

### DELIVERY OF WATER

#### 6.00. Delivery.

Water made available to the Buyer pursuant to the Water Supply Contract shall be delivered to and accepted by the Buyer at the Buyer's Turnout unless the place of delivery is changed in the manner provided in the Rules.

#### 6.01. Operation of Delivery Structures.

No valve or other mechanism on the Buyer's Turnout shall at any time be operated by the Buyer so as to deliver or curtail delivery of water to the Buyer's Land or any portion thereof. Such valves and mechanisms shall be operated only by employees or agents of the District.

#### 6.02. Measuring Devices.

Except as otherwise provided in the Water Supply Contract, the District shall be responsible for the measuring of all water delivered to the Buyer and shall keep or cause to be kept accurate records thereof. The District shall install, operate and maintain at the Buyer's Turnout such measuring devices and equipment as it shall determine. All such measuring devices and equipment shall be regularly examined, tested and serviced to insure accuracy. The Buyer or any other Water User may inspect such measuring devices and the measurements and records taken therefrom at any time during the regular business hours of the District.

#### 6.03. Delivery Schedules.

The amounts, times and rates of delivery of Entitlement Water to the Buyer during any Year shall be in accordance with a water delivery schedule attached as Exhibit B to the Water Supply Contract unless the schedule is modified in the manner provided in the Rules.

#### 6.04. Capacity in District Conveyance Facilities.

The District shall not be required to deliver to the Buyer in any one month of any Year a total amount of Entitlement Water greater than 18% of the Buyer's Annual Entitlement for that Year. The District will allocate capacity in District conveyance facilities among all affected Water Users in the manner provided in the Rules if the capacity of any District conveyance facility is insufficient to meet the needs of the affected Water Users.

6.05. Limitations.

Project Water delivered to the Buyer pursuant to the Water Supply Contract shall not be sold or otherwise disposed of by the Buyer for use other than on the Buyer's Land unless authorized in the Rules.

ARTICLE VII.

LIMITATIONS ON OBLIGATIONS OF DISTRICT

7.00. Failure of State or Agency to Perform.

The District shall not be liable for failure to perform any portion of the Water Supply Contract to the extent that such failure is caused by the failure of the State to perform any obligation imposed on the State by the Master Contract or by the failure of the Agency to perform any obligation imposed on the Agency by the District Contract; provided, however, that (a) the obligations of the Buyer shall be reduced to the extent that the District is prevented from so performing its obligations and (b) the District shall diligently and promptly pursue all feasible rights and remedies available to it to enforce the right of the District and the Buyer against the State or the Agency, or both, relative to such failure to perform.

7.01. Inadequate Supplies of  
Entitlement Water.

(a) Introduction.

The District has contracted to deliver 95% of the District's Contract Entitlement to Water Users, the balance being reserved for operational losses. At times the Agency will be unable to deliver to the District the District's Contract Entitlement and the Water Users will receive less Entitlement Water than provided in the Water Supply Contracts. In a Water Shortage, Entitlement Water shall be apportioned among Water Users as provided in section 7.01(b) hereof.

(b) Apportionment of Entitlement  
Water During Water Shortage.

If the Agency makes available to the District Entitlement Water in an amount less than the District's Contract Entitlement, the District shall reduce the delivery of Entitlement Water to the Buyer in an amount which bears the same relation to the total amount of such shortage as the Buyer's Annual Entitlement bears to the total



of the Annual Entitlements of all Water Users entitled to receive Entitlement Water in such Year.

(c) No District Liability.

If the Buyer does not receive its Annual Entitlement as a result of a Water Shortage, no liability shall occur against the District or its directors, officers, agents or employees for any damage, direct or indirect, arising therefrom.

7.02. Curtailment of Deliveries for Maintenance Purposes.

The State or the Agency may temporarily discontinue or reduce the delivery of Project Water for the purposes of maintaining, repairing, replacing, investigating or inspecting any of the facilities necessary for the furnishing and delivery of Project Water to the District, which temporary discontinuance or reduction may result in a similar discontinuance or reduction in deliveries to the Buyer. The District may similarly temporarily discontinue or reduce the delivery of Project Water to the Buyer for the purposes of maintaining, repairing, replacing, investigating or inspecting any of the District's facilities necessary for the delivery of Project Water to the Buyer. Insofar as it is feasible, the District will give the Buyer notice in advance of any such temporary discontinuance or reduction, except in the case of an emergency, in which case notice will be given within a reasonable time after such temporary discontinuance or reduction. In the event of such discontinuance or reduction, the District, upon resumption of service, shall deliver, as nearly as may be feasible, the amount of Project Water which would have been furnished to the Buyer in the absence of such discontinuance or reduction.

7.03. Non-Responsibility for Delivery and Distribution of Project Water.

Neither the District nor its directors, officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal or distribution of Project Water delivered to the Buyer after the Project Water has passed through the Buyer's Turnout, nor for claims of damage of any nature whatsoever including, but not limited to, property damage, personal injury or death arising out of or connected with the control, carriage, handling, use, disposal or distribution of Project Water beyond the Buyer's Turnout and the Buyer shall indemnify and hold the District and its directors, officers, agents and employees harmless from any such damage or claim of damage.

7.04. Non-Responsibility for Quality of Water.

The District assumes no responsibility with respect to the quality of water to be delivered under the Water Supply Contract. **THE BUYER IS ADVISED THAT WATER, AS DELIVERED BY THE DISTRICT, WILL BE UNFIT FOR HUMAN CONSUMPTION.**

ARTICLE VIII.

PAYMENT FOR WATER

8.00. Buyer's Annual Payment Obligation.

(a) Introduction.

Annually, at its regular meeting in the month of June, the Board shall establish the charges provided for in this section 8. On or before each July 15 of the Year preceding the Year in which Project Water is to be delivered, the District shall give the Buyer written notice of the Buyer's annual payment obligation for the next Year. All of the amount shown on such notice shall be due and payable on such July 15. Fifty per cent of the amount shown on such notice shall become delinquent if not paid on or before the following December 15 and the remaining 50% shall become delinquent if not paid on or before the following April 15. The annual payment obligation for any Year shall be the total of (a) the Buyer's Agency Charge for such Year, (b) the Buyer's District Capital Charge for such Year, (c) the Buyer's Delivery Charge for such Year, (d) the Buyer's Administrative Charge for such Year, and (e) the Buyer's ID9 Charge for such Year, if any.

(b) Buyer's Agency Charge.

The Buyer's Agency Charge for the next Year shall be computed by the formula

$$BAC = \frac{DC}{\Sigma AE} \times AE$$

where

"BAC" is the Buyer's Agency Charge, expressed in dollars;

"DC" is that portion of the District's annual obligation to the Agency for such Year for the District's Contract Entitlement, expressed in dollars, provided, however, that (1) if the District at the time

of the regular June meeting of the Board has not received from the Agency a statement of such obligation, "DC" shall be the Board's estimate of such obligation, and (2) if "DC" for any Year is based upon the Board's estimate, "DC" for the next Year shall be adjusted to correct for the difference, if any between such estimate and such obligation;

"EAE" is the total of all Water Users' Annual Entitlements within the District for the next Year, expressed in acre feet; and

"AE" is the Buyer's Annual Entitlement for such Year, expressed in acre feet.

(c) Buyer's District Capital Charge.

The Board shall estimate the amount of money that will be required during the next Year to meet such part, as the Board shall determine to pay from water charges, of (1) payments of principal and interest which will become due during such Year on account of then outstanding bonds or repayment contracts, or both, of the District, and (2) the funds required to establish and maintain a bond reserve fund if such is permitted by law. Such amount shall be apportioned to the several Service Areas in the District as required by law or, if no law applies, in accordance with generally accepted methods of apportioning capital charges. The Buyer's District Capital Charge for the next Year for each Service Area in which any portion the Buyer's Land is located shall then be computed by the formula

$$BDCC = \frac{DCC}{\Sigma AE} \times BAE$$

where

"BDCC" is the Buyer's District Capital Charge, expressed in dollars;

"DCC" is the amount so estimated by the Board which has been apportioned to the Service Area for which the calculation is being made, less any amount determined by the Board to be available from other sources to finance part of the District Capital Charge, expressed in dollars;

"EAE" is the total of all Water Users' Annual Entitlements within the Service Area for the next Year, expressed in acre feet; and

"BAE" is Buyer's Annual Entitlement within the Service Area for the next Year, expressed in acre feet.

(d) Buyer's Delivery Charge.

The Board shall estimate the costs to be incurred during the next Year for operations, maintenance, replacements and energy in delivering Entitlement Water to each Service Area, adjusting each Year to reflect actual cost of operations, maintenance, replacements and energy during the previous Year. The Buyer's Delivery Charge for the next Year for each Service Area shall be computed by the formula

$$BDC = \frac{DDC}{EAE} \times BAE$$

where

"BDC" is the Buyer's Delivery Charge, expressed in dollars;

"DDC" is the amount so estimated by the Board, less any amount determined by the Board to be available from other sources to finance part of the Delivery Charge, expressed in dollars;

"EAE" is the total of all Water Users' Annual Entitlements within the Service Area for the next Year, expressed in acre feet; and

"BAE" is the Buyer's Annual Entitlement within the Service Area for the next Year, expressed in acre feet. If the Buyer's Land is within two or more Service Areas and the Buyer desires to reschedule all or any portion of its Annual Entitlement for a particular Year to Service Areas on a basis other than that set forth in Exhibit B, the District shall, at the time of such rescheduling, recompute the Buyer's Delivery Charge for each Service Area on the basis of the new schedule and the Buyer's annual payment obligation shall be adjusted accordingly; provided, however, if such rescheduling occurs after computation of the Buyer's annual payment obligation for a particular Year, then if such recomputations result in an extra charge to the Buyer, such extra charge shall be paid at the time of rescheduling or, if such computation results in a credit, such credit shall be applied as a credit



against the Buyer's annual payment obligation for the next Year.

(e) Buyer's Administrative Charge.

The Board shall estimate the amount of money that will be required from Water Users during the next Year to meet costs of the District not included in the computation of the Buyer's Agency Charge, the Buyer's District Capital Charge, the Buyer's Delivery Charge and the ID9 Charge, including but not limited to, the salaries of officers and nonoperating employees and the development and maintenance of such reasonable reserves as, from time-to-time, appear necessary and advisable, adjusting each Year to reflect actual cost experience of the past Year. The Buyer's Administrative Charge for the next Year shall be computed by the formula

$$BAC = \frac{DAC}{\Sigma AE} \times AE$$

where

"BAC" is the Buyer's Administrative Charge, expressed in dollars;

"DAC" is the amount so estimated by the Board, less any amount determined by the Board to be available from other sources to finance part of the Administrative Charge, expressed in dollars;

"ΣAE" is the total of all Water Users' Annual Entitlements for the next Year, expressed in acre feet; and

"AE" is the Buyer's Annual Entitlement for the next Year, expressed in acre feet.

(f) Buyer's ID9 Charge.

(1) Introduction.

Part of the Buyer's annual payment obligation is the Buyer's ID9 Charge if all or any part of the Buyer's Land is within Zone 1. The Buyer's ID9 Charge for Buyer's with Buyer's Land in Zone 1 but not in Zone 2 shall be the Zone 1 Charge. The Buyer's ID9 Charge for Buyer's with Buyer's Land in Zone 2 shall be the sum of the Zone 1 Charge, the Zone 2 Charge, and the Drainage Charge.

(2) Zone 1 and Zone 2 Charges.

The Board shall estimate the amount of money that will be required during the next Year to pay all fixed costs for the care, operation, management and improvement of the drainage facilities within ID9, including the payment of salaries of officers and employees and all other expenses, and for the payment of principal and interest on any debt obligations of the District adjusting each Year to reflect actual fixed costs of care, operation, management and improvement of such drainage facilities during the previous Year. The Buyer's Zone 1 Charge for the next Year shall be computed by the formula

$$BZC1 = \frac{0.75FC}{\Sigma AE1} \times BAE1$$

where

"BZC1" is the Buyer's Zone 1 Charge, expressed in dollars;

"FC" is the amount of the fixed costs so estimated by the Board, less any amount determined by the Board to be available from other sources to finance part of the Zone 1 Charge, expressed in dollars;

" $\Sigma AE1$ " is the total of all Water Users' Annual Entitlements within Zone 1 for the next Year, expressed in acre feet; and

"BAE1" is the Buyer's Annual Entitlement within Zone 1 for the next Year.

The Buyer's Zone 2 Charge for the next Year shall be computed by the formula--

$$BZC2 = \frac{0.25FC}{\Sigma AE2} \times BAE2$$

where

"BZC2" is the Buyer's Zone 2 Charge, expressed in dollars;

"FC" is the amount of the fixed costs so estimated by the Board, less any amount determined by the Board to be available from other sources to



finance part of the Zone 2 Charge, expressed in dollars;

"EAE2" is the total of all Water Users' Annual Entitlements within Zone 2 for the next Year, expressed in acre feet; and

"BAE2" is the Buyer's Annual Entitlement within Zone 2 for the next Year.

(3) Drainage Charge.

The Board shall estimate (a) the amount of money that will be required during the next Year to pay all variable costs for the care, operation, management and improvement of the drainage facilities within ID9, including the payment of salaries of officers and employees and all other expenses, adjusting each Year to reflect actual variable costs for the care, operation, management and improvement of such drainage facilities during the previous Year, and (b) the amount of drainage discharge into District drainage facilities during the next Year from all Water Users with lands in Zone 2. The Buyer's Drainage Charge for the next Year shall be computed by the formula

$$BDC = \frac{VC}{EDD} \times BDD$$

where

"BDC" is the Buyer's Drainage Charge, expressed in dollars;

"VC" is the amount of the variable costs so estimated by the Board, expressed in dollars;

"EDD" is the total amount of drainage discharge so estimated by the Board, expressed in acre feet; and

"BDD" is the amount of the Buyer's drainage discharge so estimated by the Board, expressed in acre feet.

8.01. Payments for Additional Deliveries of Water.

(a) Introduction.

If the Buyer makes a written request for the delivery of water in any Year in an amount greater than the Buyer's Annual Entitlement for such Year under section 5.01 hereof and the District is able to obtain such additional water to fill such request, the Buyer shall pay to the District in advance of the delivery of such water an amount established under section 8.01(b) hereof or section 8.01(c) hereof, whichever is applicable. If the additional water is both Entitlement Water available under section 5.02 hereof and other water, the cost for each acre foot of the additional water shall be the weighted average cost thereof using the applicable unit rates established under sections 8.01(b) and 8.01(c) hereof.

(b) Entitlement Water Available Under Section 5.02 Hereof.

If the source of the additional supply is Entitlement Water made available to the District under section 5.02 hereof, the Buyer shall pay, for each acre foot thereof, the lesser of (1) an amount determined by dividing (i) the total of (a) the portion of the Buyer's Agency Charge attributable to that portion of the Buyer's Annual Entitlement for such Year scheduled for delivery in the Service Area in which such water is to be delivered, (b) the Buyer's District Capital Charge for such Year for such Service Area, (c) the Buyer's Delivery Charge for such Year for such Service Area, (d) that portion of the Buyer's Administrative Charge which bears the same relationship to the whole thereof as the portion of the Buyer's Annual Entitlement for such Year scheduled for delivery in such Service Area bears to the Buyer's Annual Entitlement for such Year, and (e) the Buyer's ID9 charge for such Year for such Service Area by (ii) that portion of the Buyer's Annual Entitlement within such Service Area for such Year or (2) an amount equal to (i) the amount that the District could obtain from the Agency or any other person for the use of such Entitlement Water outside of the District and (ii) the unit Delivery Charge in such Service Area, determined without regard to the use of carryover funds.

(c) Other Water.

If the source of the additional supply is water other than Entitlement Water made available to the District under section 5.02 hereof, the Buyer shall pay, for each acre foot thereof, an amount equal to (1) the cost of such water delivered to the District and (2) the unit Delivery Charge in such Service Area, determined without regard to the use of carryover funds.

8.02. Reduction in Payment for  
Reduced Deliveries of  
Entitlement Water Under  
Section 5.02 Hereof.

If, during any Year, the delivery of Entitlement Water to the Buyer is less than the Buyer's allocation of Entitlement Water for such Year at the request of the Buyer made in accordance with section 5.02 hereof, the Buyer's payment obligation for the next Year shall be reduced in an amount equal to (a) the amount received by the District in disposing of such Entitlement Water and (b) an amount equal to the direct costs which the District did not incur or will be refunded as a result of the reduced deliveries, less (c) all delivery charges incurred by the District in delivering the Entitlement Water to the ultimate user thereof.

8.03. Reduction in Payment for  
Reduced Deliveries of  
Entitlement Water Under  
Section 7.01(b) Hereof.

If, pursuant to section 7.01(b) hereof, the Buyer is delivered less Entitlement Water than it is entitled to receive under the Water Supply Contract, the District may either refund to the Buyer an amount equal to the direct costs which the District did not incur as a result of the reduced delivery or apply such amount to reduce the Buyer's payment obligation for the next Year. If no refund is made to the Buyer, no change will be made in the method of computing the Buyer's payment obligation for the next Year since any reduction in the District's annual obligation to the Agency by reason of such reduction in delivery will be reflected automatically in the Buyer's payment obligation by reason of the adjustment made in the factor "DC" used in computing the Buyer's Agency Charge under section 8.00(b) hereof.

8.04. Reduction in Payment for  
Other Reduced Deliveries  
of Entitlement Water.

If, during any Year, the delivery of Entitlement Water to the Buyer is less than the Buyer's allocation of Entitlement Water for such Year for reasons other than those set forth in sections 8.02 and 8.03 hereof, the Buyer's payment obligation for the next Year shall be reduced in an amount equal to the direct costs which the District did not incur or will be refunded as a result of the reduced deliveries.

8.05. Adjustments of Payments for  
Drainage Discharge.

(a) Additional Payments for  
Excess Drainage Discharge.

If the amount of Buyer's drainage discharge during any Year exceeds the amount estimated by the Board under Section 8.00(f)(3) hereof, the Buyer shall pay the District, for each additional acre foot of such discharge, an amount determined by dividing the Buyer's Drainage Charge by the amount of the Buyer's drainage discharge estimated by the Board under section 8.00(f)(3) hereof. The District will invoice the Buyer from time-to-time for any excess drainage discharge and the Buyer shall pay the amount due within 30 days of the date of the invoice.

(b) Credits for Reduced Drainage Discharge.

If the amount of the Buyer's drainage discharge during the Year is less than the amount estimated by the Board under section 8.00(f)(3) hereof, the Buyer shall be entitled to a credit, for each acre foot of such reduced discharge, in an amount determined by dividing the Buyer's Drainage Charge by the amount of the Buyer's drainage discharge estimated by the Board under section 8.00(f)(3) hereof. The credit shall be determined by the Manager of the District as soon as feasible after the end of the Year for which it is to be determined and shall be applied, without interest, against the next payment thereafter becoming due to the District from the Buyer. The determination of the Manager shall be final and conclusive as to the District and the Buyer.



8.06. Default and Penalty for Late  
Payment of Water Charges.

All water charges required to be paid by the Buyer to the District hereunder constitute water charges under Water Code section 35470. All water charges shall be due and payable as provided in section 8.00 hereof. If any water charge becomes delinquent, a penalty of 10% shall be added thereto and the delinquent charge shall bear interest at the rate of 1 1/2% per month. After any water charge becomes delinquent, the tax collector shall publish the notice required by Water Code section 36951 and proceed to sell the Buyer's Land pursuant to Chapter 4 (commencing with section 36950) of Part 7 of Division 13 of the Water Code. The District, in the event of any delinquency, may suspend delivery of Project Water during the period charges of delinquency; provided, however, that during any such period of suspension the Buyer shall remain obligated to make all payments required under the Water Supply Contract.

8.07. Default and Penalty for Late  
Payment of ID9 Charge.

The ID9 Charge constitutes a service charge under Water Code section 35520.38. The ID9 Charge shall be due and payable as provided in section 8.00 hereof. If any portion of the ID9 Charge becomes delinquent, a penalty of 10% shall be added thereto and the delinquent charge shall bear interest at the rate of 1% per month. After any portion of the ID9 Charge becomes delinquent, the Board may, by resolution, direct the assessor to add to the assessment of the parcel of land to which it relates all delinquent charges, penalties and interest thereon as provided in Water Code section 35520.41. If all delinquent charges, penalties and interest are added to the assessment of the Buyer's Land, the tax collector shall publish the notice required by Water Code section 36951 and proceed to sell the Buyer's Land pursuant to Chapter 4 (commencing with section 36950) of Part 7 of Division 13 of the Water Code. The District, in the event of any delinquency, may suspend all drainage services during the period of delinquency; provided, however, that during any such period of suspension the Buyer shall remain obligated to make all payments required under the Water Supply Contract.

**ARTICLE IX.**

**APPURTENANCY AND NON-ASSIGNABILITY**

9.00. Appurtenancy.

The Water Supply Contract and the Buyer's right to receive Project Water thereunder are appurtenant to the Buyer's Land. Upon the transfer, whether by sale or by operation of law,

of all of a parcel of the Buyer's Land, the transferee of the parcel of Buyer's Land shall be substituted for the Buyer under the Water Supply Contract to the same extent and effect as though the transferee had executed the Water Supply Contract as the Buyer with respect to the parcel transferred; provided, however, that unless and until after a lapse of 90 days from the date of any such transfer, such transferee shall have executed a contract for a water supply for the parcel of the Buyer's Land that was transferred, identical in all provisions with the Water Supply Contract, the District may, pending execution of such a contract, suspend delivery of Project Water to the parcel of the Buyer's Land that was transferred, in which event, and notwithstanding such suspension, all charges and payments required under the Water Supply Contract shall continue to accrue, shall constitute a charge against the parcel of the Buyer's Land that was transferred, and shall be secured by the lien. Upon the transfer, whether by sale or by operation of law, of less than all of a parcel of the Buyer's Land on an areal basis, the Water Supply Contract shall be deemed divided and the transferee of a portion of a parcel of the Buyer's Land shall be entitled thereafter to receive that portion of Buyer's Annual Entitlement for such parcel which bears the same relation to the amount of the Buyer's total Annual Entitlement under the Water Supply Contract for the parcel as the acreage transferred bears to the total acreage of the parcel of the Buyer's Land; provided, however, that unless and until, after a lapse of 90 days from the date of any such transfer, such transferee shall have executed a contract for a water supply for the portion of a parcel of the Buyer's Land so transferred, identical in all provisions with the Water Supply Contract, except as to Annual Entitlement and land descriptions, the District, pending execution of such a Water Supply Contract, may suspend delivery of Project Water to the portion of the parcel of the Buyer's Land so transferred, in which event, and notwithstanding such suspension, a pro rata share of all charges and payments required under the Water Supply Contract shall continue to accrue, shall constitute a charge against the portion of a parcel of the Buyer's Land so transferred, and shall be secured by the lien. The Water Supply Contract to be executed by the transferee of less than all of a parcel of the Buyer's Land shall provide for an Annual Entitlement which bears the same relation to the Buyer's total Annual Entitlement under the Water Supply Contract for such parcel as the acreage transferred bears to the total acreage of the parcel of the Buyer's Land and the "Buyer's Land" under such Water Supply Contract shall be the land so transferred. Upon execution of such Water Supply Contract covering less than all of a parcel of the Buyer's Land by the transferee, the Water Supply Contract of the transferor shall be deemed amended to eliminate from the Buyer's Land the land described in the transferee's Water Supply Contract and to reduce the Buyer's Annual Entitlement by the amount of the Annual Entitlement provided in the transferee's Water Supply Contract. The District, in



evidence of such amendment, may execute and record in the Office of the County Recorder of Kern County, California, a declaration of such amendment.

9.01. Non-Assignability.

Except as provided in section 9.00 hereof or the Rules, the Buyer shall not, without the prior written consent of the District, assign any right or interest in or to the Water Supply Contract.

ARTICLE X.

GENERAL PROVISIONS

10.00. Remedies Not Exclusive.

The use by either party of any remedy specified in the Water Supply Contract for the enforcement of the Water Supply Contract is not exclusive and shall not deprive the party using such remedy of or limit the application of any other remedy provided by law, at equity, or otherwise.

10.01. Amendments.

The Water Supply Contract may be amended at any time by mutual agreement of the parties except insofar as any proposed amendment is in any way contrary to applicable law or inconsistent with the provisions of the District Contract or the Master Contract. The District shall make available to the Buyer at all times during normal business hours, at the District offices, for the Buyer's inspection, copies of all contracts now or hereafter executed by the District with other Water Users and of any amendments thereto.

10.02. Opinion and Determinations.

Where the terms of the Water Supply Contract provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable.

10.03. Waiver of Rights.

Any waiver at any time by either party hereto of its rights with respect to a default or any other matter arising in connection with the Water Supply Contract shall not be deemed to be a waiver with respect to any other default or matter.

10.04. Notices.

Any notice to be given by the District to the Buyer shall be deemed given and delivered if delivered personally to the Buyer or if enclosed in an envelope addressed to the Buyer at the Buyer's Address and deposited in the United States mail. Any notice to be given by the Buyer to the District shall be deemed given and delivered if delivered personally to an officer of the District at the District's office or if enclosed in an envelope addressed to the District at the District's Address and deposited in the United States mail. Either party may at any time and from time-to-time, by proper notice to the other, change its address of receipt of notice.

10.05. Execution of Documents.

In addition to any documents expressly referred to in the Water Supply Contract to be executed by either or both parties, both parties shall execute any and all documents which might be required to carry out the provisions of the Water Supply Contract.

10.06. Application of Water Supply Contract.

The Water Supply Contract is made for the sole benefit of the District and the Buyer, and their respective successors and assigns, and no other person or persons shall have any right of action thereon or be entitled to any benefits that flow therefrom.

END OF DOCUMENT

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LOST HILLS WATER DISTRICT

SECRETARY'S CERTIFICATE

I, WILLIAM C. KUHS, Assistant Secretary of the Board of Directors of LOST HILLS WATER DISTRICT, hereby certify that:

(a) the foregoing is a full, true and correct copy of the Standard Provisions For Water Supply Contracts For Supply of State Water Project Water (the "Standard Provisions") duly adopted at a regular meeting of the Board duly and regularly held at the regular meeting place thereof on October 22, 1998;

(b) all directors had due notice of the meeting and a majority thereof were present;

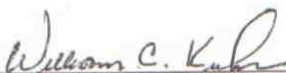
(c) I have compared the foregoing copy of the Standard Provisions with the original minutes of the meeting on file and of record in my office and the foregoing is a full, true and correct copy of the original thereof adopted at the meeting and entered in the minutes; and

(d) the Standard Provisions have not been amended, modified or rescinded since the date of their adoption, and are now in full force and effect.

WITNESS my hand and the seal of the LOST HILLS WATER DISTRICT this 30th day of October, 1998.



[SEAL]

  
William C. Kuhs, Assistant  
Secretary Board of Directors

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