

**AGREEMENT FOR CONVEYANCE OF POTABLE WATER BETWEEN CALLEGUAS  
MUNICIPAL WATER DISTRICT, [SUPPLIER], AND [RECIPIENT]**

**THIS AGREEMENT FOR CONVEYANCE OF POTABLE WATER** (“**Agreement**”) is made and entered into as of the Effective Date, by and between CALLEGUAS MUNICIPAL WATER DISTRICT (“**Calleguas**”), [SUPPLIER NAME] (“**Supplier**”), and [RECIPIENT NAME] (“**Recipient**”). Calleguas, Supplier, and Recipient are sometimes referred to collectively as the "Parties" and each, individually, as a "Party."

**RECITALS**

- A. Supplier is a *[describe structure and powers]*.
- B. Recipient is a *[describe structure and powers]*.
- C. Calleguas is a public agency and special district created in 1953 by a vote of the electorate and organized pursuant to the Municipal Water District Act of 1911, as amended, with a mission of providing the service area with a reliable supplemental supply of regional and locally developed water in an environmentally and economically responsible manner.
- D. The service area of Recipient (“**Recipient’s Service Area**”) is *[describe Recipient service area location]*, which lies entirely within the Calleguas Service Area (as defined in this Agreement”).
- E. Supplier and Recipient have entered into an agreement (“**Desalter Agreement**”) for production and purchase of potable water produced by Supplier from State Well Numbers *[provide state well numbers]* and treated by Supplier at a brackish ground water desalter located at *[describe location]* (“**Desalter**”). The wells and desalter are active permitted potable water sources operated pursuant to SWRCB DDW Domestic Water Supply Permit No. *[DDW permit number]*. Recipient desires to purchase the quantity of approximately *[number of AF per year]* from Supplier and have Calleguas convey these supplies to the Delivery Point(s) defined in this Agreement.
- F. To receive delivery of the potable water from the Desalter, Recipient must obtain the use of Calleguas’ potable water transmission system to Convey the water pursuant to Calleguas’ Ordinance 12 and Calleguas’ Conveyance policies in effect at the time the water is Conveyed.
- G. Use of Calleguas’ water transmission system is contingent upon SWRCB DDW approval of an amendment to Calleguas’ Domestic Water Supply Permit.
- H. *[Name of CEQA lead agency]*, as lead agency, prepared the “[*Name of Project, Type of document (EIR/MND/ND)*],” dated *[document date]* (State Clearinghouse Number [SCH #]). *[Name of CEQA lead agency]*, as a lead agency, [*“certified”, if an EIR or “adopted” if an MND or ND*] said document on *[date document was certified or adopted]*.
- I. The Parties are entering into this Agreement to set forth the terms and conditions of construction, financing, operation, maintenance, water quality requirements, duration,

priorities, and fair compensation applicable to the use of Calleguas' potable water transmission system.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and the representations, warranties, covenants, and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties hereby agree as follows:

### 1. DEFINITIONS AND RULES OF CONSTRUCTION

1.1 Definitions. As used in this Agreement, these terms, including any grammatical variations thereof, have the following meanings:

- (a) "Board" is the Board of Directors of Calleguas.
- (b) "Calleguas Water" means water owned by Calleguas and delivered to Calleguas' Purveyors in accordance with the terms and conditions of Ordinance 12 and customary practices, or delivered into its Las Posas Aquifer Storage and Recovery Project, or delivered into Lake Bard; provided, however that "Calleguas Water" shall not mean Produced Water under this Agreement.
- (c) "Calleguas Water Quality Requirements" represent typical water quality in Calleguas Water, analyzed according to then-current methods approved by the SWRCB DDW, and are currently as follows:

Total dissolved solids	concentration less than	300	milligrams per liter
Turbidity	less than	0.1	nephelometric turbidity units
Color	less than	2	color units
Total organic carbon	concentration less than	1.5	milligrams per liter
Hardness	concentration less than	120	milligrams per liter as CaCO <sub>3</sub>
Alkalinity	concentration less than	100	milligrams per liter as CaCO <sub>3</sub>
Chloride	concentration less than	60	milligrams per liter
Sodium	concentration less than	60	milligrams per liter
Sulfate	concentration less than	60	milligrams per liter
Iron	concentration less than	0.1	milligrams per liter
Manganese	concentration less than	0.03	milligrams per liter
Calcium	concentration less than	28	milligrams per liter
Nitrate	concentration less than	0.5	milligrams per liter as N
Boron	concentration less than	0.2	milligrams per liter
Specific conductance	less than	600	microsiemens per centimeter
Total coliform bacteria	not detected		
<i>E coli</i>	not detected		
Aggressiveness Index	greater than	11.9	
Total trihalomethanes	concentration less than	25	micrograms per liter
Haloacetic acids (five)	concentration less than	12	micrograms per liter
pH	between	8.0 and 8.3	pH units
Fluoride	concentration between	0.6 and 1.2	milligrams per liter
Total chlorine residual	between	2.2 and 2.5	milligrams per liter

Chlorine to ammonia	ratio between	4.5:1 and 5.5:1
Nitrite	concentration less than	0.010 milligrams per liter

- (d) “Delivery” means delivery of Conveyed Water by Calleguas to Recipient’s Delivery Point(s) occurring at the rate determined by Calleguas pursuant to this Agreement.
- (e) “Delivery Point(s)” is (are) the designated meter station(s) through which the Conveyed Water is to be delivered from Calleguas’ potable water system to Recipient. These meter stations are commonly referred to as *[meter station name(s)]*.
- (f) “Delivery Procedures” means the procedures described in this Agreement, the terms and conditions of Ordinance 12, and customary practices of Calleguas relating to the delivery of Calleguas Water at the Delivery Points.
- (g) “Desalter Agreement” means the Agreement between Supplier and Recipient dated *[Desalter Agreement date]*, together with all amendments, supplements, and exhibits thereto.
- (h) “Effective Date” means the last signatory date of a Party to this Agreement.
- (j) “Metropolitan” means the Metropolitan Water District of Southern California.
- (k) “Ordinance 12” refers to Ordinance No. 12, An Ordinance of Calleguas Municipal Water District Covering the Rules and Regulations for Water Service to Member Agencies within Calleguas Municipal Water District, as may be amended or modified from time to time, or any Ordinance that may be adopted by Calleguas as a replacement thereof.
- (l) “Produced Water” is the water to be Conveyed, referred to in Recital E, up to a total of *[# of AFY]* acre-feet per year.
- (m) “Purveyors” are the cities, municipal water districts, county water districts, county waterworks districts, mutual water companies, public or private utilities and other public corporations which purchase potable water from Calleguas.
- (n) “SWRCB DDW” is the State Water Resources Control Board Division of Drinking Water.
- (o) “Supplier Connection” is the designated meter station described in Paragraph 2 of this Agreement through which Supplier delivers Produced Water into Calleguas’ potable water system for Delivery pursuant to this Agreement. The Supplier Connection includes all pipes, valves, meters, instrumentation, water quality analyzers, and other necessary or usual appurtenances required for operation, measurement, monitoring, and sampling at that station.
- (p) “Recipient” is the Party which will receive the Conveyed Water from Calleguas’ potable water system.

- (q) “Termination Date” means the five (5) year anniversary of the Effective Date.
- (r) “Water Quality Standards” are the water quality standards set forth below which represent the water quality for imported water typically delivered in the Calleguas potable water system. Supplier covenants and agrees that the quality of the Produced Water shall at all times comply with all of the following standards:
  - (1) All primary and secondary state and federal drinking water standards in effect at the time the Conveyed Water is delivered through Supplier Connection, and
  - (2) All requirements of the Domestic Water Supply Permit issued by the SWRCB DDW for the Supplier’s production and treatment facilities, and
  - (3) The Calleguas Water Quality Requirements set forth in Paragraph 1.1(c).
- (s) “Water Supply Allocation Plan” means Metropolitan's Water Supply Allocation Plan and exhibits thereto, as originally adopted by Metropolitan on February 12, 2008, and as amended from time to time, or any equivalent plan that may be adopted by Metropolitan as a replacement thereof.
- (t) “Conveyed Water” is the Produced Water delivered through the Calleguas transmission system from the Supplier Connection to the Delivery Point(s).
- (u) “Convey” and other forms thereof, including “Conveyance”, “Conveyed”, or “Conveying” is the act of taking delivery of Produced Water from Supplier and transporting it through the Calleguas potable water transmission system from the Supplier Connection to the Delivery Point(s).
- (v) “Calleguas Service Area” means and includes that area that includes all land located within Calleguas’ boundaries as identified in records maintained by the Ventura County Clerk and Recorder's Office.

1.2 Rules of Construction.

- (a) Unless the context clearly requires otherwise:
  - (1) Each of the plural and singular forms includes the other;
  - (2) “Shall,” “will,” “must,” and “agrees” are each mandatory;
  - (3) “May” is permissive;
  - (4) “Includes” and “including” are not limiting;
  - (5) “Between” includes the ends of the identified range.
- (b) Headings in the beginning of paragraphs and subparagraphs are solely for the convenience of the Parties, are not a part of this Agreement, and shall not be used in construing it.

- (c) The masculine gender shall include the feminine and neuter genders and vice versa.
- (d) The word "person" includes individuals, partnerships, corporations, limited liability companies, business trusts, joint stock companies, trusts, unincorporated associations, joint ventures, governmental authorities, water districts, and all other entities and organizations of whatever nature, except the Parties to this Agreement or an officer or employee of any of them.
- (e) Reference to any agreement (including this Agreement), document, or instrument means such agreement, document, or instrument as amended or modified from time to time, and in effect, in accordance with the terms thereof.
- (f) Except as specifically provided in this Agreement, reference to any law, statute, ordinance, regulation, or the like means such law as amended, modified, codified, or reenacted, from time to time, in whole or in part, and in effect, including any rules and regulations promulgated thereunder.

## 2. SUPPLIER CONNECTION

### 2.1 Design and Construction.

- (a) General. At Supplier's sole cost and expense, Calleguas shall design and construct a meter station and connection for Delivery of water into Calleguas' potable water system (the "Supplier Connection"), which will be installed on Calleguas' [*pipeline name*] at a location between Stations [*XX+XX*] and [*XX+XX*] with an estimated delivery capacity of [*X,XXX*] gallons per minute (gpm). The Supplier shall provide to Calleguas all information and documents requested by Calleguas, its engineers, contractors, and agents to enable them to design and construct the appropriate facilities.
- (b) Design Costs.
  - (1) Preliminary Design. Supplier shall deposit with Calleguas in cash an amount equal to Calleguas' engineer's not-to-exceed amount plus an appropriate contingency determined by Calleguas for preliminary design services prior to Calleguas authorizing a Notice-to-Proceed for preliminary design.
  - (2) Design. Supplier shall deposit with Calleguas in cash an amount equal to Calleguas' engineer's not-to-exceed amount (with appropriate contingency determined by Calleguas) for design services prior to Calleguas authorizing a Notice-to-Proceed for design.
  - (3) Surge Analysis. Supplier shall pay the reasonable costs for Calleguas and/or its designated consultant to perform a surge analysis (the "Surge Analysis") for the Produced Water in order to assure that Calleguas' pipelines are not subjected to hydraulic transients which may cause structural damage. Prior to commencing the Surge Analysis, Calleguas shall prepare and deliver to Supplier a cost estimate and Supplier shall

provide to Calleguas a cash deposit ("Surge Analysis Deposit") in the full amount of the estimate.

- (i) Surge Protection Facilities. At its sole cost and expense, Supplier shall install, operate, and properly maintain all surge protection facilities (the "Surge Protection System") as recommended by, and in accordance with, the Surge Analysis. Supplier shall operate the Surge Protection System in accordance with all applicable laws, permits, and regulations and in a way that does not cause any hydraulic transients or pressure changes at the Supplier Connection. Calleguas reserves the right, in its sole discretion, to suspend, curtail, terminate, or otherwise interrupt receipt of Produced Water into its transmission system should the Surge Protection System fail in whole or in part for any reason, including but not limited to Supplier's failure to properly maintain and operate the Surge Protection System. In addition to all other remedies available to Calleguas under this Agreement and applicable law, Supplier shall timely pay for all repairs to Calleguas facilities which result from improper operation and maintenance of the Surge Protection System.
  - (ii) Condition to Conveyance Service. Supplier shall not be permitted to begin delivering Produced Water through the Supplier Connection or Convey Water until Calleguas notifies Supplier in writing that Calleguas is satisfied that the Surge Protection System complies with the requirements set forth in the Surge Analysis.
- (c) Construction Costs. Supplier shall deposit with Calleguas in cash an amount equal to Calleguas' engineer's construction cost estimate plus estimated inspection and construction management costs prior to Calleguas advertising the project for bidding.
- (d) Reconciliation.
- (1) Upon completion of construction, Calleguas will compile all costs associated with the design and construction of the Supplier Connection, including, but not limited to, engineering, right-of-way acquisition, inspection, permitting, construction management, and administration. If the costs exceed the sum of the deposits made by Supplier, Supplier shall pay Calleguas the difference within sixty (60) days of receipt of an invoice. If the costs are less than the sum of the deposits made by Supplier, Calleguas will pay Supplier the difference within one hundred twenty (120) days after the costs have been reconciled.
  - (2) If the Supplier Connection is not completed for any reason due to the action or inaction of Supplier, then (i) this Agreement shall terminate, and (ii) Calleguas shall deduct from the total deposits made all costs incurred by Calleguas to date, and (iii) if the deposits exceed the costs incurred by Calleguas, the balance shall be returned to Supplier, or (iv) if the deposits are less than the costs incurred by Calleguas, the Supplier

shall pay the amount due within sixty (60) days of receipt of an invoice from Calleguas documenting those costs.

2.2 Ownership. The Supplier Connection shall be and become the property of Calleguas downstream from the upstream flange of the isolation valve, which is located upstream of the flow meter. Supplier will own, operate, and maintain any facilities upstream of the isolation valve. Calleguas will operate, maintain, and repair the Supplier Connection in accordance with Calleguas' then current preventive maintenance practices. Calleguas will replace the Supplier Connection at Supplier's expense when Calleguas determines that the Supplier Connection has been rendered unserviceable through normal wear and tear, in Calleguas' sole discretion.

2.3 Operation.

- (a) Commencement. Subject to the terms and conditions of this Agreement, Calleguas shall commence Conveying water under this Agreement on the date that Calleguas determines, in its sole discretion, that the Supplier Connection is ready to Convey water and that all other applicable conditions have been met.
- (b) Isolation Valves. Isolation valves at the Supplier Connection or on pipelines belonging to Calleguas shall not be operated or accessed by Supplier or Recipient without Calleguas' prior written consent. Authorized consent may only be granted in writing signed by Calleguas' General Manager or the Manager of Operations and Maintenance, or a duly appointed designee of either of them.
- (c) Access and Use of Calleguas Facilities. Supplier and Recipient shall not enter Calleguas owned facilities, including buildings, cabinets, and vaults, nor use any Calleguas owned facilities or equipment to support or house Supplier or Recipient equipment or for any other purpose without Calleguas' prior written consent. Authorized consent may only be granted in writing signed by Calleguas' General Manager or the Manager of Operations and Maintenance, or a duly appointed designee of either of them.
- (d) Communication. Supplier and Recipient shall promptly report to Calleguas' Operations Center at (805) 579-7137 (or such other contact number as Calleguas may specify in writing from time to time) any leaks, failures of equipment, security breaches, water quality exceedances, permit violations, and other matters which come to their attention and require timely response of Calleguas' staff. All requests for routine operational assistance may be directed to Calleguas' Operations Center, or to the appropriate Calleguas supervisor. Inquiries about policies and procedures, general information, and coordination for project planning shall be directed to Calleguas' Manager of Operations and Maintenance.
- (e) Flow Metering.
  - (1) Calleguas' Equipment as Billing Meter. Calleguas' equipment shall be used as the primary billing meter to calculate flow rates and accumulate Conveyed Water quantities. Supplier metering data shall only be considered by Calleguas when Calleguas determines that its own equipment is inoperable.

- (2) Metering Equipment Standards. Calleguas' established standard for metering equipment used for billing pursuant to this Agreement shall be a venturi meter. The meter shall be configured to provide an input to a device which calculates rate of flow and accumulated volume of water delivered.
- (3) Metering Range. Whenever flow through the meter is greater than the rated flow capacity of the Supplier Connection, it shall be calculated as the rated flow capacity. Whenever flow through the meter is less than ten percent (10%) of the rated capacity of the Supplier Connection, it shall be calculated as zero flow.
- (4) Meter Testing. Calleguas shall calibrate and test all metering components a minimum of once annually to confirm accuracy of plus or minus two percent ( $\pm 2.0\%$ ). Supplier may request to have the Supplier Connection meter tested by Calleguas if Supplier reasonably suspects inaccuracy. Such request shall be made in writing delivered to Calleguas' Manager of Operations and Maintenance, and Supplier shall have the right to witness any such test. In the event that such test discloses an error exceeding plus or minus two percent ( $\pm 2.0\%$ ), an adjustment shall be made in metered charges to Supplier, covering the known or estimated extent and period of duration of such error up to a six-month period. If such test discloses an error exceeding plus or minus two percent ( $\pm 2.0\%$ ), the expenses of such test shall be borne by Calleguas; otherwise, such expenses shall be borne by Supplier.
- (f) Signals and Controls. Calleguas will install and maintain flow rate signals, valve open and close control inputs, rate-of-flow controls, water pressure transmitters, and water quality analyzers at the Supplier Connection. Supplier and Recipient acknowledge that any and all Calleguas supplied signals and controls are provided as a courtesy to Supplier and Recipient, and it is the responsibility of Supplier to control its own system and maintain operations within the rated flow capacity of the Supplier Connection and in compliance with the water quality parameters set forth in this Agreement. Any reliance by Supplier or Recipient on Calleguas equipment shall be solely at the risk of Supplier and Recipient. Any inaccuracy or failure of Calleguas provided signals and controls shall not constitute a breach by Calleguas and shall not constitute cause to dispute the metered flows and volumes or measured water quality. Calleguas reserves the right to remove any or all Calleguas supplied signals and controls if it so desires.
- 2.4 Easements. Supplier shall timely provide all necessary temporary and/or permanent easements to Calleguas, as may be requested by Calleguas for construction, operation, and maintenance of the Supplier Connection, including without limitation all easements Calleguas' deems necessary for such purposes subsequent to the expiration or termination of this Agreement.
- 2.5 Related Facilities. Supplier, at its sole cost and expense, shall be responsible for construction and operation of the system from which flow will be delivered by Supplier to the Supplier Connection, and Supplier agrees that such system shall be designed,

modified, and/or constructed to accommodate the design criteria listed below at any and all times that Supplier delivers water through the Supplier Connection.

Minimum operating hydraulic grade line in \_\_\_\_\_ feet above mean sea level  
Calleguas pipeline  
Maximum operating hydraulic grade line in \_\_\_\_\_ feet above mean sea level  
Calleguas pipeline  
Maximum hydraulic grade line for surge in \_\_\_\_\_ feet above mean sea level  
Calleguas pipeline  
Maximum flow rate at the point of connection \_\_\_\_\_ gpm  
Minimum flow rate at the point of connection \_\_\_\_\_ gpm  
(10% of maximum flow rate)

### 3. CONVEYANCE OF PRODUCED WATER

- 3.1 Calleguas Consent. Calleguas consents to this Agreement with the understanding that it is the mutual intent of the Parties to ensure that the existing level of service to Calleguas Purveyors will not be impaired or impeded by this Agreement, as reasonably determined by Calleguas. Supplier and Recipient acknowledge and agree that the rights and obligations of the Parties shall be observed and performed with that intent in mind.
- 3.2 Acceptance and Delivery. Subject to all of the terms and conditions of this Agreement, Calleguas will use good faith efforts to receive the Produced Water at the Supplier Connection and Convey it to the Delivery Point(s) pursuant to the Delivery Procedures. Notwithstanding anything to the contrary provided in this Agreement, Calleguas will not be required to accept or Deliver any Produced Water that fails to meet all of the water quality requirements referenced in this Agreement. Recipient shall accept the Conveyed Water as and when Delivered by Calleguas, and Recipient shall be solely responsible for all further conveyance and distribution of the Conveyed Water from the Delivery Point(s). Calleguas shall have no obligation to store or Deliver any Conveyed Water that Recipient does not or cannot accept.
- 3.3 Delivery Flow Rate. The Delivery flow rate of Produced Water will take place at the rate it is produced by Supplier, subject to: the high and low limits set forth in Paragraph 2.3(e)(3); availability of capacity and customer demands in Calleguas' transmission system; and the Recipient's ability to accept the Conveyed Water based on its then existing demands and available storage. Supplier and Recipient acknowledge and agree that the Supplier Connection will be built with a pressure reducing valve designed to automatically decrease flow if the flow of Produced Water exceeds the capacity of the Calleguas water transmission system to receive the Produced Water.
- 3.4 No Storage Obligation. Supplier and Recipient acknowledge and agree that Calleguas has no obligation to store any Produced Water or Conveyed Water on behalf of Supplier or Recipient, except to the limited extent necessary during Conveyance of the Conveyed Water to the Delivery Point(s) pursuant to this Agreement.

- 3.5 Obligation to Use Within Calleguas' Service Area. As a condition to Delivery of Produced Water pursuant to this Agreement, and as required by Calleguas Ordinance 12, all of the Conveyed Water must be used within Calleguas' Service Area. Recipient may not sell, lease, or transfer any Conveyed Water for use outside of Calleguas' Service Area. Calleguas reserves the right to suspend, curtail, terminate or interrupt Delivery at any time upon Calleguas' determination that Conveyed Water is being used outside of Calleguas' Service Area or is being sold, leased, or otherwise transferred for use outside of Calleguas' Service Area.
- 3.6 Independent Local Supply. Irrespective of any Calleguas pricing tier which may be in effect, Delivery of Conveyed Water shall not be counted as water delivered by Calleguas for purposes of aggregating the total of Calleguas water delivered to Recipient under a pricing tier. For purposes of Calleguas' billing and allocations, the Conveyed Water shall be considered a local supply for Recipient.
- 3.7 No Liability. Neither Calleguas, nor any officer, director, manager, employee, or agent of Calleguas, shall be liable to Supplier or Recipient or any other person or entity for any loss, liability, damage, claim, or other consequences, including, without limitation, lost profits, lost income, or any other consequential damages, resulting from or in any way connected with the suspension, curtailment, termination, or other interruption of Conveyance and/or Supplier's or Recipient's right and ability to Convey water under this Agreement. Without limiting the foregoing, Calleguas shall not be liable for any such loss, liability, damage, claim, or consequence resulting from the operation of the pressure reducing valve described in Paragraph 3.3, and/or any other suspension, curtailment, termination, or interruption of Conveying services pursuant to Paragraph 7.3 of this Agreement, or for any other reason. Supplier and Recipient are each solely responsible for adopting, implementing, and maintaining all necessary contingency plans and preventive measures to minimize or avoid any adverse consequences in anticipation of such events. Furthermore, neither Calleguas, nor any officer, director, manager, employee, or agent of Calleguas, shall be liable to Supplier or Recipient or any other person or entity for any loss, liability, or claim of damage of any nature whatsoever, including, without limitation, property damage, personal injury, or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of Produced Water or Conveyed Water either (a) prior to delivery of the Produced Water to Calleguas at the Supplier Connection pursuant to this Agreement, or (b) after Delivery of the Conveyed Water to the Delivery Point(s) pursuant to this Agreement.

#### 4. WATER QUALITY

- 4.1 General. Supplier and Recipient acknowledge and agree that water quality is of primary importance and concern to Calleguas, and Supplier's failure to comply with the Water Quality Standards set forth herein may result in substantial harm to Calleguas and its customers and users.
- 4.2 Compliance. Supplier is responsible, at its sole cost and expense, for obtaining, maintaining, and/or submitting all permits, approvals, and documentation required by the SWRCB DDW for the production and treatment of the Produced Water and for the delivery of the Conveyed Water through Calleguas' transmission system, including but not limited to a SWRCB DDW Domestic Water Supply Permit. Supplier assumes all risk of delay, non-issuance, withdrawal, expiration, or revocation of such permits and approvals as well as the imposition of any changes to the terms and conditions applicable

thereto. Supplier is also responsible, at its sole cost and expense, for building, operating, and maintaining the groundwater wells and treatment facilities which will produce and treat the Produced Water in compliance with all applicable regulatory requirements for potable water facilities. Without in any way limiting Calleguas' rights and remedies provided elsewhere in this Agreement and under applicable law, in the event of non-compliance Supplier shall promptly correct such failure and resume full compliance at its sole cost and expense.

4.3 Condition to Delivery.

- (a) Start-Up. Supplier shall not be permitted to commence delivery of Produced Water into the Calleguas system pursuant to this Agreement unless and until Calleguas receives documentation which, in the sole opinion of Calleguas, documents that the Produced Water will be in full compliance with all water quality standards set forth in this Paragraph 4.
- (b) Operations. Once delivery begins, Supplier shall provide a monthly report to Calleguas. The report shall be submitted to Calleguas' designated staff person no later than the 15<sup>th</sup> of the month for operations during the previous month. The report shall include:
  - (1) analytical results of samples taken during the previous month of all parameters set forth in Calleguas Water Quality Requirements analyzed according to then-current methods approved by the SWRCB DDW; and
  - (2) copies of all reports submitted to the SWRCB DDW related to operations during the previous month.

4.4 Sampling.

- (a) Supplier. Supplier is responsible, at its sole cost and expense, for all sampling and water quality monitoring required for compliance with applicable regulations, for the sampling requirement set forth in Paragraph 4.3(b)(1) and for the reporting requirements set forth in Paragraph 4.3(b)(1) and (2).
- (b) Calleguas. Calleguas may take samples and monitor water quality at the Supplier Connection for its own purposes, including but not limited to determining whether Water Quality Standards set forth in this Agreement are being met. Such sampling shall not be used by Supplier for its regulatory monitoring. Supplier consents to such sampling and agrees that Calleguas may, without limitation, rely upon such sampling for purposes of determining Supplier's compliance with this Agreement. Without limiting the foregoing:
  - (1) Calleguas may perform grab sampling and lab analysis of discharges at the Supplier Connection.
  - (2) Calleguas will install and maintain water quality analyzers at the Supplier Connection to continuously monitor total chlorine concentration, chlorine to ammonia ratio, and specific conductance.

- 4.5 Violation. In addition to all other remedies available to Calleguas under this Agreement and applicable law, Calleguas reserves the right to immediately suspend, curtail, terminate or interrupt acceptance of Produced Water into its transmission system under this Agreement at any time and from time to time upon Calleguas' determination that any water quality requirements may have been violated.
- 4.6 Reimbursement. Without in any way limiting Supplier and Recipient's obligation to indemnify Calleguas as provided in this Agreement, Supplier shall promptly reimburse Calleguas for any and all fines, penalties, and charges of any kind levied against Calleguas as a result of a violation of the Water Quality Standards described in this Agreement.
- 4.7 Disclaimer of Warranty. To the fullest extent permitted by law, Calleguas hereby disclaims and shall not be liable to Supplier, Recipient, or any other person or entity for the quality of any Produced Water.

## 5. ADDITIONAL RIGHTS AND OBLIGATIONS

- 5.1 Access and Information. Supplier shall allow Calleguas, and its employees, contractors and agents, timely access to Supplier's sites and facilities as may be requested by Calleguas from time to time in order for Calleguas, and its employees, contractors, and agents, to confirm compliance with this Agreement. Supplier agrees to timely provide Calleguas, and its employees, contractors and agents, with all information requested by Calleguas deemed to be necessary to carry out the purpose and intent of this Agreement.
- 5.2 Documents and Reports. Supplier shall provide to Calleguas, its employees, contractors, and agents such documents, reports, and information regarding Supplier's operations, water quality, and regulatory compliance as may be requested by Calleguas from time to time. Such documents and information shall be supplied to Calleguas in a manner and timeframe requested by Calleguas.

## 6. CONVEYANCE CHARGES

- 6.1 Conveyance Charges. Supplier shall pay Calleguas Conveyance charges (the "Conveyance Charges") as established by the Board in accordance with Ordinance 12. Calleguas shall have the absolute and sole authority to change the rates specified in Ordinance 12, implement new rates, and/or pass through any charges imposed on Calleguas as a result of this Agreement. Calleguas shall use reasonable efforts to provide at least sixty (60) days' advance notice to Supplier and Recipient of such rate changes. With respect to these Conveyance Charges, the Parties acknowledge and agree that:
- (a) Included Costs. The Conveyance Charges include the following components:
- (1) the cost of the transmission infrastructure assessed as a cost per acre-foot of Conveyed Water;
  - (2) the cost for electricity to pump when there is insufficient demand for Produced Water in the pressure zones at or below the location where Produced Water is delivered into the Calleguas transmission system;

- (3) costs directly associated with operation, maintenance, replacement, and repair of the Supplier Connection, including, but not limited to, labor, parts, and water quality sampling and analysis, operation, and maintenance, electricity, and telecommunications; and
- (4) costs for Calleguas to perform grab sampling at the Supplier Connection, and associated lab analysis costs up to a maximum of \$20,000 per calendar year, except that this maximum may be exceeded for samples which do not comply with the Water Quality Standards set forth in this Agreement, and follow-up samples to those which were out of compliance.

6.2 Billing. The billing period ends on the last calendar day of each month. As soon after the end of each billing period as practicable, Calleguas will mail or otherwise deliver to Supplier an invoice for the preceding month. All invoices shall be due and payable immediately upon receipt, and shall be deemed delinquent if not paid by the last business day of the month of the date of mailing. Delinquent invoices are subject to a late charge of one percent (1%) of the outstanding balance which shall be added to the balance due. If full payment is not received by Calleguas within sixty (60) calendar days after the invoice has become delinquent, Calleguas reserves the right to (a) require, as a condition to continued Conveyance of water, a cash deposit or payment bond in a reasonable amount determined by Calleguas to guarantee prompt payment in the future, or (b) suspend, curtail, terminate and/or interrupt its Conveyance services.

6.3 Recipient Accounting. The Conveyed Water shall be separately accounted for as a credit on the monthly potable water sales invoice sent from Calleguas to Recipient pursuant to Ordinance 12. The Produced Water shall be continuously metered and credited to Recipient's account for all water delivery charges related to volume and rate of flow, including, but not limited to, Tier 1/Tier 2 charges, capacity charges, readiness-to-serve charges, or any other charges which may be in place at the time of delivery, except as set forth in Paragraph 3.6, Independent Local Supply.

6.4 Applicable Procedures. Unless otherwise provided for in this Agreement, all Calleguas invoicing, billing, and crediting processes shall be in accordance with generally applicable rules and regulations established by Calleguas as reflected in Ordinance 12.

## 7. TERM, TERMINATION, AND SUSPENSION OF SERVICE

7.1 Term. This Agreement is effective as of the Effective Date and, unless sooner terminated as provided in this Agreement, shall continue until the Termination Date (as defined in Paragraph 1.1(q)).

7.2 Termination.

(a) Early Termination. This Agreement may be terminated prior to the Termination Date as follows:

- (1) At any time by mutual written agreement of all of the Parties; or

- (2) At the election of Supplier and Recipient by delivering at least sixty (60) days prior written notice to Calleguas (signed by both Supplier and Recipient); or
  - (3) In addition to the right of Calleguas to curtail, suspend, or interrupt Conveyance services as specified elsewhere in this Agreement, Calleguas may at any time terminate this Agreement for cause in the event that Supplier or Recipient breaches or otherwise fails to perform its obligations under this Agreement. Except in the case of an emergency, as determined by Calleguas in its sole discretion, Calleguas shall give Supplier and Recipient at least ten (10) days prior written notice of the termination. By way of example, and without limitation, an emergency allowing for immediate termination of this Agreement without advance notice shall include a determination by Calleguas that there has been a violation of the Water Quality Standards set forth in this Agreement. Supplier and Recipient acknowledge and agree that Calleguas shall not be liable to either of them or any other person or entity for any loss, liability, damage, claim, or other consequences resulting from the termination of Conveyance services for cause or as otherwise permitted under this Agreement.
- (b) Effect of Termination. Except as provided in Paragraph 7.2(c), below, upon termination of this Agreement for any reason, all rights and obligations of the Parties shall promptly terminate, including, without limitation, all rights of Supplier and Recipient to use Calleguas' water transmission system.
- (c) Survival. Notwithstanding anything to the contrary in this Agreement, the following rights and obligations shall survive the expiration or termination of this Agreement:
- (1) All outstanding payment obligations under this Agreement, including, without limitation, payment obligations under Paragraph 6;
  - (2) Recipient's obligation to use all Conveyed Water within Calleguas' Service Area pursuant to Paragraph 3.5;
  - (3) The limitation on Calleguas' liability under Paragraph 3.7 and 7.3(a);
  - (4) Calleguas' warranty disclaimer under Paragraph 4.7;
  - (5) The indemnity obligations of each Party under this Agreement including, without limitation, the indemnity obligations contained in Paragraph 9;
  - (6) Supplier's obligations under Paragraph 2.4 with respect to the granting of necessary easements; and
  - (7) The provisions of Paragraphs 12.1 and 12.12 shall also survive termination of this Agreement.

7.3 Right to Suspend, Interrupt, or Curtail Conveyance Services.

- (a) General. Supplier and Recipient acknowledge and agree that the Conveyance of water and access to the system may be suspended, curtailed, or otherwise interrupted. Supplier and Recipient further acknowledge and agree that Calleguas shall not be liable to either of them or any other person or entity for any loss, liability, damage, claim, or other consequences resulting from the suspension, curtailment, termination, or other interruption of the Conveyance of water or their access to the system.
- (b) Breach. In addition to all other rights and remedies of Calleguas as provided in this Agreement and/or applicable law, including the right to terminate this Agreement for the reasons described in Paragraph 7.2, Calleguas may indefinitely suspend, curtail, or otherwise interrupt the Conveyance of water and/or Supplier's and Recipient's right and ability to Convey Water under this Agreement if Calleguas determines that Supplier or Recipient has breached any of their respective obligations under this Agreement or otherwise violated any term of this Agreement. Calleguas shall use good faith efforts to provide Supplier and Recipient with prior notice of the violation and the decision to suspend or terminate service; provided, however that if Calleguas determines that the nature of the violation is such that providing such prior notice would have an adverse impact on Calleguas or on operation of its transmission system, no prior notice shall be required.
- (c) For Other Reasons. Without limiting any other rights Calleguas has under this Agreement and applicable law, Calleguas reserves the right, at any time, to suspend, curtail, or interrupt Conveying water and/or Supplier's and Recipient's right and ability to Convey water under this Agreement if (1) Calleguas determines in its discretion that continuation of such service prevents Calleguas from operating its water transmission system reliably, legally, or safely; or (2) Calleguas determines that such action is necessary as a result of operational or capacity constraints; or (3) Calleguas deems it necessary to facilitate maintenance, internal inspection, rehabilitation, or improvement projects on Calleguas' facilities. Except in cases of emergency, as determined by Calleguas, notice of such action shall be given to Supplier and Recipient in advance of such action. Without limiting the foregoing, the Parties acknowledge and agree that Calleguas' potable water system has minimal redundancy and may be out of service for indeterminate periods of time for planned maintenance or for unplanned repairs.

**8. REPRESENTATIONS AND WARRANTIES**

8.1 Supplier's and Recipient's Representations and Warranties. As a material inducement to Calleguas to enter into this Agreement, Supplier and Recipient jointly and severally represent, warrant, and covenant as follows:

- (a) Supplier and Recipient are each duly organized, validly existing, and in good standing under the laws of the State of California and have all necessary power and authority to enter into this Agreement and to perform their respective obligations hereunder;

- (b) Supplier's and Recipient's execution and delivery of this Agreement, and their performance of their obligations hereunder, will not violate or constitute an event of default under any agreement or instrument to which either is a party or by which either is bound, including, without limitation, any water supply contract or water service agreement;
- (c) All proceedings and approvals required to be taken by or on behalf of Supplier and Recipient to authorize and perform this Agreement have been duly and properly taken, and this Agreement is a valid and binding obligation of Supplier and Recipient enforceable in accordance with its terms;
- (d) To the best of Supplier's knowledge and Recipient's knowledge, there is no litigation, proceeding, or investigation pending or threatened, to which either is or would be a party, which, if adversely determined, might materially and adversely affect their respective ability to perform their respective obligations under this Agreement, or which raises a question as to the validity of this Agreement, or any action to be taken hereunder;
- (e) The Recipient's Service Area lies entirely within Calleguas' Service Area;
- (f) Conveying water pursuant to this Agreement will not injure any legal user of water, nor will it unreasonably affect fish, wildlife, or other instream beneficial uses, nor will it unreasonably affect the economy or environment of the local area and/or county from which the Conveyed Water is being transferred;
- (g) Supplier and Recipient are, and shall continue to be, solely responsible for ensuring that performance of this Agreement will not injure any legal user of water, and will not unreasonably affect fish, wildlife, or other instream beneficial uses, and will not affect the economy or environment of the local area and/or county from which the Conveyed Water is being transferred;
- (h) No approval, authorization or consent of any government agency or body, or any other person or entity, is required for the valid execution, delivery, and performance of this Agreement by Supplier and Recipient except for such as have been duly obtained as of the Effective Date. No registration or filing with any government agency or body, or any other person or entity is required for the valid execution, delivery and performance of this Agreement by Supplier and Recipient except as has been duly completed as of the Effective Date; and
- (i) Supplier and Recipient shall at all times comply with the terms of this Agreement and all laws, rules, regulations, ordinances, and all orders of government and regulatory authorities having jurisdiction, as the same are applicable to their respective obligations hereunder.

8.2 Calleguas' Representations and Warranties. As a material inducement to Supplier and Recipient to enter into this Agreement, Calleguas represents, warrants, and covenants as follows:

- (a) Calleguas has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder;

- (b) All proceedings and approvals required to be taken by or on behalf of Calleguas to authorize and perform this Agreement have been duly and properly taken, and this Agreement is a valid and binding obligation of Calleguas enforceable in accordance with its terms; and
- (c) Calleguas shall at all times comply with the terms of this Agreement and all laws, rules, regulations, ordinances, and all orders of government and regulatory authorities having jurisdiction, as the same are applicable to Calleguas' obligations hereunder.

## 9. INDEMNITY

### 9.1 Supplier.

- (a) Supplier shall immediately defend, indemnify, and hold harmless Calleguas and the Purveyors, and their respective directors, city council members, shareholders, officers, managers, employees, agents and/or volunteers (individually an "Indemnified Party" and collectively "Indemnified Parties") from and against any and all liabilities, losses, damages, expenses, claims, judgments, settlements, fines, penalties, assessments, attorney's fees and costs (including without limitation costs and fees of litigation) of every kind and nature whatsoever, including, but not limited to, injury to or death of any person, damage to or destruction of property of any person or entity, or violation of any law, statute, rule, regulation, ordinance or any order of a government or regulatory agency having jurisdiction (each individually referred to in this Paragraph 9 as a "Claim" and collectively as "Claims") that arise from or relate to any of the following:
  - (1) Negligent acts, errors, or omissions of Supplier, or its owners, officers, directors, managers, employees, agents and/or contractors, in connection with the performance or failure to perform its obligations under this Agreement;
  - (2) Recklessness or willful misconduct of the Supplier or its owners, officers, directors, managers, employees, agents and/or contractors in connection with its obligations under this Agreement;
  - (3) Breach or inaccuracy of any representation or warranty provided by the Supplier pursuant to this Agreement;
  - (4) The quality of the Produced Water, including without limitation any Claim arising from or relating to the introduction into Calleguas' water transmission system of water that does not meet all applicable health standards or that fails to comply with the Water Quality Standards or Calleguas Water Quality Requirements set forth in this Agreement. This indemnity shall extend to any liability resulting from property loss or damage or death or personal injury suffered or alleged to be suffered by any person or entity from exposure to, or as a result of using or consuming, such non-complying supplied water based on any theory of recovery, including but not limited to theories of product liability, toxic tort, or environmental impairment. The loss and expense relating to such liabilities to third parties to which the indemnity provided in this

Paragraph extends shall include, without limitation, any and all special, incidental, consequential, exemplary, and other similar damages awarded to such third parties;

- (5) The design, construction, maintenance, and operation of Supplier's facilities and equipment used in connection with this Agreement;
  - (6) The control, carriage, handling, use, disposal, or distribution of Produced Water prior to delivery of the Produced Water to Calleguas at the Supplier Connection;
  - (7) The failure of Supplier for any reason to comply with its obligations under this Agreement; and/or
  - (8) Breach by the Supplier of, or non-compliance by the Supplier with, any governmental approval or applicable law, or the failure of the Supplier to obtain all applicable governmental approvals.
- (b) Supplier will not be required to indemnify or hold harmless the Indemnified Parties if the Claim arises from the sole active negligence or willful misconduct of the Indemnified Parties.

## 9.2 Recipient.

- (a) Neither Calleguas, nor any of its directors, officers, managers, employees, agents and/or volunteers shall be liable for the carriage, control, delivery, disposal, distribution, handling, or use of any Conveyed Water after Delivery to the Delivery Point(s); nor for any Claim arising out of or connected with the carriage, control, delivery, disposal, distribution, handling, or use of such water beyond the Delivery Point(s). Recipient shall immediately defend, indemnify, and hold harmless the Indemnified Parties, including but not limited to Purveyors other than Recipient, from and against any and all Claims arising from or related to the carriage, control, delivery, disposal, distribution, handling, or use of the Conveyed Water after Delivery to the Delivery Point(s).
- (b) Recipient shall immediately defend, indemnify, and hold harmless the Indemnified Parties, including but not limited to Purveyors other than itself, from and against any and all Claims that arise from or relate to the negligence, recklessness or willful misconduct of Recipient, in the performance of its obligations under this Agreement.
- (c) Recipient acknowledges and agrees that Calleguas is not responsible for water delivered by Supplier to the Supplier Connection which fails to comply with the Water Quality Standards set forth in this Agreement, nor the Delivery of such non-conforming water to the Delivery Point(s). Accordingly, Recipient shall have no claim or cause of action against Calleguas for Delivery of such non-conforming water and hereby waives and releases Calleguas from any and all such claims and causes of action to the fullest extent permitted by law. The parties acknowledge and agree that such waiver and release does not in way limit Recipient's obligation to defend, indemnify, and hold Calleguas harmless as provided in this Paragraph 9.2 and elsewhere in this Agreement.

- (d) Recipient will not be required to indemnify or hold harmless the Indemnified Parties if the Claim arises from the sole active negligence or willful misconduct of the Indemnified Parties.

9.3 Calleguas.

- (a) Calleguas shall defend, indemnify, and hold harmless Supplier and Recipient and their respective directors, officers, managers, employees and agents, from and against any and all Claims that arise from or relate to the sole active negligence or willful misconduct of Calleguas, in the performance of its obligations under this Agreement.

9.4 Right to Participate in Defense. Upon request of the indemnified party, the indemnifying party shall immediately defend, at its sole cost and expense, any and all allegations, claims, demands, suits, and all other legal proceedings of every kind that may be brought or instituted against the indemnified party, arising from or relating to a Claim for which the indemnified party is entitled to indemnification pursuant to this Paragraph 9. The indemnified party shall have the right, but not the obligation, to approve any counsel retained under this Paragraph; provided however that such approval shall not be unreasonably withheld. Without limiting its obligations under this Paragraph 9, the indemnifying party agrees that the indemnified party has the right to participate in the defense of any matters that relate to the indemnified party, or any of them, and that no action, claim, or suit shall be settled without the indemnified party's consent, such consent not to be unreasonably withheld. If, at any time, the indemnified party makes a good faith determination that a conflict exists with respect to its interests and the interests of the indemnifying party, then the indemnified party may retain independent counsel of its own choosing whose reasonable fees shall be paid by the indemnifying party.

9.5 Additional Rights. The indemnity provided in this Paragraph 9 shall be in addition to any indemnification rights specified elsewhere in this Agreement, any indemnification rights available under applicable law (including any right to implied indemnity), and to any other remedy available under this Agreement. The indemnity provided in this Paragraph 9 shall not be limited to the proceeds of any Insurance set forth in Section 10 of this Agreement.

## 10. INSURANCE

10.1 General Obligation. Supplier shall, at its sole cost and expense, obtain and maintain at all times during the entire period of performance under this Agreement, the liability insurance as outlined in this Paragraph 10. Before water is Conveyed by Calleguas, and throughout the period that Calleguas Conveys water, Supplier shall (a) file with Calleguas a certificate or certificates of insurance and all required policy endorsements evidencing that such insurance coverage is in effect, and (b) provide Calleguas with such other documents and/or instruments as may be requested by Calleguas from time to time evidencing Supplier's full compliance with this Paragraph 10.

10.2 Commercial General Liability (CGL) and Umbrella Liability Insurance. Supplier shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance, with a limit of not less than Sixty Million Dollars (\$60,000,000) each occurrence.

- (a) CGL insurance shall be written on ISO occurrence form CG 00 01 12 07 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including this Agreement), including the tort liability of another assumed in a business contract (including this Agreement).
- (b) CGL insurance shall cover bodily injury and property damage liability arising out of your “Water Professional Activities”. “Water Professional Activities” means an act, error or omission which arises from Supplier’s activities as an entity whose primary duty is the treatment or distribution of potable water.
- (c) CGL insurance shall cover bodily injury and property damage liability arising out of any bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.
- (d) CGL insurance shall cover bodily injury and property damage liability arising out of or caused by the Supplier’s water treatment process.

10.3. Additional Insureds. The Additional Insureds are defined as Calleguas and the Purveyors and their directors, city council members, shareholders, officers, managers, employees, agents and/or volunteers. The Additional Insureds shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 15 or its equivalent. Additional insured coverage as required in this Paragraph 10 shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Additional Insureds. There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to each Additional Insured. Any insurance, self-insurance, or other coverage, if any, maintained by the Additional Insureds shall be non-contributory. Umbrella liability insurance shall provide additional insured coverage as required for the CGL Insurance.

10.4 No Limitation. The limits of insurance contained herein shall not be construed as a limit on the indemnity obligations of Supplier under this Agreement.

11. *[Intentionally left blank]*

12. MISCELLANEOUS

12.1 Applicable Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of California and the venue for all legal or equitable actions relating to or arising from this Agreement shall be Ventura County, California.

12.2 Ordinance 12. The Conveyance services provided under this Agreement are at all times subject to the applicable provisions of Ordinance 12. By execution of this Agreement, Supplier and Recipient acknowledge that they have reviewed Ordinance 12 and are agreeable to its terms. Notwithstanding anything in this Agreement to the contrary, express or implied, Calleguas shall have the right to amend Ordinance 12 from time to time at its sole discretion, except that, for purposes of this Agreement, no such

amendment shall result in a materially adverse change or modification of Recipient's rights to obtain Delivery of Produced Water from Supplier, or the obligations of Calleguas, or be binding on Supplier or Recipient unless such change is agreed to in writing by all Parties.

- 12.3 No Effect On Service Connection Agreements. Nothing herein shall alter, amend, or supersede any term or provision of Recipient's service connection agreements, if any.
- 12.4 No Liens. Neither Supplier nor Recipient shall mortgage, pledge, lien or otherwise encumber ("Lien") this Agreement or all or any portion of the Supplier Connection. Any such Lien shall be null and void. Without limiting Calleguas rights and remedies under this Agreement, Supplier and Recipient shall promptly remove the Lien or cause the Lien to be removed at their sole cost and expense.
- 12.5 No Third-Party Rights. This Agreement is made solely for the benefit of the Parties and their respective permitted successors and assigns (if any). Except for such a permitted successor or assign, no other person or entity may have or acquire any right by virtue of this Agreement.
- 12.6 Ambiguities. Each Party and its counsel have participated fully in the drafting, review, and revision of this Agreement. No rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall be applied in the interpretation of this Agreement or any amendments or modifications thereof.
- 12.7 Entire Agreement. This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement among the Parties pertaining to the Conveyance of water and supersedes all prior and contemporaneous understandings or agreements of the Parties related thereto. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty outside those expressly set forth in this Agreement.
- 12.8 Amendment. This Agreement may only be changed by written amendment signed by all parties. Any oral representations or modifications concerning this Agreement shall be of no force or effect.
- 12.9 Successors and Assigns. Subject to the restrictions on assignment set forth below, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.
- 12.10 Incorporation of Recitals. All Recitals set forth above are intended to be and hereby are specifically incorporated into, and made a part of, this Agreement.
- 12.11 Severability. If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions herein shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.
- 12.12 Attorney's Fees. In the event that any dispute between the Parties arising under this Agreement results in litigation or arbitration, the prevailing Party in such dispute shall be entitled to recover from the other Party all reasonable fees, costs, and expenses (including attorney's fees) incurred in such action.

- 12.13 Compliance with Laws. In addition to all of Parties' duties and obligations specified in this Agreement, the Parties shall at all times comply with all laws, rules, regulations, ordinances, and all orders of government and regulatory authorities having jurisdiction.
- 12.14 Notice. Unless specifically designated otherwise herein, any notice, demand, or request to be given under or pursuant to this Agreement shall be given in writing at the physical addresses set forth below by personal service; telecopy; overnight courier; or registered or certified, first class mail, return receipt requested:

If to Supplier: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If to Recipient: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If to Calleguas: Calleguas Municipal Water District  
 2100 Olsen Road  
 Thousand Oaks, California 91360  
 Attn: General Manager

- 12.15 Counterparts. This Agreement may be executed in two or more counterparts, each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument, with the same force and effect as though all signatures appeared on a single document.
- 12.16 Assignment. Neither Supplier nor Recipient may assign, transfer, or otherwise delegate any of their respective rights or obligations under this Agreement without the prior written consent of Calleguas. Any assignment, transfer, or delegation of rights or obligations in violation of this Agreement is void and shall be of no force or effect.
- 12.17 Force Majeure. If the performance, in whole or in part, of the obligations of Calleguas to make any Delivery of Produced Water under this Agreement is prevented by (a) acts or failures to act of any agency, court, or other government authority, or any other person; (b) by natural disaster (such as earthquake, fire, drought, or flood), contamination or outbreak of a water borne disease, war, strike, lockout, act of God, or act of civil or military authority; (c) by the operation of applicable law; or (d) by any other cause beyond the control of Calleguas, whether similar to the causes specified herein or not, then, in any such circumstances, the obligation of Calleguas to make such Delivery of Produced Water under this Agreement shall be suspended from the time and to the extent that the performance thereof is prevented. No suspension of performance by Calleguas pursuant to this Paragraph shall suspend, terminate, or otherwise affect any payment obligations for Delivery of Produced Water actually completed, or any indemnity obligations of the Parties pursuant to this Agreement. Furthermore, no suspension of performance by Calleguas pursuant to this Paragraph shall extend the term of this Agreement beyond the Termination Date.

12.18 Relationship of Parties. Each Party is an independent entity. This Agreement does not and will not create agency relationships between the Parties, except as otherwise provided in this Agreement or agreed to by the Parties in writing. This Agreement also does not, and will not, create partnership or joint venturer relationships for any reason.

*[Signature page follows]*

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement For Conveyance of Potable Water in Ventura County, California, and have caused this Agreement to be executed in duplicate on the day and year first above written.

**CALLEGUAS:**

CALLEGUAS MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
Susan B. Mulligan, General Manager

Dated: \_\_\_\_\_

**SUPPLIER:**

\_\_\_\_\_,  
A \_\_\_\_\_

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

Its: \_\_\_\_\_

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

Its: \_\_\_\_\_

**RECIPIENT:**

\_\_\_\_\_,  
A \_\_\_\_\_

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

Its: \_\_\_\_\_

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

Its: \_\_\_\_\_

RESOLUTION NO. 1867

A RESOLUTION PURSUANT TO ORDINANCE NO. 12  
ESTABLISHING RATES, RULES AND REGULATIONS  
FOR WATER SERVICE TO AGENCIES WITHIN THE  
CALLEGUAS MUNICIPAL WATER DISTRICT

WHEREAS, the Board of Directors of Calleguas Municipal Water District (the "District") by Ordinance No. 12 established rules, regulations and rates for water sold to its Member Agencies; and

WHEREAS, Ordinance 12 provides for the Board of Directors to have the absolute and sole authority to implement new rates or pass through charges imposed on the district; and

WHEREAS, most recently, the Board of Directors of the District by Resolution No. 1840 adopted May 21, 2014, established rates for water sold to its Member Agencies; and

WHEREAS, the Metropolitan Water District of Southern California ("Metropolitan") adopted new rates, rules and regulations for water service to its member agencies on April 08, 2014; and

WHEREAS, the Board of Directors of the District has determined that certain modifications to the District's rates, rules and regulations for water service are necessary and desirable in accordance with the rate structure adopted by Metropolitan; and

WHEREAS, the Board of Directors of the District finds that said modifications are for the purpose of meeting operating and construction expenses, and are therefore exempt from requirements of the California Environmental Quality Act.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF CALLEGUAS MUNICIPAL WATER DISTRICT RESOLVES AS FOLLOWS:

SECTION 1. In accordance with Ordinance No. 12, the rates and charges set forth in the CALLEGUAS RATE SCHEDULE attached hereto as Exhibit A, and incorporated herein by reference are hereby approved and adopted as the Calleguas Municipal Water District Rate Schedule to be imposed as set forth therein.

SECTION 2. Resolution No. 1840 adopted May 21, 2014, is hereby rescinded effective at 12:01 a.m., January 1, 2016, at which time this Resolution No. 1867 shall become effective.

SECTION 3. All Member Agencies serviced by the District shall be notified promptly of the water rates hereby established in accordance with the provisions of Ordinance No. 12.

ADOPTED, SIGNED AND APPROVED this 20<sup>th</sup> day of May, 2015.

  
Thomas L. Slosson, Vice President  
Board of Directors

I HEREBY CERTIFY that the foregoing Resolution was adopted at a meeting of the Board of Directors of Calleguas Municipal Water District held on May 20, 2015.

ATTEST:

  
Andres Santamaria, Secretary  
Board of Directors

(SEAL)

# EXHIBIT A TO RESOLUTION NO. 1867

## CALLEGUAS RATE SCHEDULE

	Proposed Effective January 1, 2016
<b>Water Supply Rates</b>	
Tier 1 Supply Rate (\$/af)	\$ 1,257
Tier 2 Supply Rate (\$/af)	\$ 1,391
<b>Capacity Rate (Capacity Reservation Charge)</b>	
per cu ft per second (cfs)	\$ 24,540
<b>Temporary Water Rate</b>	
per 100 cu ft	\$ 6.39
<b>Water Wheeling Rate</b>	
per A.F.	\$ 18.87