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WATER TRANSPORTATION AGREEMENT

BETWEEN

SALT RIVER VALLEY WATER USERS' ASSOCIATION

AND

ARIZONA WATER BANKING AUTHORITY

1 WATER TRANSPORTATION AGREEMENT

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1 WATER TRANSPORTATION AGREEMENT

2 1. PARTIES:

3 The Parties to this Water Transportation Agreement (Agreement) made and entered into as of
4 this ____ day of _____, 20__, are the ARIZONA WATER BANKING AUTHORITY
5 (AWBA), and SALT RIVER VALLEY WATER USERS' ASSOCIATION, an Arizona corporation
6 (Association).

7 2. RECITALS:

8 This Agreement is made with regard to the following:

9 2.1 The Colorado River Basin Project Act of 1968 (82 Stat. 885) provides, among other
10 things, that for the purposes of furnishing irrigation water and municipal and industrial
11 water supplies to water deficient areas in Arizona and Western New Mexico through
12 direct diversion or exchange of water, control of floods, conservation, development of
13 fish and wildlife resources, enhancement of recreation opportunities and for other
14 purposes, the Secretary of Interior for the United States of America (Secretary of
15 Interior) shall construct, operate and maintain the Central Arizona Project (CAP).

16 2.2 Shareholders of Association are owners of land within the Salt River Reservoir District,
17 having valid appropriative rights to waters of the Salt and Verde Rivers. Association is
18 responsible for delivery to said lands of waters developed, controlled or stored by it for
19 the benefit of such lands. Association is the agent of the Salt River Project Agricultural
20 Improvement and Power District (District), a political subdivision of the State of
21 Arizona, in the operation of the water delivery system of the Salt River Project, a
22 federal reclamation project, pursuant to an agreement dated March 22, 1937, as
23 amended by agreements dated February 28, 1944, and September 12, 1949, and is
24 also the agent of the United States of America (USA) in the operation of said federal
25 reclamation project pursuant to contract dated

1 September 6, 1917. Association, in distributing water developed by Salt River Project
2 works and facilities, is governed by the decree in Hurley v. Abbott, filed March 1, 1910,
3 and all supplemental decrees thereto, all commonly referred to as the "Kent Decree";
4 the Articles of Incorporation and By-laws and rules and regulations of Association;
5 contracts now in effect and hereafter executed between the Association, the District
6 and the USA; rules and regulations promulgated by the Secretary of Interior, pursuant
7 to the provisions of an Act of Congress, approved June 17, 1902 (32 stat. 388), and
8 acts amendatory thereof and supplementary hereto, all of which are commonly known
9 and referred to as Federal Reclamation Law; and by applicable laws of the State of
10 Arizona.

11 2.3 The Arizona Water Banking Authority is an agency of the State of Arizona established
12 under A.R.S. 45-2421.

13 2.4 Association operates and maintains the water delivery system on behalf of and for the
14 primary benefit of its shareholders, who hold rights to water developed by the Salt
15 River Project, and to whom Association is obligated to deliver such water.

16 2.5 AWBA is obtaining CAP water and is obtaining contracts to transport such water
17 through the Interconnection Facility.

18 2.6 AWBA is in need of a link between the Interconnection Facility and its facilities;
19 therefore, AWBA desires to transport CAP water through the Association Water
20 Delivery System for use by AWBA, and has the authority to enter into this Agreement
21 for transportation of such water.

22 2.7 Association does not as a rule make its water delivery system available to all water
23 users potentially served by it and does not operate for profit. However, as an
24 accommodation to AWBA and for the incidental benefit to Association shareholders,
25 Association will transport CAP water for AWBA as an incident to its primary function;
26 provided that the transportation of such water shall not in any way disrupt or interfere

1 with the operation of the Association Water Delivery System on behalf of Association
2 shareholders and pursuant to existing decrees and existing contracts; and provided
3 further that this Agreement will not affect the responsibilities of Association with
4 respect to waters developed, controlled or stored by Association and delivered
5 pursuant to rights of Association shareholders, and decrees and contracts.

6 2.8 As Association limits the use of the Association Water Delivery System to the
7 transportation and delivery of water to its shareholders and those entities with specific
8 entitlements to such delivery service, to the exclusion of the general public, this
9 Agreement is necessary for Association to transport CAP water for AWBA

10 3. AGREEMENT:

11 In consideration of the premises and mutual covenants and agreements herein set forth, the
12 Parties hereto agree as follows:

13 4. DEFINITIONS:

14 As used in this Agreement the following terms, when capitalized, have the meanings
15 indicated:

16 4.1 Annual Index: The number calculated by dividing the U.S. Department of Commerce's
17 final estimate of the Implicit Gross Domestic Product Price Deflator
18 for the third quarter of the most recently completed year by the value of that same
19 quantity for the third quarter of the previous year. The Annual Index shall be
20 determined in January of each year commencing in 1996.

21 4.2 Association Water Delivery System: Association's canal system, including canals,
22 gates and measuring devices; but excluding laterals and drain ditches.

23 4.3 Evacuated Water: Water released from the Association Water Delivery System:

- 24 a) As a result of excess storm runoff and under emergency conditions.
- 25 b) In the event of the discovery of contaminated water in the Association Water
26 Delivery System.

1 4.4 Interconnection Facility: The facility located adjacent to the Granite Reef Diversion
2 Dam which interconnects the CAP Canal with the Association Water Delivery System
3 and the Salt River Bed.

4 4.5 Point Of Delivery: The point at which AWBA Water is diverted from the Association's
5 Water Delivery System for delivery to GRUSP for the AWBA. Unless otherwise
6 agreed in writing by the Parties, the Point of Delivery is the GRUSP delivery gates that
7 are located just upstream of the Hennessy drain gates on the Association's South
8 Canal.

9 4.6 Point Of Receipt: The point where the Interconnection Facility discharges into the
10 Association's Water Delivery System. Unless otherwise agreed in writing by the
11 Parties, the Point of Receipt is the point where the South Canal component of the
12 Interconnection Facility discharges into the Association's South Canal.

13 4.7 AWBA Water: CAP water discharged for AWBA into the Association Water Delivery
14 System from the Interconnection Facility.

15 4.8 Transportation Losses: The amount of water lost through seepage, evaporation or
16 other causes while being transported within the Association Water Delivery System
17 from the Point of Receipt to the Point of Delivery. Transportation Losses shall not
18 include Evacuated Water.

19 4.9 Uncontrollable Forces: Any cause beyond the control of the Party unable to perform
20 such obligation, including, but not limited to, failure of or threat of failure
21 of facilities, flood, earthquake, storm, fire, lightning and other natural catastrophes,
22 epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or
23 material shortage, sabotage, government priorities and restraint by court order or
24 public authority, and action or nonaction by, or failure to obtain the necessary
25 authorizations or approvals from, any governmental agency or authority, which by
26 exercise of due diligence such Party could not reasonably have been expected to

1 avoid and which by exercise of due diligence it shall be unable to overcome. Nothing
2 contained herein shall be construed to require either Party to settle any strike or labor
3 dispute in which it is involved.

4 4.10 Water Accounting: The general determination of the quantity of AWBA Water
5 transported by Association hereunder.

6 5. SCOPE OF SERVICE:

7 This Agreement is limited to transportation of AWBA Water in the Association Water Delivery
8 System from the Point of Receipt to the Point of Delivery.

9 6. TERM OF AGREEMENT:

10 This Agreement shall be effective as of the date stipulated in Section 1 and shall remain in
11 effect until its expiration on January 1 of the following year. Upon written confirmation by
12 Association, this Agreement may be extended for additional terms of one calendar year each
13 by written notice from AWBA to Association by October 1 of the then current year.
14 Association shall confirm or reject extension of the Agreement by November 15 of the then
15 current year. This Agreement may be terminated as provided in this Agreement, or upon 30
16 days written notice by either Party to the other Party.

17 7. RATES, FEES, AND CHARGES:

18 7.1 Association shall bill AWBA and AWBA shall pay Association \$5 for each acre foot
19 (AF) of AWBA Water received at the Point of Receipt whether or not AWBA accepted
20 or used such water.

21 7.2 Association shall also bill AWBA and AWBA shall pay Association an annual
22 administration fee of \$2,827.95 for the administration and water accounting related to
23 the transportation service provided under this Agreement. This fee shall be adjusted
24 by the Annual Index each January. The fee shall be billed when service is
25 commenced and in each January thereafter, and paid in accordance with Section 8.
26

1 The fee shall be prorated for those partial years of service resulting from initiation or
2 permanent termination of service pursuant to this or a successor Agreement.

3 7.3 For purposes of this Section 7, "adjusted by the Annual Index" means that the rate or
4 the annual administration fee for the previous calendar year is multiplied by the Annual
5 Index.

6 7.4 If, as a result of the service provided to AWBA pursuant to this Agreement,
7 Association becomes liable to a governmental authority other than District for any tax,
8 tariff, duty, toll, fee, impost, charge or other exaction, or any increase thereof, pursuant
9 to Section 8, Association shall bill AWBA and AWBA shall pay Association the amount
10 for which Association is liable.

11 **8. BILLING AND PAYMENT:**

12 8.1 Bills for service provided to AWBA shall be submitted by Association to AWBA on or
13 before the twenty-fifth (25th) day of each month (or if such day is not a business day,
14 on the next succeeding business day) immediately following the month during which
15 AWBA has incurred charges for such service. Such bills may include adjustments or
16 corrections to bills previously submitted by Association to AWBA

17 8.2 Payment by AWBA to Association shall be made by any method which provides
18 available funds on or before the thirtieth (30th) day following the date on which the bill
19 was postmarked or if such day is not a business day, on the next succeeding business
20 day. Bills not paid by this date shall be delinquent and thereafter accrue an interest
21 charge at the prime rate of interest as established by the Bank of America on the last
22 business day of the month following the month for which the bill was submitted, plus
23 2% per annum, prorated daily from the date due to the date of payment. Any payment
24 received shall first be applied to any interest charges owed, and then to any bills owed
25 for service rendered.

1 8.3 In the event any portion of any bill is disputed, the disputed amount shall be paid under
2 protest when due and shall be accompanied by a written statement indicating the basis
3 for the protest. If the protest is found to be valid, AWBA shall be refunded any
4 overpayment plus interest, accrued at the rate set forth in Section 8.2, prorated by the
5 number of days from the date payment was credited to AWBA to the date the refund
6 check is mailed.

7 8.4 In the event any delinquent amount remains unpaid more than sixty (60) days after its
8 due date, Association shall have the right, without liability of any kind, to refuse to
9 provide service under this Agreement so long as the said amount remains unpaid and
10 may terminate this Agreement. In any event, AWBA shall remain obligated to pay for
11 service actually provided under this Agreement, whether billed or yet to be billed.
12 Nothing in this Agreement shall limit the rights of Association to use any other available
13 legal remedy to effect collection of said amounts.

14 9. WATER ACCOUNTING:

15 9.1 Association will provide daily Water Accounting of AWBA Water received for AWBA at
16 the Point of Receipt. Such Water Accounting shall be retained by Association for at
17 least three (3) years and be made available for AWBA's inspection upon
18 written request.

19 9.2 AWBA shall provide a monthly report of the total amount of water received each day
20 during the month as measured at each Point of Delivery in accordance with operating
21 procedures prepared by Association. Such report shall be submitted to Association by
22 the sixth (6th) business day following the month end, pursuant to such operating
23 procedures.

24 9.3 Association shall prepare a monthly Water Accounting report based on the daily Water
25 Accounting provided under Section 9.1. It shall also include the daily water deliveries
26 as reported by AWBA pursuant to Section 9.2. Such Water Accounting report may be

1 combined with other existing Association reports provided to AWBA and shall include
2 AWBA Water delivered to the Point of Delivery, Transportation Losses, and Evacuated
3 Water during that month.

4 9.4 Inadvertent water flow discrepancies between scheduled and actual water flows shall
5 be resolved by the Parties in a mutually agreeable manner.

6 10. WATER QUALITY:

7 10.1 Association neither guarantees nor warrants the quality of water transported through
8 the Association Water Delivery System to, or for, AWBA pursuant to this Agreement,
9 and AWBA assumes all responsibility for purifying or otherwise treating AWBA Water
10 received at AWBA's Point of Delivery to meet applicable water quality standards
11 established by federal, state or local authorities. AWBA releases Association from any
12 liability for AWBA claims related to water quality, unless such water quality claim
13 results from Association's negligent or intentionally wrongful commingling of AWBA's
14 Water with other water in the Association Water Delivery System. Nothing in this
15 Agreement shall be construed so as to require that Association receive or transport
16 water from any source when such receipt or transportation is likely to result in a
17 violation of then existing federal, state or local
18 laws or regulations regarding water quality.

19 10.2 Except as otherwise provided in Section 20.1, AWBA shall indemnify and hold
20 harmless Association from and against all losses to third parties resulting from water
21 quality degradation resulting from the commingling of AWBA Water with other water in
22 the Association Water Delivery System, and shall defend Association against all claims
23 for such losses, at no cost to Association.

24 10.3 If Association coincidentally introduces water into the Association Water Delivery
25 System through the Interconnection Facility, or other causes contribute to the losses of
26

1 third parties, AWBA will indemnify and defend only for those losses to third parties
2 attributable to commingling of AWBA Water in the Association Water Delivery System.

3 10.4 Association shall cooperate fully with AWBA in the defense of all claims of third parties
4 for losses under this Section 10 and shall provide AWBA with all information, expert
5 witnesses and records necessary for AWBA to defend against such claims.

6 10.5 AWBA's obligation to indemnify under this Section 10 shall encompass all costs of
7 defending against claims by third parties for such losses and all costs incurred by
8 Association in cooperating with AWBA under Section 10.4 in the defense of such
9 claims.

10 11. TRANSPORTATION LOSSES:

11 AWBA shall be assessed Transportation Losses at the rate of 0.06 percent per AF per mile
12 between the Point of Receipt and the Point of Delivery. Using the water balance of supply and
13 delivery, a procedure similar to the loss calculation used in standard reporting to the Arizona
14 Department of Water Resources and the United States Bureau of Reclamation, Association
15 shall review and adjust such Transportation Loss rate annually in April based on annual
16 average Association Water Delivery System losses during the
17 preceding five (5) years. Such adjusted rate shall remain in effect until next adjusted.

18 12. PRIORITY OF SERVICE:

19 12.1 AWBA Water may be transported under this Agreement only to the extent that such
20 transportation does not impair nor prejudice the transportation and delivery of water A)
21 to Association shareholders, or B) pursuant to decrees, or C) pursuant to contracts
22 between Association and any third parties.

23 12.2 Association shall transport water, as among all contractors for such service from
24 Association, according to the capacity of the Association Water Delivery System as
25 determined and allocated by Association.

26

1 13. RIGHT TO CONTRACT OR SUBCONTRACT:

2 13.1 Association retains the right to contract directly with other entities desiring
3 transportation of water in the Association Water Delivery System.

4 13.2 AWBA may not subcontract services provided to it by Association under this
5 Agreement.

6 14. DISTRIBUTION:

7 14.1 Association's obligations and responsibilities to AWBA under this Agreement shall
8 commence at the Point of Receipt and shall terminate at the Point of Delivery. AWBA
9 shall be responsible and assume full liability for the further distribution of AWBA Water
10 received at the Point of Delivery, including, but not limited to, all operation and
11 maintenance costs for delivery to AWBA's end users.

12 15. INTERRUPTIONS OR CURTAILMENTS IN DELIVERY:

13 15.1 Transportation of AWBA Water shall be in accordance with AWBA's requests as set
14 forth in Section 19 of this Agreement, and shall be subject to:

15 15.1.1 Interruptions and curtailments in the capability of Association to transport
16 AWBA Water due to emergencies, canal dry up, operational constraints
17 and necessary maintenance and repairs of the Association
18 Water Delivery System, all as determined solely by Association.

19 15.1.2 Interruptions, evacuations and curtailments because of excessive storm
20 runoff entering the Association Water Delivery System, as determined
21 solely by Association, or because Association determines that significant
22 degradation of water quality in the Association Water Delivery System likely
23 to result in substantial liability is occurring or may occur as a result of
24 introduction of AWBA Water, contamination or contaminated water in the
25 Association Water Delivery System.

26

1 15.1.3 No obligation on the part of Association to replace any portion of AWBA
2 Water evacuated from the Association Water Delivery System.

3 15.1.4 Availability of AWBA Water at the Point of Receipt, as determined by
4 Association.

5 16. FLOW MEASUREMENT:

6 CAP water transported for AWBA pursuant to this Agreement shall be measured at or near
7 the Point of Delivery in accordance with requirements of maintaining the accuracy of these
8 systems within plus or minus five (5) percent of actual flows.

9 17. ACCESS TO PREMISES AND FACILITIES:

10 AWBA hereby grants to Association, its employees and agents the right of access to the
11 premises identified as the Point of Delivery, at reasonable times and after reasonable notice
12 from Association, for such purposes as installing, connecting, reading, testing, repairing,
13 adjusting, disconnecting, removing or inspecting meters, measuring devices, communications
14 equipment, data devices and other apparatus and equipment pertinent to the provision of or
15 accounting for service under this Agreement.

16 18. FUTURE FACILITIES:

17 AWBA bears responsibility and cost for any facility needed at a future point of receipt or Point
18 of Delivery to effect service under this Agreement.

19 19. NOTICE OF WATER DELIVERIES:

20 AWBA shall provide adequate notice to Association of AWBA's water orders and any
21 subsequent order changes, in accordance with operating procedures established by
22 Association. Operating procedures established by Association shall provide that, in the event
23 of a pending canal capacity curtailment, Association shall give AWBA as much notice as
24 reasonably practicable of the pending curtailment. Association shall schedule, transport and
25 account for AWBA Water. Transportation of AWBA Water shall be subject to operational and
26 maintenance constraints common to all parties served by the Association Water Delivery

1 System. The amount of AWBA Water requested by AWBA less Transportation Losses, shall
2 be delivered by Association to the Point of Delivery, subject to the provisions of Section 15.
3 Association shall schedule and monitor the transportation of AWBA Water so as not to in any
4 manner whatsoever interfere with the operation and maintenance of the Association Water
5 Delivery System.

6 20. LIABILITY:

7 20.1 Each Party shall assume liability arising out of its negligence or intentionally wrongful
8 action or inaction, and shall indemnify the other Party against any damages such other
9 Party incurs as a result of such action or inaction, including costs or defending against
10 related claims.

11 20.2 Except as otherwise provided in this Agreement, AWBA shall indemnify and hold
12 harmless the Association, its directors, officers and employees against and from any
13 liability for death, injury, loss or damage incurred by any customer/member of AWBA
14 as a result of any performance pursuant to this Agreement.

15 20.3 The obligation to indemnify under Sections 10 and 20 of this Agreement shall extend to
16 the indemnitee's share of any deductibles under any applicable insurance coverage.

17 20.4 Association assumes no liability to AWBA for claims of damage resulting from
18 Association's decision to curtail or stop water flows to or from the Interconnection
19 Facility in accordance with the requirements of Association water operations.

20 20.5 The provisions of this Section 20 shall not be construed so as to relieve any insurer
21 providing insurance coverage pursuant to Section 21.1 of its obligation to pay any
22 insurance proceeds in accordance with the terms and conditions of valid and
23 collectible insurance policies.

24 21. INSURANCE:

25 21.1 During the term of this Agreement, unless otherwise agreed in writing by Association,
26 AWBA shall procure and maintain in force or cause to be procured and maintained in

1 force Commercial General Liability Insurance naming Association as an additional
2 insured, including bodily injury, personal injury, and property damage, wrongful death,
3 automobile liability, and contractual liability with a minimum limit of \$5,000,000 per
4 occurrence,

5 21.2 Any insurance carried by Association shall be excess and not contributory insurance to
6 any insurance afforded hereunder. Proof of insurance satisfactory to Association shall
7 be submitted to Association prior to transportation of water for AWBA. Such proof of
8 insurance shall be in the form of a certificate stating the coverage provided and that
9 such insurance is in force and that such insurance shall not be cancelled until after
10 thirty (30) days prior written notice thereof shall have been given to Association.

11 21.3 With written approval of Association, AWBA may self-insure or combine the coverages
12 required by this Agreement with coverages outside the scope of that required by this
13 Agreement.

14 21.4 Required insurance coverages shall be written with deductibles and limits approved by
15 Association. Association may, at any time, change the policy limits, add or eliminate
16 coverage(s), and shall determine appropriate deductibles or retentions.

17 21.5 AWBA fails to acquire, provide or continue the insurance coverages required,
18 Association may terminate this Agreement immediately upon written notice to AWBA

19 22. AUDIT:

20 22.1 Upon reasonable written notice, either Party at its expense shall have the right, at all
21 reasonable times, to review and audit the books, records and documents of the other
22 Party directly pertaining to the billings and Water Accounting data required to
23 administer this Agreement. Any such audit may be conducted by an employee of or
24 independent accountant designated by the auditing Party. The Party being audited
25 agrees to fully cooperate with any such audit. This right to audit shall extend for a
26 period of three (3) years following the date of each payment under this Agreement.

1 The Parties agree to retain all necessary records and documentation during this audit
2 period. The foregoing shall not be construed to permit either Party to conduct a
3 general audit of the other Party's records. Information obtained by either Party's
4 representatives in examining the other Party's applicable records to verify such billings
5 and Water Accounting data shall not be disclosed to third parties without prior written
6 consent of the audited party, or unless in response to compulsory judicial or regulatory
7 process or state law and after giving the other Party written notice as much in advance
8 as possible.

9 22.2 The audited Party shall be notified in writing of any exception taken as a result of an
10 audit and shall respond to such notification within thirty (30) days. Upon resolution of
11 any exception, A) as to payment of any monies due, the owing Party shall directly remit
12 the amount of any exception to the other Party within thirty (30) days, with interest
13 calculated at the rate set forth in Section 8.2. Interest shall be computed from the date
14 of the original billing to the date of payment by the Party owing as a result of the Audit;
15 B) as to any water due, the Parties shall
16 arrange for the owing Party to return the amount owed as soon as practicable.

17 23. UNCONTROLLABLE FORCES:

18 Neither Party shall be considered to be in default in the performance of any of its obligations
19 hereunder (other than the obligation of AWBA to make payment for service hereunder) when
20 a failure of performance shall be due to Uncontrollable Forces.

21 24. MISCELLANEOUS

22 24.1 The Agreement is subject to cancellation in accordance with the provisions of A.R.S. §
23 38-511.

24 24.2 The Parties shall comply with State Executive Order No. 75-5, as amended by State
25 Executive Order No. 2009-9, and all other Federal or State laws, rules and regulation,
26 including the Americans with Disabilities Act.

1 24.3 The Parties shall obtain and maintain all licenses, permits and authority necessary to
2 perform their obligations pursuant to this Agreement, and shall comply with all
3 applicable state, federal and local laws, including but not limited to those regarding
4 unemployment insurance, disability insurance and worker's compensation. This
5 Agreement does not relieve either party from any obligation or responsibility imposed
6 upon it by law.

7 24.4 Neither party shall be considered an officer, employee or agent of the other. No
8 monitoring or supervisory responsibility over the other party's activities arises on the
9 part of the other arises or as a result of, or pursuant to, this Agreement other than as
10 expressly provided herein.

11 24.5 All books, accounts, reports, files and other records relating to this Agreement shall be
12 subject at all reasonable times to inspection and audit by the State of Arizona and the
13 AWBA for five (5) years after completion of the Agreement. Such records shall be
14 produced at such state offices as are designated by the State of Arizona and the
15 AWBA.

16 25. NOTICES:

17 Any notice, demand or request provided for in this Agreement shall be in writing and delivered
18 in person, or sent by registered or certified mail, postage prepaid, to:

19 Salt River Valley Water Users Association
20 c/o Secretary
21 PO Box 52025
22 Phoenix, AZ 85072-2025
23 Reference: Water Transportation Agreement

24 Arizona Water Banking Authority
25 c/o Manager
26 3550 N. Central Avenue
Phoenix, AZ 85012

1 25. WAIVER:

2 The waiver by either Party of any breach of any term, covenant or condition herein contained
3 shall not be deemed a waiver of any other term, covenant or condition, or any subsequent
4 breach of the same or any other term, covenant or condition herein contained.

5 26. HEADINGS:

6 Title and paragraph headings herein are for reference only and are not part of this Agreement.

7 27. RECLAMATION REFORM ACT:

8 In no event shall Association's performance of obligations established herein subject
9 Association or its shareholders to provisions of the Reclamation Reform Act of 1982 (RRA),
10 43 USC 390bb (1), as amended, and regulations attendant thereto, to which
11 Association would not otherwise have been subjected. Further, in the event a change of
12 legislation, future federal agency determination or other administrative or judicial action
13 subjects or purports to subject Association to the RRA as a result of Association's
14 performance of obligations established herein, Association shall be relieved of any further
15 obligations hereunder, and this Agreement shall be voidable at Association's discretion.

16 28. RESOLUTION OF DISPUTES:

17 28.1 Any Party having a dispute under this Agreement that cannot be resolved by the
18 Parties, may submit the dispute to arbitration. Arbitration shall be subject to the
19 following provisions:

20 28.1.1 Arbitration shall be binding only upon the consent of the Parties.

21 28.1.2 A Party wishing to submit a dispute to arbitration shall provide thirty (30)
22 days written notice to the other Party of its intent to pursue arbitration and
23 shall name one arbitrator at that time. Within fifteen (15) days of receiving
24 this notice, the other Party to the dispute shall name one arbitrator and give
25 written notice to the other Party of its selection. The two selected
26

1 arbitrators shall, within five (5) days of selection of the second arbitrator,
2 jointly select a third arbitrator.

3 28.1.3 Within thirty (30) days from the selection of the third arbitrator, the
4 arbitrators shall hold a hearing. Within thirty (30) days from the conclusion
5 of the hearing the arbitrators shall render a decision on the dispute.

6 28.1.4 Arbitration shall be subject to the Arizona Arbitration Act, Arizona Revised
7 Statutes, Title 12, Chapter 9, Article 1. In the event of a conflict between
8 this Agreement and the Act, the provisions of this Agreement shall prevail.

9 28.2 Any Party that is dissatisfied with the results of non-binding arbitration may pursue
10 any other legal or equitable remedy not expressly provided for in this Section 28 and
11 available to resolve the dispute.

12 29. ACTION PENDING RESOLUTION OF DISPUTES:

13 Pending the resolution of a dispute pursuant to Section 28, the Parties shall proceed, to the
14 extent legally permissible, in a manner consistent with this Agreement, and shall make
15 payments required in accordance with the applicable provisions of this Agreement. Amounts
16 paid by a Party pursuant to this Section 29 during the pendency of such dispute shall be
17 subject to refund and adjustment upon a final resolution of any dispute involving an amount
18 due. Upon such final resolution, the owed amounts shall be remitted in accordance with the
19 remittance procedures/arrangements contained in Section 8.

20 30. GOVERNING LAW:

21 This Agreement is made under, and shall be governed by, the laws of the State of Arizona.

22 31. PERMITS:

23 AWBA shall be responsible for obtaining any permits required to discharge AWBA Water into
24 the Association Water Delivery System; except that if any permits are required to discharge
25 AWBA Water from Association-owned or operated facilities into the Association Water
26

1 Delivery System, Association and AWBA shall be jointly responsible for obtaining the permits.

2 Denial of any necessary permit shall not result in liability of either Party to the other.

3 32. NO THIRD PARTY BENEFICIARIES:

4 This Agreement is solely for the benefit of the Parties, and does not create nor shall it be
5 construed to create rights in any third party. No third party may enforce the terms and
6 conditions of this Agreement.

7 33. ENTIRE AGREEMENT:

8 The terms, covenants and conditions of this Agreement constitute the entire Agreement
9 between the Parties and no understandings or obligations not herein expressly set forth shall
10 be binding upon them. This Agreement may not be modified or amended in any manner
11 unless in writing and signed by the Parties.

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1 IN WITNESS WHEREOF, this Agreement was executed by the Parties on the date first hereinabove
2 written.

3 SALT RIVER VALLEY WATER USERS'
4 ASSOCIATION

5 Attest and Countersign

6
7 _____
8 Secretary

By: _____
Title: _____

9
10 Approved as to form and within the Power and
11 Authority granted under the laws of the Territory of
12 Arizona to the Salt River Valley Water Users' Association

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17 Attest and Countersign

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20 _____
21 Secretary

By: _____
Title: _____

22 Approved as to form and within the
23 Power and Authority granted under the laws
24 of the State of Arizona to the _____

25 _____

26 _____