

**NORTH HARRIS COUNTY  
REGIONAL WATER AUTHORITY**

**REGULATIONS FOR BUY/SELL AGREEMENTS  
FOR IMPLEMENTATION OF  
THE GROUNDWATER TRANSFER PROGRAM**

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**REGULATIONS FOR BUY/SELL AGREEMENTS  
FOR IMPLEMENTATION OF THE  
GROUNDWATER TRANSFER PROGRAM**

**ARTICLE I  
IMPLEMENTATION OF  
GROUNDWATER TRANSFER PROGRAM**

Section 1.01 Purpose and Intent.

The Groundwater Transfer Program (the "GTP") is an interim and voluntary program that has been adopted by the Board of Directors of the Authority to encourage the maximum utilization of existing Water Production Facilities to provide Water to Districts that are currently in need of Water from Districts with a surplus of Water. The first priority of the GTP is to supply Water to Districts with Water quality issues such as arsenic, then to Districts needing additional Water for growth, and finally to Districts needing additional Water for peaking purposes. The primary purposes of the GTP are to limit construction of new Water Wells and related Water Production Facilities that will have limited use subsequent to the conversion to surface Water in 2010 and to meet the immediate Water needs of Districts within the Authority by utilizing the surplus Water that is available from existing Water Production Facilities. The intent of the Authority is to provide a flexible program which is able to accommodate the needs of the Participants.

Section 1.02 Implementation.

The General Manager shall implement these Regulations on behalf of the Authority. The General Manager may take any action on behalf of the Authority necessary and convenient to accomplish the purpose of the Regulations.

Section 1.03 Collection of Supply and Demand Information.

(a) Before entering into any Agreement, the General Manager shall obtain information regarding the Water capacity and requirements of each Water Utility which desires to become a Participant to the extent necessary to properly match Water supply and demand for the delivery of Water until the Termination Date in each Segment of the Authority System. In order to ensure current and accurate information upon which to make decisions, each Water Utility which desires to become a Participant, whether a Buyer or a Seller, will, at its cost and at the request of the General Manager, make available all information regarding the Participant's System, together with such Water Utility's engineering and other consultants necessary to discuss and interpret such information, to the General Manager and/or the Authority Engineer.

(b) Upon receipt of such information satisfactory to the General Manager and the Authority Engineer, the General Manager may enter into Agreements as provided herein.

(c) Submission of information to and discussions with the General Manager regarding an Agreement is not a guarantee of an Agreement or the purchase or sale of any Water in any quantity. The obligation to buy or sell Water may only be evidenced by an Agreement

executed as provided herein. A Minimum Water Supply Commitment or Minimum Water Demand Allocation is not required, however, a Participant requiring Water which will be included in the sufficiency of such Participant's Water supply under Commission regulations will be required to have a Minimum Water Demand Allocation.

(d) Each Participant shall, at its own cost and expense, provide all information and timely availability of Participant's engineers, operators, attorneys and other consultants to the Authority regarding Participant's System, Participant's Water Production Facilities, access to Participant's System and Water Production Facilities, connection to a Participant's System, planning, construction, installation, operation, and maintenance of any Transmission Facility, and the delivery of Water by or to a Participant pursuant to these Regulations and as may be required to accomplish the purposes of these Regulations.

#### Section 1.04 Authority to Execute Agreements.

In furtherance of the purposes of the Authority and these Regulations, and after review of the information collected pursuant to Section 1.03 hereof, the General Manager is hereby authorized and directed to implement the Groundwater Transfer Program on behalf of the Authority by negotiating Agreements and amendments to Agreements with Participants, upon the terms specified herein, or upon such other terms as the General Manager shall determine, and, after consultation with the Authority Engineer and general counsel to the Authority, execute such Agreements and amendments to Agreements as the act and deed of the Authority.

#### Section 1.05 Incorporation of Regulations in Each Agreement.

The terms of these Regulations shall be incorporated by reference into each Agreement, and shall be a part of each Agreement as if set forth in full in each Agreement. The Authority and each Participant shall be bound by the terms of these Regulations as a part of each Agreement.

## **ARTICLE II DEFINITIONS**

#### Section 2.01 Definitions.

As used in these Regulations, the following words shall have the following meanings:

"Agreement" shall mean a Groundwater Transfer Agreement for a Buyer or a Seller between the Authority and a Participant, the forms of which are attached hereto as Exhibit "A-1" and Exhibit "A-2."

"Air Gap Delivery" shall mean delivery of Water pursuant to these Regulations to a Buyer in conformance with Commission rules and regulations or a variance granted thereto.

"Amortization Period" shall mean the period of time commencing with the first day of the calendar year in which any Water Production Facility was Placed in Service by a Buyer, and terminating on the last day of the 30<sup>th</sup> year thereafter.

"Authority" shall mean the North Harris County Regional Water Authority.

"Authority Engineer" shall mean an engineer, as designated by the General Manger from time to time.

"Authority Representative" shall mean the General Manager of the Authority or any person designated in writing by the General Manager.

"Authority System" shall mean the Water supply and distribution system owned and maintained by the Authority.

"Buyer" shall mean a Participant which has elected to buy Water from the Authority pursuant to an Agreement.

"City Contract" shall mean that certain Water Supply Contract Between The City of Houston, Texas and the North Harris County Regional Water Authority, dated December 16, 2002.

"Commencement Date" shall mean the date on which Water can be accepted from Sellers and is available to Buyers via each Delivery Point.

"Commission" shall mean the Texas Commission on Environmental Quality or any successor thereto.

"Cost" shall mean the initial costs of construction, including labor, materials, engineering, and land, plus any capital additions to each Water Production Facility, as determined by the Authority Engineer based upon information furnished by a Buyer and satisfactory to the Authority Engineer.

"Delivery Point" shall mean the location(s) established and described in Schedule "B" of an Agreement.

"Delivery Period" shall mean the period of time during the Term of an Agreement during which the Authority or a Participant is obligated to deliver or accept delivery of Water, as applicable.

"Depreciation Credit" shall mean:

(a) an amount calculated by the Authority with respect to a Buyer on an annual basis equal to the annual Non-Depreciated Asset Value for each year during which Water is purchased from the Authority, divided by the total Volume of Water used by a Buyer from all sources during the calendar year, times the total Volume of Water purchased by a Buyer in the calendar year; provided, however, the Depreciation Credit shall be limited to a maximum of \$0.80 per 1,000 gallons of Water purchased; and provided further, however, that:

(b) the Authority will:

(i) bill and/or credit a Buyer on a monthly basis, utilizing the actual Volume of Water received by a Buyer each month from the Authority as the numerator, and the previous calendar year total Water usage as the denominator times the Depreciation Credit, for its monthly billings; and

(ii) the Authority will reconcile the annual credit as of December 31 of the appropriate year by issuing a credit or bill, by the March billing, for any amount that is required in the event that the actual Volume of Water used is different (more or less) than the prior calendar year amount used for periodic billing purposes.

"Effective Date" shall mean September 8, 2003, the date on which these Regulations were originally adopted by the Authority.

"Events of Default" shall have the meaning set forth in Article VII.

"Excusable Delay" shall have the meaning set forth in Section 4.01.

"Force Majeure" shall mean circumstances beyond the reasonable control of the party experiencing any delay or failure in the performance of its respective obligations under an Agreement, including, but not limited to (a) acts of God, unusually severe weather conditions (including, but not limited to, floods, droughts, freezes, blizzards, hurricanes, tornadoes, earthquakes, mud slides, lightning and the like), war or riot or insurrection, requirements or actions or failures to act by a Governmental Authority (other than the Authority with respect to the Authority's actions hereunder and other than the Participant with respect to the Participant's actions hereunder) preventing or delaying performance, fire, acts of terrorism or of the public enemy, sabotage, civil disturbance or unrest, strikes and labor disputes, and (b) damage or breakdown of necessary facilities or equipment for the production or delivery of Water.

"GRP" shall mean the Authority's Groundwater Reduction Plan, approved by the Harris-Galveston Coastal Subsidence District on June 11, 2003.

"General Manager" shall mean the person employed by the Authority as General Manager.

"Governmental Authority" shall mean any authority, official or representative of the federal government, the State of Texas or any political subdivision thereof, whether foreign or domestic, having jurisdiction over the parties, or its subcontractors or suppliers, including, without limitation, any city, municipality, township, commonwealth, county, and any person or entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of or pertaining to any such government, other than the Authority or a Participant with respect to their respective actions hereunder.

"Groundwater Transfer Program" shall mean the coordination of Water usage within the Authority as implemented pursuant to these Regulations.

"Initial Term" shall mean the period of time from the Effective Date to the Termination Date.

"Maximum Water Demand Allocation" shall mean the Volume of Water which shall be available for delivery by the Authority to a Buyer during a Delivery Period, but not less than the Minimum Water Demand Allocation, if any, as agreed upon between the Authority and a Buyer.

"Maximum Water Supply Commitment" shall mean the Volume of Water which shall be available for delivery by a Seller to the Authority during a Delivery Period, but not less than the Minimum Water Supply Commitment, if any, as agreed upon between the Authority and a Seller.

"Minimum Water Demand Allocation" shall mean the minimum Volume of Water, if any, which shall be available for delivery to and purchased by a Buyer pursuant to an Agreement during a Delivery Period, if any, as agreed upon between the Authority and a Buyer.

"Minimum Water Supply Commitment" shall mean the minimum Volume of Water which shall be available for delivery by a Seller to the Authority during a Delivery Period, as agreed upon between the Authority and a Seller.

"Non-Depreciated Asset Value" shall mean the sum of the amount calculated by the Authority for each Water Production Facility, equal to the result of the application of the following rules: (a) the Cost of such facility, amortized on a straight-line amortization basis, at an interest rate of 6% per annum, over 30 years; (b) as applied annually during the Amortization Period; and (c) for each year during the Amortization Period in which a Buyer purchases Water from the Authority, such amount is used by the Authority as a component in calculating the Depreciation Credit.

"Participant" shall mean each Water Utility which has executed an Agreement, or any successor thereto or permitted assignee thereof.

"Participant's System" shall mean that certain Water distribution system owned, operated, and maintained by a Participant.

"Placed in Service" shall mean the year in which any Water Production Facility was accepted as substantially complete by a Buyer, as determined by the Authority Engineer based upon information furnished by Buyer and satisfactory to the Authority Engineer.

"Pumpage Fee" shall mean the fee levied by the Authority on groundwater pumped by a Water Utility or Water imported into the Authority by a Water Utility pursuant to the Pumpage Fee Order.

"Pumpage Fee Order" shall mean the Authority's *Order Amending Order Establishing Pumpage Fees and Importation Fees for Fiscal Year Ending December 31, 2003 and Adopting Rules and Regulations Concerning Measuring Well Pumpage and Water Importation and Collecting Fees*, adopted by the Board on August 4, 2003, and as it may be amended or supplemented from time to time.



"Purchase Price" shall mean an amount equal to \$1.70 times the Volume of Water delivered by the Authority to a Buyer during a monthly billing period, but not less than any applicable Minimum Water Demand Allocation, less an amount equal to any Depreciation Credit to which a Buyer may be entitled.

"Qualified Entities" shall mean retail Water customers of Buyer located within Buyer's boundaries or pursuant to a written contract between such customer and Buyer existing as of the date of an Agreement, all of which shall be considered to be members of the general public; provided, however, Buyer shall obtain approval from the Authority to serve any customer which comprises more than 5% of the Water consumption or Water revenues of Buyer or as otherwise provided herein, which approval shall not be unreasonably withheld.

"Regulations" shall mean the rules of the Groundwater Transfer Program promulgated by the Authority pursuant to these *Regulations for Buy/Sell Agreements for Implementation of the Groundwater Transfer Program*, and any amendments or revisions thereto.

"Sale Price" shall mean an amount equal to \$0.91 plus an amount equal to the Pumpage Fee times the Volume of Water delivered to the Authority by a Seller during a monthly billing period.

"Segment" shall mean the discrete portion of the Authority System to which a Participant will connect to deliver or receive Water.

"Seller" shall mean a Participant which has elected to sell Water to the Authority pursuant to an Agreement.

"System Pressure" shall mean the pressure, in pounds per square inch (psi), at or above which a Seller shall deliver Water to the Authority and below which a Buyer shall receive Water from the Authority, each as provided in an Agreement.

"Term" shall have the meaning set forth in Article VI.

"Termination Date" shall mean the earlier of (a) the last day of the last Delivery Period in an Agreement (as it may be amended by the parties) or (b) the date on which the Authority commences delivery of Water to the Segment to which a Participant is connected pursuant to the City Contract.

"Transmission Facilities" shall mean any and all transmission lines, meter vaults, casings, valves, flow control devices, and other facilities owned by the Authority or a Participant as provided in Section 3.03(b) of this Agreement so as to provide for transmission of Water to the Delivery Point for a Seller or from the Delivery Point for a Buyer.

"Volume" shall mean, unless expressly provided to the contrary, thousands of gallons (U.S. Standard Liquid Measure).

"Water" shall mean potable treated surface water, groundwater or any blended mixture of water from either or any source meeting applicable Texas and Federal regulations regarding Water quality, including the Safe Drinking Water Act, as amended.

"Water Production Facility" shall mean any major facility, including wells, pumps, controls, yard piping, storage facilities, and related appurtenances used for the production and treatment of potable Water, excluding distribution lines, owned, and, for the purpose of the Depreciation Credit only, placed in Service by a Buyer before the Effective Date, or, with the approval of the Authority, after the Effective Date.

"Water Utility" shall mean any person or entity within the Authority which provides retail Water service.

### **ARTICLE III SALE AND DELIVERY**

#### **Section 3.01 Purchase and Sale of Water from a Seller to the Authority.**

(a) Delivery Requirements. During a Delivery Period, subject to the provisions of Article IV herein, a Seller shall sell, and the Authority may, but is not obligated to purchase, subject to the demand for Water from Buyers within a Segment, on the terms contained herein, a Volume of Water equal to an amount determined by the Authority to be required from a Seller to meet demand and create a minimum flow within the Authority System, and not to exceed the Maximum Water Supply Commitment; provided, however, that, the actual amount of Water that a Seller is required to deliver on any day may exceed the Maximum Water Supply Commitment by up to ten percent (10%) of the total amount of the Maximum Water Supply Commitment. A Seller agrees to deliver such Water as may be purchased by the Authority to the Delivery Point, at the System Pressure and at a reasonably constant uniform flow rate, each as described in an Agreement. The Authority will give a Seller as much notice as reasonably practicable as to the Volume of Water which will be needed for delivery from time to time.

(b) Changes in Volume. Upon thirty (30) days' prior written notice to the Seller, the Authority may request an increase in Volume of a Maximum Water Supply Commitment. A Seller shall, in its sole discretion, either accept or reject such request and promptly deliver to the Authority a written notice of such acceptance or rejection. In the case of an acceptance, a Seller shall, in its notice of acceptance, provide a date upon which the revised Maximum Water Supply Commitment shall become effective, and the duration of such increase, for the purposes of an Agreement.

(c) Price of Additional Water. Any additional Water so provided by a Seller pursuant to this Section will be paid for by the Authority at the Sales Price and under the terms of these Regulations. Nothing herein shall require a Seller to construct, acquire or design any additional water transmission facilities, including but not limited to additions to the Participant's System, in order to provide any such additional Water to the Authority.

Section 3.02 Purchase and Sale of Water from the Authority to a Buyer.

(a) Delivery Requirements. During a Delivery Period, subject to the provisions of Article IV herein, the Authority shall sell, and a Buyer shall purchase, on the terms contained herein, a Volume of Water equal to at least the Minimum Water Demand Allocation, if any, and not to exceed the Maximum Water Demand Allocation; provided, however, that, the actual amount of Water that a Buyer is required to purchase on any day may not vary below the Minimum Water Demand Allocation, if any, and may exceed the Maximum Water Demand Allocation by up to ten percent (10%) of the total amount of the Maximum Water Demand Allocation. The Authority agrees to deliver such Water to the Delivery Point and at the System Pressure and at a reasonably constant flow rate, each as described in an Agreement.

(b) Changes in Volume. Upon thirty (30) days' prior written notice to the Authority, a Buyer may request an increase or reduction of its Minimum Water Demand Allocation or Maximum Water Demand Allocation, which notice shall include, at a minimum, justification for the change in Volume and the expected duration of such change, and a Buyer shall provide the Authority with such additional information as the Authority may reasonably require in order to evaluate such request. The Authority shall, in its sole discretion, either accept or reject such request and promptly deliver to a Buyer a written notice of such acceptance or rejection. In the case of an acceptance, the Authority shall, in its notice of acceptance, provide a date upon which the revised Minimum Water Demand Allocation or Maximum Water Demand Allocation shall become effective for the purposes of an Agreement, and the duration of such change.

(c) Price of Additional Water. Any additional Water so provided by the Authority pursuant to this Section will be paid for by a Buyer at the Purchase Price and under the terms of these Regulations. Nothing herein shall require the Authority to construct, acquire or design any additional Water transmission facilities, including but not limited to additions to the Authority System, in order to provide any such additional Water to a Buyer.

Section 3.03 Construction of Transmission Facilities.

(a) The Authority shall at its cost, unless otherwise agreed, undertake to make, execute, deliver, and prosecute all contracts, orders, receipts, writings, and instructions with or to other persons, and in general do or cause to be done all such other things, as may be required for the proper installation and construction of the Transmission Facilities to or from a Delivery Point, as limited by subsections (b) and (c), below. Upon completion of construction, the Authority shall own the Transmission Facilities to the Delivery Point, and the Participant or the Authority, as agreed, shall own the Transmission Facilities from the Delivery Point to the Participant's System. Schedule "B" of each Agreement shall specify the location of each component of the Transmission Facilities, the Delivery Point, the meter location, and, as applicable, easements, access points and the like.

(b) The Authority shall be responsible for the installation of the Transmission Facilities to one ground storage tank via an Air Gap Delivery. Delivery capability to additional

ground storage facilities shall be constructed and maintained at the cost of a Buyer unless otherwise agreed by the Authority.

(c) The Authority shall pay for maintenance expenses relating to, and be responsible for the maintenance and operation of, the Authority System and Transmission Facilities to the Delivery Point. The Participant shall pay for maintenance expenses relating to, and be responsible for the maintenance and operation of, the Transmission Facilities from the Delivery Point to, and including, the Participant's System and Water Production Facilities unless otherwise agreed between the parties. A Participant shall take all responsible steps to maintain its Water Production Facilities, Participant's System and any part of the Transmission Facilities for which it is responsible so as to prevent leaks or discharges therefrom. A Participant shall repair any leak or discharge within a reasonable time after receiving notice thereof.

(d) On or before the commencement of delivery of Water to a Buyer pursuant to an Agreement, the Authority may have installed as part of the Transmission Facilities an air gap or backflow prevention device, in accordance with the specifications approved by the Authority Engineer, at the Delivery Point.

#### Section 3.04 Metering and Location of Meters.

The Authority shall own, install and maintain any and all meters necessary for accurately measuring the amount of Water delivered by a Seller to the Authority or by the Authority to a Buyer pursuant to an Agreement. The Authority shall make reasonable efforts to install such meter or meters at the Delivery Point. The location of the meter shall be noted on Schedule "B" of an Agreement. The meter or meters shall be sufficient to provide accurate measurements of the continuous rate of Water flow and the total Volume of Water delivered to or from a Participant on a monthly basis. Such meter or meters and other equipment so installed shall remain the property of the Authority. The Participant shall have access to such metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of an Agreement the original record or reading of the meter or meters shall be the journal or other record of the Authority in its office in which the records of the employees or agents of the Authority who take readings are or may be recorded. Upon the written request of the Participant, the Authority will give the Participant a copy of such journal or record, or permit the Participant to have access to the same in the office of the Authority during reasonable business hours.

#### Section 3.05 Testing and Calibration of Meters.

(a) The Authority shall calibrate its meters periodically, but at least every three (3) years, plus, if requested by a Participant, one interim calibration, all at the cost and expense of the Authority, in the presence of a representative of a Participant, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustments shall be necessary. If the check meters hereinafter provided for have been installed, the same shall also be calibrated by a Participant in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary.

(b) If a Participant shall in writing request the Authority to calibrate its meters at other times, the Authority shall give the Participant notice of the time when any such calibration is to be made. If a representative of the Participant is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of a Participant. In the event such additional requested calibration results in a meter being within the greater of (i) three percent (3%) accuracy or (ii) the manufacturer specifications, the Participant shall reimburse the Authority for the cost of such calibration.

(c) A Participant may, at its option and its own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of Water for the purpose of an Agreement shall be solely by the Authority's meters. All such check meters shall be of standard make and installation prescribed by the Authority Engineer and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority, but the reading, calibration and adjustment thereof shall be made only by a Participant, except during any period when a check meter may be used under the provisions hereof for measuring the amount of Water delivered, in which case the reading, calibration and adjustment thereof shall be made by the Authority with like effect as if such check meter or meters had been furnished or installed by the Authority.

(d) If either party believes there may be an error in measurement, such party shall have the right at its expense to test the accuracy of such meter or meters. Further, if either party at any time observes a variation between the delivery meter or meters and the check meter or meters, if any such check meter or meters shall have been installed, such party will promptly notify the other party, and the parties hereto shall then cooperate to procure an immediate calibration test and joint observation of any adjustment and the said meter or meters shall then be adjusted to accuracy. In all cases, each party shall give the other party forty-eight (48) hours' notice of the time of all tests of meters so that the other party may conveniently have a representative present.

(e) All meters shall be accurate in accordance with the manufacturer's specifications, and if any meter is determined to be less accurate than the manufacturer's specifications, the readings of such meter shall be corrected at the rate of its inaccuracy for any period which is definitely known and agreed upon or, if no such period is known and agreed upon, the shorter of the following periods shall be used as the basis for correction:

(i) a period extended back either sixty (60) days from the date of demand for the test or, if no demand for the test was made, sixty (60) days from the date of the test; or

(ii) a period extending back half of the time elapsed since the last previous test;

and the records of readings shall be adjusted accordingly. Any additional charges that result from such adjustment shall be billed and paid in the next monthly billing cycle as described in Article V hereof. Any refund due to a party shall be paid by the other party within thirty (30) days or otherwise as mutually agreed by the parties.

(f) If for any reason any meters are out of service or out of repair so that the amount of Water delivered cannot be ascertained or computed from the reading thereof, the Water delivered during the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise the amount of Water delivered during such period may be established by the Authority (i) by correcting the error if the percentage of the error is ascertainable by calibration test or mathematical calculation or (ii) by using or adjusting the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter or meters were registering accurately.

(g) The Authority, at its option and upon the delivery to a Participant of written notice thereof at least ten (10) days prior to taking such action, may locate or relocate any such meter or meters owned by the Authority upon the property now or hereafter owned or leased by a Participant adjacent to the Delivery Point, so long as the location or relocation of such meters does not unreasonably interfere with any operations of a Participant's System and is located within an easement owned by the Authority or otherwise approved by a Participant. At all times and for all purposes in connection with an Agreement, the Authority shall have free access to such meter or meters for regular or emergency operations and maintenance and otherwise upon reasonable written notice to a Participant.

(h) In addition, as part of the Authority System or the Transmission Facilities, the Authority shall have the right to own, install and maintain certain measurement and monitoring devices of the type and at the locations as described in each Agreement. At all times and for all purposes in connection with an Agreement, the Authority shall have free access, subject only to such access agreements, easements or licenses between the parties, to the equipment and at the locations described in each Agreement for regular or emergency operations and maintenance and otherwise upon reasonable written notice to a Participant.

### Section 3.06 Easements and Licenses.

Each Participant shall, as part of the consideration of an Agreement and without compensation from the Authority, grant to the Authority such easements and licenses as may be reasonably necessary as part of the Transmission Facilities for the purposes of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating, and removing the Transmission Facilities (including, but not limited to meters) upon, over, across and through a Buyer's Water Production Facility site for purposes of Water delivery to such Buyer, and upon, over, across and through a Seller's System for the purposes of Water delivery from such Seller to the Authority, and giving to the Authority and its successors and assigns, all of the rights and benefits necessary or appropriate for the full enjoyment and use of the easement, including but without limiting the same to, the free right of ingress and egress to and from a Participant's property for the purposes stated in the easement.

Section 3.07 Transfer of Title and Custody of Water.

Title to all Water delivered hereunder shall pass to the Participant or the Authority, as appropriate, at the Delivery Point. The party delivering Water to the other shall be deemed to be in exclusive control and possession of the Water until the same shall have been delivered to the receiving party at the Delivery Point. The party receiving Water from the other shall be deemed to be in exclusive control and possession thereof after receipt of same at the Delivery Point. The risk of loss for Water delivered hereunder shall be and remain with the party having control and possession of the Water as provided herein.

Section 3.08 Use of Water.

In entering into an Agreement, the parties thereto contemplate that a Buyer will sell Water principally to Qualified Entities located within the territory of the Buyer, including any territory annexed by Buyer. A Buyer agrees that it shall sell Water purchased hereunder to entities outside its boundaries only if such sale is approved in writing by the Authority Representative, which approval shall not be withheld unless counsel to the Authority determines that service to such entity could adversely affect the exemption from income taxation of interest on bonds issued by the Authority. Buyer shall deliver a copy of any proposed agreement to furnish Water outside its boundaries to the Authority at least thirty (30) days prior to final approval by Buyer. Such restriction on the ability to sell Water to entities outside of the territory of the Participant shall not apply to (i) any contractual Water sales obligation existing as of the date of an Agreement, provided that such exemption on this restriction shall lapse at such time as any such contractual obligation of the Participant terminates or lapses, or (ii) interconnect agreements which may only be utilized in emergency situations.

Section 3.09 No Additional Obligation.

Other than as described in an Agreement, the Authority shall have no obligation to provide any Water to any Buyer and, other than as provided in an Agreement, no Seller shall have any obligation to provide any Water to the Authority.

**ARTICLE IV  
CONTINUITY OF SERVICE AND WATER QUALITY**

Section 4.01 Continuity of Service.

(a) The Authority or Seller, as applicable, shall use reasonable efforts to provide twenty-four hours' prior written notice to a Buyer or the Authority, as applicable, of a curtailment of the Authority's or a Seller's, as applicable, provision of Water to a Buyer or the Authority, as applicable, due to an Excusable Delay. In the event of an emergency, a Seller or the Authority, as applicable, shall notify the Authority or a Buyer, as applicable, of such emergency as quickly as possible by telephone, followed by confirmation in writing on the next business day. In each case, the notice shall contain all information available to the party relating to the Excusable Delay, the reason therefor, the length of time for curing the delay, and the expected time to perform the work.

(b) The Authority or a Seller, as applicable, shall be temporarily excused from its obligation to deliver Water or may reduce the amount of Water it provides to the Buyer or Authority, as applicable, or otherwise as reasonably determined by the Authority or the Seller, as applicable, pursuant to these Regulations and an Agreement during the period in which the operation of the Authority System, the Transmission Facilities, or a Participant's System or Water Production Facility is suspended, interrupted or interfered with as a result of an Excusable Delay. The period of any such excuse from the obligation to deliver Water shall be limited to the time and to the extent such suspension, interruption or interferences prevents delivery of Water. The Authority or a Seller, as applicable, shall use reasonable efforts to minimize the duration of any Excusable Delay and shall take all reasonable and practicable steps to minimize the effects of any Excusable Delay on a Buyer's or the Authority's operations, as applicable.

(c) An Excusable Delay shall consist of any of the following, provided that, in each case, such act, event or condition is (A) beyond the reasonable control of the Authority or a Seller, as applicable, (B) not the result of the acts, omissions or delays of the Authority or a Seller, as applicable, or (C) one that cannot be cured, avoided, offset or otherwise overcome by the prompt exercise of due diligence and reasonable efforts by the Authority or a Seller, as applicable:

(i) curtailment by a Governmental Authority of the Authority's or a Seller's, as applicable, legal right or ability to provide Water to a Buyer or the Authority, as applicable;

(ii) an event of Force Majeure;

(iii) any action taken by the Authority or a Seller, as applicable, which is necessary to protect the safe operation of the Authority's or Participant's System or any Transmission Facilities, or is necessary for the immediate preservation of health or life, provided that the Authority or Seller, as applicable, has given to the affected Buyers or the Authority, as applicable, such notice as is reasonably practicable; and

(iv) necessary planned or emergency repair, maintenance or other work on the Authority System, any Transmission Facilities, or Participant's System, if by Seller, provided that the Authority or Seller, as applicable, has given to the affected Buyers or the Authority, as applicable, such written notice as may practicably be given of any such action. If practicable, the Authority or Seller, as applicable, shall give the affected Buyers or the Authority, as applicable, not less than thirty (30) days written notice of any such action. Any notice shall indicate the anticipated time reasonably necessary to perform such work.

#### Section 4.02 Water Quality.

(a) The Authority shall operate, maintain and administer the Authority System using generally accepted and sound industry practices necessary to ensure the efficient, reliable and continuous operation of the Authority System. The Authority shall provide a Volume of



Water meeting applicable Texas and Federal regulations regarding Water quality, including the Safe Drinking Water Act, as may be amended from time to time at the System Pressure and a rate of flow at a Delivery Point as required by each Agreement with a Buyer.

EXCEPT AS PROVIDED IN THIS SUBSECTION, THE AUTHORITY MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE QUALITY OR DELIVERY PRESSURE OF THE WATER, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EACH PARTICIPANT HEREBY RELEASES AND DISCHARGES THE AUTHORITY FROM ALL FINES, JUDGMENTS, DEMANDS, LIABILITIES OR CLAIMS ARISING BY REASON OR IN CONNECTION WITH THE DELIVERY OF WATER WHICH MEETS THE REQUIREMENTS OF THIS SUBSECTION.

(b) A Seller assumes all responsibility for and shall operate, maintain and administer its Participant's System and each Water Production Facility using generally accepted and sound industry practices necessary to ensure the efficient, reliable and continuous operation of the Participant's System and each Water Production Facility meeting the requirements of the rules and regulations of the Commission, including, specifically, minimum standards for water sources, treatment, storage, distribution, capacity, and operations as set forth in Subchapter D, 30 TAC § 290.38-47, inclusive, as it may be amended or supplemented from time to time. A Seller assumes all responsibility for and shall provide Water meeting applicable Texas and Federal regulations regarding Water quality, including specifically, Subchapter F, 30 TAC § 290 and the Safe Drinking Water Act, as each may be amended from time to time. In the event the Commission requires a report relating to Participant's System or a Water Production Facility, Seller shall provide such report at its own expense.

EXCEPT AS PROVIDED IN THIS SUBSECTION, A SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE QUALITY OR DELIVERY PRESSURE OF THE WATER, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE AUTHORITY AND EACH PARTICIPANT HEREBY RELEASES AND DISCHARGES EACH SELLER FROM ALL FINES, JUDGMENTS, DEMANDS, LIABILITIES OR CLAIMS ARISING BY REASON OR IN CONNECTION WITH THE DELIVERY OF WATER WHICH MEETS THE REQUIREMENTS OF THIS SUBSECTION.

(c) A Buyer assumes all responsibility for and shall operate, maintain and administer its Participant's System and each Water Production Facility using generally accepted and sound industry practices necessary to ensure the efficient, reliable and continuous operation of the Participant's System and each Water Production Facility meeting the requirements of the rules and regulations of the Commission, including, specifically, minimum standards for water sources, treatment, storage, distribution, capacity, and operations as set forth in Subchapter D, 30 TAC § 290.38-47, inclusive, as it may be amended or supplemented from time to time. A Buyer assumes all responsibility for and shall provide Water to its customers meeting applicable Texas and Federal regulations regarding Water quality, including specifically, Subchapter F, 30 TAC § 290 and the Safe Drinking Water Act, as each may be amended from time to time. Neither a Seller nor the Authority shall be responsible for compliance by Buyer with any of the preceding

standards or requirements. In the event the Commission requires a report relating to Participant's System or a Water Production Facility, Buyer shall provide such report at its own expense.

(d) The Authority and each Seller shall generate and maintain records of the quality of Water delivered to the Authority or a Buyer, as applicable. All such records shall be available to the Authority or a Buyer, as applicable, upon request, and shall be maintained as business records of any such party for at least four (4) years after generation of such records, or such longer period provided by any party's records retention and management policy.

(e) The Authority shall require that all Participants maintain compatible disinfection protocols. A Participant may not change its Water disinfection protocol during the Term of an Agreement without the advance written consent of the Authority.

The Authority shall have the right to test Water provided by a Seller at the Authority's expense.

## **ARTICLE V WATER RATES AND PAYMENT OBLIGATIONS**

### **Section 5.01 Payment by Buyer to Authority.**

A Buyer shall pay to the Authority, without set-off, recoupment, counterclaim, suspension, deferment or reduction, a monthly Water bill from the Authority for the Purchase Price. The Purchase Price shall be billed monthly in arrears before the 10<sup>th</sup> day of the month and the billed amount shall be paid by a Buyer on or before the last day of the following month. Failure to tender payment when due shall result in the accrual of interest on such amount due at a rate of ten percent (10%) per annum from the date due until paid. A Buyer agrees to appropriate all funds necessary to make the payments described in these Regulations, as incorporated in each Agreement, on all Water properly billed to Buyer.

### **Section 5.02 Payment by Authority to Seller.**

The Authority shall pay to the Seller, without set-off, recoupment, counterclaim, suspension, deferment or reduction, a monthly Water bill generated by the Authority for the Sale Price. The Sale Price shall be billed monthly in arrears before the 10<sup>th</sup> day of the month and the billed amount shall be paid by the Authority on or before the last day of the following month. Failure to tender payment when due shall result in the accrual of interest on such amount due at a rate of ten percent (10%) per annum from the date due until paid.

### **Section 5.03 Pumpage Fee Obligation.**

Notwithstanding anything to the contrary in these Regulations or an Agreement, no provision of these Regulations or an Agreement shall operate to waive or otherwise limit the Authority's ability to charge, or change the amount of, and the Participant's obligation to pay, the Pumpage Fees for pumping Water as described in the Pumpage Fee Order.

Section 5.04 Survival of Payment Obligations.

The obligation to pay any amount due under an Agreement shall survive the Termination Date.

**ARTICLE VI  
TERM AND DELIVERY OF WATER**

Section 6.01 Term of Agreement.

The Term of an Agreement shall commence upon execution of an Agreement between a Participant and the Authority and shall terminate on the Termination Date; provided, however, a Seller with an Agreement with a Delivery Period in excess of four (4) years may, with twenty-four (24) months' advance written notice to the Authority, terminate such Agreement.

Section 6.02 Commencement of Availability of Water.

Commencement of availability of Water to or by the Authority shall be coordinated by the Authority Representative. The Authority shall provide each Participant with at least ninety (90) days' prior written notice of the anticipated Commencement Date with respect to each Segment, and ten (10) calendar days' notice with respect to the commencement of any Delivery Period subsequent to the Commencement Date.

Section 6.03 Authority System Test Water.

Before the Commencement Date, a Seller shall deliver Water to the Authority, if requested by the Authority Engineer, in reasonable quantities for the purpose of filling and testing a Segment, or part of a Segment. The price of such Water shall be the Sale Price.

**ARTICLE VII  
DEFAULT AND REMEDIES**

Section 7.01 Participant Default.

The following shall be Events of Default by a Participant under an Agreement:

(a) failure of a Buyer to pay, within ten (10) days after written notice to the Buyer from the Authority, any delinquent amount then due and owing under an Agreement;

(b) any failure by a Seller to perform or observe any duties, provisions or obligations required of a Seller pursuant to an Agreement if such failure shall have continued for a period of thirty (30) days after written notice thereof shall have been delivered to such Seller, unless such failure cannot be cured within such 30-day period, and such Seller is then taking steps reasonably calculated to cure such failure and diligently pursues such steps to completion, provided, however, if the failure involves non-delivery of Water without Excusable Delay or Force Majeure, twenty-four (24) hours' notice and cure period shall be provided;

(c) a Participant (i) files an application with a Governmental Authority for approval to file a petition in bankruptcy or files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it, and such proceeding remains uncontested for sixty (60) days, or (ii) otherwise become bankrupt or insolvent (however evidenced);

(d) any representation or warranty of a Participant contained herein is or was inaccurate in any material respect when made; or

(e) a Participant claims or attempts to claim the right of sovereign immunity for its obligations under an Agreement.

#### Section 7.02 Authority Default.

The following shall be Events of Default by the Authority under an Agreement:

(a) failure to pay, within ten (10) days after written notice to the Authority from a Seller, any delinquent amount due and owing under an Agreement;

(b) any failure by the Authority to perform or observe any duties, provisions or obligations required of the Authority pursuant to an Agreement if such failure shall have continued for a period of thirty (30) days after written notice thereof shall have been delivered to the Authority, unless such failure cannot be cured within such 30-day period, and the Authority is then taking steps reasonably calculated to cure such failure and diligently pursues such steps to completion;

(c) the Authority (i) files an application with a Governmental Authority for approval to file a petition in bankruptcy or files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it, and such proceeding remains uncontested for sixty (60) days, or (ii) otherwise become bankrupt or insolvent (however evidenced);

(d) any representation or warranty furnished by the Authority is false or misleading in any material respect when made; or

(e) the Authority claims the right of sovereign immunity for its obligations under an Agreement.

#### Section 7.03 Remedies Upon Default by a Participant.

Upon the occurrence of any Event of Default by a Participant, the Authority may terminate an Agreement, and any services connected with such Agreement, and/or may proceed to protect and enforce its rights in equity or at law, or for the enforcement of any other appropriate legal or equitable remedy as the Authority, being advised by counsel, may deem most effective to protect any of its rights or interest hereunder.

Section 7.04 Remedies Upon Default by Authority.

Upon the occurrence of any Event of Default by the Authority the Participant may terminate an Agreement, and any services connected with such Agreement, and/or may proceed to protect and enforce its rights in equity or at law, or for the enforcement of any other appropriate legal or equitable remedy as the Participant, being advised by counsel, may deem most effective to protect any of its rights or interest hereunder.

Section 7.05 Arbitration.

All claims, disputes and other matters in question between the parties to an Agreement arising out of an Agreement or the breach thereof shall be negotiated in good faith by the parties, and if the parties are unable to arrive at settlement of such claim, dispute or matters in question within 10 days, then the issues in question shall be decided by arbitration in Houston, Texas, in accordance with the Rules of the American Arbitration Association then in effect, unless the parties mutually agree otherwise. Notice of the demand for arbitration shall be filed in writing with the other party to an Agreement and with the American Arbitration Association. The demand for arbitration shall be made within 180 days after the claim, dispute or other matter in question has arisen. The award entered by the arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in the Harris County District Courts.

**ARTICLE VIII  
REPRESENTATIONS AND WARRANTIES**

Section 8.01 Representations and Warranties of Participant.

Each Participant hereby represents and warrants to the Authority as follows:

(a) Participant is a conservation and reclamation district duly formed and validly existing pursuant to Article XVI, Section 59, Texas Constitution, and operating pursuant to Chapter 49, Texas Water Code, provided, however, in the event a Participant is not such a conservation and reclamation district, the appropriate representation shall be inserted as a special provision in an Agreement;

(b) Participant has full power, authority and authorization to enter into and perform its obligations under an Agreement;

(c) the execution, delivery and performance by Participant of an Agreement do not contravene any of Participant's organizational documents or any contractual, statutory or similar restriction binding on Participant;

(d) an Agreement is a legal, valid and binding obligation of Participant, enforceable against Participant in accordance with its terms;

(e) to the best knowledge and belief of Participant, all information required to be provided by a Participant pursuant to these Regulations shall be true, correct and complete at the time such information is furnished.

Section 8.02 Representations and Warranties of Authority.

The Authority hereby represents and warrants to each Participant as follows:

- (a) the Authority is a governmental agency and a body politic and corporate created as a regional water authority pursuant to the Constitution and laws of the State of Texas;
- (b) the Authority has full power, authority and authorization to enter into and perform its obligations under an Agreement;
- (c) the execution, delivery and performance by the Authority of an Agreement do not contravene any of the Authority's organizational documents or any contractual, statutory or similar restriction binding on the Authority;
- (d) no filing or recording of an Agreement is required by applicable law, rule or regulation of any entity in order to render the same fully valid, binding and enforceable;
- (e) an Agreement is a legal, valid, binding obligation of the Authority, enforceable against the Authority in accordance with its terms.

**ARTICLE IX  
MISCELLANEOUS**

Section 9.01 Notices.

All notices, consents, or other communications required hereunder shall be in writing and shall be sufficiently given (i) if addressed and mailed by first-class, certified or registered mail, postage prepaid, or (ii) upon receipt of notice given by facsimile, mailgram, telegram, telex, overnight courier or personal delivery, in either case as follows:

If to the Authority: Jimmie Schindewolf, General Manager  
North Harris County Regional Water Authority  
3648 FM 1960 West, Suite 110  
Houston, Texas 77068  
(Fax) 281-440-4104

If for Emergency and after hours  
Notification pursuant to  
Section 4.01 (Excusable Delay): Telephone: 281-440-3924

with a copy to: Andrew P. Johnson, III  
Johnson Radcliffe Petrov & Bobbitt PLLC  
1001 McKinney, Suite 1000  
Houston, Texas 77002  
(Fax) 713-237-1313

Any notices delivered to any Participant shall be delivered as specified in an Agreement. As to each party, notices shall be delivered at such other address or substitute address as may be designated by such party in a written notice to the other party to an Agreement.

Section 9.02 Binding Effect.

An Agreement shall inure to the benefit of, and shall be binding upon, the Authority, Participant and its respective successors and assigns authorized by the terms of an Agreement.

Section 9.03 Assignment.

Each Agreement shall be binding and inure to the benefit of the respective parties thereto. Neither party may assign an Agreement or its rights and responsibilities thereunder to a third party without the prior written consent of the other party to an Agreement.

Section 9.04 Assumption by a City.

In the event that any portion of the territory in which a Participant operates its Participant's System is annexed by any city and the city assumes the Participant's assets in the territory, then, the annexing city shall assume all the rights and obligations of a Participant under an Agreement between the annexed Participant and the Authority.

Section 9.05 Severability.

In the event any provision of an Agreement or these Regulations shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of such Agreement or these Regulations.

Section 9.06 Governing Law.

Each Agreement and these Regulations shall be governed by, and construed in accordance with, the laws of the State of Texas, including, but not limited to, the rules and regulations of the Commission.

Section 9.07 Time of Essence.

Time and all terms and conditions shall be of the essence of each Agreement.

Section 9.08 No Benefits to Outside Parties.

Nothing in an Agreement, express or implied, is intended or shall be construed to confer upon or give to any party other than the Authority and the Participant involved any right, remedy or claim under or by reason of an Agreement; and the covenants and agreements contained therein are and shall be for the sole and exclusive benefit of the parties thereto or their successors and assigns.

Section 9.09 Integration.

An Agreement shall completely and fully supersede all prior undertakings or agreements, both oral and written, between the Authority and the Participant relating to the subject matter of an Agreement.

Section 9.10 Headings.

Section and subsection headings in these Regulations or an Agreement are included for convenience of reference only and will not constitute a part of these Regulations or an Agreement for any purpose.

Section 9.11 Amendments to Rules, Regulations and Agreements.

(a) The sale of Water hereunder shall be subject to all of the provisions of the rules, rates and regulations established and amended from time to time by the Authority's Board of Directors or its General Manager concerning rate review and adjustment, generally-applicable temporary interruptions of service, cut-off, lien for charges, and all other generally-applicable matters now or hereafter prescribed by resolution of the Authority or delegated to the Authority's General Manager, including the rules and regulations required by or promulgated pursuant to the Authority's Pumpage Fee Order or GRP, provided, however, that the Authority shall not make any change to these Regulations without the consent of each affected Participant with an Agreement with the Authority as of the date of adoption of any such amendment, order or regulation.

(b) No amendment to or waiver of any provision of an Agreement, nor consent thereto, will be effective unless the same is in a writing executed by both the Authority and the Participant. Such amendment, waiver or consent will be effective only in the specific instance and for the specific purpose for which given.

(c) Nothing in this Section 9.11 shall prohibit any change to these Regulations required in order to comply with an order or a regulation of any State or Federal agency with jurisdiction over the Authority, and any such change shall be binding on all Participants.

(d) Copies of all Agreements and any amendments thereto shall be filed by the Authority with the Commission. Any change in the quantity of water to be exchanged, except for emergencies, shall be filed by the Authority with the Commission's Public Drinking Water Section and the Commission's Region 12 Office thirty (30) days prior to said change taking effect. In the event of an emergency necessitating a change in the quantity of the Water exchanged, notice shall be provided by the Authority to the Commission within twenty-four (24) hours of the occurrence.

Section 9.12 Waiver.

Failure of either party at any time to require performance of any provision of an Agreement shall not limit the party's right to enforce such provision, nor shall any waiver of any



breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.

Section 9.13 Counterparts.

An Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same Agreement.

Section 9.14 Approval.

Notwithstanding anything else to the contrary in an Agreement, neither party shall have any obligation under an Agreement, and shall not be bound hereby, unless and until approved by such party's board of directors. Notice of such approval shall be promptly provided to the other party.

Section 9.15 No Consequential Damages.

Notwithstanding any other provision of these Regulations or an Agreement, in no event shall the parties or any of their affiliates, by reason of any of their respective acts or omissions relating to any of their obligations under an Agreement unless such acts or omissions are intentional, be liable, whether in contract, tort, misrepresentation, warranty, negligence (but not gross negligence), strict liability or otherwise, for any special, indirect, incidental or consequential damages arising out of or in connection with an Agreement, or the performance or breach thereof.

Section 9.16 Relationship of the Parties.

The Authority and a Participant shall not be deemed in a relationship of partners or joint ventures by reason of an Agreement or the activities taken pursuant hereto. An Agreement is intended to secure and provide for the services of each party hereto as an independent contractor.

Section 9.17 Further Assurances.

In furtherance of the terms and conditions of an Agreement, each of the parties shall cooperate in good faith with each other in order to achieve the performance of their respective obligations under an Agreement and these Regulations.

\* \* \* \* \*

**EXHIBIT "A-1"**

**Form of  
Groundwater Transfer Agreement - Buyer**

**EXHIBIT "A-1"**  
**TO**  
**REGULATIONS FOR BUY/SELL AGREEMENTS**  
**FOR IMPLEMENTATION OF**  
**THE GROUNDWATER TRANSFER PROGRAM**

**Form of**  
**Groundwater Transfer Agreement - Buyer**

**1. Groundwater Transfer Program.** The Participant specified below hereby elects to participate in the Groundwater Transfer Program of the North Harris County Regional Water Authority (the "Authority") under the *Regulations for Buy/Sell Agreements for Implementation of the Groundwater Transfer Program* adopted by the Authority on September 8, 2003, as amended (the "Regulations"), and agrees to assume all rights and obligations of a Buyer pursuant to the Regulations. All capitalized words in this Agreement are used as defined in the Regulations. The Authority consents to the Participant electing Buyer status. The terms of the Regulations are hereby incorporated herein by reference to the extent applicable to Participant in its capacity as a Buyer.

**2. Purchase and Sale of Water.** The Buyer agrees to receive and buy from the Authority, and the Authority agrees to sell and deliver to the Buyer, at the Delivery Point, a Volume of Water equal to at least the Minimum Water Demand Allocation, if any, and not to exceed the Buyer's Maximum Water Demand Allocation during the Delivery Period specified below.

**3. Water Demand Allocation.** The Volume of Water that the Buyer agrees to nominate for purchase hereunder, during a Delivery Period is as specified in *Schedule "A"* attached hereto.

**4. Delivery Period.** The Delivery Period under this Agreement is as shown on *Schedule "A"* attached hereto.

**5. Pressure and Flow Rate.** Water will be delivered at the System Pressure and rate of flow shown on *Schedule "A"* attached hereto.

**6. Delivery Point and Transmission Facilities.** The Delivery Point and any Transmission Facilities under this Agreement are as shown on *Schedule "B"* attached hereto. The Authority/Buyer [*strike one*] shall be responsible for the cost, installation and maintenance of the Transmission Facilities, as may be more particularly shown on *Schedule "B."*

**7. Price.** The Buyer will pay for all Water purchased and received by it hereunder in any month during a Delivery Period at a price equal to the Purchase Price.

**8. Use.** The Buyer will use all Water purchased hereunder in accordance with Section 3.08 of the Regulations. The Buyer agrees that all Water sold and delivered to it under this Agreement will be consumed in Buyer's operations or sold to Qualified Entities and that no such Water will be used in a private trade or business or to make a private loan, except as permitted by the Regulations.

**9. Address.** The address of the Buyer for notices received under the Regulations is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

**10. Resolution of Disputes.** The arbitration provisions of the Regulations will apply to the Buyer and this Agreement.

**11. Term.** This Agreement shall begin on the date on which this Agreement is signed by both parties hereto and shall end on the Termination Date.

The parties hereto have caused this Groundwater Transfer Agreement-Buyer to be duly executed, effective as of the date of the last signature hereon.

BUYER:

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY

By: \_\_\_\_\_  
Jimmie A. Schindewolf, General Manager

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

**SCHEDULE "A"**  
**TO**  
**GROUNDWATER TRANSFER AGREEMENT-BUYER**  
**Water Demand Allocation, Delivery Period and Pressure**

**Buyer:** \_\_\_\_\_ **Segment:** \_\_\_\_\_

**Minimum Water Demand Allocation:** \_\_\_\_\_ (daily)

**Maximum Water Demand Allocation:** \_\_\_\_\_ (daily)

**Delivery Period:** Beginning \_\_\_\_\_, and ending \_\_\_\_\_

**Method of disinfection (Authority):** \_\_\_\_\_

**Method of disinfection (Buyer):** \_\_\_\_\_

**System Pressure:** \_\_\_\_\_ (psi)

**Rate of flow at which Water may be drafted:** \_\_\_\_\_ (hourly)

**Special Provisions:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Buyer Initials:** \_\_\_\_\_

**Authority Initials:** \_\_\_\_\_

**SCHEDULE "B"**  
**TO**  
**GROUNDWATER TRANSFER AGREEMENT – BUYER**  
**Delivery Point, Meter Location and Transmission Facilities**

**Buyer:** \_\_\_\_\_ **Segment:** \_\_\_\_\_

[Insert/Copy Engineering Drawing and Detail of  
Delivery Point, Meter Location and Transmission Facilities, if any]

**EXHIBIT "A-2"**

**Form of  
Groundwater Transfer Agreement - Seller**



**EXHIBIT "A-2"**  
**TO**  
**REGULATIONS FOR BUY/SELL AGREEMENTS**  
**FOR IMPLEMENTATION OF**  
**THE GROUNDWATER TRANSFER PROGRAM**

**Form of**  
**Groundwater Transfer Agreement – Seller**

**1. Groundwater Transfer Program.** The Participant specified below hereby elects to participate in the Groundwater Transfer Program of the North Harris County Regional Water Authority (the "Authority") under the *Regulations for Buy/Sell Agreements for Implementation of the Groundwater Transfer Program* adopted by the Authority on September 8, 2003, as amended (the "Regulations"), and agrees to assume all rights and obligations of a Seller pursuant to the Regulations. All capitalized words in this Agreement are used as defined in the Regulations. The Authority consents to the Participant electing Seller status. The terms of the Regulations are hereby incorporated herein by reference to the extent applicable to Participant in its capacity as a Seller.

**2. Purchase and Sale of Water.** The Authority agrees to receive and buy from the Seller, subject to Section 3.01 of the Regulations, and the Seller agrees to sell and deliver to the Authority, at the Delivery Point, a Volume of Water not to exceed the Seller's Maximum Water Supply Commitment during the Delivery Period specified below.

**3. Water Supply Commitment.** The Volume of Water that the Seller agrees to nominate for sale hereunder, during a Delivery Period is as specified in *Schedule "A"* attached hereto.

**4. Delivery Period.** The Delivery Period under this Agreement is as shown on *Schedule "A"* attached hereto.

**5. Pressure and Flow Rate.** Water will be delivered at the System Pressure and rate of flow shown on *Schedule "A"* attached hereto.

**6. Delivery Point and Transmission Facilities.** The Delivery Point and any Transmission Facilities under this Agreement are as shown on *Schedule "B"* attached hereto. The Authority/Seller [*strike one*] shall be responsible for the cost, installation and maintenance of the Transmission Facilities, as may be more particularly shown on *Schedule "B."*

**7. Price.** The Authority will pay for all Water purchased and received by it hereunder in any month during a Delivery Period at a price equal to the Sale Price.

**8. Address.** The address of the Seller for notices received under the Regulations is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

**9. Resolution of Disputes.** The arbitration provisions of the Regulations will apply to the Seller and this Agreement.

**10. Term.** This Agreement shall begin on the date on which this Agreement is signed by both parties hereto, and shall end on the Termination Date.

The parties hereto have caused this Groundwater Transfer Agreement-Seller to be duly executed, effective as of the date of the last signature hereon.

SELLER:

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY

By: \_\_\_\_\_  
Jimmie A. Schindewolf, General Manager

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

**SCHEDULE "A"**  
**TO**  
**GROUNDWATER TRANSFER AGREEMENT-SELLER**  
**Water Supply Commitment, Delivery Period and Pressure**

**Seller:** \_\_\_\_\_ **Segment:** \_\_\_\_\_

**Minimum Water Supply Commitment:** \_\_\_\_\_ (daily)

**Maximum Water Supply Commitment:** \_\_\_\_\_ (daily)

**Delivery Period:** Beginning \_\_\_\_\_, and ending \_\_\_\_\_

**Method of disinfection (Seller):** \_\_\_\_\_

**System Pressure:** \_\_\_\_\_ (psi)

**Rate of flow at which Water may be drafted:** \_\_\_\_\_ (hourly)

**Special Provisions:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Seller Initials:** \_\_\_\_\_

**Authority Initials:** \_\_\_\_\_

**SCHEDULE "B"**  
**TO**  
**GROUNDWATER TRANSFER AGREEMENT-SELLER**  
**Delivery Point, Meter Location and Transmission Facilities**

**Seller:** \_\_\_\_\_ **Segment:** \_\_\_\_\_

[Insert/Copy Engineering Drawing and Detail of  
Delivery Point, Meter Location and Transmission Facilities, if any]