

# **ARIZONA LOWER BASIN DROUGHT CONTINGENCY PLAN FRAMEWORK AGREEMENT**

**THIS ARIZONA LOWER BASIN DROUGHT CONTINGENCY PLAN FRAMEWORK AGREEMENT** (“Agreement”), dated as of May 20, 2019, is entered into among the United States of America represented by the Secretary of the Interior acting through the Regional Director of the Lower Colorado Region of the Bureau of Reclamation, the State of Arizona acting through the Arizona Department of Water Resources, the Arizona Water Banking Authority, the Central Arizona Water Conservation District, the Salt River Project Agricultural Improvement and Power District, the Salt River Valley Water Users’ Association, the Colorado River Indian Tribes, and the Gila River Indian Community.

## **1.0 RECITALS**

- 1.1** In 2007, the Secretary adopted a Record of Decision: the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (“2007 Interim Guidelines”).
- 1.2** Based on the actual operating experience gained after the adoption of the 2007 Interim Guidelines and emerging variability and anticipated decline in Colorado River flow volumes, the Parties recognize and acknowledge that those relying on water from the Colorado River System face increased individual and collective risk of temporary or prolonged interruptions in water supplies, with associated adverse impacts on the society, environment, and economy of the Colorado River Basin. Therefore, the seven Colorado River Basin States and water users within those States, together with the Secretary, have agreed that it is necessary and beneficial to pursue additional actions beyond those contemplated in the 2007 Interim Guidelines to reduce the likelihood of reaching critical elevations in Lake Powell and Lake Mead through the Term.
- 1.3** The Colorado River Basin States, water users, and the Secretary have developed two drought contingency plans: the Upper Basin Drought Contingency Plan (“Upper Basin DCP”), which affects operations above Lee Ferry, and the Lower Basin Drought Contingency Plan (“Lower Basin DCP”), which affects operations below Lee Ferry. Both the Upper Basin DCP and the Lower Basin DCP are supplemental to and in furtherance of the goals of the 2007 Interim Guidelines.

- 1.4 The Lower Basin DCP is effectuated through the Lower Basin Drought Contingency Plan Agreement (“LBDCP Agreement”), including the Lower Basin Drought Contingency Operations (“LBOps”), attached to the LBDCP Agreement as Exhibit 1 thereto.
- 1.5 On April 16, 2019, the President of the United States signed Pub. L. No. 116-14 requiring the U. S. Department of Interior to implement the Colorado River Drought Contingency Plans, which includes the LBDCP Agreement. The State of Arizona, acting through the Director of ADWR, is a party to the LBDCP Agreement, which is designed to address falling elevations in Lake Powell and Lake Mead. The LBDCP Agreement requires reductions in Arizona Colorado River diversions at various Lake Mead elevations. Under the Agreement Regarding Lower Basin Drought Contingency Plan Obligations between the United States and CAWCD, CAWCD agreed to implement certain of Arizona’s reductions under the LBDCP Agreement, which will result in net reductions to available CAP Project Water.
- 1.6 The Lower Basin DCP provides for the storage of water under varying conditions and incentivizes the creation and storage of ICS in Lake Mead. In particular, the LBOps require that Arizona make certain contributions, “Arizona DCP Contributions,” either through the conversion of ICS to “DCP ICS” or through the “Creation of Non-ICS Water” as those terms are defined within the LBOps. Arizona DCP Contributions are in addition to the reductions provided in Section XI.G.2.D of the 2007 Interim Guidelines.
- 1.7 The Arizona DCP Contributions required by the LBOps will have different impacts on various stakeholders within Arizona. ADWR and CAWCD formed an Arizona Steering Committee to discuss and recommend how to adopt and implement the Lower Basin DCP in a manner that is acceptable to Arizona water users. After a series of meetings, as well as work group meetings including additional stakeholder representatives, the Arizona Steering Committee developed a proposal for implementation of the Lower Basin DCP within Arizona (“Arizona Implementation Plan”).
- 1.8 **Exhibit 7.1** sets forth the parameters of the Arizona Implementation Plan. The scenarios set forth in **Exhibit 7.1** are for illustrative purposes only and set forth the general expectations of the Parties as to the quantity of Mitigation Resources, as that term is defined in **Exhibit 5.2**, that Parties and other water users in Arizona may expect to deploy or receive pursuant to the various agreements and measures separately adopted for implementing the

Arizona Implementation Plan. The Parties intend to cooperate in good faith to update **Exhibit 7.1** each Year during the Term as set forth herein.

- 1.9 The Arizona Implementation Plan includes both a mitigation component and an offset component. The mitigation component relies on firming obligations and additional deliveries of water, including ICS previously stored in Lake Mead by CAWCD (“CAP ICS”), as well as compensation and infrastructure funding, to mitigate for the additional reductions in CAP water deliveries required to fulfill the Arizona DCP Contributions. The offset component is designed to conserve additional water in Lake Mead through the creation of ICS and compensated system conservation to offset the CAP ICS deliveries in the mitigation component.
- 1.10 The offset component is intended to ensure that the total amount of Arizona ICS stored in Lake Mead at the end of the Term, combined with water retained in Lake Mead through Arizona system conservation, will be at least as great as the amount of CAP ICS stored at the beginning of the Term. The Parties are committed to continuing efforts to identify ways to conserve additional water in Lake Mead during the Term.
- 1.11 The Arizona Implementation Plan seeks to balance a broad variety of stakeholder interests, further the purpose of the Lower Basin DCP through additional storage in Lake Mead and help Arizona water users prepare for a drier future.
- 1.12 The Arizona Implementation Plan is authorized, agreed to, and documented through numerous laws, policy, agreements, and actions that collectively gained consensus among Arizona stakeholders. This Agreement sets forth those collective actions.

## 2.0 DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below:

- 2.1 “2007 Interim Guidelines” has the meaning set forth in **Subparagraph 1.1**.
- 2.2 “ADWR” means the Arizona Department of Water Resources, the entity established pursuant to Title 45 of the Arizona Revised Statutes, or its successor agency or entity.
- 2.3 “Agreement” means this agreement and the **Exhibits** attached hereto.

- 2.4 “Arizona DCP Contributions” means reductions, in addition to any reductions provided in Section XI.G.2.D. of the 2007 Interim Guidelines, Arizona is required to make under the LBOps and further described in **Subparagraph 1.6.**
- 2.5 “Arizona Implementation Plan” has the meaning set forth in **Subparagraph 1.7.**
- 2.6 “ASC Fund” has the meaning set forth in **Subparagraph 6.1.**
- 2.7 “AWBA” means the Arizona Water Banking Authority, the entity established pursuant to Chapter 14 of Title 45 of the Arizona Revised Statutes, or its successor agency or entity.
- 2.8 “CAP” means the Central Arizona Project, the reclamation project authorized and constructed by the United States in accordance with Title III of the Colorado River Basin Project Act (43 U.S.C. §§ 1521 *et seq.*).
- 2.9 “CAP ICS” has the meaning set forth in **Subparagraph 1.9.**
- 2.10 “CAWCD” means the Central Arizona Water Conservation District, the political subdivision of the State of Arizona that is the contractor under the contract dated December 1, 1988 (Contract No. 14-06-W-245, Amendment No. 1) between the United States and the Central Arizona Water Conservation District for Delivery of Water and Repayment of Costs of the Central Arizona Project, as amended and revised.
- 2.11 “Community” means the Gila River Indian Community, a government composed of members of the Pima Tribe and the Maricopa Tribe and organized under section 16 of the Act of June 18, 1934 (25 U.S.C. § 476).
- 2.12 “Conservation Offsets” means the water conserved, stored, preserved, or left in Lake Mead pursuant to **Paragraph 6.0** to offset any delivery of CAP ICS pursuant to this Agreement as Mitigation Water, measured in acre-feet.
- 2.13 “**Exhibit**” means an exhibit to this Agreement.
- 2.14 “GW Fund” has the meaning set forth in **Subparagraph 5.1.2.**
- 2.15 “ICS” means Intentionally Created Surplus as defined under the 2007 Interim Guidelines.

- 2.16 “Irrigation Districts” means the Central Arizona Irrigation and Drainage District, Harquahala Valley Irrigation District, Hohokam Irrigation and Drainage District, Maricopa Stanfield Irrigation & Drainage District, Queen Creek Irrigation and Drainage District, and San Carlos Irrigation and Drainage District.
- 2.17 “LBDCP Agreement” has the meaning set forth in **Subparagraph 1.4**.
- 2.18 “LBOps” has the meaning set forth in **Subparagraph 1.4**.
- 2.19 “Lower Basin DCP” has the meaning set forth in **Subparagraph 1.3**.
- 2.20 “Mitigation Water” means certain CAP Project Water dedicated to the Arizona Implementation Plan by CAWCD Board resolution consisting of up to four hundred thousand (400,000) acre-feet (“AF”) of CAP ICS and an estimated fifty thousand (50,000) AF of CAP Project Water that the CAWCD Board anticipates being available from CAP operations during the term of the LBDCP Agreement.
- 2.21 “Offset Demand” means the estimated minimum volume of Conservation Offsets needed to offset the delivery of CAP ICS on at least an acre-foot by acre-foot basis during the Term.
- 2.22 “**Paragraph**” means a paragraph of this Agreement and “**Subparagraph**” means a subparagraph of any Paragraph of this Agreement.
- 2.23 “Party” means a party to this Agreement and “Parties” means all the parties to this Agreement.
- 2.24 “Reclamation” means the United States Bureau of Reclamation within the Department of the Interior.
- 2.25 “Secretary” means the Secretary of the Interior.
- 2.26 “Shortage Condition” means a Tier 1, Tier 2a, Tier 2b, or Tier 3 Shortage.
- 2.27 “SRP” means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users’ Association, an Arizona Territorial Corporation.
- 2.28 “Term” shall have the meaning set forth in **Paragraph 9.0**.

- 2.29 “Tier 1 Shortage” means a Year in which Lake Mead content is projected on January 1 of that Year to be at or below elevation 1,075 feet and at or above 1,050 feet. For the purpose of this definition, “projected on January 1” means the projected Lake Mead elevation based on the Reclamation 24-Month Study that is conducted in August of the previous Year. The 24-Month Study is the operational study that reflects the current Annual Operating Plan that is updated each month by Reclamation to project future Colorado River reservoir contents and releases.
- 2.30 “Tier 2a Shortage” means a Year in which Lake Mead content is projected on January 1 of that Year to be below elevation 1,050 feet and at or above 1,045 feet. For the purpose of this definition, “projected on January 1” shall have the same meaning set forth in **Subparagraph 2.31** above.
- 2.31 “Tier 2b Shortage” means a Year in which Lake Mead content is projected on January 1 of that Year to be below elevation 1,045 feet and at or above 1,025 feet. For the purpose of this definition, “projected on January 1” shall have the same meaning set forth in **Subparagraph 2.31** above.
- 2.32 “Tier 3 Shortage” means a Year in which Lake Mead content is projected on January 1 of that Year to be below elevation 1,025 feet. For the purpose of this definition, “projected on January 1” shall have the same meaning set forth in **Subparagraph 2.31** above.
- 2.33 “Upper Basin DCP” has the meaning set forth in **Subparagraph 1.3**.
- 2.34 “Year” means a calendar year.

### 3.0 EXHIBITS

#### **Exhibit 5.1**

Agreement Among the Arizona Department of Water Resources, Central Arizona Water Conservation District, Central Arizona Irrigation and Drainage District, Harquahala Valley Irrigation District, Maricopa Stanfield Irrigation & Drainage District, Queen Creek Irrigation District, and the San Carlos Irrigation and Drainage District for the Mitigation of Reductions to CAP Ag Pool Water under the Drought Contingency Plan

#### **Exhibit 5.2**

Agreement Among the United States of America, the Arizona Department of Water Resources, the Central Arizona Water Conservation District, Gila River Indian

Community, City of Chandler, Town of Gilbert, City of Glendale, City of Mesa, City of Phoenix, City of Scottsdale and City of Tempe for the Mitigation of Reductions to CAP NIA Priority Water Under the Drought Contingency Plan

**Exhibit 6.1.1**

Agreement among the United States of America through the Department of the Interior, Bureau of Reclamation, the State of Arizona, through the Arizona Department of Water Resources, the Central Arizona Water Conservation District, and the Colorado River Indian Tribes to Fund the Creation of Colorado River System Water through Voluntary Water Conservation and Reductions in Use During Calendar Years 2020-2022

**Exhibit 6.1.2**

Funding Agreement Between the Arizona Department of Water Resources and the Environmental Defense Fund

**Exhibit 6.2.1**

Intergovernmental Agreement Between the Arizona Water Banking Authority and the Gila River Indian Community for the Development of Intentionally Created Surplus Firming Credits

**Exhibit 6.2.2**

Agreement Between the United States of America and the Gila River Indian Community for the Development of Intentionally Created Surplus Firming Credits

**Exhibit 6.3**

CAWCD/SRP Water Exchange Agreement for the Drought Contingency Plan

**Exhibit 7.1**

Arizona Implementation Plan

**4.0 FIRMING OBLIGATIONS**

**4.1 State of Arizona Firming Obligations.**

**4.1.1** Pursuant to A.R.S. §§ 45-2423(A)(10) and 45-2491, the AWBA is designated as the agent for the State of Arizona for purposes of carrying out the firming obligations under section 105 of Public Law 108-451, the Arizona Water Settlements Act of 2004.

**4.1.2** Pursuant to A.R.S. § 45-2457(B), the AWBA may also distribute certain long-term storage credits under certain conditions to meet the demands of CAWCD’s municipal and industrial contractors when “CAWCD’s normal diversions from the Colorado river have been or will be disrupted by shortages on the river or by disruptions in the operation of the central Arizona project.” On March 4, 2019, the AWBA adopted the Policy Regarding the Distribution of Long-Term Storage Credits for Firming CAP Municipal and Industrial Subcontractors.

**4.1.3** For purposes of determining the volume of the obligations and commitments described in **Subparagraphs 4.1.1** and **4.1.2** above in each Year, the AWBA shall calculate such obligations and commitments prior to the inclusion of Mitigation Water to be delivered for mitigation under **Exhibit 5.2**.

## **4.2 United States Firming Obligations.**

**4.2.1** Pursuant to section 105 of the Arizona Water Settlements Act of 2004, the United States has a statutory obligation to firm specific CAP water supplies for certain Tribes in a Shortage Condition.

**4.2.2** For purposes of determining the volume of the obligations and commitments described in **Subparagraph 4.2.1** above, the United States shall calculate the obligations and commitments prior to the inclusion of Mitigation Water to be delivered for mitigation under **Exhibit 5.2**.

## **5.0 MITIGATION**

### **5.1 CAP Ag Pool Mitigation.**

**5.1.1** Pursuant to **Exhibits 5.1** and **5.2**, in any Year from 2020 to 2022, inclusive, in which a Shortage Condition exists, CAWCD shall deliver Mitigation Water to mitigate the reduction of the delivery of CAP Ag Pool Water to the Irrigation Districts caused by Arizona DCP Contributions.

**5.1.2** The State of Arizona has deposited \$9 million into the Temporary Groundwater and Irrigation Efficiency Projects Fund (“GW Fund”) established by A.R.S. § 45-615.01. ADWR will deposit additional monies into the GW Fund from groundwater withdrawal fees levied in the Pinal Active Management Area during Years 2020 through 2026. It is estimated that the total amount of the groundwater withdrawal fees that will be



deposited into the GW Fund will be approximately \$8 million. ADWR will grant monies from the GW Fund to qualified irrigation districts in the Phoenix Active Management Area, the Pinal Active Management Area and the Harquahala Irrigation Non-expansion Area to fund projects for the construction and rehabilitation of wells and related infrastructure for the withdrawal and efficient delivery of groundwater by the irrigation districts. Monies in the GW Fund derived from groundwater withdrawal fees levied in the Pinal Active Management Area may be granted only to qualified irrigation districts in the Pinal Active Management Area. In granting monies from the GW Fund, ADWR may give preference to wells and related infrastructure that would be used to recover stored water.

**5.1.3** CAWCD's Board of Directors has committed up to \$5 million in ad valorem taxes for the CAP Ag Pool Groundwater Infrastructure and Efficiency Program, subject to participation by other non-federal cost share partners and the development of a definitive program proposal that incorporates the need for recovery infrastructure.

**5.1.4** The Irrigation Districts have committed to contribute a cumulative total of \$5 million towards projects to construct and rehabilitate wells and related infrastructure for the withdrawal and delivery of groundwater.

**5.1.5** ADWR will apply to the United States Department of Agriculture Natural Resources Conservation Service for \$25 million from the Regional Conservation Partnership Program to help fund the construction and rehabilitation of wells and related infrastructure for the withdrawal and delivery of groundwater by the qualified Irrigation Districts in the Phoenix Active Management Area, Pinal Active Management Area and Harquahala Irrigation Non-expansion area. The application will identify a number of other entities as program partners, including the Irrigation Districts, CAWCD, Reclamation, the Arizona Farm Bureau, and Arizona Water Company. The Parties have agreed to provide reasonable, good faith support for the ADWR application filed pursuant to this **Subparagraph**.

**5.2** **CAP NIA Priority Mitigation**. Pursuant to **Exhibit 5.2** in any Year from 2020 to 2025, inclusive, in which a Shortage Condition exists CAWCD shall deliver Mitigation Water and provide Compensated Mitigation Resources, as

that term is defined in **Exhibit 5.2**, to mitigate the reduction of the delivery of CAP NIA Priority Water to entities with long term CAP contracts caused by Arizona DCP Contributions.

## **6.0 CONSERVATION OFFSETS.**

Offset Demand as of the date of execution of this Agreement requires the creation of at least four hundred thousand (400,000) acre-feet of Conservation Offsets.

### **6.1 Colorado River Indian Tribes System Conservation.**

**6.1.1** Pursuant to **Exhibit 6.1.1**, the Colorado River Indian Tribes has agreed to create one hundred fifty thousand (150,000) acre-feet of system conservation through voluntary water conservation and reductions in consumptive use in return for payment from the Arizona System Conservation Fund established by A.R.S. § 45- 118 (“ASC Fund”).

**6.1.2** Pursuant to **Exhibit 6.1.2**, the Environmental Defense Fund agrees to contribute funding to the ASC Fund for the Colorado River Indian Tribes System Conservation.

### **6.2 Gila River Indian Community Intentionally Created Surplus (ICS).**

**6.2.1** Pursuant to **Exhibit 6.2.1**, during the Term the Community shall create fifty thousand (50,000) acre-feet of “AZ Firming ICS” as that term is defined in **Exhibit 6.2.1**.

**6.2.2** Pursuant to **Exhibit 6.2.2**, during the Term the Community shall create one hundred thousand (100,000) acre-feet of ICS.

**6.2.3** During the Term, in addition to the ICS that the Community shall create pursuant to **Subparagraphs 6.2.1** and **6.2.2**, the Community shall create fifty thousand (50,000) acre-feet of “Community ICS” as required pursuant to **Exhibit 6.2.1**.

**6.2.4** ADWR shall notify the Community in writing if additional ICS is required to meet the target of four hundred thousand (400,000) acre-feet of Conservation Offsets. Upon receipt of this written notice, the Community and ADWR shall meet to establish a schedule for the creation of an additional amount of ICS up to a maximum amount of twenty-two thousand

(22,000) acre-feet of “Conditional ICS” as required pursuant to **Exhibit 6.2.1**.

**6.3 CAWCD and SRP Exchange.** Pursuant to **Exhibit 6.3**, CAWCD shall partially meet its mitigation requirement under this Agreement through the delivery of up to fifty thousand (50,000) AF of SRP exchange water in lieu of delivery of CAP ICS, thereby preserving fifty thousand (50,000) AF of CAP ICS in Lake Mead as Conservation Offsets.

## **7.0 ADJUSTMENTS TO EXHIBIT 7.1**

**7.1** By May 1 of each Year the Parties will meet and confer to consider amending **Exhibit 7.1** to reflect actual deliveries of Mitigation Resources, as that term is defined in **Exhibit 5.2**, during the prior Year, projected deliveries of Mitigation Resources for each remaining Year of the term of this Agreement, and the projected Offset Demand.

**7.2** The Parties will meet in November of each Year to review and confirm Mitigation Water to be delivered in the subsequent Year pursuant to the relevant respective agreements described in this Agreement.

## **8.0 ADDITIONAL PARTIES.**

This Agreement shall be effective upon its execution by the original Parties hereto, including the United States, ADWR, AWBA, CAWCD, Colorado River Indian Tribes and the Community. Any entity that is contributing resources to or receiving resources from the Arizona Implementation Plan may automatically join as a Party upon execution of this Agreement; provided that such execution must occur within sixty (60) calendar days of the Agreement’s execution by the original Parties hereto. To effectuate such joinder any entity seeking to join as a Party shall provide its execution page to ADWR.

## **9.0 TERM.**

This Agreement shall become effective on the date on which all of the following have occurred: (a) this Agreement has been executed by all Parties; (b) the LBDCP Agreement has been signed by all parties to that agreement; and, (c) the Agreement Regarding Lower Basin Drought Contingency Plan Obligations has been signed by all parties to that agreement. This Agreement shall terminate on December 31, 2026.

**10. CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS.**


The expenditure or advance of any money or the performance of any obligation of the United States under this Agreement shall be contingent upon appropriation or allotment of funds. No liability shall accrue to the United States in case funds are not appropriated or allotted.

**11. OFFICIALS NOT TO BENEFIT.**

No Member of or Delegate of Congress, Resident Commissioner, or official of the Parties shall benefit from this Agreement other than as a water user or landowner in the same manner as other water users or landowners.

[Separate Signature Pages to Follow for Each Party]

**UNITED STATES OF AMERICA**

By:   
**Terrance J. Fulp, Ph.D.**  
**Regional Director**  
**Lower Colorado Region**  
**Bureau of Reclamation**

**STATE OF ARIZONA  
ACTING THROUGH THE ARIZONA DEPARTMENT OF WATER  
RESOURCES**

By:   
Thomas Buschatzke, Director

**Approved as to form:**

By:   
Nicole D. Klobas, Deputy Chief Counsel

**GILA RIVER INDIAN COMMUNITY**

By

  
\_\_\_\_\_  
**Stephen Roe Lewis, Governor**

**Approved as to form:**

By:

  
\_\_\_\_\_  
**Linus Everling, General Council**

**ARIZONA WATER BANKING AUTHORITY**

By:   
Thomas Buschatzke, Chair

**Attest:**

By:   
Kathryn A. Sorensen, Secretary




**CENTRAL ARIZONA WATER CONSERVATION DISTRICT**

By:   
**Lisa Atkins, President**

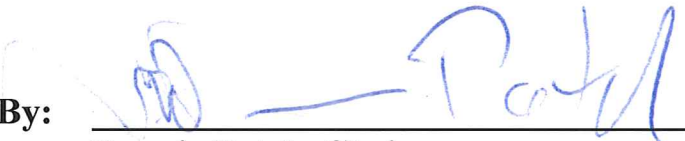
**Attest:**

By:   
**Sharon Megdal, Secretary**


**Approved as to form:**

By:   
**Jay Johnson, General Counsel**

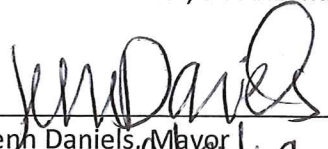
**COLORADO RIVER INDIAN TRIBES**

By:   
**Dennis Patch, Chairman**

**Approved as to Form:**

By:   
**Rebecca Loudbear, Attorney General**


TOWN OF GILBERT, an Arizona municipal corporation

By   
Jenn Daniels, Mayor  
Date Signed: 6/20/19

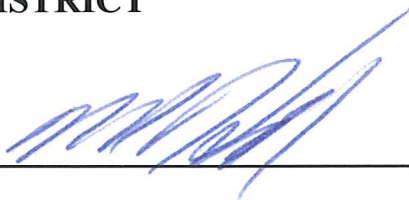
ATTEST:

  
Lisa Maxwell, City Clerk

APPROVED AS TO FORM:

  
Title: Town Attorney

**SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND  
POWER DISTRICT**

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

**Approved as to form:**

By:  \_\_\_\_\_  
**General Counsel**

**SALT RIVER VALLEY WATER USERS' ASSOCIATION**

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

**Approved as to form:**

By:  FOR  
\_\_\_\_\_ **General Counsel**

**ARIZONA LBDCP FRAMEWORK AGREEMENT  
EXHIBIT LIST**

**EXHIBITS TO BE ATTACHED AS EXECUTED**

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