

**AGRICULTURAL INTERRUPTIBLE WATER SERVICE CONTRACT FOR IRRIGATION
2020**

ACCOUNT NO. _____

BROWN COUNTY WATER IMPROVEMENT DISTRICT NO. ONE, hereinafter "BCWID", and CUSTOMER, identified below, in mutual consideration of the provisions herein contained, agree as follows:

I. WATER SUPPLY

- A. OBLIGATION TO SUPPLY INTERRUPTIBLE WATER. BCWID agrees to furnish interruptible water in the canals, pipes, and laterals it owns or controls for diversion and use by CUSTOMER for agricultural purposes during the Irrigation Season (as defined in Section I.C of this Contract). Subject to the conditions set forth in this Contract and the Standard Terms and Conditions set forth in the Agricultural INTERRUPTIBLE Water Service Contract Rules (Rules), BCWID will supply interruptible water to CUSTOMER, to irrigate the acreage as described in Exhibit 1 at the delivery point specified in Exhibit 1.**

- B. SUPPLIES SUBJECT TO CURTAILMENT. CUSTOMER further agrees that the water supplied under the Contract is provided on an interruptible basis, is subject to availability and subject to curtailment in accordance with the terms of this Contract, the Rules and BCWID's Water Conservation and Drought Contingency Plan (the "Plan").**

- C. EXCESS ACREAGE. Under no circumstances shall BCWID be obligated to provide water for the irrigation of acreage in excess of the acreage indicated on Exhibit 1 ("excess acreage"). In the event that CUSTOMER wishes to use BCWID water to irrigate excess acreage, CUSTOMER shall first secure written approval from the BCWID General Manager, and upon approval, pay all applicable charges and surcharges as described in Section III.B.**

- D. LIMITATION OF BCWID LIABILITY. CUSTOMER AGREES TO THE LIMITATIONS OF LIABILITY INCLUDED IN THE BCWID'S AGRICULTURAL INTERRUPTIBLE WATER SERVICE CONTRACT RULES.**

II. TERM

The term shall be an annual contract from January 1, 2020 to December 31, 2020.

III. CONTRACT ADMINISTRATION

- A. AGREEMENT TO PAY. CUSTOMER agrees and covenants to pay BCWID for irrigation water used at the applicable rate(s) specified in Exhibit 2, and consistent with the Standard Terms and Conditions provided in the Rules.**

- B. LATE FEES. In addition to the applicable rate(s) specified in Exhibit 2 attached hereto, CUSTOMER agrees and covenants to pay BCWID the following applicable late fees:**
 - All Irrigation Accounts that are thirty (30) days past due will be subject to a Late Fee of 1.0% of the applicable rate or \$25.00, whichever is greater;

- All Irrigation Accounts that are sixty (60) days past due will be subject to a Late Fee of 2.0% of the applicable rate or \$25.00, whichever is greater;
- For each additional thirty (30) day period an Irrigation Account is past due, and additional Late Fee of 1.0% of the applicable rate or \$25.00, whichever is greater, will be assessed on top of the previous Late Fee; and
- Notwithstanding the above, any Irrigation Account that is 60 days past due will be subject to having services discontinued at BCWID's discretion.

- C. **WATER RATE FOR USE OF EXCESS WATER.** As set forth in Exhibit 2, in the event that CUSTOMER receives water furnished by BCWID in excess of the Contracted Water agreed to herein, having first secured prior written approval from BCWID as set forth in section I.D, CUSTOMER will be assessed a Surcharge in addition to the Total Diversion Charge. In the event that CUSTOMER is delivered water in excess of that identified in Exhibit 1, or that is used to irrigate a row or alternate crop, or for wildlife management for which a separate contract has not been executed, CUSTOMER will be billed for the use of such water in accordance with the applicable diversion charge PLUS the maximum surcharge rate set for in Exhibit 2.
- D. **PESTICIDE APPLICATION.** CUSTOMER agrees to post notice in relation to pesticide application on CUSTOMER's property in accordance with Texas Department of Agriculture regulations and the Rules.

IV. CONSERVATION OF WATER AND PREVENTION OF WASTE

CUSTOMER agrees and binds himself not to cause, permit, or in any other manner allow water furnished by BCWID hereunder to be wasted, used in manner that is careless, or used in quantities that significantly exceed those amounts used (on an acre-feet per acre basis) by similarly situated agricultural water users in the area. CUSTOMER is responsible for preparing the acreage and any personal lateral(s) or other facilities necessary for the delivery of water. BCWID reserves the right to inspect customer's acreage, lateral(s), or other facilities necessary for the delivery of water at any time during the Irrigation Season. If BCWID determines that improvements are needed to prevent the waste of water, CUSTOMER will be contacted and CUSTOMER must make improvements prior to delivery or continued delivery of water. Such a determination may be based upon, among other things, vegetation in personal lateral(s), water running out of the bottom of a field, or levees which allow water to escape the field during normal field flood conditions. Furthermore, BCWID reserves and is hereby granted the right to enter CUSTOMER's land and cut off all delivery or diversions of water to said land if CUSTOMER causes, permits, or allows such wasteful use of water to occur.

V. GENERAL PROVISIONS

- A. **INCORPORATION OF BCWID'S AGRICULTURAL INTERRUPTIBLE WATER SERVICE CONTRACT RULES.** CUSTOMER acknowledges receipt of the Rules and further acknowledges that, unless expressly stated otherwise in this Agreement, the Rules, as may be amended by BCWID's Board of Directors from time to time, are incorporated herein by reference in their entirety and made a part hereof for all purposes. A copy of the "Agricultural Interruptible Water Service Contract Rules" of the District is attached hereto as Exhibit 4.
- B. **INCORPORATION OF BCWID'S WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN.**

CUSTOMER acknowledges receipt of the Plan and further acknowledges that, unless expressly stated otherwise in this Agreement, the Plan may be amended by BCWID's Board of Directors from time to time, is incorporated herein by reference in its entirety and made a part hereof for all purposes. A copy of the "Water Conservation and Drought Contingency Plan" of the District is attached hereto as Exhibit 3.

- C. **ENTIRE AGREEMENT.** This Agreement (including all Exhibits, Rules, Attachments or other addenda thereto) contains the entire agreement of the parties with respect to its subject matter and superseded all previous communications, proposals, representations, understandings, and agreements, either oral or written, between the parties with respect to said subject matter.

- D. **EFFECTIVE DATE.** This Contract is effective on the last date of execution of this Contract by either BCWID or CUSTOMER; provided all of the parties must execute this Contract for it to be effective

DATE: _____

BROWN COUNTY WATER IMPROVEMENT DISTRICT NO. ONE

BY: _____
JOHN ALLEN, General Manager

DATE: _____

CUSTOMER

Name Printed: _____

Date: _____

CUSTOMER's Mailing Address:

Exhibit 1
Year 2020

Location of Delivery Point:

Description and acreage of land to be irrigated:

Description of crops to be irrigated:

Contracted Water for the year: _____ acre-feet

Total Diversion Charge \$ _____

Excess Water _____ acre-feet

Excess Use Surcharge \$ _____

EXHIBIT 2

As adopted November 12, 2013 to be effective January 1, 2020 through December 31, 2020, unless and until further BCWID Board of Directors action is taken prior thereto.

The Total Diversion Charge applies to each acre-foot of water diverted at the CUSTOMER's Point of Delivery.

The Excess Use Surcharge (Surcharge), when applicable, applies in addition to the Total Diversion Charge.

Application Fee:

* Non-refundable \$25 per contract.

Year 2020 Rates

*

* Total Diversion Charge \$ 60.00 per acre-foot.

*

* Excess Use Surcharge \$ 90.00 per acre-foot.

EXHIBIT 3

DROUGHT CONTINGENCY PLAN FOR AGRICULTURAL USE

Section 1. Declaration of Policy, Purpose, and Intent

Brown County Water Improvement District No. One (BCWID) Provides contracts to customers for water supply. In cases of extreme drought, periods of abnormally high usage, system contamination, or extended reduction in ability to supply water due to equipment failure, BCWID may require water customers to institute temporary restrictions to limit non-essential water usage. The purpose of the Water Conservation and Drought Contingency Plan is to encourage a reduction of water use in order to maintain supply, storage, or pressure or to comply with the requirements of a court, government agency or other authority. Upon acceptance of this plan as indicated by the signature of the customer representative at the end of this document, this Drought Contingency Plan is incorporated into the customer's water sale contract. BCWID may require plan updates from time to time in accordance with changes in state law of BCWID rules.

Section 2. Public Education

The water customer will periodically provide its employees, members, and the general public with information about this Drought Contingency Plan, including the importance of the plan, information about the conditions under which each stage of the plan is to be initiated, processes to reduce water usage, and impending or current drought conditions.

Drought plan information will be provided by means of: meetings with staff, newsletter articles, and information sheets available on site.

Section 3. Initiation and Termination of Response Stages

The water customer's official manager or designee will be responsible for the initiation and termination of drought response stages based on the triggering criteria set forth in this plan in accordance with BCWID's Water Conservation and Drought Contingency Plan.

Triggering Criteria for Initiation and Termination of Drought Response Stages

(1) STAGE 1 – Mild Water Shortage Conditions (Voluntary Measures)

Requirements for Initiation: Stage 1 will be initiated when the elevation of Lake Brownwood falls below 1420 feet mean sea level and upon notification that BCWID is implementing Stage 1 of its Water Conservation and Drought Contingency Plan.

Requirements for termination: BCWID announces that mandatory water restrictions for this water customer are no longer required in accordance with BCWID's Water Conservation and Drought Contingency Plan.

(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)

Requirements for Initiation: Stage 2 will be initiated when the elevation of Lake Brownwood falls below 1417 feet mean sea level and upon notification that BCWID is implementing Stage 2 of its Water Conservation and Drought Contingency Plan.

Requirements for termination: BCWID announces that mandatory water restrictions for this water customer are no longer required in accordance with BCWID's Water Conservation and Drought Contingency Plan.

(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)

Requirements for Initiation: Stage 3 will be initiated when the elevation of Lake Brownwood falls below 1414 feet mean sea level and upon notification that BCWID is implementing Stage 3 of its Water Conservation and Drought Contingency Plan.

Requirements for termination: BCWID announces that mandatory water restrictions for this water customer are no longer required in accordance with BCWID's Water Conservation and Drought Contingency Plan.

(4) STAGE 4 - Emergency Water Shortage Conditions

Requirements for Initiation: Stage 4 will be initiated when the elevation of Lake Brownwood falls below 1411 feet mean sea level and upon notification that BCWID is implementing Stage 4 of its Water Conservation and Drought Contingency Plan.

Requirements for termination: BCWID announces that mandatory water restrictions for this water customer are no longer required in accordance with BCWID's Water Conservation and Drought Contingency Plan.

(5) STAGE 5 - Extreme Water Shortage Conditions

Requirements for Initiation: Stage 5 will be initiated when the elevation of Lake Brownwood falls below 1408 feet mean sea level and upon notification that BCWID is implementing Stage 5 of its Water Conservation and Drought Contingency Plan.

Requirements for termination: BCWID announces that mandatory water restrictions for this water customer are no longer required in accordance with BCWID's Water Conservation and Drought Contingency Plan.

Section 4. Drought Response Measures

(1) STAGE 1 - Mild Water Shortage Conditions (Voluntary Measures)

A. **Target:** Achieve a 5% reduction in total water use.

B. Water Use Reduction Response Measures: *Select as many response measures, as appropriate to the agricultural operation, which will achieve the target reduction indicated.*

- Limit irrigation of landscaped turf grass and planting beds to no more than twice a week on Tuesdays and Fridays from midnight to 10:00 A.M. and 7 P.M. to midnight.
- Limit washing/rinsing of maintenance equipment to twice per week during designated watering times (unless a closed loop recycled water system is used).
- Discontinue washing/rinsing of buildings, walls, structures, paved and other hard surfaced areas.

(2) STAGE 2 - Moderate Water Shortage Conditions (Mandatory Measures)

A. Target: Achieve a 15% reduction in total water use.

B. Water Use Reduction Response Measures: *Select as many response measures, as appropriate to the agricultural operation, which will achieve the target reduction indicated.*

- Limit irrigation of landscaped turf grass and planting beds to no more than twice a week on Tuesdays and Fridays from midnight to 10:00 A.M. and 7:00 P.M. to midnight.
- Discontinue washing/rinsing of maintenance equipment (unless a closed loop recycled water system is used).
- Discontinue washing/rinsing of buildings, walls, structures, paved and other hard surfaced areas.
- Discontinue operation of ornamental fountains and water features except those used to sustain water quality and aquatic habitat.

(3) STAGE 3 - Severe Water Shortage Conditions (Mandatory Measures)

A. Target: Achieve a minimum 30% reduction in total water use.

B. Water Use Reduction Response Measures: *Select as many response measures, as appropriate to agricultural operation, which will achieve the target reduction indicated.*

- Watering of landscaped turf grass and planting beds will be prohibited, except by use of hand-held hose, hand-held bucket, or drip irrigation.
- Discontinue washing/rinsing of maintenance equipment.
- Discontinue operation of ornamental fountains and water features.

(4) STAGE 4 - Emergency Water Shortage Conditions

A. **Target:** Achieve a minimum 50% reduction in total water use.

B. **Water Use Reduction Response Measures:**

All non-essential outdoor water use is prohibited unless water source is from an alternate supply, such as reclaimed water, rainwater, or gray water.

- Discontinue watering of landscaped turf grass and planting beds.
- Discontinue washing /rinsing of maintenance equipment.
- Discontinue operation of ornamental fountains and water features.

(5) STAGE 5 - Extreme Water Shortage Conditions

A. **Target:**

B. **Water Use Reduction Response Measures:** To be determined at initiation by District.

Section 5. Notification to Brown County Water Improvement District.

Notification of any mandatory provisions of this drought contingency plan shall be made to the BCWID General Manager in writing within five (5) business days of implementation.

Section 6. Implementation

By signing below, the water customer's authorized representative warrants and represents that: (1) the water customer has approved this plan; and (2) the representative is authorized by the water customer to implement this plan.

Approved and Accepted:

BY: _____

Date: _____

Exhibit 4

AGRICULTURAL INTERRUPTIBLE WATER SERVICE CONTRACT RULES

I. PURPOSE:

- A. The purpose of these rules (Rules) is to provide guidance and establish procedures for the administration of BCWID's agricultural interruptible water service contracts (Contracts), including the standard terms and conditions for such contracts. These rules also include the Standard Terms and Conditions for Contracts, which are incorporated by reference into the Contracts. The BCWID Board of Directors may amend these rules from time to time. Sales of water by BCWID are subject to, among other things, water availability, the policies of BCWID, the Water Conservation and Drought Contingency Plan (Plan) and the requirements of the Texas Water Code and rules of the Texas Commission on Environmental Quality.

II. STANDARD TERMS AND CONDITIONS FOR CONTRACTS

A. DEFINITIONS

1. Contracted Water

The amount of water which will be delivered to the CUSTOMER during the irrigation Season or portion thereof, as defined in the Contract, above which Surcharges may apply as specified in the Contract. The Contracted Water will be specified in units of acre-feet.

2. Contracted Acre Feet

Where applicable, the maximum amount of water which will be delivered to the CUSTOMER during the Irrigation Season or portion thereof, as defined in the Contract. BCWID will cut off delivery of water if such delivery, in combination with prior deliveries, would exceed the Contracted Acre Feet.

3. Lateral Operating Procedures

The guidelines that BCWID staff generally follow in operating the irrigation laterals. These guidelines are not enforceable against BCWID.

4. Supplemental Purposes

The use of agricultural interruptible water for purposes such uses include row crop, alternate crops, and wildlife management.

B. WATER SUPPLY

1. Interruptible Water

BCWID agrees to furnish interruptible water in the canals, pipes and laterals it owns or controls for diversion and use by CUSTOMER for agricultural purposes

during the Irrigation Season as defined in the Contract and these Rules. Subject to the conditions set forth in the Contract and these Rules, BCWID will supply interruptible water to irrigate the crops and acreage as described in the Contract. BCWID's obligation under the Contract does not include any responsibility or obligation to operate any inlet or intake structures owned by CUSTOMER or located on CUSTOMER's property. BCWID shall have no obligation to deliver water during periods outside of the Irrigation Season.

2. Source and Availability of Supply

Interruptible water supplied under the Contract will only be that water that is available from time to time to BCWID for diversion and use for agricultural (including irrigation) purposes in accordance with BCWID's (Certificates of Adjudication No. 14-2454, Lake Brownwood), as such rights have been and may be amended from time to time.

CUSTOMER further agrees that the water supplied under the Contract is provided on an interruptible basis, is subject to availability and subject to curtailment in accordance with the terms of the Contract, these Rules and the Water Conservation and Drought Contingency Plan.

3. High Point of Land

BCWID shall not be obligated to furnish water to irrigate any high point of land that is so much above the other lands as to be higher than the water in the lateral supplying water to the particular area.

4. LIMITATION OF BCWID LIABILITY

THE PARTIES HEREBY ALLOCATE THE RISK OF LOSS ATTENDANT TO ALL HAZARDS AND UNCERTAINTIES INCIDENT TO SUPPLYING WATER BY MEANS OF PUMPS, PIPES AND CANALS. THESE INCLUDE, WITHOUT LIMITATION, WEAR AND TEAR TO EQUIPMENT, SABOTAGE, ACCIDENT, INJURY OR DAMAGE TO MACHINERY, PIPES, CANALS, OR DAMS, FLOODING OR OVERFLOW OF LAKE BROWNWOOD, FAILURE OR SHORTAGE OF WATER SUPPLY CAUSED BY NATURAL CONDITIONS, AS WELL AS ALL OTHER RISKS THAT COULD PREVENT BCWID FROM PROVIDING WATER UNDER THIS AGREEMENT OR DISRUPTS SUCH SERVICE.

BCWID SHALL USE ITS EXISTING FACILITIES TO FURNISH WATER TO CUSTOMER AND IT OTHER PATRONS IN SUCH QUANTITY AS IS PRACTICABLE AND WITHOUT DISCRIMINATION. CUSTOMER AGREES THAT BCWID SHALL NOT BE HELD LIABLE IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), WARRANTY, AND INDEMNITY CONTRIBUTION OR UNDER ANY OTHER THEORY OF RECOVERY FOR ANY DAMAGE SUSTAINED BY CUSTOMER RESULTING FROM A FAILURE OR SHORTAGE OF WATER SUPPLY CAUSED BY NATURAL CONDITIONS.

CUSTOMER AGREES THAT BCWID SHALL NOT BE HELD LIABLE IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), WARRANTY, INDEMNITY CONTRIBUTION OR ANY OTHER THEORY OF RECOVERY FOR ANY DAMAGE TO

CUSTOMER THAT MAY BE CAUSED EITHER BY A FAILURE TO FURNISH WATER OR A DISRUPTION OF SUPPLY UNDER THIS AGREEMENT.

5. Point of Delivery

The Point of Delivery for purposes of calculating amounts owed under the Contract shall be as follows:

A. for deliveries from BCWID-owned laterals, the point at which the water is diverted from the lateral onto CUSTOMER's property identified in the Contract.

6. Unlawful Taking

CUSTOMER, his agents and employees shall not willfully open, close, change or interfere with any head gate or water box without the consent of BCWID. Additionally, CUSTOMER, his agents and employees, shall not willfully use water or conduct water through his ditch or upon his land to which he is not entitled.

7. Excess Acreage

Under no circumstances shall BCWID be obligated to provide water for irrigation of acreage in excess of the acreage indicated in the Contract ("excess acreage"). In the event that CUSTOMER diverts BCWID water to irrigate excess acreage, CUSTOMER shall pay the full applicable agricultural interruptible water service rate (including Diversion charges), PLUS the maximum surcharge rate as set forth in the Contract.

8. Unforeseen Conditions

If, at any time during the Irrigation Season, any condition occurs in connection with the supply of water of which CUSTOMER deems it necessary to notify BCWID, CUSTOMER shall promptly give written notice to the General Manager or BCWID office, stating the nature of such condition. BCWID shall promptly investigate said matter and take such action thereon as it deems appropriate. In the absence of such notice from CUSTOMER, it shall be presumed that BCWID is performing under the Contract to CUSTOMER's satisfaction.

C. TERM

1. Term

The term of the Contract is the period from the date of the execution of the Contract until all payments are received consistent with these Rules. BCWID's obligation to supply water is limited to the Irrigation Season as defined in the Contract and these Rules.

2. Termination

In the event that CUSTOMER fails to comply with Plan or otherwise violates any provision of the Contract, BCWID may terminate the Contract without recourse unless CUSTOMER takes reasonable measures to cure such default within seven

(7) days of CUSTOMER's receipt of written notice of such default. In the event BCWID terminates the Contract as provided herein, CUSTOMER shall suspend immediately upon such termination all withdrawal of water from Lake Brownwood, or any tributaries thereof, or irrigation laterals operated by BCWID under the Contract. BCWID may exercise any rights that it may have at law or in equity to prevent unauthorized withdrawals by CUSTOMER. In the event BCWID terminates the Contract, CUSTOMER shall remain liable for all payments due. BCWID shall not be liable for any damages resulting to CUSTOMER'S crops as a result of such termination.

D. CONTRACT ADMINISTRATION

1. Agreement to Pay

CUSTOMER agrees and covenants to pay BCWID at the applicable rates specified in the Contract. CUSTOMER acknowledges that amounts owed under the Contract will be determined by BCWID in accordance with this Section II.D.

2. Payment

For water provided for irrigation, DIVERSION amount is payable at completion of each delivery.

For water provided in Supplemental Purposes, the Diversion charges are due within thirty (30) days of the monthly invoice. In the event that BCWID does not deliver water to CUSTOMER under a contract for Supplemental Purposes, BCWID will refund any prepaid Diversion charges.

The payments described herein shall be paid to BCWID at its office at 501 E. Baker, Brownwood, Texas 76801.

3. Failure to Pay

In the event CUSTOMER fails to make payment by the date established by D.2, CUSTOMER shall then pay a late payment charge of 10% per annum or up to maximum rate allowed by State law. Payments tendered after January 2 of the calendar year immediately following the irrigation Season covered by the Contract shall pay an additional late payment charge of 5% of the amount of the invoice. In the event CUSTOMER attempts to pay BCWID by check or any other similar instrument and the instrument is returned or refused by the bank or other similar institution as insufficient or non-negotiable for any reason, CUSTOMER shall be assessed and must pay to BCWID, per each returned instrument, the returned instrument fee set by BCWID's Board of Directors for BCWID's Water Utility Services. In the event CUSTOMER fails to make payment by the payment date established by D.2, CUSTOMER further agrees to pay all costs of collection and reasonable attorney's fees, regardless of whether suit is filed. Further, CUSTOMER agrees that BCWID shall have no obligation to furnish interruptible water to CUSTOMER after the Irrigation Season covered by the Contract unless and until the CUSTOMER has paid all outstanding balances owed to BCWID under the Contract.

4. Computation of Charges

Determination of the number of acre feet delivered to CUSTOMER for purposes of computing charges due under the Contract shall be made on the Basis of Flow Meters that measure water volume in acre feet or by methods described in Section III. B of this document. CUSTOMER has seven (7) days from the date of BCWID's monthly water usage report to dispute any volumes or charges under the report, such disputes to be identified in writing to BCWID at the address indicated in D.2. If no dispute is filed with BCWID within the time period, CUSTOMER will be deemed to agree that the volumes and/or charges are correct and full payment as provided in the Contract and these Rules will be required. Should there be a disagreement between BCWID and CUSTOMER as to the acre feet contained in said invoice or the Dollar Amount for water delivered, such disagreement shall be resolved by arbitration in accordance with the arbitration procedures set forth in these rules.

If CUSTOMER's crop has not matured or has been abandoned by the closing date of Irrigation Season, CUSTOMER shall nevertheless remain liable for all payments owed to BCWID under the Contract.

5. Water Rate Tariff for Excess Water and Cut off of Water Supply

In the event that CUSTOMER is delivered water in excess of the contracted acre feet, CUSTOMER will be assessed a Surcharge in addition to the Total Diversion Charge for any water delivered in excess of the Contracted Acre Feet, as such Contracted Acre Feet and Surcharges(s) are specified in the Contract. In the event that CUSTOMER has been delivered water in an amount up to or exceeding any applicable Contracted Acre Feet specified in the Contract, CUSTOMER agrees that BCWID will cut off delivery of water for the remainder of the Irrigation Season. In the event that CUSTOMER is delivered water to irrigate acreage in excess of that identified in the Contract, CUSTOMER will be billed for the use of such excess water in accordance with the applicable Diversion charge PLUS the maximum surcharge rate as set forth in the Contract.

6. Disputes Relating to Charges Billed

In the event that CUSTOMER disputes the charges billed during the Irrigation Season in writing within thirty (30) days from the date of BCWID's billing notice and BCWID and CUSTOMER are unable to resolve such dispute, then BCWID and CUSTOMER both agree that such dispute shall be resolved through arbitration in accordance with the arbitration procedures set forth in these rules.

However, CUSTOMER agrees that any dispute related to the computation of acreage or the volume of water delivered must be resolved pursuant to Section II.D.4 above.

E. SECURITY

1. Security Agreement

For value received hereunder, CUSTOMER grants to BCWID a security interest in the crops and any proceeds from said crops to secure any and all payments due to BCWID under the Contract. The lien created by this Security Agreement is in addition to any statutory lien provided for under the Texas Business and Commerce Code and the Texas Water Code.

2. Financing Statement

CUSTOMER grants BCWID the authority to file a Financing Statement (Form UCC-1) in order to perfect the lien on the crops granted by CUSTOMER to BCWID hereunder. Lien Waivers will be made out jointly to CUSTOMER and BCWID unless CUSTOMER has paid to BCWID all applicable charges in accordance with the Contract. BCWID cannot accept payment for outstanding charges by post-dated check or other payment arrangement that is contingent upon CUSTOMER's receipt of a loan disbursement.

3. Warehouse Storage

Unless all of the charges and payments under the Contract have been fully paid and satisfied, all harvested farm products shall be stored in the name of the CUSTOMER in a public bonded warehouse or warehouses agreeable to BCWID.

F. CONSERVATION OF WATER AND WASTE OF WATER

CUSTOMER agrees and binds himself not to cause, permit, or in any other manner allow water furnished by BCWID hereunder to be wasted, used in manner that is careless, or used in quantities that significantly exceed those amounts used (on an acre-feet per acre basis) by similarly situated agricultural water users in the area. CUSTOMER is responsible for preparing the acreage and any personal lateral(s) for delivery of water. BCWID reserves the right to inspect CUSTOMER's acreage and lateral(s) prior to delivery. If BCWID determines that improvements are needed to prevent the waste of water, CUSTOMER will be contacted and CUSTOMER must make improvements prior to delivery of water. Furthermore, BCWID reserves and is hereby granted the right to enter CUSTOMER's land and cut off all delivery or diversions of water to said land if CUSTOMER causes, permits, or allows such wasteful use of water to occur. In the event that BCWID cuts off water in accordance with this section, CUSTOMER shall nevertheless pay all charges in accordance with the Contract as though BCWID has continued to allow diversion of water to CUSTOMER through the end of the same crop season (first crop or second crop) for which CUSTOMER diverted any water from BCWID.

G. GENERAL PROVISIONS

1. Indemnification

CUSTOMER will indemnify and save BCWID harmless from any and all claims or demands whatsoever to which BCWID may be subjected by reason of any injury to any person or damage to any property resulting from or in any way connected with any and all acts or omissions of CUSTOMER under the Contract. CUSTOMER'S pumping and related facilities shall be installed, operated and maintained by CUSTOMER at CUSTOMER's sole risk. Nothing in the Contract shall be construed as authorizing CUSTOMER, or recognizing that CUSTOMER has any right, to install any equipment or improvements on property owned or controlled by BCWID or third parties.

2. Force Majeure

BCWID shall not be held liable or responsible for any damage that may be caused by its inability, after the exercise of reasonable diligence, to make the supply of water from Lake Brownwood available to CUSTOMER due to any Force Majeure. BCWID shall use reasonable diligence to repair or recondition the machinery, laterals, or dams in the event said machinery, pipes, laterals or dams are damaged or made unserviceable from any Force Majeure. The term "Force Majeure" as used herein shall mean situations or conditions beyond the control of BCWID that render BCWID unable, wholly or in part, to carry out its obligations under the Contract. Such Force Majeure includes but is not limited to acts of God, strikes, lockouts, acts of the public enemy, orders of any kind of the government of the United States or of the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or dams, partial or entire failure of water supply.

3. HOLD HARMLESS AGREEMENT AND WAIVER RELATED TO SPECIFIC PUMP EQUIPMENT AND PIPELINES

CUSTOMER ACKNOWLEDGES THAT, DUE TO DECADES OF USE AND NORMAL WEAR AND TEAR, AND DESPITE BCWID'S CONTINUED AND DILIGENT MAINTENANCE AND REPAIR EFFORT, THE PUMPS, PIPELINES AND RELATED MECHANICAL EQUIPMENT (COLLECTIVELY, "EQUIPMENT") USED BY BCWID TO DELIVER WATER UNDER THE TERMS OF THE CONTRACT ARE INCREASINGLY UNRELIABLE. CUSTOMER ACKNOWLEDGES THAT, GIVEN THE CONDITION OF THIS EQUIPMENT, IT IS QUITE POSSIBLE THAT SUCH EQUIPMENT, OR PORTIONS THEREOF, MAY BECOME INOPERABLE, UNSAFE TO OPERATE, AND/OR IRREPARABLE AT ANY TIME AND THAT, AS A RESULT, BCWID MAY BE UNABLE TO DELIVER WATER, OR SOME PORTION THEREOF, PURSUANT TO THE TERMS OF THE CONTRACT. CUSTOMER AGREES THAT BCWID MAY RELY ON THE BEST ENGINEERING JUDGMENT OF ITS STAFF TO DETERMINE WHETHER A PARTICULAR PIECE OF EQUIPMENT HAS BECOME INOPERABLE, UNSAFE TO OPERATE, AND/OR IRREPARABLE. IN THE EVENT THAT SUCH EQUIPMENT IS DETERMINED TO BE INOPERABLE, UNSAFE TO OPERATE OR IRREPARABLE, BCWID SHALL UNDERTAKE COMMERCIALY REASONABLE MEASURES TO

REMEDY THE PROBLEM(S) AND RESTORE SERVICE AS SOON AS IS REASONABLY PRACTICABLE IN LIGHT OF ALL THE FACTS AND CIRCUMSTANCES; HOWEVER, CUSTOMER ACKNOWLEDGES THAT BCWID DOES NOT GUARANTEE THAT SUCH REMEDIAL MEASURES WILL BE COMPLETED WITHIN ANY SPECIFIC TIME PERIOD. IF REMEDIAL MEASURES ARE REQUIRED, CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT BCWID MAY MAKE AN IMMEDIATE MODIFICATION TO THE RATES CHARGED UNDER THE CONTRACT IN ORDER TO EXPEDITIOUSLY RECOVER THE COSTS OF TAKING SUCH ACTIONS.

IN LIGHT OF THE FOREGOING, CUSTOMER HEREBY AGREES TO HOLD BCWID HARMLESS FROM ANY AND ALL CLAIMS, LIABILITY OR DAMAGES TO THE CUSTOMER OR ITS PROPERTY RESULTING FROM THE FAILURE OF BCWID TO DELIVER WATER BECAUSE THE ABOVE REFERENCED EQUIPMENT IS INOPERABLE, UNSAFE TO OPERATE, OR IRREPARABLE.

CUSTOMER FURTHER ACKNOWLEDGES THAT THIS SECTION SHALL NOT PROVIDE THE EXCLUSIVE MEANS OF LIMITING BCWID'S POTENTIAL LIABILITY FOR BCWID'S INABILITY TO SUPPLY WATER, BUT RATHER CUSTOMER ACKNOWLEDGES THAT ANY APPLICABLE PROTECTIONS FROM LIABILITY AFFORDED TO BCWID PURSUANT TO SECTIONS II.B.5 (LIMITATION OF BCWID LIABILITY) OR II.G.2 (FORCE MAJEURE) ARE OF FULL FORCE AND EFFECT.

4. No Third-Party Beneficiary

The parties hereto are entering into the Contract solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto.

5. Quality of Water

BCWID makes no representation as to the quality of the water in Lake Brownwood and CUSTOMER hereby releases BCWID and agrees to hold it harmless from any and all claims that CUSTOMER has or may have against BCWID for any diminution in or impairment of the quality of water in Lake Brownwood caused by lawful acts or failures to act of BCWID.

6. Pesticide Application

Texas Department of Agriculture ("TDA") regulations require that signs be posted at entry points of fields prior to application and removed within 24 hours after the reentry period has expired. CUSTOMER agrees to require the person ordering pesticide application to post such notice as required by said TDA regulations. Additionally, at least 24 hours prior to the application of pesticides and herbicides, CUSTOMER shall provide notice to the BCWID Irrigation Coordinator.

7. Modifications or Amendments

Any modification of or amendments to the Contract, as well as any waiver of a party's rights or remedies under the Contract, must be in writing to be effective. No representative of either party is authorized to modify or amend any provision of the Contract or to waive any rights or remedies under it except in writing. Failure, neglect, or delay by a party to enforce the provisions of the Contract or its rights or remedies at any time, will not be construed and will not be deemed to be a waiver of such party's rights under the Contract and will not in any way affect the validity of the whole or any part of the Contract or prejudice such party's right to take subsequent action.

8. Customer Confidentiality

Section 182.052 of the Texas Utilities Code requires government-operated utilities to notify customers of their right to confidentiality. CUSTOMER is hereby informed of the right to request confidentiality of your address, telephone number, social security and information relating to the volume or units of utility usage and the amounts billed to or collected from you for utility usage, as contained in our records. If CUSTOMER has made such a request of confidentiality and BCWID receives an open records request for the information described above, BCWID shall notify CUSTOMER of any filings made to keep such information confidential, and shall keep the information confidential unless required or mandated by law. Please note that the Texas Attorney General has opined that the protections in Section 182.052 only apply to natural persons and do not apply to artificial entities such as corporations or partnerships.

III. Canal Operating Procedures

A. Ordering and Delivery Procedures

1. All contracts for irrigation must be signed by May 1.
2. All contracts will be signed at the BCWID office prior to water delivery into the field. Water will not be delivered until notification from the office that the contract has been signed. When signing contracts, BCWID will no longer split fields between customers. Each field will be designated to one customer only. The customer and others who have interest in the crop must divide the diversion bill amongst themselves.
3. The BCWID office opens from 8:00 a.m. to 12:00 Noon and 1:00 to 5:00 p.m. Monday through Friday with the exception of holidays. Regular working hours for field personnel are Monday through Friday 8:00 a.m. to 12:00 Noon and 1:00 to 4:30 p.m.

B. Measurement Procedures

1. Pipe

A pipe can be measured ideally running full or partially full. The area of the pipe submerged is calculated by measuring the depth of flow in the pipe with a measurer ruler. The velocity of the water moving through the pipe is measured with a Global Flow Meter. The velocity measurement is taken by moving the Global Flow Probe across the cross section of the pipe and an average velocity is registered. By multiplying the cross-sectional area by the average velocity, you receive a volume in cubic feet per second. Measurements can be taken through a controlled section such as a water box with all the boards pulled in the same manner as a pipe. The depth of flow is measured and multiplied times the width to calculate cross sectional area. The average volume in cubic feet per second is obtained by multiplying the cross-sectional area times the average velocity that is obtained with a Global Flow Meter.

2. Flow Meter

A Flow Meter is an impeller based or ultra-sonic measurement device to measure water flow and volume. It requires a full discharge pipe ideally free of debris. The Irrigation Coordinator will record the totalizer readings as necessary. This will generally be on a monthly basis and these readings will be used to determine the amount of water delivered per irrigation and total water usage at the end of the irrigation season.

IV. Volume Disputes

A. Procedures

1. In the event customer disputes, the volume of water used by Customer, customer shall notify BCWID of such dispute within the time frame defined in Section II.D.4.
2. BCWID irrigation operations staff and/or manager shall review such dispute and respond to customer within two (2) weeks with a proposed resolution, if appropriate.
3. In the event customer is not satisfied with the irrigation operations proposed resolution, customer shall request, within two (2) weeks, a resolution from the General Manager of BCWID.
4. In the event customer is not satisfied with the General Manager of BCWID proposed resolution, customer may bring the matter before the Board of Directors at a regularly scheduled meeting.