

DRAFT May 2, 2025

Amended and Restated Water Supply Agreement
by and between
The Marin Municipal Water District
and
The Sonoma County Water Agency

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and

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This Amended and Restated Water Supply Agreement (“Agreement”) is made by and between the Marin Municipal Water District (“MMWD”) and the Sonoma County Water Agency (“Sonoma Water”) (each referred to individually as “Party” and collectively as “Parties”) and is effective as of _____, 2025

Section 1: Recitals.

- A) Sonoma Water was formed and operates pursuant to Appendix 53 of the California Water Code, which authorizes Sonoma Water to enter into contracts to provide a firm supply of water within or outside of Sonoma Water’s jurisdictional boundaries to any municipal corporation or agency (Water Code Appendix 53-9).
- B) MMWD was formed and operates pursuant to the Municipal Water District Act of 1911, which authorizes MMWD to acquire and distribute water for the beneficial use of its residents (Cal. Water Code § 71610).
- C) Sonoma Water entered into contracts with the United States Government to secure the construction of Coyote Valley Dam on the east fork of the Russian River and Warm Springs Dam on Dry Creek (hereafter “Russian River Project”).
- D) The Coyote Valley Project was authorized by the Flood Control Act of 1950 (Pub. L. No. 81-516) and was completed by the U. S. Army Corps of Engineers in 1958. This component of the Russian River Project includes the impoundment of Lake Mendocino, which has a capacity of 122,500 acre feet of which between 64,800 acre feet and 111,000 acre feet, depending on the time of year, is allocated to storage for water supply.

- E) In 1955, Sonoma Water (then called the “Sonoma County Flood Control and Water Conservation District”) sold general obligation bonds to raise \$5,650,000, which it paid to the United States for the reimbursable costs of the water-storage element of the Coyote Valley Project. Parts of the property taxes paid since 1955 by taxpayers within Sonoma County have been used to make payments on these bond obligations and to fulfill other obligations to the United States Government for the Russian River Project.
- F) The Warm Springs Dam Project was authorized by the Flood Control Act of 1962 (Pub. L. No. 87-874) and was completed by the U.S. Army Corps of Engineers in 1984. This component of the Russian River Project includes the impoundment of Lake Sonoma, which has a capacity of 381,000 acre feet, of which 245,000 acre feet is allocated to storage for water supply.
- G) Sonoma Water contracted with the United States to make annual payments to the U.S. for portions of the construction, operation, maintenance, major-replacement and major-rehabilitation costs of the Warm Springs Dam Project. Parts of the property taxes paid since 1971, including future taxes to be paid, by taxpayers within Sonoma County have been paid into a sinking fund that was established to fund Sonoma Water’s payment obligations, and to fulfill other obligations, to the United States Government for the Russian River Project.
- H) In October 1974, Sonoma Water entered into a contract with the cities of Cotati, Petaluma, Rohnert Park, Santa Rosa and Sonoma, the Forestville County Water District, the Valley of the Moon Water District, and the North Marin Water District entitled “Agreement for Water Supply and Construction of Russian River-Cotati Intertie Project”, which was last amended June 23, 2006 (hereafter the “Restructured Agreement for Water Supply”).
- I) The Restructured Agreement for Water Supply authorizes the use of certain water transmission facilities (hereinafter “Transmission System”) for the purpose of Sonoma Water delivering water to MMWD, under prescribed terms and conditions, water which is available in the Russian

River and the Santa Rosa Plain groundwater wells.

- J) On July 3, 1975, Sonoma Water and MMWD entered into an agreement entitled “Offpeak Water Supply Agreement”, which provides for Sonoma Water to deliver up to 4,300 acre feet of water per fiscal year, subject to specified terms and conditions, which Offpeak Water Supply Agreement was amended on August 28, 1984, on May 3, 1988, and on January 25, 1995. On October 22, 1991, Sonoma Water and MMWD entered into an agreement entitled the “Agreement for Sale of Water between the Sonoma County Water Agency and the Marin Municipal Water District” for the delivery of up to 10,000 acre feet of water per fiscal year from Sonoma Water to MMWD, under prescribed terms and conditions. On January 25, 1996, Sonoma Water and MMWD entered into a “Supplemental Water Supply Agreement”, which amended and incorporated the “Third Offpeak Water Supply Agreement” as Exhibit A thereto and the “Amended Agreement for Sale of Water between the Sonoma County Water Agency and the Marin Municipal Water District” as Exhibit B thereto, which Supplemental Water Supply Agreement was renewed and extended pursuant to the “Renewal of the Third Amended Offpeak Water Supply Agreement and the Amended Agreement for the Sale of Water between the Sonoma County Water Agency and Marin Municipal Water District” effective July 1, 2015 through June 30, 2025 (hereinafter the “2015 Renewal Agreement”).
- K) Pursuant to the Restructured Agreement for Water Supply and the Off Peak Water Supply Agreement, the North Marin Water District and MMWD, respectively, have paid Sonoma Water a Russian River Conservation Charge, the proceeds of which have been paid into the sinking fund established to fund Sonoma Water’s obligations to the United States for the Russian River Project, as described in Recitals E and G above.
- L) Sonoma Water currently utilizes the Transmission System to supply water to the Water Contractors under the Restructured Agreement for Water Supply, as well as Other Agency Customers under other agreements. Payments by the Water Contractors under the Restructured Agreement for Water Supply were and are being used to fund payments on the bonds sold to finance the construction of, and upgrades to, the Transmission

System and to directly fund the construction of parts of the Transmission System. Other customers of Sonoma Water divert water directly from the Russian River.

- M) In June 1980, Sonoma Water certified its final environmental impact report on Proposed Amendments of Permits on Applications 12919A, 15736, 15737 and 19351. In July 1984, Sonoma Water certified its supplemental environmental impact report covering Proposed Coordinated Use of the Water Supply of Lake Mendocino and Lake Sonoma, Russian River Project. On November 14, 1990, MMWD certified its Water Supply Plan Program Final Environmental Impact Report. On September 24, 1991, MMWD certified its Water Supply Project Final Environmental Impact Report. These reports together satisfy the requirements of the California Environmental Quality Act (Pub. Res. Code § 21000, et seq.) for ongoing water sales pursuant to this Agreement.
- N) Sonoma Water holds Water Right Permits 12947A, 12949, 12950 and 16596, which were issued by the State Water Resources Control Board and its predecessors pursuant to Applications 12919A, 12920A, 15736, 15737 and 19351, which Permits authorize Sonoma Water to divert Russian River water and to redivert water previously stored in Lake Mendocino and Lake Sonoma, subject to specific terms and conditions.
- O) Recital E. in the Supplemental Agreement recognized that one of the reasons for that agreement was “to accommodate the Agency’s [Sonoma Water] efforts to attempt to ensure a continuation of Pacific Gas and Electric Company’s historic diversions of Eel River water to the Russian River and to increase the reliability of the water supply deliverable to [MMWD].” The need to ensure the continuation of such flows for the benefit of all of Sonoma Water’s Water Contractors was heightened by the amendments made by the Federal Energy Regulatory Commission in 2004 to Pacific Gas & Electric Company’s (PG&E) license for the Potter Valley Project, which reduced such flows and subsequently by PG&E’s decision to pursue surrender of its license to operate the Potter Valley Project and propose its decommissioning. By entering into this Agreement, the parties recognize the ongoing importance of the continuation of flows from the Eel River to the Russian River for the benefit of all of Sonoma Water’s customers.

- P) MMWD and Sonoma Water recognize the need for a regional approach to water supply, water conservation, fishery and water reuse issues.
- Q) In May 1984, June 1996 and June 2005, MMWD made payments to Sonoma Water of \$168,348, \$2,837,344 and \$6,326,257, respectively, and MMWD made the latter two payments pursuant to Section 8 of the Water Sale Agreement for the purpose of securing firm water, which lump sum payments represent a share of the Warm Springs Dam sinking fund and principal payments made to the United States Government by Sonoma Water for Lake Sonoma water storage space corresponding to a potential additional 10,000 acre feet per annum of the 75,000 acre feet per annum net firm yield of the Warm Springs Dam Project, which increased MMWD's total potential net yield of the Warm Springs Dam Project to 14,300 acre feet per fiscal year.
- R) Due to changes in circumstances since the Offpeak Agreement and the Water Sale Agreement were agreed upon, some provisions are no longer relevant and impose obligations and procedures on MMWD and Sonoma Water that are no longer necessary and provide undue burden to the Parties. The Parties wish to update the agreements and consolidate them into one document for ease of use. As of the effective date of this Agreement, this Agreement will replace all prior water sales agreements between Sonoma Water and MMWD including the 2015 Renewal Agreement.

Now, therefore, in consideration of the foregoing recitals, which are incorporated herein and made part of this Agreement, and of the prior agreements between the parties, and of the promises made herein, MMWD and Sonoma Water agree as follows:

Section 2: Definitions.

When used in this Agreement, unless otherwise distinctly expressed or manifestly incompatible with the intent of this Agreement, capitalized terms shall have the meanings set forth below or, if not defined below, the meanings set forth in the Restructured Agreement for Water Supply:

- (a) "Sonoma Water" means the Sonoma County Water Agency or any

successor thereto.

- (b) “Sonoma Water’s Water Rights Permits” means water rights permits 12947A, 12949, 12950 and 16596, which the State Water Resources Control Board and its predecessors issued to Sonoma Water pursuant to Applications 12919A and 12920A, 15736, 15737 and 19351, as such permits now exist or in the future may exist (including any licenses that may be issued to replace these permits).
- (c) “Agreement” means this Amended and Restated Water Supply Agreement.
- (d) “Fiscal Year” means the financial accounting year beginning on July 1 and ending on June 30.
- (e) “MMWD” means the Marin Municipal Water District or any successor thereto.
- (f) “Potter Valley Project” means the hydroelectric project owned and operated by the Pacific Gas and Electric Company and licensed by the Federal Energy Regulatory Commission as Project No. P-77.
- (g) “Other Agency Customers” means Sonoma Water, the County of Sonoma, California American Water Company (with respect to the Larkfield Water District), Forestville Water District, Lawndale Mutual Water Company Kenwood Village Water Company, Penngrove Water Company, the City of Sebastopol, the State of California, and Santa Rosa Junior College.
- (h) “Regular Customers” means any of the Water Contractors or Other Customers.
- (i) “Restructured Agreement for Water Supply” means the Restructured Agreement for Water Supply between Sonoma Water

and the Cities of Cotati, Petaluma, Santa Rosa, Rohnert Park, and Sonoma, the Town of Windsor, and Forestville, Valley of the Moon, and North Marin Water Districts, executed on June 23, 2006, and any amendments or successor agreements thereto.

- (j) "Russian River Conservation Charge" means the charge described in Section 5(b) of this Agreement.
- (k) "Russian River Projects Charge" means the charge described in Section 5(c) of this Agreement.
- (l) "Transmission System" means the water-supply facilities financed and constructed pursuant to the Restructured Agreement for Water Supply and its predecessor agreements.
- (m) "Water Contractor" means a party signatory to the Restructured Agreement for Water Supply executed on June 23, 2006, and any amendments or successor agreements thereto.

Section 3: Sonoma Water Delivery of Water to MMWD.

- (a) Subject to all of the terms and conditions of this Agreement, and subject to the provisions of the Restructured Agreement for Water Supply (as now existing or as may be amended in the future), MMWD may purchase water from Sonoma Water pursuant to this Agreement in any Fiscal Year in an amount not less than 5,300 acre feet but not to exceed 14,300 acre-feet.
- (b) Sonoma Water shall deliver water at the requested rate to MMWD only to the extent that water supply is available and the Transmission System has capacity in excess of that required by Sonoma Water to supply the Water Contractors, but not less than 5,300 acre feet per fiscal year.
- (c) In September each year, Sonoma Water and MMWD will meet to determine MMWD's likely water demand for the coming fiscal year and whether MMWD's potential water supply needs can likely be supported by anticipated Sonoma Water's water supply availability and Transmission System capacity. Notwithstanding the foregoing, the maximum delivery rate to MMWD shall be limited to 25 million gallons per day (MGD) during

the calendar months of January, February, March, April, November and December, and shall be limited to 12.8 mgd between the months of May through October. In the event that, in any given year, MMWD has a desire for a greater maximum mgd deliveries, MMWD may request the same from Sonoma Water and provided that there is sufficient Transmission System capacity and available water, Sonoma Water will not unreasonably withhold such additional deliveries to MMWD. MMWD agrees to provide written notice to all members of the Technical Advisory Committee, as that term is defined in the Restructured Agreement, of any such request by MMWD as well as the correspondent determination made by Sonoma Water.

- (d) All water furnished by Sonoma Water to MMWD hereunder shall be delivered at a separately metered turnout or through the North Marin Water District's metered turnout(s) at MMWD's option.
- (e) Water received by MMWD pursuant to this Agreement shall only be used within the sphere of influence (as such term is defined in section 56076 of the Government Code) of the MMWD.

Section 4: Shortage and Impairment.

Except as otherwise provided herein, Sonoma Water shall release water from storage in Lake Mendocino or Lake Sonoma when necessary to make available in the Russian River sufficient water to make the deliveries provided for herein. If by reason of drought, environmental laws or regulations, other causes beyond the control of Sonoma Water, a deficiency does occur, then Sonoma Water shall not be liable to MMWD for any damage resulting therefrom. In the event of an impairment of or limitation on the use or capacity of the Transmission System, or other facility that affects Sonoma Water's ability to deliver water to MMWD pursuant to this Agreement, by reason of natural disaster, sabotage, legal impediment or other cause beyond the control of Sonoma Water, Sonoma Water shall not be liable to MMWD for any damage arising therefrom, provided however, that in such event MMWD shall have the right to roll any remaining undelivered allotment below the minimum 5,300 acre feet minimum fiscal year requirement into the following Fiscal Year such that the minimum take for that year is the 5,300 AF minimum and the undelivered water from the prior fiscal year so long as MMWD pays for the full 5,300 acre feet at the end of the fiscal year in which it was to be delivered at the then current rates if Sonoma Water

reasonably determines that it has water available.

In the event of shortage of water in the Russian River or the Russian River Project that requires Sonoma Water to apportion available supply of water, Sonoma Water shall apportion the available water supply in accordance with the shortage and apportionment provisions in the Restructured Agreement section 3.5, so that it may make deliveries as follows:

- (a) First, Sonoma Water shall deliver to each of its Regular Customers, not in excess of the respective entitlements set forth in Sections 3.1, 3.2 and 3.3 of the Restructured Agreement for Water Supply or any amendments or successor agreements thereto, authorize Sonoma Water's Russian River customers to divert or redivert not in excess of the amounts for which those customers have contracted to purchase from Sonoma Water, and deliver water to MMWD not in excess of the amounts set forth in Section 3 of this Agreement, the quantities of water required by each for human consumption, sanitation and fire protection, as determined by Sonoma Water after taking into consideration all other sources of potable water then available to said customer;
- (b) Second, to the extent additional water is available to Sonoma Water, Sonoma Water shall deliver such water to Sonoma Water's Regular Customers, authorize Sonoma Water's Russian River customers, to divert or redivert such water and deliver such water to MMWD in proportion to the respective entitlements set forth in Section 3.1, 3.2 and 3.3 of the Restructured Agreement for Water Supply, or any amendment or successor agreements thereto, the agreements between Sonoma Water and its Russian River customers, and section 3 of this Agreement, provided, however, that no customer shall receive under subdivisions (a) and (b) hereof a total quantity of water in excess of its reasonable requirements or its said entitlement or contracted amount, whichever is less.

Section 5: Charges and Payment.

For all water delivered under this Agreement, MMWD shall pay Sonoma Water each of the following charges:

- (a) A per-acre-foot charge equal to the highest rate per acre-foot then charged by Sonoma Water to any party to the Restructured Agreement for

Water Supply for water taken from either the Petaluma Aqueduct or the Santa Rosa Aqueduct, multiplied by 1.11; provided, however, that the 20% surcharge imposed on the Town of Windsor under Section 4.17(a) of the Restructured Agreement for Water Supply shall not be included in determining the highest rate per acre-foot for water taken from the Santa Rosa Aqueduct or Petaluma Aqueduct. Seven and four hundred thirty-two one-thousandths percent (7.432%) of this per-acre-foot charge shall be placed in the Russian River Projects Fund; two and four hundred seventy-seven thousandths percent (2.477%) of this per-acre-foot charge shall be used, at the discretion of Sonoma Water, to pay for the costs of Common Facilities, to pay the Capital Costs of Aqueduct Facilities relating to the Santa Rosa or Petaluma Aqueducts, or to pay operations and maintenance costs; and the remainder shall be applied pursuant to the Restructured Agreement for Water Supply, with the water delivered to MMWD considered to be delivered from the Petaluma Aqueduct.

- (b) A per-acre-foot Russian River Conservation Charge in lieu of the property taxes levied by Sonoma Water on property in Sonoma County, to pay the capital, operation and maintenance costs associated with the Warm Springs Dam Project and the Russian River Project. The charge shall be determined annually on or before April 30 preceding each September 30. The Russian River Conservation Charge shall be determined by multiplying the tax rate levied by Sonoma Water in the then current Fiscal Year to pay the costs associated with the Warm Springs Dam Project times the total assessed value of secured and unsecured property situated within the cities of Cotati, Petaluma, Rohnert Park, Santa Rosa and Sonoma, the Valley of the Moon Water District, and the Town of Windsor, and dividing the product by the total number of acre feet of water delivered to said public agencies pursuant to Section 3.1 and 3.3 of the Restructured Agreement for Water Supply, or any amendments or successor agreements thereto, during the twelve month period ending on March 31.
- (c) A per-acre-foot Russian River Projects Charge in lieu of the property taxes levied on property in Sonoma County and other Sonoma Water general fund monies which are transferred by Sonoma Water to Sonoma Water's Russian River Projects Fund and expended to pay for or partially pay for:
 - (1) carrying out Sonoma Water's Coyote Valley Dam Project and Warm

Springs Dam Project channel-stabilization works obligations to the United States Government and the State of California under Sonoma Water Board of Directors Resolutions No. 6847 adopted May 24, 1955, No. 7798 adopted September 27, 1955, No. DR00793-1 adopted September 25, 1961 and Resolution No DR68485 adopted December 23, 1980; (2) securing and defending appropriative water rights which are necessary for the realization of the full benefits of the Coyote Valley Dam and Warm Springs Dam Projects; (3) Sonoma Water's share of the United States Government's investment, operation and maintenance costs associated with the Coyote Valley Dam and Warm Springs Dam Projects; (4) the acquisition of all or part of the Potter Valley Project, contributions made to the Potter Valley Project owner, or its successor, to insure the continued operation of all or part of the Potter Valley Project or its successor; and (5) fishery mitigation and enhancement projects undertaken by Sonoma Water in the Russian River and Eel River and their tributaries. The Russian River Projects Charge shall be determined by dividing the total amount of Sonoma Water monies expended from Sonoma Water's Russian River Projects Fund in the preceding ten Fiscal Years, exclusive of the funds contributed to the Fund by MMWD and the North Marin Water Districts and interest earnings attributable to funds contributed by MMWD and the North Marin Water District, by the sum of the total acre-feet of water delivered by Sonoma Water to the cities of Cotati, Petaluma, Rohnert Park, Santa Rosa, and Sonoma, the Valley of the Moon Water District, and the Town of Windsor (plus amounts diverted by the Town of Windsor via its own facilities under Sonoma Water's water rights) pursuant to Sections 3.1 and 3.3 of the Restructured Agreement for Water Supply, or any amendments or successor agreements thereto, during the preceding ten Fiscal Years and multiplying the quotient by the ratio that the assessed value of secured and unsecured property situated within the cities of Cotati, Petaluma, Rohnert Park, Santa Rosa and Sonoma, the Valley of the Moon Water District, and the Town of Windsor bears to the assessed value of all secured and unsecured property within Sonoma County, provided however, in no event shall the Russian River Projects Charge exceed \$20.00 per acre-foot. Sonoma Water shall keep proper books, records and accounts in which complete and accurate entries shall be made of all Sonoma Water general fund monies transferred to Sonoma Water's Russian River Projects Fund and all expenditures made from the fund for the purposes described in this paragraph. Sonoma Water shall

maintain a separate account within the Russian River Projects Fund for monies contributed by MMWD and the North Marin Water District. Monies expended from the Russian River Projects Fund shall be deemed to have been expended from the MMWD and North Marin Water District account in the proportion that the balance of the account bears to the total Russian River Projects Fund balance at the end of the Fiscal Year quarter preceding the expenditure.

- (d) A lump sum payment which shall be determined by multiplying the Russian River Conservation Charge times the difference between 14,300 acre-feet and the sum of the total acre-feet of water delivered under this agreement during the prior Fiscal Year plus the total acre-feet of water for which payments have been made in lieu of delivery pursuant to Section 5(f) of this Agreement during the prior Fiscal Year.
- (e) A lump sum payment which shall be determined by multiplying the Russian River Projects Charge times the difference between 14,300 acre-feet and the sum of the total acre-feet of water delivered under this Agreement during the prior Fiscal Year plus the total acre-feet of water for which payments have been made in lieu of delivery pursuant to Section 5(f) of this Agreement during the prior Fiscal Year.
- (f) A lump sum payment, calculated as follows: If the total amount of water delivered to MMWD pursuant to this Agreement is less than 5,300 acre-feet in any Fiscal Year, then Sonoma Water shall include in the bill for the month of August the difference between the actual amount of water delivered during the previous Fiscal Year and 5,300 acre-feet, and MMWD shall pay for such amount at the same rate as though such water had been delivered, if and to the extent that such water was available to MMWD. Water shall be deemed to have been available to MMWD during the previous Fiscal Year if MMWD could have taken delivery of such water at any time during such Fiscal Year at delivery rates not exceeding available Transmission System capacity. Sonoma Water shall keep and make available for review by MMWD operating records indicating the availability of water to MMWD.
- (g) MMWD Payment to Support Regional Water Resiliency. Within sixty (60) days following full execution of this Agreement, MMWD will pay to Sonoma Water an amount equal to Twelve Million Five Hundred Thousand

Dollars (\$12,500,000), a portion of which funds, specifically Nine Million Dollars (\$9,000,000) will be used by Sonoma Water for projects to enhance water resiliency within the Russian River System. The remaining portion, Three Million Five Hundred Thousand Dollars (\$3,500,000) will be used by Sonoma Water for projects to enhance Sonoma Water's ability to deliver winter water. Sonoma Water shall be responsible for conducting any environmental review that may be required under the California Environmental Quality Act for all such projects.

- (h) Notwithstanding any dispute between Sonoma Water and MMWD, MMWD shall pay all bills made by Sonoma Water pursuant to this Agreement when due and shall not withhold all or any part of any amount billed pending the final resolution of such dispute. In the event of a dispute, MMWD may pay its bills under protest, and if necessary under the ultimate resolution of the dispute, Sonoma Water shall make an appropriate refund to MMWD, including interest on the overpaid amount at the rate obtained by Sonoma Water as a result of investment of the disputed amount. If MMWD does not pay any bill by the due date for such bill, then, in addition to the principal amount due, MMWD also shall pay Sonoma Water interest on this principal amount due, calculated from the due date until the payment date at the legal rate per annum established pursuant to section 685.010 of the Code of Civil Procedure.

Section 6: Construction of New Aqueduct.

Sonoma Water acknowledges that MMWD is evaluating the feasibility and efficacy of constructing, at MMWD's sole cost and expense, a new aqueduct from the existing North Marin Aqueduct to MMWD's Nicasio and/or Soulajule Reservoirs to enhance water resiliency and reliability consistent with long term planning for the Russian River Project. MMWD will continue to actively communicate with Sonoma Water regarding project design and development and Sonoma Water and if requested by MMWD, will provide available information and data necessary to project planning and assessment of project benefits and impacts. In connection with the foregoing, MMWD will be solely responsible for the completion of any analysis required pursuant to the California Environmental Quality Act.

Section 7: Sonoma Water Petitions and Applications with State Water Resources Control Board.

MMWD acknowledges that the existing 75,000 acre foot per year limit on diversions and rediversions in Sonoma Water's Water Right Permits does not allow Sonoma Water to utilize the entire yield of the Russian River Project, and that Sonoma Water may from time to time file petitions or applications with the State Water Resources Control Board ("State Board") to increase this or future limits or otherwise provide water to Sonoma Water customers. MMWD also acknowledges that Sonoma Water has filed petitions with the State Board requesting changes in minimum instream flow requirements and other changes in its water rights permits to respond to hydrologic conditions or any environmental release requirements, or both. MMWD recognizes and agrees that it will be in the public interest for the State Board to grant such petitions and applications.

Section 8: Waiver and Indemnity.

- (a) MMWD waives, releases and forever discharges Sonoma Water, its officers, agents and employees from any and all liabilities, claims, demands, losses and costs relating to any of the following: (1) any property damage or personal injury arising from any non-delivery of water requested by MMWD pursuant to this Agreement, or for any property damage or personal injury arising from the quality of water delivered pursuant to this Agreement, if such property damage or personal injury is caused by lack of available capacity in the Transmission System, drought, earthquake or other Act of God, strike or other labor dispute, partial or total dam, gate or tunnel loss, dam, gate or tunnel repairs, water pollution, or any factor beyond the control of Sonoma Water (whether or not such factor is listed in this sentence); and (2) any property damage or personal injury arising from any decision of Sonoma Water regarding: (a) determinations of the availability of water for sale by Sonoma Water to MMWD pursuant to this Agreement; (b) allocation of transmission system capacity; (c) proposed expansions of the Transmission System; or (d) repair (or non-repair) of the Potter Valley Project, Coyote Valley Dam or Warm Springs Dam. MMWD's waiver, release and discharge described in this paragraph shall apply to any of the property damages or personal injuries described in this paragraph, whether or not such property damages or personal injuries were caused by Sonoma Water's negligence, unless such property damages or personal injuries resulted from Sonoma Water's negligence, willful misconduct or violation of law.

- (b) MMWD shall indemnify, hold harmless, protect and defend Sonoma Water, its officers, agents and employees from and against any and all liabilities, claims, demands, damages, losses, disabilities or expenses (including attorney fees and litigation costs) of every nature arising out of, or in connection with: (1) the lack of quantity of water that has been delivered by Sonoma Water to MMWD pursuant to this Agreement; or (2) the control, conveyance and disposition of water that has been delivered by Sonoma Water to MMWD pursuant to this Agreement. For the purposes of this section, the point of delivery shall be as specified in Section 3 of this Agreement. MMWD shall provide such indemnification, holding harmless, protection and defense whether or not such liabilities, claims, demands, damages, losses, disabilities or expenses are based on Sonoma Water's negligence, unless such liabilities, claims, demands, damages, losses, disabilities or expenses are based on Sonoma Water's sole negligence, willful misconduct or violation of law.
- (c) This section shall not apply to any construction activities, or construction contracts, relating to the construction described in Section 6 of this Agreement. The provisions in this section regarding attorney fees shall not apply to any other section of this Agreement.

Section 9: Water Conservation; Coordination on Urban Water Management Planning.

- (a) MMWD and Sonoma Water will comply with all applicable state laws related to water conservation planning and implementation, including the Urban Water Management Planning Act, Water Code sections 10610-10655 (as such act now exists or in the future may exist). MMWD shall implement or use its best efforts to secure the implementation of any water conservation requirements that may be added as terms or conditions of Sonoma Water's appropriative water rights permits or licenses, or with which the Agency must comply under compulsion of regulation or law.
- (b) MMWD and Sonoma Water shall coordinate the preparation of their respective Urban Water Management Plans required by the Urban Water Management Planning Act. MMWD shall provide Sonoma Water MMWD's projections of projected future water demands, conservation, recycled water use, and other non-Sonoma Water water supplies, and the methodology and assumptions used by MMWD to produce those

projections. Sonoma Water shall review the projections and may provide comments on the projections, and shall provide MMWD with projections of the amount of water to be provided by Sonoma Water to MMWD to be used in MMWD's and the Sonoma Water's Urban Water Management Plans, provided, however, that nothing in this Section 9, including any lack of compliance, shall impact the other provisions of this Agreement nor any obligation hereunder.

Section 10: Water Quality.

Water delivered by Sonoma Water to MMWD pursuant to this Agreement shall be of the same general quality as water delivered by Sonoma Water from the transmission system to the Water Contractors in compliance with California drinking water standards. Except as expressly stated in the preceding sentence, Sonoma Water does not make any express or implied warranty regarding the quality of the water delivered pursuant to this Agreement. The payment obligations of MMWD set forth in Section 5 shall not be affected in any manner by the quality of the water delivered by Sonoma Water hereunder.

Section 11: CEQA for Future Projects.

Pursuant to section 15051(d) of the State CEQA Guidelines, MMWD is designated as the lead agency under the California Environmental Quality Act for the construction of any new aqueduct to be constructed by MMWD pursuant to Section 6 of this Agreement. Sonoma Water is designated as the lead agency for any other projects north of Kastania Reservoir that Sonoma Water may construct to implement this Agreement.

Section 12: CEQA for this Agreement.

Pursuant to section 15061 of the California Environmental Quality Act (CEQA) Guidelines, the parties have evaluated this Agreement and have concluded that their approval of this Agreement is exempt from the provisions of CEQA under Section 15301 of the CEQA Guidelines because MMWD fully exercised its right to delivery of water under the 2015 Renewal Agreement, the not to exceed amount of water to which MMWD is entitled under this Agreement is unchanged from the amounts included under the 2015 Renewal Agreement and future levels of diversions and use of water by MMWD under this Agreement will not be significantly different from present levels of diversion and use. Accordingly, the parties will file, pursuant to CEQA Guidelines section 15062, notices of

exemption with the Marin and Sonoma County Clerks and the State Clearinghouse of the Office of Planning and Research.

Section 13: Term.

This Agreement supersedes the 2015 Renewal Agreement. This Agreement shall be effective on July 1, 2025 and shall remain in effect until June 30, 2040. Upon the request of MMWD, Sonoma Water agrees to enter into renewal agreements for periods not to exceed the then-existing term of the Restructured Agreement for Water Supply or any renewals or amendments to the Restructured Agreement for Water Supply upon the same terms and conditions contained herein, except that Sonoma Water may make reasonable adjustments to the charges under Section 5 of this Agreement, and any such reasonable adjustments then shall be included in any renewal agreement. Sonoma Water acknowledges that the expiration date of the Restructured Agreement for Water Supply is June 30, 2040. Based upon MMWD's longstanding and ongoing participation and support of Sonoma Water's Russian River Project, including lump sum capital payments and other payments made by MMWD in parity with Sonoma Water's Water Contractors, Sonoma Water agrees to advocate to include MMWD in any discussions related to any renewal or extension of the Restructured Agreement for Water Supply. If at the expiration date of this Agreement and the Restructured Agreement for Water Supply has been terminated or has expired without either being renewed or replaced by another agreement pertaining to water supply, then upon the request of MMWD, Sonoma Water shall enter into renewal agreements for periods not to exceed forty (40) years upon the same terms and conditions contained herein, except that Sonoma Water may make reasonable adjustments to the charges under Section 5 of the Agreement and any such reasonable adjustment then shall be included in any renewal agreement.

Section 14: Modifications:

This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and conditions and as a complete and exclusive statement of the terms of the agreement. Pursuant to Code of Civil Procedure section 1856, no modification of the Agreement shall be effective unless and until such modification is evidenced by a writing signed by all parties.

Section 15: Equitable Remedies.

Because water is a scarce and precious resource, MMWD will not have an adequate remedy at law, and thus may request a court of competent jurisdiction to order equitable remedies, to compel Sonoma Water to deliver the water that MMWD is entitled to receive pursuant to this Agreement. Such equitable remedies shall be MMWD's sole and exclusive remedies in actions brought by MMWD relating to the amounts of water that Sonoma Water must deliver to MMWD pursuant to this Agreement.

Section 16: Notices.

All notices shall be in writing and notices and payments may be given by personal delivery or by mail. Notices and payments sent by mail shall be addressed as follows:

To Sonoma Water:
General Manager,
Sonoma County Water Agency,
404 Aviation Boulevard, Santa Rosa, CA 95403;

To MMWD:
General Manager,
Marin Municipal Water District,
220 Nellen Avenue, Corte Madera, CA 94925

When so addressed, a notice shall be deemed given upon deposit in the United States Mail, postage prepaid. In all other instances, notices and payments shall be deemed given at the time of actual delivery. Changes may be made to the names and addresses of the person to whom notices and payments are to be given by giving notice pursuant to this section.

Section 17: Demand for Assurances. When reasonable grounds for insecurity arise with respect to the performance of either party, the other party may, in writing, demand adequate assurance of due performance and, until it receives such assurance, may, if commercially reasonable, suspend any performance for which the agreed return performance has not been received. "Commercially reasonable" includes not only the conduct of either party with respect to performance under this Agreement, but also conduct with respect to other agreements with the other party to this Agreement or others. After receipt of a justified demand, the failure to provide within a reasonable time, but not

exceeding 30 days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

Section 18: No Third-Party Beneficiaries.

No third-party beneficiaries are intended or established by this Agreement.

Section 19: Representation by Counsel.

Sonoma Water and MMWD each was represented by independent counsel in the negotiation and execution of this Agreement. For the purposes of interpretation of this Agreement, neither party shall be deemed to have been the drafter of this Agreement.

Section 20: Merger.

This Agreement is intended both as a final expression of the agreement between the parties hereto with respect to the included terms and conditions and as a complete and exclusive statement of the terms of the Agreement.

ATTEST:

MARIN MUNICIPAL WATER DISTRICT

Board Secretary

By: _____
Matt Samson, President
Board of Directors

Reviewed As To Form:

Molly MacLean
General Counsel

ATTEST:

SONOMA COUNTY WATER AGENCY

Deputy Clerk of the
Board of Directors

By: _____
Chair, Board of Directors

DATE: _____

Reviewed As To Substance By
Sonoma County Water Agency:

Grant Davis, General Manager

Reviewed As To Form:

Deputy County Counsel