

**PURCHASE AND SALE AGREEMENT  
FOR  
LONG-TERM STORAGE CREDITS**

THIS PURCHASE AND SALE AGREEMENT FOR LONG-TERM STORAGE CREDITS (this "Agreement") is made this 31st day of January, 2019, between Gila River Water Storage, LLC, a Delaware limited liability company ("Seller"), and the Central Arizona Water Conservation District ("Buyer").

**RECITALS**

A. Buyer desires to purchase Long-Term Storage Credits developed by Seller pursuant to Arizona Revised Statutes Title 45, Chapter 3.1.

B. Seller is willing to sell and transfer certain Long-Term Storage Credits in the amount, at the delivery time, and for the price specified in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound, the parties hereby agree as follows:

**ARTICLE 1  
DEFINITIONS**

As used in this Agreement, the following terms, when capitalized, shall mean:

"ADWR" means the Arizona Department of Water Resources.

"Agreement" means this Purchase and Sale Agreement for Long-Term Storage Credits.

"Buyer" has the meaning given that term in the introductory paragraph of this Agreement.

"Buyer's Long-Term Storage Account" means an account established in Buyer's name pursuant to Arizona Revised Statutes § 45-852.01 for Long-Term Storage Credits stored in the Phoenix and Pinal Active Management Areas.

"Long-Term Storage Credit" or "LTSC" has the meaning given that term in Arizona Revised Statutes § 45-802.01(11).

"Seller" has the meaning given that term in the introductory paragraph of this Agreement.

"Seller's Long-Term Storage Account" means an account established in Seller's name pursuant to Arizona Revised Statutes § 45-852.01 for Long-Term Storage Credits stored in the Phoenix and Pinal Active Management Areas.

"Transfer Form" shall mean the current Long-Term Storage Credit Transfer Form issued by the ADWR pursuant to A.R.S. § 45-854.01, as completed by the parties pursuant to Section 3.1 and Section 4.2 herein.

**ARTICLE 2  
PURCHASE AND SALE  
OF LONG-TERM STORAGE CREDITS**

2.1 Sale and Purchase. Subject to the terms and conditions of this Agreement, Seller agrees to sell, transfer, and assign and Buyer agrees to purchase, accept, and pay for Phoenix Active Management Area (AMA) and Pinal AMA LTSCs according to the delivery and payment terms in Article 4.

2.2 Type of Water. Seller covenants that all of the LTSCs sold pursuant to this Agreement will be accrued through storage of surface water from the Central Arizona Project. The parties intend that all LTSCs purchased and sold under this Agreement shall retain the identity of the source of water used to generate such LTSCs.

2.3 Long-Term Storage Credits.

2.3.1 The LTSCs to be sold by Seller pursuant to this Agreement are from Seller's Long-Term Storage Accounts.

2.3.2 The Phoenix AMA LTSCs to be sold by Seller pursuant to this Agreement have been stored in the Roosevelt Water Conservation District, Maricopa Water District, and GRIC Olberg Dam Managed USF. All these facilities are permitted by ADWR and located in the Phoenix Active Management Area.

2.3.3 The Pinal AMA LTSCs to be sold by Seller pursuant to this Agreement have been stored in the Hohokam Irrigation and Drainage District, Central Arizona Irrigation and Drainage District, and Maricopa Stanfield Irrigation and Drainage District. All these facilities are permitted by ADWR and located in the Pinal Active Management Area.

2.4 Volume of Long-Term Storage Credits. Buyer shall purchase pursuant to this Agreement 70,375 acre-feet of Phoenix AMA LTSCs and 375,000 acre-feet of Pinal AMA LTSCs.

2.5 Purchase Price. Total purchase price for all LTSCs sold pursuant to this Agreement during the term shall be \$95,000,000 under the following purchase schedule:

	LTSC Transfer	Payment
An Initial Payment within 30-days of fully executed Agreement		\$65,000,000
Final Payment on or before the six-month anniversary of the execution of this agreement	445,375 acre-feet	\$30,000,000
<b>TOTAL</b>	<b>445,375 acre-feet</b>	<b>\$95,000,000</b>

Buyer may elect to make the Final Payment, with 0.75% monthly interest, after the six-month anniversary of the execution of this agreement, but no later than December 31, 2019. Buyer shall be free to pay a portion or portions of the Final Payment at any time or times without penalty.

For purposes of this Section 2.5, payments will be considered timely if made on or before 11:59 p.m. on the date identified herein.

2.6 Seller's Warranty of Title. Seller represents and warrants to Buyer that it will have good and marketable title to the LTSCs that are the subject of this Agreement no later than the date such LTSCs are to be transferred to Buyer, and agrees to convey marketable title to such LTSCs free and clear of all liens, claims, and encumbrances.

### ARTICLE 3 TRANSFER DOCUMENTATION

3.1 Transfer Form. To evidence the transfer of the Long Term Storage Credits contemplated by this Agreement, Buyer and Seller shall execute Transfer Forms as specified in Section 4.2.

3.2 Additional Actions and Documentation. The parties shall cooperate to take such further actions and execute such further documents as may be determined by either party to be reasonably necessary or advisable in order to complete the transfer of the LTSCs contemplated by this Agreement.

### ARTICLE 4 DELIVERY AND PAYMENT

4.1 Payment. Within 30 days of executing this agreement, the Buyer shall pay Seller the purchase price due in accordance with Section 2.5 in full by wire transfer or ACH payment using the following information:

Wire Transfer Information:

JPMorgan Chase

1 Chase Plaza

NY, NY 14081

Swift number CHASUS33

ABA/R & T ~~02140021~~ ~~02140021~~ ~~02140021~~ ~~02140021~~

Account Number: 885284257

Name: Gila River Water Storage, LLC

ACH Payment Information:

ABA/R & T ~~122100024~~ ~~122100024~~ ~~122100024~~

Account Number: 885284257

Name: Gila River Water Storage, LLC

Subsequent payments shall be made in the same manner following the schedule in Section 2.5.

4.2 Transfer. Within fifteen (15) days of Seller's receipt of the Final Payment, Seller shall deliver to Buyer Transfer Forms transferring the amount of LTSCs to Buyer's Long-Term Storage Accounts as specified in Section 2.5 and an invoice for the current LTSC transfer fees required by ADWR. Buyer shall promptly countersign the Transfer Forms and return it with payment for the LTSC transfer fees to Seller. Upon Seller's receipt of each executed Transfer Forms, Seller shall promptly countersign the Transfer Forms and file it with ADWR along with the applicable transfer fees. Buyer shall be solely responsible for any applicable transfer fees in connection therewith. Buyer and Seller shall cooperate with ADWR to facilitate completion of such transfer by ADWR.

4.3 Right to Repurchase. Buyer agrees that Buyer shall not resell the Long-Term Storage Credits purchased from Seller pursuant to this Agreement without first offering to sell the Long-Term Storage Credits back to Seller. In the event that Buyer desires to sell the Long-Term Storage Credits acquired pursuant to this Agreement, Buyer shall provide Seller with written notice which notice shall contain an offer to sell the Long-Term Storage Credits to Seller for the price per acre-foot as referenced in Section 2.5, plus interest calculated at four percent (4%) annually from the date on which the Long-Term Storage Credits were assigned from Seller to Buyer to the date on which the Long-Term Storage Credits are repurchased by Seller. Seller shall have 30 days from the date of receipt of the offer to elect to purchase the Long-Term Storage Credits. If Seller elects to purchase the Long-Term Storage Credits, Buyer and Seller shall promptly enter into a purchase agreement with terms substantially similar to this Agreement, provided, however that the delivery of the Long-Term Storage Credits from Buyer to Seller shall be completed in a single delivery per storage facility. If Seller declines to accept the offer or fails to provide notice to Buyer of its election within the 30-day period, Buyer shall be free, for a period of 180 days, to sell the Long-Term Storage Credits to a third party. If Buyer fails to sell the Long-Term Storage Credits during such 180-day period, the rights of Seller in this Section 4.3 shall be reinstated and Buyer shall not sell the Long-Term Storage Credits to a third party without again offering the Long-Term Storage Credits to Seller.

## ARTICLE 5 REJECTION OF TRANSFER

Buyer shall be solely responsible for verifying that it is eligible to receive the LTSCs to be purchased pursuant to this Agreement. Seller shall be solely responsible for verifying that it is eligible to transfer the LTSCs to Buyer. Buyer acknowledges that it is assuming the risk that Arizona law or ADWR's policies regarding eligibility may change between the date of this Agreement and the filing of the Transfer Forms and Buyer assumes all risks of any such change in law or policies. Buyer acknowledges and understands that despite Seller's sale of 445,375 acre-feet of LTSCs, ADWR may ultimately credit Buyer's Long-Term Storage Accounts with less than such amount. Buyer agrees that Seller shall not be responsible for any determination by ADWR that, despite Seller's transfer of 445,375 acre-feet of LTSCs, Buyer's Long-Term Storage Accounts are ultimately credited with less than such amount. Seller further agrees that in such event Buyer shall be due a refund of the purchase price of the credits not transferred, less a transaction fee, unless waived, of 5% of the purchase price of the credits not transferred.

**ARTICLE 6  
NOTICES**

All notices requests, consents, waivers or other communications required or permitted to be given under this Agreement to a party must be in writing and must be personally delivered to the intended recipient or sent to the intended recipient via (a) facsimile (to the number set forth below), (b) nationally recognized overnight courier, shipping charges paid by sender, addressed as follows, or (c) U.S. mail, postage prepaid, addressed as follows:

If to Buyer:

Central Arizona Water Conservation District  
c/o General Manager  
PO Box 43020  
Phoenix, AZ 85080-3020

If to Seller:

Gila River Water Storage, LLC  
c/o Salt River Project  
PO Box 52025  
Mail Station PAB103  
Phoenix, AZ 85072-2025  
Attn: David C. Roberts, Associate General Manager, Water Resources

with a copy to:

Gila River Indian Community  
P.O. Box 97  
Sacaton, Arizona 85147  
Attn: Linus Everling, General Counsel

**ARTICLE 7  
MISCELLANEOUS PROVISIONS**

7.1 Public Announcements. Neither party may issue or make any public announcement, press release or official public statement regarding this Agreement or the subject matter hereof unless such public announcement, press release or official public statement is issued jointly by the parties or, prior to the release of the public announcement, press release or official public statement, such party furnishes the other party with a copy of such announcement, press release or official public statement, and obtains the approval of the other party, such approval not to be unreasonably withheld, conditioned or delayed. Nothing in this Section 7.1 shall apply to the filing of the Transfer Forms.

7.2 Confidentiality. The terms of this Agreement shall be confidential and each party shall retain all information obtained hereunder in strict confidence and not use it, or disclose it to

any third parties, except for any information which (a) is at the time of such disclosure known to the public or thereafter becomes so known, through no violation by such party of this Agreement; (b) such party can demonstrate such information was in its possession prior to disclosure hereunder, or under any prior contracts or negotiations between the parties hereto; or (c) is required by law including, but not limited to, Arizona public records law or other regulatory or judicial authority to be so disclosed. Notwithstanding the foregoing, either party may communicate information to its officers, employees, affiliates, attorneys, consultants, and other representatives to the extent necessary to evaluate the information received, provided its consultants and other third party representatives have a need to know and agree to be bound with respect thereto in the same manner as the disclosing party. The provisions of this Section shall survive termination of this Agreement.

7.3 Choice of Law; Jurisdiction; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona, without regard to conflicts of law principles. The parties agree that any action, suit or proceeding arising out of or relating to this Agreement shall be initiated and prosecuted in a state or federal court of competent jurisdiction located in Maricopa County, Arizona, and the Parties irrevocably submit to the jurisdiction of any such court.

7.4 Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any dispute arising out of or relating to this Agreement.

7.5 Amendment. No amendment, modification or change to this Agreement shall be enforceable unless set forth in writing and executed by both parties.

7.6 Assignability. Neither party hereto may assign its rights or obligations under this Agreement without the written consent of the other party, which consent will not be unreasonably withheld.

7.7 Time of the Essence. Time is of the essence in the performance of this Agreement.

7.8 Specific Performance. The parties agree that if a party fails to perform its obligations under this Agreement, other remedies will not be sufficient and the parties agree that, in addition to other available remedies, the remedy of specific performance shall be available to the aggrieved party.

7.9 Counterparts. This Agreement may be executed in counterparts, including in facsimile and electronic formats (including portable document format (.pdf)), each of which is an original and all of which constitute one and the same instrument.

7.10 Entire Agreement. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and thereof and supersedes any and all prior negotiations, undertakings, understandings, agreements and business term sheets between the parties with respect to the subject matter hereof and thereof. No party will be bound by or deemed to have made in connection herewith any representations, warranties, commitments or undertakings, except those contained herein or therein.

7.11 Waiver. No delay in exercising any right or remedy shall constitute a waiver unless such right or remedy is waived in writing signed by the waiving party. A waiver by any party of any right or remedy hereunder shall not be construed as a waiver of any other right or remedy, whether pursuant to the same or a different term, condition or covenant.

7.12 Construction. The headings in this Agreement are inserted for convenience only, and shall not constitute a part of this Agreement or be used to construe or interpret any of its provisions. The parties have participated jointly in negotiating and drafting this Agreement. If a question of interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. The word "include" or "including" means include or including, without limitation.

7.13 Rules, Regulations and Amendment or Successor Statutes. All references in this Agreement to the Arizona Revised Statutes include all rules and regulations promulgated by ADWR under such statutes and all amendment statutes and successor statutes, rules, and regulations to such statutes, rules, and regulations.

7.14 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof.

7.15 Attorneys' Fees. Should any litigation be commenced under this Agreement, the successful party in such litigation shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding.

IN WITNESS WHEREOF, the parties have executed this PURCHASE AND SALE AGREEMENT FOR LONG-TERM STORAGE CREDITS as of the date first set forth above.

**SELLER:**

Gila River Water Storage, LLC,  
a Delaware limited liability company

By: David C. Ritz

Its: MANAGER

**BUYER:**

Central Arizona Water Conservation District

By: Sara A. Atkins

Its: \_\_\_\_\_