

AGREEMENT

The [name parties] hereby enter into this Agreement effective as of _____.

RECITALS

A. Parties.

1. Arizona

- a. The Arizona Department of Water Resources, through its Director, is the successor to the signatory agency of the State for the 1922 Colorado River Compact, and the 1944 Contract for Delivery of Water with the United States, both authorized and ratified by the Arizona Legislature, A.R.S. §§ 45-1301 and 1311. Pursuant to A.R.S. §§ 45-107, the Director is authorized and directed, subject to the limitations in A.R.S. §§ 45-106, for and on behalf of the State of Arizona, to consult, advise and cooperate with the Secretary of the Interior of the United States with respect to the exercise by the Secretary of Congressionally authorized authority relative to the waters of the Colorado River (including but not limited to the Boulder Canyon Project Act, 43 U.S.C. § 617, and the 1968 Colorado River Basin Project Act, 43 U.S.C. § 1501) and with respect to the development, negotiation and execution of interstate agreements. Additionally, under A.R.S. § 45-105(A)(9), the Director is authorized to "prosecute and defend all rights, claims and privileges of this state respecting interstate streams."
- b. Under A.R.S. § 11-951 *et. seq.*, the Director is authorized to enter into Intergovernmental Agreements with other public agencies, which includes another state; departments, agencies, boards and commissions of another state; and political subdivisions of another state.

2. California. The chairman of the Colorado River Board of California, acting as the Colorado River Commissioner pursuant to California Water Code section 12525, has the authority to exercise on behalf of California every right and power granted to California by the Boulder Canyon Project Act, and to do and perform all other things necessary or expedient to carry out the purposes of the Colorado River Board.

3. Colorado

- a. Section 24-1-109, Colorado Revised Statutes (2005) provides that "Interstate compacts authorized by law shall be administered under the direction of the office of the governor." This includes the Colorado River Compact and the Upper Colorado River Basin Compact. Section 37-60-109 provides that "the governor from time to time, with approval of the

board, shall appoint a commissioner, who shall represent the state of Colorado upon joint commissions to be composed of commissioners representing the state of Colorado and another state or other states for the purpose of negotiating and entering into compacts or agreements between said states..." By letter dated April 12, 2006, the Governor appointed Upper Colorado River Commissioner Scott Balcomb to represent the State of Colorado.

- b. Section 37-60-106, subsections (e) and (i), C.R.S. (2005), authorize the Colorado Water Conservation Board to "cooperate with the United States and the agencies thereof, and with other states for the purpose of bringing about the greater utilization of the water of the state of Colorado and the prevention of flood damages," and "to confer with and appear before the officers, representatives, boards, bureaus, committees, commissions, or other agencies of other states, or of the federal government, for the purpose of protecting and asserting the authority, interests, and rights of the state of Colorado and its citizens with respect to the waters of the interstate streams in this state." Therefore, by statute the Director of the Colorado Water Conservation Board is authorized to negotiate with and enter into agreements with other state entities within the Colorado River Basin.

4. Nevada

- a. The Colorado River Commission of the State of Nevada (CRCN) is an agency of the State of Nevada, authorized generally by N.R.S. §§ 538.041 and 538.251. CRCN is authorized by N.R.S. § 538.161 (6), (7) to enter into this Agreement. The CRCN, in furtherance of the State of Nevada's responsibility to promote the health and welfare of its people in Colorado River matters, makes this Agreement to supplement the supply of water in the Colorado River which is available for use in Nevada, augment the waters of the Colorado River, and facilitate the more flexible operation of dams and facilities by the Secretary of the Interior of the United States. The Chairman of the Commission, signatory hereto, serves as one of the Governor's representatives as contemplated by Section 602(b) of the 1968 Colorado River Basin Project Act, 43 U.S.C. § 1552(b) and the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act.
- b. The Southern Nevada Water Authority (SNWA) is a Nevada joint powers agency and political subdivision of the State of Nevada, created by agreement dated July 25, 1991, as amended November 17, 1994 and January 1, 1996, pursuant to N.R.S. §§ 277.074 and 277.120. SNWA is authorized by N.R.S. § 538.186 to enter into this Agreement and, pursuant to its contract issued under section 5 of the Boulder Canyon Project Act of 1928, SNWA has the right to divert "supplemental water" as defined by

NRS § 538.041 (6). The General Manager of the SNWA, signatory hereto, serves as one of the Governor's Representatives as contemplated by Section 602(b) of the 1968 Colorado River Basin Project Act, 43 U.S.C. § 1552(b) and the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act.

5. New Mexico. Pursuant to NMSA 1978, 72-14-3, the New Mexico Interstate Stream Commission is authorized to investigate water supply, to develop, to conserve, to protect and to do any and all other things necessary to protect, conserve and develop the waters and stream systems of the State of New Mexico, interstate or otherwise. The Interstate Stream Commission also is authorized to institute or cause to be instituted in the name of the state of New Mexico any and all negotiations and/or legal proceedings as in its judgment are necessary. By Resolution dated _____, the Interstate Stream Commission authorizes the execution of this Agreement.
6. Utah. The Division of Water Resources (DWR) is the water resource authority for the State of Utah. Utah Code Ann. § 73-10-18. The Utah Department of Natural Resources Executive Director (Department), with the concurrence of the Utah Board of Water Resources (Board), appoints the DWR Director (Director). § 63-34-6(1). The Board makes DWR policy. § 73-10-1.5. The Board develops, conserves, protects, and controls Utah waters, § 73-10-4(4), (5), and, in cooperation with the Department and Governor, supervises administration of interstate compacts, § 73-10-4, such as the Colorado River Compact, §§ 73-12a-1 through 3, and the Upper Colorado River Basin Compact, § 73-13-10. The Board, with Department and Gubernatorial approval, appoints a Utah Interstate Stream Commissioner, § 73-10-3, currently the DWR Director, to represent Utah in interstate conferences to administer interstate compacts. §§ 73-10-3 and 73-10-4. These delegations of authority authorize the Utah Interstate Stream Commissioner/DWR Director to sign this document. He acts pursuant to a Board resolution, acknowledged by the Department, dated _____.
7. Wyoming. Water in Wyoming belongs to the state. WYO. CONST. Art. 8 ' 1. The Wyoming State Engineer is a constitutionally created office and is Wyoming's chief water official with general supervisory authority over the waters of the state. WYO. CONST. Art. 8 ' 5. The Wyoming legislature conferred upon Wyoming officers the authority to cooperate with and assist like authorities and entities of other states in the performance of any lawful power, duty, or authority. WYO. STAT. ANN. ' 16-1-101 (LEXISNEXIS 2005). Wyoming and its State Engineer represent the rights and interests of all Wyoming appropriators with respect to other states. *Wyoming v. Colorado*, 286 U.S. 494 (1922). See *Hinderlider v. La Plata River & Cherry Creek Ditch Co.*, 304 U.S. 92 (1938). In signing this Agreement, the State Engineer

intends that this Agreement be mutually and equally binding between the Parties.

B. Background

1. Federal law and practice (including Section 602(b) of the 1968 Colorado River Basin Project Act, 43 U.S.C. § 1552(b), and the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act), contemplate that in the operation of Lakes Powell and Mead, the Secretary of the Interior consults with the States through Governors' Representatives, who represent the Governors and their respective States. Through this law and practice, the Governors' Representatives have in the past reached agreements among themselves and with the Secretary on various aspects of Colorado River reservoir operation. This Agreement is entered into in furtherance of this law and practice.

2. On January 16, 2001, the Secretary adopted Colorado River Interim Surplus Guidelines (ISG) based on an alternative prepared by the Colorado River Basin States, for the purposes of determining annually the conditions under which the Secretary would declare the availability of surplus water for use within the states of Arizona, California and Nevada in accordance with and under the authority of the Boulder Canyon Project Act of 1928 (45 Stat. 1057) and the Decree of the United States Supreme Court in *Arizona v. California*, 376 U.S. 340 (1964). The ISG are effective through calendar year 2015 (through preparation of the 2016 Annual Operating Plan).

3. In the years following the adoption of the ISG, drought conditions in the Colorado River Basin caused a significant reduction in storage levels in Lakes Powell and Mead, and precipitated discussions by and among the Parties, and between the Parties and the United States through the Department of the Interior and the Bureau of Reclamation. The Parties recognize that the Upper Division States have not yet developed their full apportionment under the Colorado River Compact. Although the Secretary has not imposed any shortage in the Lower Basin, the Parties also recognize that with additional Upper Basin development and in drought conditions, the Lower Division States may be required to suffer shortages in deliveries of water from Lake Mead. Therefore, these discussions focused on ways to improve the management of water in Lakes Powell and Mead so as to enhance the protection afforded to the Upper Basin by Lake Powell, and to delay the onset and minimize the extent and duration of shortages in the Lower Basin.

4. On May 2, 2005, the Secretary announced her intent to undertake a process to develop Lower Basin shortage guidelines and explore management options for the coordinated operation of Lakes Powell and Mead. On June 15, 2005, the Bureau of Reclamation published a notice in the *Federal Register*, announcing its intent to implement the Secretary's direction. The Bureau of Reclamation has proceeded to undertake scoping and develop alternatives pursuant to the National Environmental Policy Act (the NEPA Process), which the Parties anticipate will form the basis for a ROD to be issued by the Secretary by December 2007.

5. On August 25, 2005, the Governors' Representatives for the seven Colorado River Basin States wrote a letter to the Secretary expressing conceptual agreement in the development and implementation of three broad strategies for improved management and operation of the Colorado River: Coordinated Reservoir Management and Lower Basin Shortage Guidelines; System Efficiency and Management; and Augmentation of Supply.

6. On February 3, 2006, the Governors' Representatives transmitted to the Secretary their recommendation for the scope of the NEPA Process, which refined many of the elements outlined in the August 25, 2005 letter.

7. At the request of the Secretary, the Parties have continued their discussions relative to the areas of agreement outlined in the letters of August 25, 2005 and February 3, 2006.

8. In furtherance of the letters of August 25, 2005 and February 3, 2006, the Parties have reached agreement to take additional actions for their mutual benefit, which are designed to augment the supply of water available for use in the Colorado River System and improve the management of water in the Colorado River.

C. Purpose. The Parties intend that the actions by them contemplated in this Agreement will: improve cooperation and communication among them; provide additional security and certainty in the water supply of the Colorado River System for the benefit of the people served by water from the Colorado River System; and avoid circumstances which could otherwise form the basis for claims or controversies over interpretation or implementation of the Colorado River Compact and other applicable provisions of the law of the river.

AGREEMENT

In consideration of the above recitals and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals set forth above are material facts that are relevant to and form the basis for the agreements set forth herein.

2. Definitions. As used in this Agreement, the following terms have the following meanings:

A. Colorado River System. This term shall have the meaning as defined in the Colorado River Compact.

B. ISG. The Colorado River Interim Surplus Guidelines adopted by the Secretary on January 16, 2001, as modified by the ROD.

- C. NEPA Process. The decision-making process pursuant to the National Environmental Policy Act, 42 U.S.C. §§ 4321 through 47, beginning with the Bureau of Reclamation's Notice to Solicit Comments and Hold Public Meetings, 70 Fed. Reg. 34794 (June 15, 2005) and culminating in a Record of Decision.
- D. Party or Parties. Any party or parties to this Agreement.
- E. Parties' Recommendation. The Seven Basin States' Proposal Regarding Colorado River Interim Operations, a copy of which is attached hereto and incorporated herein by this reference, presented by the Parties to the Secretary as part of comments to the Draft Environmental Impact Statement in the NEPA Process.
- F. ROD. The Record of Decision anticipated to be issued by the Secretary after completion of NEPA Process, pursuant to her letter of May 2, 2005, and the Notice published in the Federal Register on September 30, 2005, 70 Fed. Reg. 57322.
- G. Secretary. The Secretary of the Interior or the Bureau of Reclamation, as applicable.
- H. State or States. Any of the states of Arizona, California, Colorado, Nevada, New Mexico, Utah or Wyoming, as context requires.

3. Support for Parties' Recommendation. After considering a number of alternatives, each Party has determined that the Parties' Recommendation is in the best interests of that Party, and promotes the health and welfare of that Party and of the Colorado River Basin States. In the NEPA Process, the Parties shall support the Secretary's adoption of the Parties' Recommendation in a ROD. If during the course of the NEPA Process any new information becomes available which causes any Party, in its sole and absolute discretion, to reassess any provision of the Parties' Recommendation, that Party shall immediately notify all other Parties in writing. The Parties shall jointly consult and, if they agree to any modification of the Parties' Recommendation, shall consult with the Secretary to advise him/her of such modification and request the adoption thereof in the ROD. If after such consultations it is apparent there is an irreconcilable conflict between the Parties as to such modification, then any Party may upon written notice to the other Parties withdraw from this Agreement, and in such event this Agreement shall no longer be effective or binding upon such withdrawing Party. All withdrawing Parties hereby reserve all rights upon withdrawal from this Agreement to take such actions, including support of or challenges to the ROD, as they in their sole and absolute discretion deem necessary or appropriate. In the event of the withdrawal of any one or more Parties from this Agreement, this Agreement shall continue in full force and effect as to the remaining Parties. The remaining Parties may consult to determine whether to continue this Agreement in effect, to amend this Agreement, or to terminate

this Agreement. In the event of termination, all Parties shall be relieved from the terms hereof, and this Agreement shall be of no further force or effect.

4. ROD Consistent with the Parties' Recommendation. In the event the Secretary adopts a ROD in substantial conformance with the Parties' Recommendation, the Parties shall take all necessary actions to implement the terms of the ROD, including the approval and execution of agreements necessary for such implementation.

5. ROD Inconsistent with the Parties' Recommendation. In the event the Secretary adopts a ROD that any Party, in its sole and absolute discretion, determines is not in substantial conformance with the Parties' Recommendation, such Party shall immediately notify all other Parties of such determination in writing. The Parties shall jointly consult, and consult with the Secretary as necessary, in order to determine whether the ROD is in substantial conformance with the Parties' Recommendation, or whether any action, including the amendment of this Agreement, may resolve such concern. If after such consultation it is apparent there is an irreconcilable conflict between the ROD and the concerns of such Party, then such Party may upon written notice to the other Parties withdraw from this Agreement, and in such event this Agreement shall no longer be effective or binding upon such withdrawing Party. All withdrawing Parties hereby reserve all rights upon withdrawal from this Agreement to take such actions, including support of or challenges to the ROD, as they in their sole and absolute discretion deem necessary or appropriate. In the event of the withdrawal of any one or more Parties from this Agreement, this Agreement shall continue in full force and effect as to the remaining Parties. The remaining Parties may consult to determine whether to continue this Agreement in effect, to amend this Agreement, or to terminate this Agreement. In the event of termination, all Parties shall be relieved from the terms hereof, and this Agreement shall be of no further force or effect.

6. Additions to the ROD. The Parties hereby request that the Secretary recognize the specific provisions of this Agreement as part of the NEPA Process and, if appropriate, include in the ROD specific provisions that reference this Agreement as a basis for the ROD. The Parties also hereby request that the Secretary include in the ROD specific provision that the Secretary will first consult with all the States, through their designated Governor's Representatives, before making any substantive modification to the ROD. Finally, the Parties hereby request that the Secretary include in the ROD specific provision that upon a request by any State for modification of the ROD, or upon any request by any State to resolve any claim or controversy arising under this Agreement or under the operations of Lakes Powell and Mead pursuant to the ROD, the ISG, or any other applicable provision of federal law, regulation, criteria, policy, rule or guideline, the Secretary shall invite all of the Governors, or their designated representatives, to consult with the Secretary in an attempt to resolve such claim or controversy by mutual agreement.

7. Consultation on Operations. After the Secretary commences operating Lakes Powell and Mead pursuant to the ROD, the Parties shall consult among themselves as necessary, but at least annually, to assess such operations. Any Party may request

consultation with the other Parties on a proposed adjustment or modification of such operations, based on changed circumstances, unanticipated conditions, or other factors.

Upon such request, the Parties shall in good faith consult with each other to resolve any such issues, and based thereon may request consultation by the States with the Secretary on adjustments to or modifications of operations under the ROD. In any event, the Parties shall initiate consultations before December 31, 2020, to determine whether to extend this Agreement and recommend that the Secretary continue operations under the ROD for an additional period, or modify this Agreement and recommend that the Secretary modify operations under the ROD, or terminate this Agreement and recommend that the Secretary not continue operations under the ROD after the expiration thereof. Any extension of this Agreement and any recommendation by the Parties to the Secretary to extend or modify operations under the ROD shall be made by unanimous consent of the Parties. If such extension and recommendation are not made, this Agreement shall terminate in accordance with Paragraph 15.

8. Development of Interim Water Supplies, System Augmentation, System Efficiency and Water Enhancement Projects. The Parties agree to diligently pursue interim water supplies, system augmentation, system efficiency and water enhancement projects within the Colorado River System. The term "system augmentation" includes the quantifiable addition of new sources of supply to the Colorado River Basin, including importation from outside the Basin or desalination of ocean water or brackish water. The term "system efficiency" includes efficiency projects in the Lower Basin that will result in the more efficient use of existing supplies, such as in-system storage and enhanced management. The term "water enhancement" includes projects that may increase available system water, including cloud seeding and non-native vegetation management. Due to the critical importance of implementing these projects in reducing the potential for shortages, the Parties shall continue to jointly pursue the study and implementation of such projects, and to regularly consult on the progress of such projects.

Specifically, the Parties agree to cooperatively pursue an interim water supply of at least a cumulative amount of 280,000 acre-feet for use in Nevada while long-term augmentation projects are being pursued. It is anticipated that this interim water supply will be made available in return for Nevada's funding of the Drop 2 Reservoir currently proposed for construction by the Bureau of Reclamation. Annual recovery of this interim water supply by Nevada will not exceed 40,000 acre-feet.

In consideration of the Parties' diligent pursuit of long-term augmentation and the availability of the interim water supply, the Southern Nevada Water Authority (SNWA) agrees that it will withdraw right-of-way Application No. N-79203 filed with the Bureau of Land Management on October 1, 2004 for the purpose of developing Permit No. 58591 issued by the Nevada State Engineer in Ruling No. 4151.

The SNWA will not re-file such right-of-way application or otherwise seek to divert the water rights available under Permit No. 58591 from the Virgin River prior to 2014 so long as Nevada is allowed to utilize its pre-Boulder Canyon Project Act Virgin and

Muddy River rights in accordance with section 4(C) of the Parties' Recommendation, and the interim water supply made available to Nevada is reasonably certain to remain available. The SNWA will not re-file such right-of-way application or otherwise seek to divert the water rights available under Permit No. 58591 from the Virgin River after 2014 so long as diligent pursuit of system augmentation is proceeding to provide or has provided Nevada an annual supply of 75,000 acre-feet by the year 2020. Prior to re-filing any applications with the Bureau of Land Management, SNWA and Nevada will consult with the other Basin States.

This agreement is without prejudice to any Party's claims, rights or interests in the Virgin or Muddy River systems.

9. Consistency with Existing Law. The Parties' Recommendation has been developed with the intent to be consistent with existing law. The Parties expressly agree, for purposes of this Agreement, that the storage of water in and release of water from Lakes Powell and Mead pursuant to a ROD issued by the Secretary in substantial conformance with the Parties' Recommendation and this Agreement, and any agreements, rules and regulations adopted by the Secretary or the parties to implement such ROD, shall not constitute a violation of Article III(a)-(e) inclusive of the Colorado River Compact, or Sections 601 and 602(a) of the Colorado River Basin Project Act of 1968 (43 U.S.C. §§ 1551 and 1552(a)), and all applicable rules and regulations promulgated thereunder.

10. Resolution of Claims or Controversies. The Parties recognize that judicial or administrative proceedings are not preferred alternatives to the resolution of claims or controversies concerning the law of the river. In furtherance of this Agreement, the Parties desire to avoid judicial or administrative proceedings, and agree to pursue a consultative approach to the resolution of any claim or controversy. In the event that any Party becomes concerned that there may be a claim or controversy under this Agreement, the ROD, Article III(a)-(e) inclusive of the Colorado River Compact, or Sections 601 and 602(a) of the Colorado River Basin Project Act of 1968 (43 U.S.C. §§ 1551 and 1552(a)), and all applicable rules and regulations promulgated thereunder, such Party shall notify all other Parties in writing, and the Parties shall in good faith meet in order to resolve such claim or controversy by mutual agreement prior to initiating any judicial or administrative proceeding. No Party shall initiate any judicial or administrative proceeding against any other Party or against the Secretary under Article III (a)-(e) inclusive of the Colorado River Compact, or Sections 601 and 602(a) of the Colorado River Basin Project Act of 1968 (43 U.S.C. §§ 1551 and 1552(a)), or any other applicable provision of federal law, regulation, criteria, policy, rule or guideline, and no claim thereunder shall be ripe, until such consultation has been completed. All States shall comply with any request by the Secretary for consultation in order to resolve any claim or controversy. In addition, any State may invoke the provisions of Article VI of the Colorado River Compact. Notwithstanding anything in this Agreement to the contrary, the terms of this Paragraph shall survive for a period of five years following the termination or expiration of this Agreement, and shall apply to any withdrawing Party after withdrawal for such period.

11. Reservation of Rights. Notwithstanding the terms of this Agreement and the Parties' Recommendation, in the event that for any reason this Agreement is terminated, or that the term of this Agreement is not extended, or upon the withdrawal of any Party from this Agreement, the Parties reserve, and shall not be deemed to have waived, any and all rights, including any claims or defenses, they may have as of the date hereof or as may accrue during the term hereof, under any existing federal or state law or administrative rule, regulation or guideline, including without limitation the Colorado River Compact, the Upper Colorado River Basin Compact, the Decree in *Arizona v. California*, the Colorado River Basin Project Act of 1968, and any other applicable provision of federal law, rule, regulation, or guideline. Nothing in this Agreement shall be utilized against any other Party in any administrative, judicial or other proceeding, except for the sole purpose of enforcing the terms of this Agreement. Notwithstanding anything in this Agreement to the contrary, the terms of this Paragraph shall survive the termination or expiration of this Agreement, and shall apply to any withdrawing Party after withdrawal.

12. No Third-Party Beneficiaries. This Agreement is made for the benefit of the Parties. No Party to this Agreement intends for this Agreement to confer any benefit upon any person or entity not a signatory upon a theory of third-party beneficiary or otherwise.

13. Joint Defense Against Third Party Claims. In the event the Secretary adopts a ROD in substantial conformance with the Parties' Recommendation as set forth herein, they will have certain common, closely parallel, or identical interests in supporting, preserving and defending the ROD and this Agreement. The nature of this interest and the relationship among the Parties present common legal and factual issues and a mutuality of interests. Because of these common interests, the Parties will mutually benefit from an exchange of information relating to the support, preservation and defense of the ROD and this Agreement, as well as from a coordinated investigation and preparation for discussion of such interests. In furtherance thereof, in the event of any challenge by a third party as to the ROD or this Agreement (including claims by any withdrawing Party), the Parties will cooperate to proceed with reasonable diligence and to use reasonable best efforts in the support, preservation and defense thereof, including any lawsuit or administrative proceeding challenging the legality, validity or enforceability of any term of the ROD or this Agreement, and will to the extent appropriate enter into such agreements, including joint defense or common interest agreements, as are necessary therefor. Each Party shall bear its own costs of participation and representation in any such defense.

14. Reaffirmation of Existing Law. Nothing in this Agreement or the Parties' Recommendation is intended to, nor shall this Agreement be construed so as to, diminish or modify the right of any Party under existing law, including without limitation the Colorado River Compact, the Upper Colorado River Basin Compact, or the Decree in *Arizona v. California*. The Parties hereby affirm the entitlement and right of each State under such existing law to use and develop the water of the Colorado River System.

15. Term. This Agreement shall be effective as of the date of the first two signatories hereto, and shall be effective as to any additional Party as of the date of execution by such Party. Unless earlier terminated, this Agreement shall be effective for so long as the ROD and the ISG are in effect, and shall terminate on December 31, 2025 or upon the termination of the ROD and the ISG, whichever is earlier.

16. Authority. The persons and entities executing this Agreement on behalf of the Parties are recognized by the Parties as representing the respective States in matters concerning the operation of Lakes Powell and Mead, and as those persons and entities authorized to bind the respective Parties to the terms hereof. Each person executing this Agreement has the full power and authority to bind the respective Party to the terms of this Agreement. No Party shall challenge the authority of any person or Party to execute this Agreement and bind such Party to the terms hereof, and the Parties waive the right to challenge such authority.