

3.8. Extraction of Program Stored Water. The Operating Party shall make reasonable and good faith efforts to extract Program Stored Water from the Program Well or any other existing wells operated by Operating Party when requested by Program Agency. The Operating Party shall pay for such produced Program Stored Water based on the sum of the then current Replenishment Assessment, Additional Replenishment Assessment and, if applicable, the Basin Equity Assessment. The extraction of Program Stored Water shall replace imported water the Operating Party was planning to purchase. If Mesa Water plans on using less than 1,000 acre-feet per year of imported water due to the operation of the MWRP, it will not be required to consider extracting program stored water upon an OCWD request that specific fiscal year.

3.9. Expiration. The Operating Party's obligations under this Contract shall expire in 30 years unless sooner terminated per this Agreement or per Section 23 of the OCWD-SAWPA Subgrantee Agreement.

#### **SECTION 4. INDEMNIFICATION.**

4.1. Program Agency Indemnification Obligation. The Program Agency shall indemnify, defend and hold harmless the Operating Party and its respective officers, agents and employees, from any and all costs, damages, penalties or other liabilities resulting or alleged to result from the sole active negligence or willful misconduct of the Program Agency in the performance of the Program Agency's duties under this Contract.

4.2. Operating Party Indemnification Obligation. The Operating Party shall indemnify, defend and hold harmless the Program Agency and its respective officers, agents and employees, from any and all costs, damages, penalties or other liabilities to the extent resulting or alleged to result from: (a) Operating Party's negligence or willful misconduct; (b) actions/omissions of Operating Party that cause Program Agency to violate the OCWD-SAWPA Subgrantee Agreement, or which cause SAWPA to violate its grant agreement with DWR; (c) contractor claims associated with the Program Well; (d) Operating Party's failure, or alleged failure, to properly comply with CEQA or other environmental laws or regulations. The indemnification obligation described herein shall not arise where liability is caused by Program Agency's sole active negligence or willful misconduct.

4.3. The indemnification provisions set forth in this Section 4 shall survive the termination of the Contract and the OCWD-SAWPA Subgrantee Agreement and continue in full force.

#### **SECTION 5. INSURANCE.**

5.1. The Operating Party shall obtain and maintain for the duration of this Contract all of the applicable types of insurance that Program Agency is required to obtain under Section 30 of the OCWD-SAWPA Subgrantee Agreement, in amounts equal to or greater than the amounts specified in this Contract. Each policy shall name the Program Agency, DWR, and SAWPA as additional insureds. The insurance obligations of Operating Party shall include, but are not limited to: