[CONFORMED COPY]

FALLING WATER CONTRACT

Dated as of March 31, 1976

by and between

AMERICAN FALLS RESERVOIR DISTRICT

and

IDAHO POWER COMPANY

CONTRACT

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(This Table of Contents is not a part of this Contract and is only for convenience of reference.)

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FALLING WATER CONTRACT

BY AND BETWEEN

AMERICAN FALLS RESERVOIR DISTRICT
AND
IDAHO POWER COMPANY

THIS CONTRACT, entered into this 31st day of March, 1976, between the AMERICAN FALLS RESERVOIR DISTRICT, an instrumentality of the State of Idaho, with its offices located in Twin Falls, Idaho, hereinafter referred to as the "Constructing Agency", and the IDAHO POWER COMPANY, a corporation organized under the laws of the State of Maine, authorized to do business in the State of Idaho, with its principal office therein located in Boise, Idaho, hereinafter referred to as "Idaho Power Company";

WITNESSETH:

WHEREAS, the existing American Falls Dam and Reservoir ("Existing Dam") was constructed on the Snake River in southern Idaho adjacent to the City of American Falls, Idaho, by the United States ("United States"), and was placed in operation in 1927 as a part of the Minidoka Project, Idaho-Wyoming, and the United States contracted with certain organizations and individuals ("Waterusers") for various amounts of the storage space of the Existing Dam and which Waterusers agreed to pay the United States their proportionate share of the cost of the Existing Dam and the United States has retained ownership of the Existing Dam and has operated and maintained the Existing Dam primarily for the furnishing of water for irrigation purposes; and

WHEREAS, the Existing Dam provides irrigation storage water for beneficial use on approximately 900,000 acres of land in southern Idaho to which said water is appurtenant; and

WHEREAS, the United States has determined the Existing Dam to be no longer structurally competent, and in 1972 restricted storage in the top 11.3 feet of the Existing Dam on a year-round basis for safety reasons, and additional restrictions may possibly be required to continue to meet applicable safety standards as the deterioration of the Existing Dam advances, which present and future storage restrictions have and will cause severe economic losses to the Waterusers, reductions in recreational benefits and adverse effects on fish and wildlife facilities associated with the Existing Dam; and

WHEREAS, Chapter 22 of Title 43, Idaho Code, as amended, ("State Act"), authorizes the Constructing Agency, for the purpose of preserving, restoring, protecting and maintaining rights of storage, diversion and delivery of water necessary and appurtenant to the purposes for which the Constructing Agency and other like similarly situated irrigation districts were organized: (1) to reconstruct, rehabilitate, replace and improve dams and other related structures and works together with all necessary appurtenances related thereto whether located within or without its boundaries and whether or not legal title thereto is owned by it, including without limitation as a part thereof the reconstruction and relocation of all roads, bridges and highways made necessary by reason of such reconstruction, rehabilitation, replacement and improvement, the construction of penstocks and other facilities related to hydroelectric production plant which are made necessary in order to carry out the provisions of this Falling Water Contract and facilities for flood control, public recreation and fish and wildlife mitigation purposes made necessary in order to comply with applicable state and Federal requirements; (2) to enter into all necessary agreements, contracts and other legal arrangements with the United States and its agencies and departments, the State of Idaho and its agencies, departments and political subdivisions, and public and private persons, firms, corporations and associations in order to carry out such reconstruction, rehabilitation, replacement and improvement; and (3) to issue its Bonds ("Bonds") in the manner provided therein for the purpose of paying all or part of the cost of such reconstruction, rehabilitation, replacement and improvement, together with all expenses preliminary and incidental thereto; and

WHEREAS, the State Act provides that any Bonds issued and sold pursuant to the provisions thereof shall be payable solely out of a special fund into which the Constructing Agency shall be obligated to deposit, as from time to time received: (1) the proceeds of the collection of certain assessments to be levied and collected by the Constructing Agency on lands contained within its boundaries; (2) payments pursuant to contracts to be entered into by the Constructing Agency with other irrigation districts; (3) payments pursuant to contracts to be entered into by the Construction Agency with other public or private persons, firms, corporations and associations; and (4) when so authorized by Act of Congress, the proceeds from the sale or use of falling water released from the dam to be so reconstructed, rehabilitated, replaced and improved, pursuant to a contract for the use of such falling water for power generation to be entered into by the Construction Agency with a public or private person, firm, corporation or association; and

WHEREAS, pursuant to the provisions of the Act of Congress of December 28, 1973 ("Act of December 28, 1973"), the United States, acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation ("Contracting Officer") upon authorization of the United States Secretary of the Interior ("Secretary") has entered into an agreement with the Constructing Agency ("Government Contract") of even date herewith, authorizing the Constructing Agency to finance and provide for the construction of a new dam ("Replacement Dam") and related structures and works to replace the Existing Dam (which Replacement Dam and related structures and works, together with the storage reservoir to be created behind the Replacement Dam, are hereinafter collectively referred to as the "American Falls Replacement Dam Program"); and

WHEREAS, the Government Contract provides that delivery of water is to be contingent upon the execution by each Wateruser of a contract with the Constructing Agency and the United States (which contracts are collectively referred to as "Spaceholder Contracts") providing for the repayment by such Wateruser of its proportionate share of the total costs to be incurred by the Constructing Agency for engineering, financing, designing and constructing the American Falls Replacement Dam Program not returned by this Falling Water Contract, and providing that the delivery of water to each Wateruser shall be contingent upon the fulfillment of the obligations thereunder, said Spaceholder Contracts being otherwise consistent with the terms of the various existing contracts between the Secretary and the Waterusers for the delivery of water from and the payment of costs associated with the Existing Dam; and

WHEREAS, an appropriate number of the Waterusers satisfactory to the Secretary and the Constructing Agency have entered into Spaceholder Contracts of even date herewith to pay their proportionate share of the cost of the American Falls Replacement Dam Program (which Waterusers which have entered into Spaceholder Contracts being herein referred to as "Spaceholders"); and

WHEREAS, the Act of December 28, 1973, also authorizes the Constructing Agency to contract with a non-Federal entity, as herein provided, for the use by such non-Federal entity for power generation of the falling water released from the Replacement Dam for irrigation and other purposes incidental thereto, which contract shall provide for a monetary return to the Constructing Agency to defray in part the costs of financing and constructing the American Falls Replacement Dam Program and for the coordination of the construction of hydroelectric power facilities with the construction of the Replacement Dam, provided said contract shall be approved by the Secretary and shall not impair the efficiency of the Replacement Dam to serve the other purposes of the Minidoka Project; and

WHEREAS, the State Act provides that the contract for the use of falling water may contain such provisions as are contemplated in the Act of December 28, 1973, providing for the reconstruction, rehabilitation, replacement and improvement of such dam and other related structures and works and appurtenances, the coordination of the construction of the hydroelectric power facilities, the conditions under which the non-Federal entity shall make payments to the Construction Agency, the rights and remedies of the parties to such contract in the event of a failure of the non-Federal entity to make the required payments, and the securing of all necessary permits and licenses required in connection therewith; and

WHEREAS, the Idaho Power Company is a Wateruser and is also the owner and operator of a hydroelectric generating powerplant located on the Snake River below the Existing Dam adjacent to the City of American Falls, Idaho pursuant to a license issued by the Federal Power Commission on March 31, 1975, for Project No. 2258; and

WHEREAS, the construction and operation by Idaho Power Company of a new hydroelectric generating facility ("Powerplant") attached to the Replacement Dam will increase power generation over that produced by the existing powerplant by utilizing the additional head and more of the water released from the Replacement Dam for irrigation and other purposes incidental thereto; and

WHEREAS, as contemplated in Section 4 of the Act of December 28, 1973 and in the State Act (Section 43-2201(D)(4), Idaho Code), the Idaho Power Company heretofore proposed to pay an amount necessary to amortize, at a tax exempt interest rate in 40 approximately equal annual installments, for utilization by it for power generation at the Powerplant of falling water released from the Replacement Dam for irrigation and other purposes incidental thereto, within the limitations specified in the Government Contract, $19,550,000 of the principal amount of the cost of financing and constructing the American Falls Replacement Dam Program, and subsequently further agreed to increase such amount by the cost of the facilities included in the American Falls Replacement Dam Program for the purpose of meeting the amended State of Idaho water quality dissolved oxygen standard as approved on April 17, 1975, by the United States Environmental Protection Agency for water released from the Replacement Dam ("Water Quality Facilities") and if necessary by approximately 50% of the costs of financing and constructing the American Falls Replacement Dam Program in excess of $38,000,000; and

WHEREAS, under the provisions of Section 4 of the Act of December 28, 1973, and the provisions of the State Act (Section 43-2201(D)(4), Idaho Code), the Constructing Agency and the Idaho Power Company have agreed to enter into this falling water contract (hereinafter referred to as the "Falling Water Contract"), but only upon satisfaction of the conditions set forth herein; and

WHEREAS, the Constructing Agency has made provision for the estimation of the cost of financing and constructing the American Falls Replacement Dam Program, and, as required in the State Act, the allocation of the costs of financing and constructing the American Falls Replacement Dam Program as between the sums to be paid pursuant to this Falling Water Contract and the Spaceholder Contracts, and has made provision for a determination as to the actual amount of Bonds of the Constructing Agency to be issued, depending upon the amounts to be prepaid pursuant to the provisions of the several Spaceholder Contracts, it being contemplated that the United States will, pursuant to Section 7 of the Act of December 28, 1973, pay, as provided in the Michaud Division, Fort Hall Indian Reservation Spaceholder Contract entered into between the Constructing Agency and the United States, the proportionate share of the Michaud Division, Fort Hall Indian Reservation of the total cost of financing and constructing the American Falls Replacement Dam Program not returned pursuant to this Falling Water Contract; and

WHEREAS, pursuant to authority contained in the State Act the Constructing Agency has heretofore authorized the issuance of not to exceed $44,750,000 Bonds of the Constructing Agency for the purpose of paying all or part of the costs of financing and constructing the American Falls Replacement Dam Program, and further the Constructing Agency has called and held an election at which the Constructing Agency was authorized to impose assessments on lands within the Constructing Agency, approving said assessments, and was authorized to execute a Spaceholder Contract with the United States and to execute the Government Contract; and

WHEREAS, the Constructing Agency will institute proceedings pursuant to the provisions of the State Act for the purpose of obtaining confirmation decrees approving this Falling Water Contract, the Spaceholder Contracts, the Government Contract, and the levy and collection of the assessments, which confirmation proceedings will, prior to the issuance of the Bonds, be completed in accordance with the provisions of the State Act; and

WHEREAS, the Constructing Agency has entered into an agreement dated November 27, 1974, with the State of Idaho, acting by and through the Department of Transportation, Division of Highways, providing for construction of a two-lane highway on the crest of the Replacement Dam and construction of a two-lane highway bridge located immediately downstream from the Replacement Dam, and providing for the payment by the Constructing Agency of 50% of the total cost of the construction of said highway and bridge as part of the American Falls Replacement Dam Program; and

WHEREAS, the Constructing Agency has entered into an agreement dated July 2, 1974, with the Idaho Fish and Game Department providing for the payment by the Constructing Agency of costs relating to the mitigation of anticipated loss of existing recreational and fish and wildlife resources and constituting the Recreation and Fish and Wildlife Mitigation Facilities (as hereinafter defined); and

WHEREAS, it is provided in the Act of December 28, 1973, that this Falling Water Contract shall be approved by the Secretary and all requirements and conditions of the Act of December 28, 1973 have or will have been satisfied prior to the delivery of any of the Bonds of the Constructing Agency herein contemplated to be issued; and

WHEREAS, the Idaho Power Company has received a fifty (50) year license for Project No. 2736 issued March 31, 1975 by the Federal Power Commission authorizing it to construct, operate, and maintain the Powerplant; and

WHEREAS, the Constructing Agency has executed the Government Contract with the United States, as contemplated in the Act of December 28, 1973, to which Government Contract a copy of this Falling Water Contract is attached as an exhibit, and by the execution of the Government Contract the Secretary, in accordance with the provisions of the Act of December 28, 1973, approves this Falling Water Contract as though incorporated in and made a part of the Government Contract; and

WHEREAS, the Constructing Agency and the Idaho Power Company desire to provide that the issuance, sale and delivery by the Constructing Agency of its Bonds pursuant to the authority contained in the State Act, in an amount which shall be sufficient to pay the estimated cost of financing and constructing the American Falls Replacement Dam Program not paid in advance by Spaceholders pursuant to the Spaceholder Contracts, shall be a condition precedent to the obligation of the Idaho Power Company to make the payments to the Constructing Agency provided for in this Falling Water Contract in consideration of the utilization by the Idaho Power Company at the Powerplant for power generation, within the limitations specified in the Government Contract, of the falling water released from the Replacement Dam for irrigation and other purposes incidental thereto; and

WHEREAS, the Idaho Power Company and the Constructing Agency desire to enter into an arrangement hereunder whereby the Constructing Agency, having entered into the Spaceholder Contracts and the Government Contract, and as a Spaceholder having imposed assessments on lands within its boundaries, will issue and sell its Bonds for the purpose of paying the costs of financing and constructing the American Falls Replacement Dam Program not paid in advance by the Spaceholders, and whereby the Idaho Power Company in accordance with the provisions of the Federal Power Commission license, will finance, construct and own the Powerplant, and will make the payments to the Constructing Agency contemplated hereunder; and

WHEREAS, the Constructing Agency and the Idaho Power Company wish to delineate their mutual responsibilities and to set forth the terms and conditions for the use of the Falling Water by the Idaho Power Company, for the engineering, financing, construction, ownership and operation of the American Falls Replacement Dam Program and the Powerplant and the coordination of the construction of the Powerplant with the construction of the Replacement Dam;

NOW, THEREFORE, in consideration of the mutual and dependent stipulations and covenants herein contained, it is agreed by and between the parties hereto as follows:

ARTICLE I

DEFINITIONS

The following words and phrases shall have the following meanings, unless the context clearly indicates to the contrary:

"Act of December 28, 1973" shall mean the Act of Congress approved December 28, 1973 (87 Stat. 904).

"Additional Bonds" shall mean any additional parity Bonds authorized to be issued by the Constructing Agency pursuant to the terms and conditions of Section 207 of the Indenture.

"American Falls Replacement Dam Program" shall mean the program to be undertaken by the Constructing Agency consisting of the Replacement Dam including the two-lane highway on the crest of the Replacement Dam, the two-lane highway bridge located immediately downstream from the Replacement Dam, the Related Facilities, the Recreation and Fish and Wildlife Mitigation Facilities, and the Water Quality Facilities, to be accomplished pursuant to the Act of December 28, 1973, and under the authority of Section 43-2201(A), Idaho Code, which provides for the reconstruction, rehabilitation, replacement, and improvement of dams and other related structures and works together with all necessary appurtenances related thereto.

"Assessments" shall mean the Assessments to be levied pursuant to Title 43, Idaho Code, as contemplated in the State Act (Section 43-2201(D)(1) and (2), Idaho Code), representing the amount of benefits to accrue to each tract or subdivision in an irrigation district based upon the allocation of the Cost of Construction of the American Falls Replacement Dam Program, in the proportion that the right to the storage, diversion and delivery of water appurtenant to each such tract or subdivision bears to the total right to the storage, diversion and delivery of water from the Replacement Dam.

"Authorized Company Representative" shall mean the person at the time designated to act in behalf of the Idaho Power Company by written certificate furnished to the Contracting Officer, the Constructing Agency and the Trustee, containing the specimen signature of such person, and signed on behalf of the Idaho Power Company by its President or any Vice President thereof. Such certificate shall designate an alternate or alternates. The Authorized Company Representative may be an employee of the Idaho Power Company.

"Authorized Constructing Agency Representative" shall mean the person at the time designated to act in behalf of the Constructing Agency by written certificate furnished to the Contracting Officer, the Idaho Power Company and the Trustee, containing the specimen signature of such person, and signed on behalf of the Constructing Agency by the President of the Board, or the Vice President thereof. Such certificate shall designate an alternate or alternates. The Authorized Constructing Agency Representative may be an employee of the Constructing Agency.

"Authorized Representatives" shall mean collectively the Authorized Company Representative, the Authorized Constructing Agency Representative, and the Authorized Spaceholder Representative.

"Authorized Spaceholder Representative" shall mean the person at the time designated to act in behalf of the Spaceholders, pursuant to the provisions of Article 46 of the Spaceholder Contracts, by written certificate furnished to the Contracting Officer, the Constructing Agency, the Idaho Power Company, and the Trustee, containing the specimen signature of such person, and signed on behalf of the Spaceholders by the Chairman of the meeting of the Spaceholders at which such representative is designated. Such certificate shall designate an alternate or alternates. The Authorized Spaceholder Representative may be an employee of a Spaceholder.

"Board" shall mean the Board of Directors of the Constructing Agency.

"Bond Fund" shall mean the Bond Fund created in Section 502 of the Indenture for the purpose of paying principal of and interest on the Bonds.

"Bonds" shall mean bonds issued, and to be issued, by the Constructing Agency under authority contained in the State Act, pursuant to the Indenture to pay the costs of the American Falls Replacement Dam Program.

"Completion Date" shall mean the date of completion of the construction of the Replacement Dam, the Related Facilities and the Water Quality Facilities within the meaning of the Act of December 28, 1973, which shall be deemed to be the date upon which the Constructing Agency, the Idaho Power Company and the Trustee are given the completion notice by the Secretary as provided in Article 14(d) of the Government Contract.

"Constructing Agency" shall mean the American Falls Reservoir District, an instrumentality of the State of Idaho, being an irrigation district organized and existing under the provisions of Title 43, Idaho Code, as amended, and its successors and assigns.

"Construction Fund" shall mean the Construction Fund created by Section 602 of the Indenture for the purpose of paying the cost of financing and constructing the American Falls Replacement Dam Program.

"Construction Period" shall mean the period commencing upon the initiation of construction of the American Falls Replacement Dam Program and ending on the Completion Date.

"Construction Work Schedule" shall mean a schedule showing each item of major construction activity of the American Falls Replacement Dam Program including detailed coordination arrangements for the construction of the Powerplant with the construction of the Replacement Dam, and the time period within which each item is proposed to be started and concluded.

"Contracting Officer" shall mean the Regional Director, Pacific Northwest Region, Bureau of Reclamation, or his duly authorized representative.

"Cost of Construction" shall mean all or part of the total cost of the engineering, financing, designing and constructing of the American Falls Replacement Dam Program, and all expenses preliminary and incidental thereto, including all engineering, fiscal, and legal expenses, and costs of issuance, printing and advertising, as authorized in the Act of December 28, 1973 and the State Act and for which funds may be disbursed from the Construction Fund pursuant to Section 8.4 hereof.

"Defaulted Spaceholder(s)" shall mean the Spaceholders determined to be in default in all or any part of the Spaceholder Payments required to be made under a Spaceholder Contract, in accordance with the provisions of Article 29(a) thereof.

"Designs and Specifications" shall mean the final Designs and Specifications of any facility required pursuant to Article 10(a) of the Government Contract to be constructed by the Constructing Agency as a part of the American Falls Replacement Dam Program, as approved by the Contracting Officer pursuant to Article 10(b) of the Government Contract.

"Existing Dam" shall mean the American Falls Dam and Reservoir owned by the United States located on the Snake River in southern Idaho adjacent to the City of American Falls, Idaho.

"Falling Water" shall mean the water released from the Replacement Dam for irrigation and other purposes incidental thereto, the utilization of which during the Original Term of this Falling Water Contract, within the limitations specified in the Government Contract, is granted to the Idaho Power Company for power generation at the Powerplant in return for the Falling Water Payments to the Constructing Agency, which utilization shall be subordinate to the furnishing of water for irrigation purposes.

"Falling Water Contract" shall mean this contract entered into between the Constructing Agency and the Idaho Power Company as the same may be supplemented or amended.

"Falling Water Payments" shall mean the principal amount, plus applicable interest, to be paid to the Constructing Agency in 40 approximately equal annual Installments by the Idaho Power Company pursuant to this Falling Water Contract as a part of the consideration for the utilization for power generation at the Powerplant of the Falling Water released from the Replacement Dam.

"Government Contract" shall mean the contract of even date herewith entitled: "Contract between the United States of America and the American Falls Reservoir District for the Construction and Operation and Maintenance of the American Falls Replacement Dam Program" as the same may be supplemented or amended.

"Idaho Power Company" shall mean the Idaho Power Company, a Maine corporation authorized to do business in the State of Idaho, and its permitted successors and assigns.

"Indenture" shall mean the Indenture of Trust to be entered into between the Constructing Agency and the Trustee in connection with the issuance of the Series 1976 Bonds (including any indenture supplemental thereto).

"Independent Engineer" shall mean an engineer or engineering firm registered or licensed to practice the profession of engineering under the laws of Idaho, together with an appropriate staff and supporting equipment and who or which is not a full-time engineer of either the Constructing Agency or the Idaho Power Company.

"Interim Notes" shall mean interim notes of the Constructing Agency issued, and to be issued, under authority contained in the State Act, for the purpose of borrowing funds on a temporary basis in advance of the issuance of the Series 1976 Bonds.

"Installment" shall mean an annual payment of the principal and interest of the Falling Water Payments as such Installments are set forth in the Schedule of Falling Water Payments to be filed with the Idaho Power Company and the Trustee pursuant to the provisions of Section 9.8 hereof and which are assigned to the Trustee pursuant to Section 501 of the Indenture.

"License" shall mean the license for Project No. 2736 issued by the Federal Power Commission on March 31, 1975, and expiring on March 31, 2025, and any continuation or renewal thereof, authorizing the Idaho Power Company to construct, operate, and maintain the Powerplant.

"Minidoka Project" shall mean the Minidoka Reclamation Project of the United States, located on the Snake River in the States of Idaho and Wyoming.

"Non-Participating Wateruser(s)" shall mean the Waterusers which have not executed Spaceholder Contracts. The initial Non-Participating Waterusers are set forth in *Exhibit II* hereto. Upon the execution of a Spaceholder Contract by a Non-Participating Wateruser, such Non-Participating Wateruser shall be deemed to be a Spaceholder.

"Original Term" shall mean the duration of this Falling Water Contract, as specified in Section 14.1 hereof, ending concurrent with the expiration of the initial 50 year term of the License.

"Plan of Operation" shall mean a schedule of the storage and release of water from the Existing Dam and the Replacement Dam during the construction of the Replacement Dam.

"Plans, Designs and Specifications" shall mean the plans for the American Falls Replacement Dam Program, as set forth in Section 4.1 hereof, the Designs and Specifications, the Plan of Operation and the Construction Work Schedule.

"Powerplant" shall mean the hydroelectric generating facility, attached to the Replacement Dam, to be constructed, operated, and maintained by the Idaho Power Company in accordance with the License.

"Prepayment Fund" shall mean the Prepayment Fund created by Article 23(c) of the Spaceholder Contracts for the purpose of holding prepayments made by Spaceholders pursuant to Article 23 of the Spaceholder Contracts.

"Recreation and Fish and Wildlife Mitigation Facilities" shall mean the facilities to be included in the American Falls Replacement Dam Program pursuant to that certain agreement between the Constructing Agency and the Idaho Fish and Game Department dated July 2, 1974, to mitigate the anticipated loss of existing recreational and fish and wildlife resources.

"Related Facilities" shall mean the facilities included in the American Falls Replacement Dam Program which are required by the United States as part of the construction of the Replacement Dam and which are to be transferred to the United States to operate and maintain, consisting of the warehouse, shop, offices, scenic overlook including health and safety facilities, hydrologic and meteorologic data collection facilities.

"Renewal Term" shall mean any term following the Original Term of this Falling Water Contract, as specified in Section 14.2 hereof.

"Replacement Dam" shall mean the new dam, including the reservoir, to be constructed by the Constructing Agency on the Snake River in southern Idaho adjacent to the City of American Falls, Idaho, to replace the Existing Dam.

"Schedule of Falling Water Payments" shall mean that schedule supplied to the Idaho Power Company, pursuant to the provisions of Section 9.8 of this Falling Water Contract, showing the annual Installments to be paid to the Trustee for deposit into the Bond Fund.

"Schedules of Spaceholder Bond Payments" shall mean the schedules supplied to the Spaceholders, pursuant to the provisions of Section 9.8 of this Falling Water Contract, showing the annual sums to be paid to the Trustee for deposit into the Bond Fund.

"Secretary" shall mean the Secretary of the Interior.

"Series 1976 Bonds" shall mean the initial series of Bonds to be issued by the Constructing Agency under the State Act for the purpose of paying all or part of the Cost of Construction of the American Falls Replacement Dam Program pursuant to the terms and conditions of Section 202 of the Indenture.

"Spaceholder(s)" shall mean the Waterusers which have executed Spaceholder Contracts, together with their successors and assigns. The initial Spaceholders are set forth in *Exhibit I* hereto.

"Spaceholder Bond Payments" shall mean the payments obligated to be made by the Spaceholders to the Constructing Agency pursuant to the Spaceholder Contracts to pay the Spaceholders' portion of the principal of and interest on the Bonds and which are assigned to the Trustee.

"Spaceholder Contracts" shall mean the contracts of even date herewith entered into among the United States, the Constructing Agency, and the Spaceholders for storage in the Replacement Dam and the payment of construction, operation, and maintenance costs of the American Falls Replacement Dam Program, as the same may be supplemented or amended.

"Spaceholder Payments" shall mean collectively the payments to be made by the Spaceholders pursuant to the Spaceholder Contracts as follows:

1. Spaceholder Bond Payments.
2. Spaceholder Replacement Dam Operation and Maintenance Payments.
3. Spaceholder Water Quality Facilities Operation and Maintenance Payments.
4. The fees, charges and expenses of the Trustee and any paying agent bank.

"Spaceholder Replacement Dam Operation and Maintenance Payments" shall mean the payments obligated to be made pursuant to the Spaceholder Contracts by the Spaceholders to the United States to pay the annual costs of operation and maintenance of the Replacement Dam and the Related Facilities, and to return the unpaid costs of the Existing Dam as set forth in Article 19 of the Government Contract.

"Spaceholder Water Quality Facilities Operation and Maintenance Payments" shall mean the payments obligated to be made by the Spaceholders to the Constructing Agency in accordance with paragraph 13 of the Water Quality Facilities Agreement.

"State Act" shall mean Chapter 22, Title 43, Idaho Code, as enacted by Chapter 1, Session Laws of Idaho, 1974, as amended by Chapter 48, Session Laws of Idaho, 1975.

"Supplemental Falling Water Payments" shall mean the supplemental amounts agreed to be paid to the Constructing Agency by the Idaho Power Company pursuant to this Falling Water Contract representing the obligations of Defaulted Spaceholders or of Non-Participating Waterusers, or both.

"Trustee" shall mean the bank, Trustee or bank co-trustee, or either, at the time serving as such under the Indenture.

"Underwriter" or "Underwriters" shall mean Kidder, Peabody & Co. Incorporated, an investment banking firm, located in the City of New York, New York, which has agreed to submit a proposal for the purchase of the Series 1976 Bonds and, if such proposal is accepted, shall be the Underwriter of the Series 1976 Bonds, but if such proposal is not accepted, then, any investment banking firm or firms with whom the Constructing Agency shall execute a bond purchase agreement for the purchase of the Series 1976 Bonds or any Bonds issued pursuant to the provisions hereof.

"Water Quality Facilities" shall mean facilities included in the American Falls Replacement Dam Program for the purpose of meeting the amended State of Idaho water quality dissolved oxygen standard, as approved on April 17, 1975, by the United States Environmental Protection Agency, for water released from the Replacement Dam through the Powerplant, including necessary monitoring equipment to be installed immediately downstream from the tailrace of the Powerplant to measure the dissolved oxygen in the water.

"Water Quality Facilities Agreement" shall mean the agreement of even date herewith between the Constructing Agency and the Idaho Power Company providing for the construction, operation, and maintenance of the Water Quality Facilities, as the same may be supplemented or amended.

"Wateruser(s)" shall mean the organizations and individuals which have heretofore contracted for storage space in the Existing Dam.

ARTICLE II

REPRESENTATIONS

SECTION 2.1. *General Representations.* The Constructing Agency and the Idaho Power Company represent and warrant, one to the other, that:

(a) This Falling Water Contract is the contract contemplated to be entered into by the Constructing Agency, with the approval of the Secretary, with an appropriate non-Federal entity for the utilization of the Falling Water at the Powerplant for power generation, and the coordination of the construction of the Powerplant with the construction of the Replacement Dam, in accordance with Section 4 of the Act of December 28, 1973, and the State Act (Section 43-2201(D)(4), Idaho Code).

(b) This Falling Water Contract, having been approved by the Secretary as required by the Act of December 28, 1973, shall not in any way impair the efficiency of the Replacement Dam to serve the other purposes of the Minidoka Project.

(c) The Constructing Agency herein proposes to contract with the Idaho Power Company for the utilization by the Idaho Power Company of the Falling Water at the Powerplant for power generation within the limitations specified in the Government Contract and in accordance with the conditions set forth in the License, and in consideration thereof the Idaho Power Company shall make the Falling Water Payments to the Constructing Agency to help defray the Cost of Construction and shall make the Supplemental Falling Water Payments as herein contemplated. The Idaho Power Company and the Constructing Agency shall coordinate the construction of the Powerplant with the construction of the American Falls Replacement Dam Program to the mutual benefit of the Idaho Power Company and the Constructing Agency, including joint bidding if such shall be deemed desirable. As provided in Section 4 of the Act of December 28, 1973, this Falling Water Contract shall not be the subject of the limitations of Section 9(c) of the Reclamation Project Act of 1939 (53 Stat. 1194), or of any similar limitations in any other applicable Acts of Congress.

(d) The utilization by the Idaho Power Company of the Falling Water at the Powerplant for power generation is and shall continue to be subordinate to the furnishing of water from the Replacement Dam for irrigation purposes.

(e) Less than ten per cent (10%) of the water accruing to the active storage capacity in the Replacement Dam may be contractually scheduled for release from the Replacement Dam by the Idaho Power Company, except for temporary increases following a default by a Non-Participating Wateruser or a Spaceholder as provided in Section 3.5 hereof or arising from unusually wet or dry weather in the service area of the Replacement Dam.

SECTION 2.2. *Representations of the Constructing Agency.* The Constructing Agency represents and warrants as follows:

(a) The Constructing Agency is a lawfully organized and existing irrigation district, pursuant to the provisions of Title 43, Idaho Code, as amended by the State Act, and has been such since June 1, 1923. The Constructing Agency is the "constructing agency" which is authorized to finance and provide for the construction of the American Falls Replacement Dam Program pursuant to the provisions of the Act of December 28, 1973, and the provisions of the Government Contract.

(b) The Constructing Agency is authorized to enter into the Government Contract and into this Falling Water Contract for the purpose of accomplishing the construction of the American Falls Replacement Dam Program pursuant to the provisions of the Act of December 28, 1973 and the State Act. The Constructing Agency intends to issue its Bonds pursuant to the State Act in reliance upon the obligation of Idaho Power Company during the Original Term to make the Falling Water Payments and the Supplemental Falling Water Payments and it is, therefore, necessary to recognize and provide for the rights of the holders, from time to time, of the Bonds of the Constructing Agency contemplated to be issued for the purpose of paying all or part of the Cost of Construction of the American Falls Replacement Dam Program. The Idaho Power Company, within the limitations specified in the Government Contract, will utilize for power generation at the Powerplant the Falling Water during the Original Term and it is, therefore, necessary in the Government Contract, to recognize and provide for the right of the Idaho Power Company for the continued utilization of the Falling Water after title to the Replacement Dam, the Related Facilities, and the Water Quality Facilities shall be taken by the United States, pursuant to the requirements of the Act of December 28, 1973.

(c) The Constructing Agency will not construct the Replacement Dam so as to result in an increase in the elevation of the water surface of the Replacement Dam above that maintained for the Existing Dam, *i.e.*, 4354.5 feet above mean sea level U.S.C.& G.S. datum.

(d) The Constructing Agency has made adequate provision in the Government Contract for the correction and prevention of erosion related to the Replacement Dam or for the payment, from lawfully available funds arising from sources other than the Falling Water Payments or the Spaceholder Bond Payments, for full and adequate compensation of the adjacent landowners, including owners of land subject to a flowage easement, if such erosion cannot be corrected or prevented.

(e) Construction of the Replacement Dam will in no way alter or change the present proportionate storage rights of the Waterusers, except as provided in the Government Contract and the Spaceholder Contracts, and constitutes a reaffirmation by the United States of the existing contract rights between the Secretary and the Waterusers, except as otherwise provided in the Act of December 28, 1973.

(f) The Constructing Agency, together with the State of Idaho, has provided for compliance with the provisions of Section 2(b) and (c) of the Act of December 28, 1973 by the execution of that certain agreement dated November 27, 1974, by and between the Constructing Agency and the State of Idaho, providing for the inclusion in the American Falls Replacement Dam Program of: (i) a river crossing, consisting of a bridge for two-lane traffic, downstream from the Replacement Dam; (ii) an additional two lanes on top of the Replacement Dam; and (iii) the maintenance of an adequate two-lane, two-way crossing at or near the site of the Existing Dam during construction of the Replacement Dam.

(g) The Constructing Agency, together with the Idaho Fish and Game Department, has provided for compliance with the provisions of the Government Contract by the execution of that certain agreement dated July 2, 1974, providing for the payment by the Constructing Agency to the Idaho Fish and Game Department of the costs of the Recreation and Fish and Wildlife Mitigation Facilities included in the American Falls Replacement Dam Program.

(h) All requirements of the Act of December 28, 1973, the State Act, and the Government Contract will be complied with by the Constructing Agency in connection with the financing and construction of the American Falls Replacement Dam Program.

(i) The Constructing Agency will use its best efforts to authorize, pursuant to the provisions of the State Act as then in force, and issue the Bonds in an amount which shall be sufficient to pay the Cost of Construction not prepaid by the Spaceholders and when issued such Bonds shall be payable solely from a special fund into which the Constructing Agency will be obligated to deposit: (a) the payments by the Constructing Agency under its Spaceholder Contract of sums arising from Assessments to be levied by the Constructing Agency, pursuant to the provisions of the State Act as a Spaceholder on lands within its boundaries for its proportionate share of the Cost of Construction and allocated to such lands by the Construction Agency pursuant to the requirements of the State Act; (b) the payments by other irrigation districts under their respective Spaceholder Contracts of sums arising from Assessments to be levied by said irrigation districts, pursuant to the provisions of the State Act, representing their respective proportionate shares of the Cost of Construction and allocated to each such irrigation district by the Constructing Agency pursuant to the requirements of the State Act; (c) the payments by the remaining Spaceholders under their respective Spaceholder Contracts of their respective proportionate shares of the Cost of Construction; and (d) the Falling Water Payments and Supplemental Falling Water Payments contemplated to be paid to the Constructing Agency by the Idaho Power Company, pursuant to the provisions of Article III hereof.

(j) The Constructing Agency will, at no additional expense to it, cooperate with the Idaho Power Company in its studies of fish mortality through the turbines and in its consultation and cooperation with other state and Federal agencies in the protection and development of the natural resources of the area of the "project" as defined in the License.

(k) The Constructing Agency will, at no additional expense to it, cooperate with the Idaho Power Company in the making of a project study of the feasibility of including the Old Island Powerhouse as a historical resource.

(l) The Constructing Agency agrees to recommend to the Fish and Game Department of the State of Idaho that the Department consider construction of a foot trail to provide public access from the Powerplant parking area under the railroad bridge to the west river bank of the tailrace area, with a portion of the funds to be provided by the Constructing Agency to the Idaho Fish and Game Department for the purpose of mitigating the anticipated loss of existing recreational and fish and wildlife resources.

(m) The Constructing Agency is not in default under any of the provisions contained in any agreement to which it is a party, and, by proper action, the Board has duly authorized its President to execute and deliver this Falling Water Contract, and its Secretary to attest and affix the seal of the Constructing Agency to this Falling Water Contract, all on behalf of the Constructing Agency.

(n) No additional or further approval, consent or authorization of any governmental unit, public agency or authority not already obtained is required by the Constructing Agency in connection with the execution of this Falling Water Contract.

SECTION 2.3. *Representations of the Idaho Power Company.* The Idaho Power Company represents and warrants as follows:

(a) The Idaho Power Company is a corporation duly incorporated under the laws of, and is in good standing in, the State of Maine; is duly qualified to do business as a foreign corporation and is in good standing in the State of Idaho; has power under the laws of Main and Idaho and its charter and by-laws to enter into this Falling Water Contract and by proper corporate action has been duly authorized to execute and deliver this Falling Water Contract.

(b) No additional or further approval, consent or authorization of any governmental unit, public agency or authority not already obtained is required by the Idaho Power Company in connection with the execution of this Falling Water Contract, except those recognized in subsection (c) hereof.

(c) The power of the Idaho Power Company to enter into the transactions contemplated by this Falling Water Contract and to carry out its obligations hereunder with respect to the Falling Water Payments and Supplemental Falling Water Payments contemplated hereunder is subject to the obtaining, by the Idaho Power Company, of approvals by any and all state and Federal regulatory agencies having jurisdiction thereof, and the Idaho Power Company covenants that it will use its best efforts to obtain such approvals prior to the issuance of any of the Series 1976 Bonds or any Interim Notes.

(d) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best of the Idaho Power Company's knowledge and information, threatened against or affecting the Idaho Power Company, or, to the best of the Idaho Power Company's knowledge and information, any basis for any such action, suit, proceeding or investigation, wherein an unfavorable decision, ruling or finding would adversely affect the validity or enforceability of this Falling Water Contract.

(e) Neither the execution and delivery of this Falling Water Contract, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Falling Water Contract, conflict with or result in a breach of any of the terms, conditions or provisions or any corporate restriction or any agreement or instrument to which the Idaho Power Company is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any

nature whatsoever upon any of the property or assets of the Idaho Power Company under the terms of any instrument or agreement.

(f) The Idaho Power Company is able to and will obtain funds necessary for the construction of the Powerplant pursuant to the provisions of Article X hereof.

(g) Under date of April 25, 1975, the Idaho Power Company acknowledged acceptance of all of the provisions, terms and conditions of the License; that the License is in full force and effect, has not been rescinded or amended in any way; and, except with respect to the provisions of Articles 38, 43 and 45 hereof as to which an application for an extension of time has been filed with the Federal Power Commission, the Idaho Power Company is in compliance with all the provisions, terms and conditions of the License.

(h) That the Idaho Power Company shall commence construction of the Powerplant and complete construction of the project works described in the License within the period specified in the License or any amendment thereto.

(i) So long as any of the Bonds or Interim Notes are outstanding and unpaid, the Idaho Power Company will not acquire, on a permanent contractual basis, an additional amount of the water accruing to the active storage capacity in the Replacement Dam for the purpose of scheduled releases for generating electric energy, which together with the amount of active storage capacity presently owned by the Idaho Power Company under its Spaceholder Contract (2.6471%) would exceed eight per cent (8%) of the active storage capacity of the Replacement Dam.

ARTICLE III

Use of Falling Water

SECTION 3.1. *Falling Water Payments; Use of Falling Water.* Unless sooner terminated as provided in Section 4.11 hereof, and subject only to the issuance by the Constructing Agency of its Series 1976 Bonds as contemplated by Section 9.1 hereof, in consideration of the utilization by the Idaho Power Company of the Falling Water at the Powerplant for power generation within the limitations specified in the Government Contract, the Idaho Power Company shall pay the Falling Water Payments determined in accordance with the provisions of Article IX hereof directly to the Trustee for the account of the Constructing Agency, in lawful money of the United States, at the times as determined in Section 9.3 hereof and at the Trustee's address shown in the Indenture, or at such other place as the Trustee from time to time shall designate. The Falling Water Payments, pursuant to this Falling Water Contract, shall constitute the monetary return to the Constructing Agency to defray in part the Cost of Construction contemplated to be paid in the Act of December 28, 1973. So long as the Idaho Power Company is not in default under the provisions hereof, the Idaho Power Company shall be entitled to utilize, during the term of the License or any continuation or renewal thereof, the Falling Water in accordance with the provisions of the License, at the Powerplant for power generation in connection with the operation by the United States of the Replacement Dam, within the limitations specified in Articles 16 and 18 of the Government Contract. The Secretary has, by his approval of this Falling Water Contract, evidenced his consent to such utilization, provided, that such approval does not preclude the Secretary from making any recommendations or comments in respect to the License or any continuation or renewal thereof.

SECTION 3.2. *Trustee and Paying Agent Costs.* The Idaho Power Company shall pay to the Trustee annually at the same time as it pays the Installments of the Falling Water Payments that portion of the yearly fees, charges and expenses of the Trustee and any paying agent bank contemplated in Section 1002 of the Indenture as determined in accordance with the provisions of Article IX hereof.

SECTION 3.3. *Interest on Overdue Installments of Falling Water Payments.* In the event of the failure of the Idaho Power Company to pay all or any part of any Installment of the Falling Water

Payments, such overdue Installment or portion thereof shall bear interest at the rate of the lesser of eight per cent (8%) per annum or the maximum interest rate then permitted by Idaho law.

SECTION 3.4. *Supplemental Falling Water Payments.* (A) The Constructing Agency and the Idaho Power Company recognize that a higher investment quality rating for the Bonds will be obtained from the respective rating agencies by the Constructing Agency (resulting in a lower net interest cost on the Bonds), if the Idaho Power Company would agree to make to the Trustee on behalf of the Constructing Agency, Supplemental Falling Water Payments in the manner contemplated in this Section 3.4, in the event that Waterusers fail to execute Spaceholder Contracts thereby becoming Non-Participating Waterusers or in the event that Spaceholders to which Article 17 of the Government Contract applies default in the making of all or any part of a Spaceholder Payment. Accordingly, within seven (7) days after the occurrence thereof, the Constructing Agency, or the Trustee on behalf of the Constructing Agency, or the Contracting Officer, as the case may be, shall give notice to the Idaho Power Company, the Contracting Officer, the Constructing Agency, the Defaulted Spaceholder and the Non-Participating Wateruser as the case may be, in the manner provided in Section 14.6 hereof, of:

(1) any default by any Spaceholder to which Article 17 of the Government Contract applies under a Spaceholder Contract of its obligation to make all or any part of a Spaceholder Payment, or

(2) failure to receive all or any part of a Spaceholder Payment which would have been due with respect to the space of a Non-Participating Wateruser had the Non-Participating Wateruser executed a Spaceholder Contract.

(B) The Idaho Power Company shall make a Supplemental Falling Water Payment to the Trustee, within ten (10) days after the notice provided for in (A) of this Section 3.4 has been given, which shall be sufficient:

(1) to pay all Spaceholder Payments including penalties and interest, or any portion thereof, then in default and due under any Spaceholder Contract, and

(2) to pay all Spaceholder Payments, including penalties and interest, or any portion thereof, which would have been due and payable with respect to the space of a Non-Participating Wateruser had the Non-Participating Wateruser executed a Spaceholder Contract and defaulted on the Spaceholder Payments becoming due and payable thereunder, as contemplated in Article 17(b) of the Government Contract.

The Supplemental Falling Water Payments shall be made by the Idaho Power Company to the Trustee at the same place as the Constructing Agency would make such payments pursuant to the Spaceholder Contracts.

(C) The Trustee shall apply the Supplemental Falling Water Payments as follows:

(1) that portion of the Supplemental Falling Water Payment represented by Spaceholder Bond Payments attributable either to a Defaulted Spaceholder or to a Non-Participating Wateruser shall be applied to the payment of principal of and interest on the Bonds as the same become due and payable (such portion of the Supplemental Falling Water Payments shall be credited separate and apart from the obligation of the Idaho Power Company to make the Installments of Falling Water Payments);

(2) that portion of the Supplemental Falling Water Payment represented by Spaceholder Replacement Dam Operation and Maintenance Payments attributable either to a Defaulted Spaceholder or to a Non-Participating Wateruser shall be paid to the Contracting Officer to be accounted for in accordance with the applicable provisions of the Government Contract and of the Spaceholder Contracts; and

(3) that portion of the Supplemental Falling Water Payment represented by Spaceholder Water Quality Facilities Operation and Maintenance Payments attributable either to a Defaulted

Spaceholder or to a Non-Participating Wateruser shall be paid to the Constructing Agency to be accounted for in accordance with the applicable provisions of the Spaceholder Contracts and the Water Quality Facilities Agreement.

(D) As provided in Article 17(d) of the Government Contract, if by May 15 of each year in which the Idaho Power Company shall have made a Supplemental Falling Water Payment to the Trustee pursuant to this Section 3.4, the Contracting Officer has not repaid to the Idaho Power Company the amount of the Supplemental Falling Water Payment made by the Idaho Power Company in that year, plus interest at the lesser of eight per cent (8%) per annum or the maximum then permitted under Idaho law, the water accruing to the space of the Defaulted Spaceholders or Non-Participating Waterusers will be made available to the Idaho Power Company for power generation as provided in Section 3.5 hereof, pursuant to Article 18(b) of the Government Contract.

(E) If the use of space by any Non-Participating Wateruser is terminated as provided in Article 17 of the Government Contract or if any Spaceholder Contract is terminated as provided in Article 29 thereof, and a Spaceholder Contract providing for the disposition of such space shall have been executed, as contemplated in Article 17(e) of the Government Contract, the Idaho Power Company and the Trustee shall be notified by the Constructing Agency of the execution of such Spaceholder Contract. Whenever a Non-Participating Wateruser executes a Spaceholder Contract, the Idaho Power Company and the Trustee shall be notified by the Constructing Agency of the execution of such Spaceholder Contract. Upon the execution of any such Spaceholder Contract, the Idaho Power Company will make Supplemental Falling Water Payments with respect to a default pursuant to such Spaceholder Contract, as though such Spaceholder Contract were one of the Spaceholder Contracts initially executed by the Contracting Officer and the Constructing Agency and will treat such Spaceholder Contract as a Spaceholder Contract for all purposes of this Falling Water Contract.

SECTION 3.5. *Use by Idaho Power Company of Space of Defaulted Spaceholder or Non-Participating Wateruser.* The Idaho Power Company shall, subject to the limitations of Article 16 and Article 18 of the Government Contract, be entitled to schedule for release and to utilize for power generation at the Powerplant and at the downstream powerplants of the Idaho Power Company the water accruing to the storage space of a Defaulted Spaceholder or a Non-Participating Wateruser that is made available under the procedures of Article 17 of the Government Contract; provided, however, that any such water may be utilized only during the period of May 15 through December 31 of the year in which such water is made available and only under a schedule of release so that the quantity of such water released during the period of November 1 through December 31 without regard to other released water, will not result in releases of water at the Minidoka Dam and Reservoir in excess of the hydraulic capacity of the Minidoka Powerplant as it now exists or as it may be enlarged in the future.

The Idaho Power Company agrees to make the Supplemental Falling Water Payments contemplated herein, whether or not the Idaho Power Company actually uses the water for power generation during the period it has the right to use such water or whether or not any or all of such water is actually available in the Replacement Dam as a result of failure to completely fill the reservoir in the preceding storage seasons due to inadequate streamflow or as a result of the occurrence of any of the events described in Section 4.8 hereof.

SECTION 3.6. *Net Contract; Non-Terminability.* This is a "net contract," and the Falling Water Payments and the Supplemental Falling Water Payments required to be made hereunder or pursuant hereto by the Idaho Power Company shall be paid without notice (other than the notice contemplated by the second sentence of Section 3.4(A) hereof), or demand and without any offset, counterclaim, deduction, defense, abatement, suspension, deferment or diminution of any kind or for any reason.

SECTION 3.7. *Non-Termination of Falling Water Contract or Idaho Power Company Obligation.* This Falling Water Contract shall not terminate, nor shall the Idaho Power Company have any right to

terminate this Falling Water Contract or its obligations under this Falling Water Contract, or be entitled to the abatement, deferment or diminution of any Installment of the Falling Water Payments or of any of the Supplemental Falling Water Payments required to be made by the Idaho Power Company hereunder, nor shall the obligations of the Idaho Power Company be affected by reason of:

(A) any defect or impairment of the Constructing Agency's title to the Replacement Dam, or any portion thereof, during the construction of the American Falls Replacement Dam Program or the failure to complete substantially the construction of the Replacement Dam, the Related Facilities or the Water Quality Facilities;

(B) any defect or impairment of the Construction Agency's right to contract with the Idaho Power Company for the use of the Falling Water or to any right provided or intended to be provided by Constructing Agency to Idaho Power Company hereunder;

(C) the damage to or destruction of the Replacement Dam, the Water Quality Facilities or the Powerplant, or any portion thereof, by any cause, including without limitation, fire, earthquake, explosion, wind, hail or flood;

(D) the taking of the Replacement Dam or the Powerplant, or any portion thereof, or the use thereof, by any condemnation or other eminent domain proceeding;

(E) the prohibition, limitation or restriction on the construction, operation or maintenance of the Replacement Dam, the construction, operation or maintenance of the Water Quality Facilities, the construction, operation or maintenance of the Powerplant, or of the Idaho Power Company's rights hereunder to the utilization of the Falling Water at the Powerplant for power generation or the interference with the operation by the Idaho Power Company of the Powerplant or with any such right of use by any person;

(F) any eviction of the Construction Agency or the Idaho Power Company from the Replacement Dam or the Powerplant, or any portion thereof, by paramount title or otherwise or the loss of the License by the Idaho Power Company;

(G) any default on the part of the Constructing Agency under this Falling Water Contract, or under any other contract;

(H) any claim as a result of the transactions contemplated by the Indenture, the Spaceholder Contracts, the Government Contract, or of any other business dealings of the Constructing Agency or the Idaho Power Company;

(I) any mortgage, pledge, sale, assignment or transfer by the Idaho Power Company of the Powerplant or the use of the Falling Water, or any portion or portions thereof, or any portion of its rights under this Falling Water Contract, or under any contract;

(J) the impossibility or illegality of performance by any or all of the parties hereto, the parties to the Spaceholder Contracts, or the parties to the Government Contract;

(K) force majeure;

(L) any action or pending action of any court, administrative agency or other governmental authority;

(M) any order or decision of a court of competent jurisdiction, either state or Federal, which shall hold that the provisions of the Government Contract which provide for the disposition of the water accruing to the space of a Non-Participating Wateruser are invalid or in whole or in part unenforceable;

(N) any order of the Federal Power Commission pursuant to Article 48 of the License requiring the Idaho Power Company to pay annual charges for the purpose of recompensing the United States for the use, occupancy and enjoyment of the Replacement Dam; or

(O) any other cause, whether similar or dissimilar to the foregoing, any present or future law notwithstanding.

ARTICLE IV

GOVERNMENT CONTRACT

SECTION 4.1. *Plans for the Construction of the American Falls Replacement Dam Program.* Pursuant to the provisions of Article 10(a) of the Government Contract, the Constructing Agency is responsible for the preparation of the plans for the American Falls Replacement Dam Program. Such plans for the Replacement Dam shall be substantially in accordance with the construction plans for the Replacement Dam contemplated at the Engineering Review Session in San Francisco, California, on October 8 and 9, 1974, and shall provide, among other things, for the following:

(A) The construction of a Replacement Dam having:

(1) a reservoir with an active capacity of 1,700,000 acre-feet;

(2) a spillway, outlet works, and power penstocks capable of passing an approved design flood without exceeding a maximum water surface elevation of 4354.5 feet above mean sea level U.S.C.&G.S. datum;

(3) a two-lane highway on the crest of the Replacement Dam adequate to meet the then current United States Department of Transportation Standards for Federal-Aid Secondary Highway Two-Lane Traffic;

(4) appropriate controls of spillway, intake, and sluiceway gates for operation of the Replacement Dam in the event of an emergency at the Powerplant; and

(5) sufficient portions of the Existing Dam removed to permit evacuation of the total active capacity of the Replacement Dam at a satisfactory rate to permit full utilization of the storable water.

(B) The construction of the Related Facilities.

(C) The construction, operation, and maintenance of the Water Quality Facilities.

(D) The construction, operation, and maintenance of the Recreation and Fish and Wildlife Mitigation Facilities.

(E) Provision for the relocation or replacement of the residence occupied by the Falls Irrigation District's personnel. The plan for the construction of the Replacement Dam and the Powerplant shall be such as not to interfere with the Falls Irrigation District pumping plant, nor to destroy the Old Island Powerplant unless first approved by the Contracting Officer.

(F) A proposed Construction Work Schedule and a proposed Plan of Operation.

(G) Provision for power intake structures, power penstocks, and attachment facilities to the penstocks of the Powerplant with a precise boundary line between the Replacement Dam and the Powerplant.

(H) The two-lane highway bridge located immediately downstream from the Replacement Dam adequate to meet the then current United States Department of Transportation Standards for Federal-Aid Secondary Highway Two-Lane Traffic, pursuant to the agreement dated November 23, 1973, between the United States and the State of Idaho, and the agreement dated November 27, 1974, between the Constructing Agency and the State of Idaho, and which two-lane highway bridge shall be utilized to satisfy the requirements of Section 2(c) of the Act of December 28, 1973.

SECTION 4.2. *Permits for Construction.* The Constructing Agency, pursuant to Article 11(a) of the Government Contract, has obtained from the Contracting Officer such special use permits and will, in accordance with Article 11(c) and (d) of the Government Contract, secure title to all lands not owned by the United States, or such interest therein, and all permits and licenses which are required for the Construction Agency to construct the Replacement Dam, the Related Facilities and the Water Quality Facilities designated in the Plans, Designs and Specifications approved by the Contracting Officer, as contemplated in this Falling Water Contract and in the Government Contract. The Idaho Power Company hereby grants to the Constructing Agency such licenses, permits and easements over and through the lands of the Idaho Power Company adjacent to the Replacement Dam which are within the project area as defined in the License as shall be necessary for the Constructing Agency to construct the Replacement Dam, the Related Facilities and the Water Quality Facilities according to the Plans, Designs and Specifications approved by the Contracting Officer, as contemplated in this Falling Water Contract and in the Government Contract.

SECTION 4.3. *Approval of Designs and Specifications.* As provided in the Act of December 28, 1973, and the Government Contract, the Idaho Power Company acknowledges that construction of the Replacement Dam, of each of the Related Facilities and of the Water Quality Facilities shall not be initiated until the Contracting Officer has approved in writing the Plan of Operation, the Construction Work Schedule and the applicable portion of the Designs and Specifications. The Constructing Agency and the Idaho Power Company shall abide by such Designs and Specifications, the Plan of Operation and the Construction Work Schedule.

SECTION 4.4. *Operation of Replacement Dam During Construction.* As provided in Article 13 of the Government Contract, the United States shall continue to operate and maintain the Existing Dam during the construction of the Replacement Dam. The Contracting Officer shall coordinate the storage and release of water to facilitate the construction of the Replacement Dam under the approved Plan of Operation. Daily operations under the approved Plan of Operation shall be determined by the Contracting Officer after consultation with the Constructing Agency and the Idaho Power Company, taking into account weather conditions, anticipated peak floodflows, irrigation water requirements, and construction activities.

If the Contracting Officer determines that the construction of the Replacement Dam or the Powerplant is interfering with the operation of the Existing Dam contrary to the approved Plan of Operation, the Constructing Agency, or the Idaho Power Company, or both, upon notification, shall immediately modify construction to permit the Contracting Officer to operate the Existing Dam or the Replacement Dam, or both, as contemplated in the approved Plan of Operation.

The proposed Plan of Operation provides for the evacuation of stored water from the Existing Dam and the passing of inflow in lieu of storing. The Idaho Power Company has heretofore advised the Constructing Agency and the Contracting Officer that such operation is acceptable to the Idaho Power Company.

At such time during the construction of the Replacement Dam that water control at the Existing Dam is transferred to water control at the Replacement Dam, the United States shall assume operation of the facilities which control the storage and release of water through the Replacement Dam.

SECTION 4.5. *Title to Replacement Dam, Related Facilities and Water Quality Facilities in United States upon Completion.* The Act of December 28, 1973, and the Government Contract provide that the United States shall take title to the Replacement Dam, the Related Facilities, and the Water Quality Facilities upon the determination by the Secretary that construction is substantially complete. Such title shall remain in the United States until otherwise provided by Congress. Upon substantial completion of the construction of the Replacement Dam and the Related Facilities the United States will operate and maintain the Replacement Dam and the Related Facilities as part of the Minidoka Project for the beneficial use of the water on the land within the service areas of the Spaceholders pursuant to Section 8 of the Reclamation Act of June 17, 1902 (32 Stat. 388).

The Constructing Agency will execute such conveyances of title of the Replacement Dam, the Related Facilities, and the Water Quality Facilities as shall be necessary to vest title thereto in the United States, pursuant to the requirements of the Act of December 28, 1973, and the Government Contract. The Constructing Agency agrees that it will recognize, in any such instruments or conveyances of title to the Replacement Dam, the Related Facilities and the Water Quality Facilities, the continued right of the Idaho Power Company during the term of its License or any continuation or renewal thereof, to utilize the Falling Water at the Powerplant for power generation in accordance with the provisions of the License or any continuation or renewal thereof, within the limitations specified in the Government Contract, pursuant to Section 4 of the Act of December 28, 1973, and Articles 18(a) and (b) of the Government Contract, so long as the Idaho Power Company is not in default under the provisions of this Falling Water Contract. The Idaho Power Company recognizes that title to the Replacement Dam during the term of its License or any continuation or renewal thereof, shall be vested in the United States.

As provided in Article 14(d) of the Government Contract, upon the acceptance of the final transfer review memoranda, the correction of any construction deficiencies therein specified, the submission of the documents and equipment specified in Article 14(c) of the Government Contract and the giving of notice by the Secretary to the Constructing Agency, the Trustee and the Idaho Power Company, construction of the Replacement Dam, the Related Facilities and the Water Quality Facilities shall be deemed to have been completed. The determination of completion of construction by the Secretary in accordance with the applicable provisions of the Government Contract shall be binding upon the Idaho Power Company. The Idaho Power Company agrees to cooperate with the Constructing Agency, the Secretary and the Authorized Representatives in the furnishing of any or all of the documents or copies thereof and equipment set forth in Article 14(c) of the Government Contract as shall be necessary to aid in the determination of the Secretary that construction of the Replacement Dam, the Related Facilities and the Water Quality Facilities is complete.

SECTION 4.6. *Operation and Maintenance of Replacement Dam by United States.* The Idaho Power Company agrees to the provisions of the Government Contract governing operation and maintenance of the Replacement Dam. The following Articles of the Government Contract are incorporated herein and made a part hereof as follows:

(A) Article 16 which reads:

The Replacement Dam will be operated by the United States in a manner so that (1) the present proportionate storage rights of the Spaceholders shall not be altered or changed except as provided herein and in the Spaceholder Contracts, (2) the water surface elevation of the Replacement Dam shall not exceed a maximum of 4354.5 feet above mean sea level U.S.C. & G.S. datum, and (3) the primary irrigation purpose and the incidental purposes of the Minidoka Project shall not be impaired by the subordinate utilization for power generation at the Powerplant of the water released from the Replacement Dam. The United States is not obligated to operate the Replacement Dam in a manner to have water in the Replacement Dam at elevations for power generation or to operate to increase the head in the Replacement Dam for power generation.

(B) Article 18(d) which reads:

In the event that the Contracting Officer determines that the water being released from the Replacement Dam through the Powerplant does not meet the amended State of Idaho water quality dissolved oxygen standard, as approved on April 17, 1975, by the United States Environmental Protection Agency, the Contracting Officer, after oral notice to the Idaho Power Company's American Falls Powerplant Chief Operator, may bypass part or all of such water around the Powerplant until satisfactory arrangements are made to meet such standard. The Contracting Officer in such circumstances will attempt to bypass only the amounts of water necessary to meet such standard. As contemplated in the Water Quality Facilities Agreement the Constructing Agency, the Contracting Officer, and the Idaho Power Company shall develop

operating criteria for the Water Quality Facilities and following mutual agreement on such criteria, the operation of the Water Quality Facilities or the bypassing of the water which is being released from the Replacement Dam around the Powerplant, or both, shall be in accordance with such criteria.

(C) Article 18(e) which reads:

The entitlement of the Idaho Power Company to utilize for power generation at the Powerplant the water released from the Replacement Dam under the provisions of this Article is subject at all times to scheduled interruptions for inspections, maintenance, and repairs of the Replacement Dam and at all times for any emergency operating situations relating to the Replacement Dam. In any such event, the Contracting Officer, in cooperation with the Constructing Agency and the Idaho Power Company, will endeavor to correct expeditiously such situations to permit the utilization for power generation at the Powerplant of the water released from the Replacement Dam.

(D) Article 18(f) which reads:

The Contracting Officer during the period that water is being released from the Replacement Dam for irrigation use by the Spaceholders, will provide to the Idaho Power Company from time to time schedules of anticipated water releases from the Replacement Dam in such form and detail as shall be mutually determined from time to time between the Contracting Officer and the Idaho Power Company and the Idaho Power Company will provide to the Contracting Officer its schedule of the amount of such releases anticipated by the Idaho Power Company to be used for power generation at the Powerplant. In the event the Idaho Power Company changes its schedule or in the event of an emergency, the Idaho Power Company shall promptly inform the Contracting Officer, so that the Contracting Officer can cause appropriate adjustments to be made in the outlet gates of the Replacement Dam. The providing to the Idaho Power Company by the Contracting Officer of schedules of anticipated water releases in no way guarantees that such schedules will be followed and the right to utilize the water released from the Replacement Dam for power generation at the Powerplant is subject to the provisions hereof, particularly to the limitation that the water releases from the Replacement Dam are to be determined at all times by the Contracting Officer. The Idaho Power Company, however, shall retain the right to schedule its stored water under its Spaceholder Contract and the water available to the Idaho Power Company, if any, under the provisions and limitations of (b) of this Article and schedules for the release of such water shall be provided by the Idaho Power Company.

(E) Article 22(a) which reads:

The Contracting Officer, after an opportunity has been offered to the Constructing Agency for consultation, shall have the right to make rules and regulations consistent with the provisions of this Government Contract and the laws of the United States, to add to or to modify such rules and regulations as may be deemed proper and necessary to carry out this Government Contract, and to supply necessary details of its administration which are not covered by express provisions hereof. Such rules and regulations shall (i) not limit the right of the Idaho Power Company, pursuant to the provisions of the Falling Water Contract, to utilize for power generation at the Powerplant the water released from the Replacement Dam so long as the Idaho Power Company is not in default thereunder, (ii) not limit the right of any Spaceholder to the stored water pursuant to the provisions of a Spaceholder Contract so long as the Spaceholder is not in default thereunder, or (iii) not limit the right of the Constructing Agency under the laws of the State of Idaho to collect the Falling Water Payments or the Supplemental Falling Water Payments under the Falling Water Contract or the payments due to the Constructing Agency from the Spaceholders under the Spaceholder Contracts. The Constructing Agency shall observe such rules and regulations.

SECTION 4.7. *Operation of Water Quality Facilities.* The Water Quality Facilities shall be operated and maintained in accordance with the provisions of the Water Quality Facilities Agreement as the same may be from time to time amended. The Constructing Agency shall notify the Administrator, Environmental Services Division, Idaho Department of Health and Welfare, when construction of the Replacement Dam has been commenced. The Constructing Agency shall notify the Regional Administrator, U. S. Environmental Protection Agency, Region X, upon receipt of the notice from the Contracting Officer pursuant to Section 14(d) of the Government Contract, that construction of the Replacement Dam, the Related Facilities, and the Water Quality Facilities has been completed.

SECTION 4.8. *No Liability for Water Shortage or Interruption.* No liability shall accrue against the United States or any of its officers, agents, or employees, or against the Constructing Agency, for damage, direct or indirect, arising by reason of shortages in the quantity of water available through the Existing Dam or the Replacement Dam or interruptions in water releases resulting from drought, inaccuracy in distribution, hostile diversion, prior or superior claims, accident to or failure of the Existing Dam or the Replacement Dam, or the bypassing of water around the Powerplant pursuant to Article 18(d) of the Government Contract, whether or not attributable to negligence of the officers, agents, or employees of the United States or the Constructing Agency, or other causes of whatsoever kind; nor shall the obligations of the Idaho Power Company to the Constructing Agency under this Falling Water Contract be reduced by reason of such shortages or interruptions.

SECTION 4.9. *Idaho Power Company Spaceholder Contract.* The Idaho Power Company's rights, duties and obligations as a Spaceholder are governed exclusively by the Spaceholder Contract of even date herewith entered into among the United States, the Constructing Agency, and the Idaho Power Company, and not by the terms and conditions of this Falling Water Contract, except as provided in Section 2.3(i) hereof.

SECTION 4.10. *Suspension or Termination of Use of Falling Water by Idaho Power Company upon Default.* In the event of the failure of the Idaho Power Company to pay when due all or any part of any Installment of the Falling Water Payments or any Supplemental Falling Water Payment as contemplated in this Falling Water Contract, the Trustee, on behalf of the Constructing Agency, or the Constructing Agency, shall request the Contracting Officer to take such steps pursuant to Article 18(c) of the Government Contract as shall be necessary to suspend all rights of the Idaho Power Company to the use of the Falling Water or any water accruing to the storage space of a Defaulted Spaceholder or of a Non-Participating Wateruser. The Secretary has, by his approval of this Falling Water Contract, acknowledged his duty, upon request of the Trustee on behalf of the Constructing Agency, or the Constructing Agency, to implement, or to cause to be implemented, the provisions of this Falling Water Contract and of the Government Contract which provide for the suspension or termination of the Idaho Power Company's right to the use of the Falling Water or water accruing to the storage space of a Defaulted Spaceholder or of a Non-Participating Wateruser.

SECTION 4.11. *Termination of Government Contract and Falling Water Contract.* The Constructing Agency will not, during the Original Term or any Renewal Term, consent to the termination of the Government Contract pursuant to Article 9(b) of the Government Contract, so long as the Idaho Power Company is not in default under any of the provisions of this Falling Water Contract and so long as the License or any continuation or renewal thereof is in full force and effect.

The Constructing Agency shall promptly advise the Idaho Power Company of the receipt of notice of termination of the Government Contract given pursuant to the provisions of Article 9(c) of the Government Contract, in which event this Falling Water Contract shall be deemed to have been terminated unless within 60 days after the giving of such notice by the Contracting Officer, the Constructing Agency has contracted to sell the Series 1976 Bonds or Interim Notes to construct or equip the Replacement Dam.

Either the Constructing Agency or the Idaho Power Company may terminate this Falling Water Contract after April 1, 1977, by the giving of notice to the other, unless prior to the giving of such

notice or within 60 days after the giving of such notice by the Idaho Power Company the Constructing Agency has contracted to sell the Series 1976 Bonds or Interim Notes to construct or equip the Replacement Dam.

ARTICLE V

Federal Power Commission License

Section 5.1. *Federal Power Commission License.* The Idaho Power Company has received a fifty (50) year License from the Federal Power Commission for the construction, operation, and maintenance by the Idaho Power Company of the Powerplant attached to the Replacement Dam, which License was initially conditioned upon commencement of construction of the Powerplant within two years from the effective date of the License, and completion within four years from the effective date of the License.

Section 5.2. *Documents Filed with Federal Power Commission.* The Idaho Power Company shall promptly file with the Federal Power Commission an executed copy of this Falling Water Contract, together with executed copies of all other contracts and documents required to be so filed in Article 36 of the License.

Section 5.3. *Compliance with License.* The Idaho Power Company shall comply with the provisions of the License and with the license for Project 2258 so long as the same shall be in full force and effect.

Section 5.4. *Notice of Amendment to License.* The Idaho Power Company shall give notice to the Contracting Officer and the Constructing Agency of any amendments to the License within 30 days after the effective date of any such amendment.

Section 5.5. *Failure to Renew License.* If after the expiration of the initial term of the License the Federal Power Commission fails to issue a renewal license to the Idaho Power Company, the Idaho Power Company and the Constructing Agency hereto will make all reasonable efforts to have the Federal Power Commission require as a condition to the granting of a license to a party other than the Idaho Power Company that (A) the new licensee shall pay the net investment of the Idaho Power Company in the Powerplant and such other amounts as are then permitted by law, plus reasonable severance damages of the Idaho Power Company, if any, and (B) the new licensee shall assume all contracts of the Idaho Power Company relating to the Powerplant.

ARTICLE VI

Authorized Representatives

Section 6.1. *Authorized Representatives.* Recognizing the need to coordinate the construction of the Powerplant with the construction of the American Falls Replacement Dam Program, the interests of the Spaceholders in effecting construction cost savings which will result in minimizing their Spaceholder Bond Payments, and as a means of securing effective cooperation between the Constructing Agency and the Contracting Officer, and among the Constructing Agency, the Idaho Power Company and the Spaceholders in resolving, on a prompt and orderly basis, the various administrative, technical, financing, construction, ownership and operating issues which may arise in connection with the performance of this Falling Water Contract, the Spaceholder Contracts, and the Water Quality Facilities Agreement, the Constructing Agency, the Idaho Power Company and the Spaceholders shall each name an Authorized Representative.

There shall be three Authorized Representatives, consisting of the Authorized Company Representative designated by the Idaho Power Company, the Authorized Constructing Agency Representative designated by the Constructing Agency and the Authorized Spaceholder Representative designated by the Spaceholders, in the manner provided in the Spaceholder Contracts. Each Authorized Representative

shall be authorized by the party or parties by whom he is designated to act on their behalf with respect to those matters herein provided to be responsibilities of the Authorized Representatives.

The Constructing Agency and the Idaho Power Company shall promptly notify each other and the Contracting Officer of the designation of their Authorized Representatives and of any subsequent changes in such designation. As provided in the Spaceholder Contracts, the Contracting Officer, the Idaho Power Company and the Constructing Agency shall be advised promptly of the designation of the Authorized Spaceholder Representative.

The Constructing Agency, the Idaho Power Company and the Spaceholders shall each have the power to appoint an alternate Authorized Representative.

SECTION 6.2. *Responsibilities of Authorized Representatives.* (A) The responsibilities of the Authorized Representatives prior to the Completion Date shall be:

(1) to approve the award of any construction or equipment contract in connection with the American Falls Replacement Dam Program;

(2) to establish general policies to be followed in the administration of this Falling Water Contract, in the construction of the American Falls Replacement Dam Program as it relates to this Falling Water Contract, and, to the extent such policies are relevant to the subject matter of this Falling Water Contract, in the construction of the Powerplant;

(3) to establish general policies and practices to be followed in the administration and coordination of the construction of the Powerplant with the construction of the Replacement Dam;

(4) to consult with the Contracting Officer concerning any policies which might hereafter be required among the Constructing Agency, the Idaho Power Company, the Spaceholders, and the Contracting Officer, or any of them, concerning the construction of the American Falls Replacement Dam Program or the construction of the Powerplant;

(5) to establish procedures for consultation with respect to notices received by the Constructing Agency from the Contracting Officer under Article 12(d) of the Government Contract; and

(6) to do such other things as are specifically assigned to the Authorized Representatives during the Construction Period.

(B) The responsibilities of the Authorized Representatives after the Completion Date shall be limited to:

(1) matters pertaining to the collection and payment of the Spaceholder Bond Payments, the Spaceholder Water Quality Facilities Operation and Maintenance Payments, the Falling Water Payments and the Supplemental Falling Water Payments, to the extent necessary;

(2) consultation concerning any policies which might hereafter be required among the Contracting Officer, the Constructing Agency, the Idaho Power Company and the Spaceholders, or any of them, concerning operation and maintenance of the Water Quality Facilities and payment of the costs thereof as provided in the Spaceholder Contracts and the Water Quality Facilities Agreement; and

(3) collection of and payment by the Idaho Power Company and the Spaceholders of the fees, charges and expenses of the Trustee and any paying agent bank contemplated in Section 1002 of the Indenture.

SECTION 6.3. *Procedures of Authorized Representatives.* The establishment of any procedure or practice and any other action or determination by the Authorized Representatives shall be made by unanimous agreement to become effective when signed by each of the Authorized Representatives. The Authorized Representatives shall have no authority to modify any of the provisions of this Falling Water

Contract, the Spaceholder Contracts, the Government Contract, or the Water Quality Facilities Agreement, nor shall they establish policies, rules, or regulations which are not in accordance with policies, rules, or regulations established by the Contracting Officer with respect to the construction of the American Falls Replacement Dam Program or the operation and maintenance of the Replacement Dam, the Related Facilities or the Water Quality Facilities, or which conflict with the approved Plan of Construction, the Plan of Operation or the Designs and Specifications.

SECTION 6.4. *Continued Responsibility of Constructing Agency.* With respect to all matters contemplated in Article IX hereof, the Constructing Agency shall consult with the Authorized Representatives in connection with the issuance of the Series 1976 Bonds, however, the Constructing Agency shall at all times comply with the State Act in the performance of its duties contemplated hereunder in connection with the issuance of the Series 1976 Bonds.

The Constructing Agency shall conform to any public bidding requirements applicable to it in connection with the construction of the American Falls Replacement Dam Program.

If, at any time, it is determined by a court of competent jurisdiction that any responsibilities assigned to the Authorized Representatives under the provisions of this Falling Water Contract constitute an undue delegation of power of the Constructing Agency, action shall be taken by the Constructing Agency, the Idaho Power Company and the Spaceholders in order to comply with the court determination and, if legally permissible and desirable under the determination of the court the Constructing Agency shall be substituted for the Authorized Representative appointed by the Constructing Agency.

ARTICLE VII

COORDINATION OF CONSTRUCTION OF REPLACEMENT DAM AND POWERPLANT AND ASSIGNMENT OF CONSTRUCTION COSTS

SECTION 7.1. *Coordination of Construction of Powerplant with Construction of Replacement Dam.* Pursuant to the provisions of Section 4 of the Act of December 28, 1973, the construction of the Powerplant by the Idaho Power Company shall be such that it is coordinated with the construction of the Replacement Dam pursuant to the approved Plan of Construction, Plan of Operation and the Designs and Specifications. To this end the Constructing Agency and the Idaho Power Company shall, at the earliest possible date after the execution hereof and to the extent not theretofore approved, cooperate one with the other in the submission by the Constructing Agency to the Contracting Officer for approval of the Plan of Construction and the Construction Work Schedule to the extent necessary to provide for the coordination of construction of the Powerplant with the construction of the Replacement Dam.

SECTION 7.2. *Constructing Agency in Owner Capacity during Construction.* The Constructing Agency, in accordance with the provisions of the Act of December 28, 1973, and the Government Contract, shall act in the capacity of owner of the Replacement Dam, the Related Facilities and the Water Quality Facilities during the Construction Period and in such capacity shall have and exercise all ownership responsibilities with respect thereto, except as provided by Article 13(c) of the Government Contract, until the United States shall take title thereto as contemplated in Article 14 of the Government Contract.

SECTION 7.3. *Construction Engineer.* During the Construction Period and the period of construction of the Powerplant the Constructing Agency and the Idaho Power Company shall each retain on a continuous basis as a construction engineer, an Independent Engineer of national reputation, recognized for knowledge, skill and experience in the design and construction of major dams and hydroelectric facilities, except that in lieu of an Independent Engineer Idaho Power Company may use its own engineering staff for such purpose.

SECTION 7.4. *Books and Records; Federal Power Commission Requirement.* The Authorized Representatives shall administer the maintenance and preservation, by the Constructing Agency of appropriate records and books of account, containing detailed entries of the Cost of Construction and, where

applicable to the construction of the American Falls Replacement Dam Program, of appropriate records and books of account of the Idaho Power Company containing detailed entries of all costs of engineering, financing and constructing the Powerplant. Accounting for all of such costs shall be in accordance with the requirements of the Federal Power Act, if any, and the requirements of the Federal Power Commission (presently FPC Form No. 6), as such requirements may be modified by the Federal Power Commission from time to time. The basic records and documents shall be made available to the Authorized Representatives, to the Contracting Officer, and to the Federal Power Commission for inspection during regular business hours upon reasonable notice and request therefor.

SECTION 7.5. *Assignment of Facilities of the American Falls Replacement Dam Program.* The Constructing Agency shall be responsible for the Cost of Construction of the American Falls Replacement Dam Program. In order to assist in the coordination of the construction of the Powerplant with the construction of the American Falls Replacement Dam Program and with particular reference to the determination of respective cost responsibilities as between the Constructing Agency and the Idaho Power Company, the Cost of Construction of the American Falls Replacement Dam Program shall be assigned and prorated as provided in Section 7.9 hereof to the following generally described items:

(A) Land and Land Rights.

(B) Structures and Improvements (Recreational Facilities, Fish and Wildlife Facilities only).

(C) Reservoirs, Dams and Waterways, including penstock gates and facilities on the upstream side of the Replacement Dam and the penstock extending through the Replacement Dam to the boundary line on the downstream face of the Replacement Dam.

(D) Roads, Railroads and Bridges.

SECTION 7.6. *Assignment of Powerplant Facilities.* The Idaho Power Company shall be responsible for the cost of construction of the Powerplant as contemplated in this Falling Water Contract. In order to assist in the coordination of the construction of the Powerplant with the construction of the American Falls Replacement Dam Program and with particular reference to the determination of the respective cost responsibilities as between the Constructing Agency and the Idaho Power Company, the cost of construction of the Powerplant shall be assigned and prorated as provided in Section 7.9 hereof to the following generally described Federal Power Commission Accounts in effect on January 1, 1970, as related to hydraulic production plant:

No. 300—Land and Land Rights

No. 331—Structures and Improvements (all except Recreational Facilities and Fish and Wildlife Facilities).

No. 332—Reservoirs, Dams and Waterways (only penstock and waterways downstream from the boundary line on the downstream face of the Replacement Dam).

No. 333—Waterwheels, Turbines and Generators.

No. 334—Accessory Electric Equipment, including control to intake and sluice gates.

No. 335—Miscellaneous Powerplant Equipment.

No. 397—Communication Equipment.

SECTION 7.7. *Completion Audits.* Within ninety (90) days after the Completion Date, the Authorized Representatives shall be supplied by the Constructing Agency with an audit of the Construction Fund and by the Idaho Power Company an audit of construction accounts established by the Idaho Power Company in connection with the construction of the Powerplant. The cost of the audit of the Construction Fund shall be included by the Constructing Agency as a Cost of Construction. The Idaho Power Company shall be responsible for the cost of the audit of the construction accounts established in connection with the construction of the Powerplant. Each such audit shall be made by a firm of independent certified public accountants, licensed, registered and entitled to practice as such

under the laws of the State of Idaho. A copy of each audit showing the Cost of Construction of the American Falls Replacement Dam Program and the costs of construction of the Powerplant, in reasonable detail, and the amount each party has theretofore paid for such purposes, shall be furnished promptly to the Constructing Agency, the Idaho Power Company, the Trustee, the Contracting Officer, and the Spaceholders.

SECTION 7.8. *Ownership of Powerplant.* At all times mentioned herein and after the construction of the Powerplant by the Idaho Power Company, the ownership of the Powerplant shall be in the Idaho Power Company in accordance with the provisions of the License.

SECTION 7.9. *Initial Assignment of Cost Responsibilities.* At the earliest practical date after the Designs and Specifications are approved by the Contracting Officer and after the final designs and specifications for the Powerplant are available, the Authorized Representatives, in consultation with the Independent Engineers, shall identify and assign to the Constructing Agency or to the Idaho Power Company by the cost accounts described in Section 7.4 hereof, the following:

(A) the work items and quantities of materials and excavation which are identifiable as related solely to the construction of the American Falls Replacement Dam Program or to the construction of the Powerplant, and

(B) the work items and quantities of materials and excavation which are so related both to the construction of the American Falls Replacement Dam Program and the construction of the Powerplant as not to be separately identifiable.

The assignment under (B) shall be to the Constructing Agency and the Idaho Power Company in accordance with criteria mutually agreed to by the Authorized Representatives. Such criteria shall be based on the ratio of cost savings to be derived from the particular item either by the function of the Replacement Dam or by the function of the Powerplant, if determinable, otherwise equally. The initial assignment of cost responsibilities shall be reduced to writing and copies shall be supplied to the Constructing Agency, the Idaho Power Company, the Contracting Officer, and the Authorized Spaceholder Representative. Such assignment of cost responsibilities for the American Falls Replacement Dam Program shall not be construed as an allocation of such costs for other than the primary irrigation purpose and the incidental purposes of the Minidoka Project.

SECTION 7.10. *Final Assignment of Cost Responsibilities.* Upon receipt from the Secretary of the notice of completion of construction of the Replacement Dam, the Related Facilities, and the Water Quality Facilities as provided for in Article 14(d) of the Government Contract, the Authorized Representatives, in consultation with the Independent Engineer, shall review the initial assignment of cost responsibilities, modify the same to conform to the actual work items and quantities of materials and excavation in accordance with the criteria previously established pursuant to Article 7.9 hereof, compute the actual Cost of Construction of the American Falls Replacement Dam Program which is the responsibility of the Constructing Agency, and to the extent applicable, the actual cost of construction of the Powerplant which is the responsibility of the Idaho Power Company. The review and modification shall also take into account any sums required to be paid by or to the Constructing Agency pursuant to Section 4 of that certain agreement dated November 27, 1974, between the Constructing Agency and the State of Idaho providing for the two-lane highway on the crest of the Replacement Dam and the two-lane highway bridge located immediately downstream from the Replacement Dam. This final assignment of cost responsibilities shall be reduced to writing and copies supplied to the Constructing Agency, the Idaho Power Company, the Contracting Officer, and the Authorized Spaceholder Representative.

After completion of the above required computation, the Authorized Representatives shall give notice to the Constructing Agency of any then unreimbursed costs which were incurred by the Idaho Power Company and which are assigned pursuant to the final assignment of cost responsibilities, in

whole or in part, to the Constructing Agency. The Constructing Agency shall thereupon reimburse the Idaho Power Company from the Construction Fund for such costs as are itemized in the notice.

After completion of the above required computation, the Authorized Representatives shall give notice to the Idaho Power Company of any then unreimbursed costs which were incurred by the Constructing Agency and which are assigned pursuant to the final assignment of cost responsibilities, in whole or in part, to the Idaho Power Company. The Idaho Power Company shall thereupon reimburse the Constructing Agency for such costs as are itemized in the notice. Any such reimbursement shall be deposited into the Construction Fund.

SECTION 7.11. *Arbitration.* Any controversy or claim arising out of or relating to any assignment of cost responsibilities pursuant to this Article VII shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be introduced in any court having jurisdiction thereof.

ARTICLE VIII

ENGINEERING, FINANCING AND CONSTRUCTION OF AMERICAN FALLS REPLACEMENT DAM PROGRAM

SECTION 8.1. *Cost Estimates; Plans, Designs and Specifications.* The Constructing Agency shall arrange for the preparation of the Plans, Designs and Specifications for submission to the Contracting Officer. The Constructing Agency and the Idaho Power Company shall obtain cost estimates on the Designs and Specifications based on the initial assignment of cost responsibilities determined as provided in Section 7.9 hereof, together with such other costs and estimates as are necessary for the Constructing Agency and the Idaho Power Company to make such filings and obtain such approvals, consents and authorizations as may be necessary from any governmental unit, public agency or authority in connection with the construction of the American Falls Replacement Dam Program and the construction, operation, and maintenance of the Powerplant.

SECTION 8.2. *Approval of Plans, Designs and Specifications.* Pursuant to Article 10(b) of the Government Contract, the Constructing Agency is responsible for the preparation of Designs and Specifications for the American Falls Replacement Dam Program. As a condition precedent to the approval of the final Designs and Specifications for the construction of the Replacement Dam, the Constructing Agency must have submitted to, and received written approval from the Contracting Officer of, a Plan of Operation and the Construction Work Schedule. Final Designs and Specifications for any facility to be constructed or acquired as part of the American Falls Replacement Dam Program may not be issued by the Constructing Agency until the Contracting Officer has provided written approval thereof. The procedure for obtaining approval of the final Designs and Specifications which have not been approved prior to the execution of the Government Contract, is as set forth in Article 10(b) of the Government Contract.

SECTION 8.3. *Issuance of Designs and Specifications; Construction Bids; Cost Estimates.* Upon receipt by the Constructing Agency of the written approvals of the various Designs and Specifications by the Contracting Officer, the Constructing Agency shall issue specifications for the construction of the American Falls Replacement Dam Program and shall, in the manner then required by law, advertise for the submission of bids for the construction of the American Falls Replacement Dam Program. As contemplated in Section 10.1 hereof, the Idaho Power Company shall also request bids for construction of the Powerplant in accordance with its standard procedures. If mutually acceptable to the Constructing Agency and the Idaho Power Company, to the extent permitted by law, joint bidding for the construction of the Replacement Dam and the construction of the Powerplant shall be undertaken. After receipt of bids for the construction of the American Falls Replacement Dam Program and for the construction of the Powerplant by the respective parties hereto, but prior to the sale of the Series 1976 Bonds, the Authorized Representatives shall cause a final estimate of the Cost of Construction of the American

Falls Replacement Dam Program and a final estimate of the cost of construction of the Powerplant to be prepared. Included in the aforesaid final cost estimate shall be a separate identifiable estimate of the cost of the Water Quality Facilities to be included in the American Falls Replacement Dam Program.

After preparation of the final cost estimate for the American Falls Replacement Dam Program, the Authorized Representatives shall prepare a schedule setting forth the obligation of the Idaho Power Company, of each Spaceholder and, to the extent applicable, attributable to the space of each Non-Participating Wateruser, to share in the estimated Cost of Construction of the American Falls Replacement Dam Program[1]. The schedule shall be approved by the Constructing Agency and shall be filed with the Idaho Power Company, the Contracting Officer and each Spaceholder.

The Authorized Representatives shall next determine (A) the amount of money representing prepayments of Spaceholder obligations under Article 23 of the Spaceholder Contracts which should be transferred from the Prepayment Fund to the Construction Fund and (B) the amount of the Series 1976 Bonds which should be issued and the amount of the proceeds thereof deposited into the Construction Fund in order to pay the Cost of Construction. The Authorized Representatives shall thereafter recommend to the Constructing Agency the amount of the Series 1976 Bonds which should be issued.

After the Constructing Agency has determined the amount of the Series 1976 Bonds to be issued as contemplated in Section 9.3 hereof, the Authorized Representatives shall make any necessary adjustments in the schedules above contemplated to be made and shall thereupon give notice to the Contracting Officer, in accordance with Article 15(a) of the Michaud Division, Fort Hall Indian Reservation Spaceholder Contract, of the payments which will be due thereunder. The Constructing Agency shall, on or prior to the date of delivery of the Series 1976 Bonds, transfer from the Prepayment Fund to the Construction Fund the amount above computed by the Authorized Representatives which is attributable to Spaceholders prepayments.

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[1] (A) The obligation of the Idaho Power Company to share in the estimated cost of the American Falls Replacement Dam Program shall be equal to the sum of:

(1) $19,550,000,

(2) the estimated cost of the Water Quality Facilities determined under the provisions of this Section 8.3, and

(3) .486405 (see Section 9.7 hereof) times the amount by which the total estimated cost of the American Falls Replacement Dam Program exceeds $38,000,000.

(B) The obligation of each Spaceholder and, to the extent applicable, attributable to the space of each Non-Participating Wateruser, to share in the estimated cost of the American Falls Replacement Dam Program shall be computed in accordance with the following formula:

where:

SP = the Waterusers share of the estimated cost of the American Falls Replacement Dam Program

p = a Wateruser's percentage of total space

C = $38,000,000, less $19,550,000 and the estimated cost of Water Quality Facilities

A = the estimated cost of American Falls Replacement Dam Program over $38,000,000

B = Idaho Power Company's share of the estimated cost of the American Falls Replacement Dam Program over $38,000,000

then:

$$SP = p\,(C + (A - B))$$

SECTION 8.4. *Cost of Construction.* The Cost of Construction of the American Falls Replacement Dam Program shall consist of:

(A) payment of principal of and interest on outstanding Interim Notes, if any, issued by the Constructing Agency pursuant to the authority contained in the State Act, and

(B) payments made under Section 602 of the Indenture for:

(1) payment of the initial or acceptance fee of the Trustee;

(2) payment to the Constructing Agency, Waterusers, or Idaho Power Company, as the cast may be, of such amounts, if any, as shall be necessary to reimburse the Constructing Agency, Waterusers, or the Idaho Power Company in full for advances and payments made or costs incurred by them or any of them, prior to or after the execution of this Falling Water Contract, for expenditures in connection with the construction of the American Falls Replacement Dam Program, including, but not limited to preparation of the Plans, Designs and Specifications and review thereof by the Contracting Officer;

(3) all costs representing interest on advancements made in connection with the construction of the American Falls Replacement Dam Program prior to the sale of the Series 1976 Bonds;

(4) payments to the Contracting Officer for costs incurred in reviewing the Plans, Designs, Specifications and for costs incurred pursuant to Article 20(a) of the Government Contract in reviewing the construction of the American Falls Replacement Dam Program; costs for the obtaining of any insurance policy or policies by the Constructing Agency during the Construction Period; and costs related to the obtaining of all real and personal properties deemed necessary in connection with the construction of the American Falls Replacement Dam Program by the Constructing Agency, or any one or more of said expenditures;

(5) payment for labor, services, materials and supplies used or furnished in site improvement and in the construction of the American Falls Replacement Dam Program, all as provided in the Plans, Designs and Specifications, payment for the cost of the construction, acquisition and installation of utility services or other facilities, and all real and personal property deemed necessary in connection with the construction of the American Falls Replacement Dam Program and payment for the miscellaneous expenses incidental to any thereof, including the premium on any surety bond;

(6) payment of sums due to the State of Idaho pursuant to that certain agreement dated November 27, 1974, between the Constructing Agency and the State of Idaho providing for the two-lane highway on the crest of the Replacement Dam and the two-lane highway bridge located immediately downstream from the Replacement Dam;

(7) payment of the sums contemplated in Sections 1 and 3 of that certain agreement dated July 2, 1974, between the Constructing Agency and the Idaho Fish and Game Department with respect to the Recreation and Fish and Wildlife Mitigation Facilities;

(8) payment of audit fees and expenses for maintenance of records required to be kept hereunder, and of the fees, if any, for architectural, engineering and supervisory services with respect to the construction of the American Falls Replacement Dam Program;

(9) compensation to be paid to the Authorized Constructing Agency Representative and the Authorized Spaceholder Representative in connection with the performance of their duties and the reimbursement of their expenses incurred in connection with such duties;

(10) payment of expenses incurred in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to the construction of the American Falls Replacement Dam Program;

(11) payment of costs of issuance of the Bonds, and Interim Notes, any necessary litigation and confirmation proceedings, and the obtaining of all necessary permits and rulings;

(12) payment of the legal, accounting and underwriting fees and expenses and printing and engraving costs, including fees of rating agencies, incurred in connection with the authorization, sale and issuance of the Bonds and Interim Notes, the preparation of this Falling Water Contract, the Government Contract, the Spaceholder Contracts, the Water Quality Facilities Agreement, and the Indenture;

(13) payments required to be made pursuant to Article 17(g) of the Government Contract; and

(14) payment of any other costs and expenses relating to the construction of the American Falls Replacement Dam Program which would constitute a cost or expense for which moneys in the Construction Fund may be used under the Act of December 28, 1973, the State Act and the Indenture, including fees and expenses of the Trustee during the Construction Period.

SECTION 8.5. *Award or Rejection of Construction Bids.* If, in accordance with Section 8.3 hereof, joint bidding for the construction of the Replacement Dam and the construction of the Powerplant is undertaken by the Constructing Agency and the Idaho Power Company, each of the Authorized Representatives must concur in the award of any contract for construction or the purchase of equipment. If separate construction contracts are to be entered into for the construction of the Replacement Dam and the construction of the Powerplant, each of the Authorized Representatives must concur in the award of the contract for the construction of the Replacement Dam and in the award of the contracts for the purchase of equipment for the Replacement Dam; however the Authorized Constructing Agency Representative and the Authorized Spaceholder Representative need not concur in the award of contracts for the construction and equipping of the Powerplant. Nothing contained in this Falling Water Contract shall prevent the Board from exercising its discretion and rejecting any and all bids pertaining to the construction of the American Falls Replacement Dam Program or the purchase of equipment in connection therewith, and readvertising for bids.

SECTION 8.6. *Recomputation of Obligations.* If the amounts deposited into the Construction Fund pursuant to Section 8.3 hereof are or will be insufficient to pay in full the total Cost of Construction of the American Falls Replacement Dam Program, the Authorized Representatives shall from time to time revise the estimated Cost of Construction and determine the additional amounts necessary to be deposited into the Construction Fund from the Prepayment Fund and from the proceeds of Additional Bonds in order to pay the total revised Cost of Construction. The Constructing Agency shall, to the extent necessary, issue Additional Bonds as permitted under Section 207 of the Indenture for completion purposes and as contemplated in Sections 9.10 and 9.11 hereof.

In the event Additional Bonds need only be issued pursuant to Section 9.10 hereof within the initial authorization, the Authorized Representatives shall recompute the obligation of the Idaho Power Company, of each Spaceholder and, to the extent applicable, attributable to the space of each Non-Participating Wateruser, based on the revised Cost of Construction of the American Falls Replacement Dam Program and shall prepare a revised schedule of such obligations showing the increase over the initial determination for each.[1] Such schedule of obligation shall be approved by the Constructing Agency and shall be filed with the Idaho Power Company, the Contracting Officer and each Spaceholder. The Constructing Agency shall, on or prior to the date of delivery of the Additional Bonds transfer from the

[1] The respective obligations of the Idaho Power Company, each Spaceholder and, to the extent applicable, attributable to the space of each Non-Participating Waterusers, to pay the revised cost, shall be computed according to the computation set forth in Section 8.3 hereof, but substituting for the words "estimated cost" the words "revised cost" wherever they appear in the description of the computation.

Prepayment Fund to the Construction Fund the amount above computed by the Authorized Representatives which is attributable to Spaceholder prepayments. The Authorized Representatives shall also notify the Contracting Officer to increase the payments under the Michaud Division, Fort Hall Indian Reservation Spaceholder Contract accordingly.

In the event it is determined necessary to issue Additional Bonds pursuant to Section 9.11 hereof in excess of the initial authorization, and appropriate supplements to this Falling Water Contract and the Spaceholder Contracts are entered into, the Authorized Representatives shall recompute the obligation of the Idaho Power Company, of each Spaceholder and, to the extent applicable, attributable to the space of each Non-Participating Wateruser, in accordance with the principles of allocation of responsibility for the payment of the total Cost of Construction of the American Falls Replacement Dam Program in excess of the initial authorization set forth in Section 9.11 hereof and shall prepare a schedule showing the respective obligations in accordance therewith. Such schedule shall be consistent with the supplements to Spaceholder Contracts and the Falling Water Contract contemplated to be executed in Section 9.11 hereof, shall be approved by the Constructing Agency, and shall be filed with the Idaho Power Company, the Contracting Officer and each Spaceholder.

SECTION 8.7. *Computation of Actual Cost of Construction.* The Authorized Representatives, after computing the actual Cost of Construction as contemplated in Section 7.10 hereof, shall compute the obligations of Idaho Power Company, of each Spaceholder and, to the extent applicable, attributable to the space of each Non-Participating Wateruser, to pay the actual total Cost of Construction. If Additional Bonds are not issued under Section 9.11 hereof in excess of the initial authorization, then such obligations shall be computed in accordance with the computation set forth in Section 8.3 hereof, but substituting for the words "estimated cost" the words "total cost" wherever they appear in the description of the computation. If Additional Bonds are issued under Section 9.11 hereof in excess of the initial authorization, then such computation of the respective obligations shall be made in accordance with the provisions of Section 8.3 hereof as above modified and supplemented by the principles of allocation of the total Cost of Construction of the American Falls Replacement Dam Program set forth in Section 9.11 hereof and in any supplements to this Falling Water Contract and the Spaceholder Contracts. A schedule showing the final obligation of each to pay the actual total Cost of Construction shall be prepared, approved by the Constructing Agency and filed with the Idaho Power Company, the Contracting Officer and each Spaceholder. The Authorized Representatives shall then determine what sums, if any, should be retained in the Construction Fund in order to complete the American Falls Replacement Dam Program.

After the determination of the amounts needed to be retained in the Construction Fund in order to pay any Cost of Construction not then due and payable, the Constructing Agency shall cause a certificate to be filed with the Trustee pursuant to the provisions of Section 603 of the Indenture concerning the completion of the American Falls Replacement Dam Program. Such certificate shall direct the Trustee to dispose of any balance remaining in the Construction Fund, other than the amounts to be retained by the Trustee as provided in the certificate, as follows:

(A) That portion of the sums remaining in the Construction Fund attributable to prepayment by Spaceholders of their obligations under the Spaceholder Contracts shall be returned by the Trustee to the Spaceholders which made such prepayments in accordance with the percentage of active storage capacity of each such Spaceholder; and

(B) That portion remaining in the Construction Fund attributable to Spaceholders who elected to pay annual Spaceholder Bond Payments or to Idaho Power Company shall be transferred by the Trustee to the Bond Fund.

The Authorized Representatives shall also make a separate computation of the actual Cost of Construction, according to the assignment of such costs, of the Water Quality Facilities. This computation shall be filed with the Idaho Power Company, the Contracting Officer, and the Constructing Agency so that the computation contemplated to be made under paragraph 11 of the Water Quality Facilities Agreement can be completed by the Constructing Agency and the Idaho Power Company.

Any insurance rebates or dividends arising from policies taken out by the Constructing Agency in connection with the American Falls Replacement Dam Program shall, when received, be deposited into the Construction Fund. If any such rebates or dividends are received by the Constructing Agency subsequent to the closing of the Construction Fund, such rebates and dividends shall be distributed to the Spaceholders and the Idaho Power Company as their interests then appear.

ARTICLE IX

Issuance of Constructing Agency Bonds

SECTION 9.1. *Bonds; Source of Payment.* In order to provide funds for payment of all or part of the Cost of Construction of the American Falls Replacement Dam Program as set forth in Section 8.4 hereof, the Constructing Agency agrees that it will use its best efforts, at one time or from time to time, to sell and cause to be delivered to the purchasers thereof, one or more series of its Bonds in the principal amounts determined as provided in Sections 9.3, 9.10 and 9.11 hereof.

The Bonds shall be issued by the Constructing Agency pursuant to the provisions of the State Act then in force, and shall be payable solely from the special fund contemplated to be established in the State Act (Section 43-2201(D), Idaho Code).

SECTION 9.2. *Interim Notes; Idaho Power Company Guarantee of Interim Notes.* Either at or before the time the estimated Cost of the Construction of the American Falls Replacement Dam Program has been determined pursuant to Section 8.3 hereof, the Board, pursuant to the provisions of the State Act (Section 43-2202, Idaho Code), may determine it to be advisable and to be in the interests of the Constructing Agency to borrow funds temporarily in advance of the permanent financing for the payment of all or part of the Cost of Construction of the American Falls Replacement Dam Program by the issuance of one or more series of Interim Notes of the Constructing Agency. Such Interim Notes shall be issued, sold and delivered from time to time and shall be secured as provided in the State Act (Section 43-2202, Idaho Code), and the proceeds thereof shall be deposited in a fund in the hands of a bank or trust company doing business in the State of Idaho, to be disbursed by the Constructing Agency for the purposes specified in Section 8.4 hereof.

The Constructing Agency and the Idaho Power Company recognize that in order to meet the Construction Work Schedule for the American Falls Replacement Dam Program, it may be necessary to issue Interim Notes prior to the time that the Constructing Agency could market its Series 1976 Bonds. The Idaho Power Company, therefore, agrees that, in order to improve the marketability of any Interim Notes issued by the Constructing Agency, and in order to reduce the costs of borrowing represented by such Interim Notes, it will, with the consent of all regulatory agencies having jurisdiction over the Idaho Power Company for such purpose, whether state or Federal, and with the consent of all mortgage, indenture or other lien holders whose contracts or agreements with the Idaho Power Company require such consent for such purpose, simultaneously with the issuance of any Interim Notes by the Constructing Agency, to the issuance of which Interim Notes, the Idaho Power Company shall have prior thereto indicated its approval in writing, execute a guaranty agreement to the purchasers of such Interim Notes. Under the terms of the guaranty agreement the Idaho Power Company shall unconditionally guarantee to the holders at any time, and from time to time, of the Interim Notes of the Constructing Agency (a) the full and prompt payment of the principal of any Interim Note when and as the same shall become due, whether at the stated maturity thereof, by acceleration, or call for redemption or otherwise, and (b) the full and prompt payment of any interest on any Interim Note when and as the same shall become due, and shall agree to pay all expenses and charges (including court costs and attorneys' fees) paid or incurred by the holders of the Interim Notes in collecting any of the payments so guaranteed or in enforcing the guaranty agreement by the holders of the Interim Notes.

SECTION 9.3. *Determination of Details of Falling Water Payments, Spaceholder Bond Payments and Amount and Term of Series 1976 Bonds.* After the estimated Cost of Construction of the American

Falls Replacement Dam Program shall have been determined as provided in Section 8.3 hereof and the Authorized Representatives shall have recommended to the Board the amount of the Series 1976 Bonds to be sold, the Board, in consultation with the Authorized Representatives, shall then determine the date upon which the first Installment of Falling Water Payments will be made and the date upon which the first Spaceholder Bond Payments will be made, the date from which interest shall be deemed to accrue on the Falling Water Payments and the date from which interest shall be deemed to accrue on the Spaceholder Bond Payments. The Board in fixing the date upon which the first Installment of the Falling Water Payments will be made shall to the extent practicable provide that the date of the first Installment shall be not more than twelve (12) months from the date of the Series 1976 Bonds. The last Installment shall be forty (40) years from the year in which the Series 1976 Bonds first begin to mature either by their terms or by option of redemption from a sinking fund. The dates and terms of the Spaceholder Bond Payments fixed by the Board shall conform to those specified for the Falling Water Payments, taking into account the applicable provisions of the Spaceholder Contracts providing for the payment of the Spaceholder Bond Payments on April 1 of each year. The Board shall fix the due date of the Installments of the Falling Water Payments so that such payments shall become due and payable by the Idaho Power Company on the first day of the month preceding the date on which principal on the Series 1976 Bonds will fall due if such Installments are to be paid annually or on the first days of the months preceding the dates on which interest and principal, or interest alone, will fall due if such Installments are to be paid semi-annually.

The Board shall then determine the term of the Series 1976 Bonds, which term shall not exceed the maximum term specified in the proceedings taken in connection with the issuance of the Bonds and which shall be coordinated with the dates upon which the Installments of the Falling Water Payments and the Spaceholder Bond Payments will be made.

The Board shall thereupon fix the amount of the Series 1976 Bonds, which amount, within the Bond authorization, shall be sufficient, together with any prepayment of obligations under Spaceholder Contracts to be transferred into the Construction Fund from the Prepayment Fund to pay the estimated Cost of Construction of the American Falls Replacement Dam Program, and sufficient to pay, as to both principal and interest, any of the Interim Notes which shall have been issued by the Constructing Agency for such purposes pursuant to the applicable provisions of the State Act and which will be outstanding on the date of delivery of the Series 1976 Bonds. In determining the amount of the Series 1976 Bonds or of any Additional Bonds to be issued, the Constructing Agency shall increase the obligation of Idaho Power Company, determined under the provisions of Article VIII hereof, by the amount necessary to round off the total amount of Series 1976 Bonds or Additional Bonds to be issued to the next highest $5,000.

SECTION 9.4. *Details of Series 1976 Bonds.* After the amount and term of the Series 1976 Bonds shall have been determined by the Board, the Board shall thereupon fix the various details of the Series 1976 Bonds, including the date, maturity or maturities, sinking funds, serial or term nature, and option of redemption. In determining the date of the Series 1976 Bonds, the date upon which the first interest on the Series 1976 Bonds will become payable, the date upon which the first principal of the Series 1976 Bonds will become due, the maturity schedule or sinking fund of the Series 1976 Bonds, the redemption features of the Series 1976 Bonds, the Board shall take into account the requirements of Section 9.3 hereof with respect to the details of the Falling Water Payments and of the Spaceholder Bond Payments. Copies of the Indenture shall then be prepared in final form for execution. Such changes may be made in the February 1, 1976 draft of the Indenture which do not conflict with the provisions of this Falling Water Contract, the Spaceholder Contracts, the Government Contract, the Act of December 28, 1973, or the State Act and which are agreed to by the Constructing Agency and the Idaho Power Company, and bond counsel to the Constructing Agency in connection with the issuance and sale of the Series 1976 Bonds.

SECTION 9.5. *Option of Redemption of Series 1976 Bonds.* The Constructing Agency agrees that the Indenture shall provide that the Series 1976 Bonds shall be subject to redemption in whole or

in part at any time from and after ten (10) years from the date of the Series 1976 Bonds and at such premium or premiums which shall be established by the Board pursuant to the provisions of Section 9.4 hereof. If the Series 1976 Bonds are issued as term obligations with a mandatory sinking fund, the Series 1976 Bonds shall also be made subject to redemption in part on interest payment dates from the sinking fund established in the Indenture.

SECTION 9.6. *Sale of Series 1976 Bonds.* After the details of the Series 1976 Bonds shall have been fixed and determined by the Board as herein contemplated, and after the form of the Indenture shall have been agreed upon, the Constructing Agency shall sell the Series 1976 Bonds in such manner and at such price or prices as shall be determined by resolution of the Board, pursuant to the provisions of the State Act then in force. Prior to any offering of the Series 1976 Bonds the Constructing Agency shall obtain the opinion of bond counsel that interest on the Series 1976 Bonds will be excludable from Federal gross income taxes under the provisions of the Internal Revenue Code in effect on the date of the offering. No proposal or bond purchase agreement for the purchase of the Series 1976 Bonds shall be accepted or entered into by the Constructing Agency unless the Board shall determine and find that the proceeds of the Falling Water Payments together with the Spaceholder Bond Payments, computed as provided in Section 9.7 hereof, will be sufficient to pay the principal of and interest on the Series 1976 Bonds as the same shall fall due. Thereafter the Board shall complete the blanks in the Indenture and shall cause the Indenture to be executed by its duly authorized officers and the Trustee. Nothing contained in this Falling Water Contract shall prevent the Board from exercising its discretion and rejecting any and all proposals for the purchase of the Bonds, and advertising for bids or seeking new proposals for the purchase of the Bonds.

SECTION 9.7. *Computation of Falling Water Payments and Spaceholder Bond Payments.* The Falling Water Payments and the Spaceholder Bond Payments shall be calculated by the Authorized Representatives in accordance with the provisions of this Section 9.7. A schedule of the annual combined principal and interest requirements on the Series 1976 Bonds shall be prepared. The annual Installments of the Falling Water Payments shall consist of that portion of the annual combined principal and interest requirements on the Series 1976 Bonds as is represented by the proportion of the total of (A), (B) and (C) below to the principal amount of the Series 1976 Bonds:

(A) $19,550,000,

(B) the estimated cost of the Water Quality Facilities determined under the procedures of Section 8.3 hereof, and

(C) .486405[1] times the amount by which the total estimated cost of the American Falls Replacement Dam Program exceeds $38,000,000.

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[1] The .486405 is computed according to the following formula:

(i) Where .026471 equals the portion of total active storage capacity of Idaho Power Company in the Replacement Dam as a Spaceholder;

(ii) Where B equals the Idaho Power Company portion of the excess above $38,000,000 of the total estimated cost of the American Falls Replacement Dam Program in addition to its payment as a Spaceholder; and

(iii) Where A equals the cost of the American Falls Replacement Dam Program in excess of $38,000,000:

$$B + .026471\ (A-B) = .5A$$

$$.973529B = .473529A$$

$$B = \frac{.473529}{.973529}A = .486405A$$

The balance of the annual combined principal and interest requirements on the Series 1976 Bonds, after the deduction of the Falling Water Payments, shall constitute the annual Spaceholder Bond Payments, and shall be used by the Authorized Representatives in calculating the Schedule of Spaceholder Bond Payments for each of the Spaceholders which did not prepay its obligation as permitted in Article 23 of the Spaceholder Contracts and attributable to the space of each Non-Participating Wateruser to the extent applicable.[1]

SECTION 9.8. *Schedules of Falling Water Payments and Spaceholder Bond Payments.* After the receipt of a proposal for the purchase of the Series 1976 Bonds and the execution of a bond purchase agreement, but before the delivery of the Series 1976 Bonds to the Underwriters, the Authorized Representatives shall calculate the details of the Falling Water Payments and the Spaceholder Bond Payments and shall prepare the Schedule of Falling Water Payments and the Schedules of Spaceholder Bond Payments, and the percentage of the fees, charges and expenses of the Trustee and any paying agent bank for which each Spaceholder and the Idaho Power Company is responsible. Schedules of Spaceholder Bond Payments shall also be prepared with respect to the space attributable to Non-Participating Waterusers.

Each schedule shall be approved by the Trustee and shall be filed with the Trustee, the Idaho Power Company, the Contracting Officer and the Constructing Agency. Each Spaceholder which did not prepay its obligation shall be furnished with its applicable Schedule of Spaceholder Bond Payments. When the Schedule of Falling Water Payments and the Schedules of Spaceholder Bond Payments have been approved by the Trustee and filed as contemplated herein, each schedule shall be conclusively binding on the Idaho Power Company and each Spaceholder.

In the event the Constructing Agency issues Additional Bonds, either under the provisions of Section 9.10 or Section 9.11 hereof, the Authorized Representatives shall prepare a supplemental Schedule of Falling Water Payments and supplemental Schedules of Spaceholder Bond Payments for each Spaceholder which does not prepay its obligation and for the space attributable to Non-Participating Waterusers, in accordance with the calculations contemplated to be made by the Authorized Representatives in Section 9.10 and Section 9.11 hereof. Such supplemental schedules shall be approved by the Trustee, shall be filed and become conclusive as above provided with respect to the original schedules.

SECTION 9.9. *Delivery of Series 1976 Bonds; Disposition of Proceeds.* After the acceptance of the proposal of the Underwriters for the purchase of the Series 1976 Bonds and the execution of a bond purchase agreement with respect thereto, the acceptance of the bids for the construction of the Replacement Dam and the execution of the contracts for the construction of the Replacement Dam, the Series

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[1] Such calculation shall be made under the following formula:

where:

DS = each annual combined principal and interest requirement

DSsp = the amount of each annual combined principal and interest requirement attributable to non-prepaid space

P = total percentage of the active storage capacity attributable to non-prepaid space

p = the percentage of total storage capacity of a Spaceholder which did not prepay or attributable to a Non-Participating Wateruser (p = P)

K = 100% ÷ P

S = the total amount to be paid by each Spaceholder which did not prepay or attributable to the space of each Non-Participating Waterusers (S = DSsp)

then:

$$S = (K)(p)(DSsp)$$

1976 Bonds shall be delivered in accordance with the requirements of the bond purchase agreement for the purchase of the Series 1976 Bonds to be entered into between the Constructing Agency and the Underwriters, and the proceeds thereof shall be deposited in the Bond Fund and the Construction Fund, pursuant to Sections 601 and 602 of the Indenture, and disbursements shall be made from the Construction Fund, in accordance with the provisions of Section 602 of the Indenture. The Constructing Agency and the Idaho Power Company agree to cooperate, one with the other, in furnishing the Trustee with the documents referred to in Section 602 of the Indenture that are required to effect payments out of the Construction Fund.

SECTION 9.10. *Issuance of Additional Bonds Within Initial Authorization for Completion.* It is intended by the Constructing Agency that an amount of Bonds has been authorized and will be issued which will be sufficient, together with any prepayments, to pay the total cost of the American Falls Replacement Dam Program. If it is determined necessary, subsequent to the issuance of the Series 1976 Bonds, to issue all or part of the balance of any of the initially authorized but as then unissued Bonds in order to complete the payment of the total cost of the American Falls Replacement Dam Program, the Constructing Agency will, to the extent then legally permitted, issue and sell a series of Additional Bonds as permitted under Section 207 of the Indenture for completion purposes. In the event the balance of the initially authorized Bonds is issued, the annual Installments of the Falling Water Payments shall be increased by that portion of the annual combined principal and interest requirements on such series of Additional Bonds as is represented by the proportion of the total of (A) and (B) below (but as to each only to the amount of any initially authorized but as then unissued Bonds) to the pirncipal amount of such series of Additional Bonds:

(A) any increased cost of the Water Quality Facilities determined under the procedures of Section 8.7 hereof over the estimated cost thereof determined under the procedures of Section 8.3 hereof, and

(B) .486405 (see Section 9.7 hereof) times the amount by which the total cost of the American Falls Replacement Dam Program determined under the procedures of Section 8.7 hereof less the increased cost of the Water Quality Facilities included in (A) above exceeds the higher of (1) the estimated cost of the American Falls Replacement Dam Program determined under the procedures of Section 8.3 hereof or (2) $38,000,000.

The Spaceholder Bond Payments shall be increased in an amount sufficient to pay the balance of the annual combined principal and interest requirements on such series of Additional Bonds not returned pursuant to the increased Falling Water Payments. The calculation of such increases shall be in accordance with the formula set forth in Section 9.7 hereof. No such Additional Bonds shall be issued unless the Constructing Agency shall receive a written opinion by an attorney or firm of attorneys of recognized standing on the subject of municipal bonds to the effect that the exemption from Federal income tax of interest on the Series 1976 Bonds and any series of Additional Bonds theretofore issued will not be affected by the issuance of such series of Additional Bonds then being issued.

SECTION 9.11. *Issuance of Additional Bonds in Excess of the Initial Authorization for Completion.* If the amount of the Bonds which has been initially authorized together with any prepayments, is not sufficient to complete the payment of the total cost of the American Falls Replacement Dam Program and therefore it is determined necessary for the Constructing Agency to issue and sell a series of Additional Bonds as permitted under Section 207 of the Indenture for completion purposes in excess of the Bonds initially authorized to be issued, the Constructing Agency will, to the extent then legally permitted, issue and sell Additional Bonds in excess of the initial authorization under the conditions set forth in this Section 9.11:

(A) If the amount of such series of Additional Bonds is determined to be $1,000,000 or less, the Idaho Power Company shall enter into a supplement to this Falling Water Contract pursuant to which the annual Installments of the Falling Water Payments shall be increased by an amount necessary to pay principal of and interest on such series of Additional Bonds.

(B) If the amount of such series of Additional Bonds is determined to be an amount over $1,000,000 but not over $2,000,000:

(1) the Idaho Power Company shall enter into a supplement to this Falling Water Contract pursuant to which the annual Installments of the Falling Water Payments shall be increased by an amount sufficient to pay that portion of the annual combined principal and interest requirements on such series of Additional Bonds as is represented by the proportion of the total of (a) and (b) below to the principal amount of such series of Additional Bonds:

(a) $1,000,000,

(b) the remaining increased cost, if any, of Water Quality Facilities determined under the procedures of Section 8.7 hereof over the estimated cost thereof determined under the procedures of Section 8.3 hereof, which is in excess of the total of (i) the increased cost of the Water Quality Facilities provided for in Section 9.10(A) hereof and (ii) $1,000,000; and

(2) supplements to Spaceholder Contracts shall be executed pursuant to which increased Spaceholder Bond Payments will be made by Spaceholders, other than Idaho Power Company, which did not prepay their obligations, in an amount sufficient to pay the balance of the annual combined principal and interest requirements on such series of Additional Bonds not returned pursuant to this Falling Water Contract as so supplemented.

(C) If the amount of such series of Additional Bonds is determined to be an amount over $2,000,000:

(1) the Idaho Power Company shall enter into a supplement to this Falling Water Contract pursuant to which the annual Installments of the Falling Water Payments shall be increased by an amount sufficient to pay that portion of the annual combined principal and interest requirements on such series of Additional Bonds as is represented by the proportion of the total of (a), (b) and (c) below to the principal amount of such series of Additional Bonds:

(a) $1,000,000;

(b) the remaining increased cost, if any, of the Water Quality Facilities determined under the procedures of Section 8.7 hereof over the estimated cost thereof determined under the procedures of Section 8.3 hereof which is in excess of the total of (i) the increased cost of the Water Quality Facilities provided for in Section 9.10(A) hereof and (ii) $1,000,000; and

(c) .486405 (see Section 9.7 hereof) times the amount by which the total cost of the American Falls Replacement Dam Program determined under the procedures of Section 8.7 hereof less (i) the total increased cost of the Water Quality Facilities, (ii) the obligation of Idaho Power Company for other than Water Quality Facilities under Section 9.11(A)[1] hereof, and (iii) the obligations of Spaceholders other than Idaho Power Company under Section 9.11(B)[2], exceeds the higher of (1) the estimated cost of the American Falls Replacement Dam Program determined under the procedures of Section 8.3 hereof or (2) $38,000,000;

(2) supplements to Spaceholder Contracts shall be executed pursuant to which increased Spaceholder Bond Payments will be made by Spaceholders, other than Idaho Power Company, which did not prepay their obligations, in an amount sufficient to pay that portion of the annual combined principal and interest requirements on such series of Additional Bonds as is represented by the proportion of $1,000,000, less the amount determined pursuant to Section 9.11(B)(1)(b)[2] hereof to the principal amount of such series of Additional Bonds; and

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[1] Calculated as if $1,000,000 or less Additional Bonds were to be issued in excess of the initial authorization.

[2] Calculated as if $2,000,000 or less Additional Bonds were to be issued in excess of the initial authorization.

(3) supplements to Spaceholder Contracts shall be executed pursuant to which increased Spaceholder Bond Payments will be made by Spaceholders, including Idaho Power Company, which did not prepay their obligations, in an amount sufficient to pay that portion of the annual combined principal and interest requirements on such series of Additional Bonds as is represented by the proportion of the principal amount of such series of Additional Bonds issued in excess of the initial authorization, less the amounts computed under Section 9.11(C)(1) and Section 9.11(C)(2) hereof, to the total principal amount of such series of Additional Bonds.

No such Additional Bonds shall be issued unless the Constructing Agency shall receive a written opinion by an attorney or firm of attorneys of recognized standing on the subject of municipal bonds to the effect that the exemption from Federal income tax of interest on the Series 1976 Bonds and any series of Additional Bonds theretofore issued will not be affected by the issuance of such series of Additional Bonds then being issued.

The principal amounts of multiple series of Additional Bonds whether or not of the initial authorization shall be aggregated for all purposes of the computations required in Sections 9.10 and 9.11 hereof.

The increased obligations of Spaceholders computed according to (B)(2), (C)(2) and (C)(3) of this Section 9.11 shall be computed for each Spaceholder with the formula set forth in Section 9.7 hereof.

SECTION 9.12. *Obligation of Idaho Power Company after Initial Series of Bonds.* If the Constructing Agency is unable to market a series of Additional Bonds as contemplated in either Section 9.10 or 9.11, the Constructing Agency and the Idaho Power Company shall nevertheless use their best efforts, to the extent then permitted by law, to issue and sell an issue of obligations of the Constructing Agency which shall be guaranteed as to principal and interest by the Idaho Power Company, to pay such additional costs of the American Falls Replacement Dam Program which are not in excess of $1,000,000.

It is recognized that, except as specifically provided therein, the provisions of Sections 9.10 and 9.11 do not relieve the obligation of the Idaho Power Company to make increased Spaceholder Bond Payments pursuant to a supplemental Spaceholder Contract, in accordance with its percentage of total active storage capacity in the Replacement Dam.

SECTION 9.13. *Obligation of Idaho Power Company for Supplemental Falling Water Payments with Respect to Additional Bonds for Completion.* If the Constructing Agency shall issue a series of Additional Bonds, pursuant to the provisions of Section 207 of the Indenture, as contemplated in Sections 9.10 and 9.11 hereof, for the purpose of paying the costs of completing the construction of the American Falls Replacement Dam Program not paid from the proceeds of the Series 1976 Bonds, and the Constructing Agency thereafter levies additional Assessments and enters into supplementary Spaceholder Contracts with the Spaceholders increasing the amount of Spaceholder Bond Payments obligated to be made to the Constructing Agency by the Spaceholders for the purpose of repaying the Cost of Construction of the American Falls Replacement Dam Program, the Idaho Power Company shall be obligated to make Supplemental Falling Water Payments representing the obligations of the Spaceholders for the increased amounts if there is a default by any Spaceholder in the payments of such increased amounts attributable to such Additional Bonds for completion purposes and shall be entitled to the use of stored water of the Defaulted Spaceholder in accordance with the provisions of Section 3.4 hereof.

SECTION 9.14. *Refunding Bonds.* In the event that it is mutually agreed among the Constructing Agency, the Idaho Power Company and the Spaceholders obligated to make Spaceholder Bond Payments that an attempt should be made to authorize the issuance of Bonds by the Constructing Agency for the purpose of refunding all of the outstanding Series 1976 Bonds and Additional Bonds, if any, in accordance with the State Act (Sections 43-2202 and 43-2203, Idaho Code), as then in force, the Idaho Power Company and the Spaceholders obligated to make Spaceholder Bond Payments shall share the costs of such refunding effort, whether successful or unsuccessful, in direct proportion to their respective obligations to pay the annual principal and interest falling due on the Bonds to be refunded.

ARTICLE X

CONSTRUCTION OF THE POWERPLANT

SECTION 10.1. *Idaho Power Company Responsible for Powerplant Construction.* The Idaho Power Company shall be responsible for obtaining the necessary cost estimates, studies, licenses, permits, plans and specifications, construction contracts and other items necessary for the construction of the Powerplant, pursuant to the License, in coordination with the construction of the Replacement Dam, including the Plan of Operation and the Construction Work Schedule, so as not to impair the efficiency of the Replacement Dam to serve the other purposes of the Minidoka Project. The Idaho Power Company shall assume and pay all costs relating to the engineering, construction and equipping of the Powerplant, including the cost of any waterways or penstocks outside and downstream from the Replacement Dam as set forth in the approved Plans, Designs and Specifications.

SECTION 10.2. *Rights of Access to the Idaho Power Company for Construction, Operation, and Maintenance of the Powerplant.* The Idaho Power Company and its duly authorized agents shall, without charge, have such rights of access to the Replacement Dam and for ingress and egress on lands of the United States adjacent thereto as may be reasonably necessary to coordinate the construction of the Powerplant with the construction of the Replacement Dam and, after completion of construction of the Powerplant, for the proper operation and maintenance of the Powerplant by the Idaho Power Company.

SECTION 10.3. *Joint Facilities.* Any facilities which are not included in the American Falls Replacement Dam Program which may subsequently be required to be constructed, operated or maintained by the Constructing Agency and the Idaho Power Company on a joint basis must first be approved by the Authorized Representatives, and the necessary financing, construction, ownership or operation of such facilities shall be covered by special agreement between the parties hereto, to be added as an addendum to this Falling Water Contract, subject to the approval of the Contracting Officer.

SECTION 10.4. *Financing of Powerplant by Idaho Power Company.* The Idaho Power Company agrees that it will finance the construction of the Powerplant and will operate the Powerplant as contemplated in this Falling Water Contract, the License, the Government Contract and the Act of December 28, 1973. The preparation of all necessary designs and specifications for the construction of the Powerplant shall be the responsibility of the Idaho Power Company.

SECTION 10.5. *Liability.* The Constructing Agency shall be liable for its own acts and shall not be liable for the acts of others with regard to the construction, operation and maintenance of the Powerplant or with regard to the financing, construction, operation and maintenance of the American Falls Replacement Dam Program. The Constructing Agency shall require the contractor or contractors constructing the Replacement Dam, the Related Facilities and the Water Quality Facilities to carry liability insurance naming the Idaho Power Company as an additional insured party.

The Idaho Power Company shall be liable for its own acts and shall not be liable for the acts of others with regard to the construction, operation and maintenance of the Powerplant or with regard to the financing, construction, operation and maintenance of the American Falls Replacement Dam Program. The Idaho Power Company shall require the contractor constructing the Powerplant to carry liability insurance naming the Constructing Agency as an additional insured party.

SECTION 10.6. *Payment of Operation and Maintenance Expenses Related to Replacement Dam.* The Idaho Power Company shall pay directly to the Contracting Officer in each year such amounts as shall represent thirty-three per cent (33%) of the actual, direct costs of operation and maintenance of the Replacement Dam, exclusive of the reservoir. Such amounts shall be billed separately annually to the Idaho Power Company by the Contracting Officer under the same procedures, including examination of books and records, established for billing the Spaceholder Replacement Dam Operation and Maintenance Payments to the Spaceholders pursuant to the Spaceholder Contracts.

SECTION 10.7. *Supply of Energy to Operate and Maintain Replacement Dam.* As part of the consideration for the utilization by the Idaho Power Company of the Falling Water at the Powerplant for power generation within the limits specified in the Government Contract and as an additional payment for the operation and maintenance of the Replacement Dam, the Idaho Power Company shall, at a point on the line of division of ownership between the Replacement Dam and the Powerplant, which is a point accessible from the Powerplant, supply the energy required for control of the release of water from the Replacement Dam and the incidental lighting immediately adjacent thereto (exclusive of any highway and bridge lighting), at the required voltage and at a frequency of 60 cycles per second.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

SECTION 11.1. *Events of Default Defined; Uncontrollable Forces.* The following shall be "events of default" under this Falling Water Contract and the terms "events of default" or "default" shall mean, whenever they are used in this Falling Water Contract, any one or more of the following events:

(a) Failure by the Idaho Power Company to pay all or any part of any Installment of the Falling Water Payments specified in Section 3.1 hereof or failure by the Idaho Power Company to pay all or any part of the Supplemental Falling Water Payments specified in Section 3.4 hereof, at the times and places specified in this Falling Water Contract and (i) continuation of said failure for a period of five (5) days after notice by telegram or, if telegraph service is not available, after notice by mail given to it by the Constructing Agency that the Installment or payment referred to in such notice has not been received, or (ii) continuation of said failure for a period of twelve (12) days, shall constitute an event of default hereunder; or

(b) Failure by the Idaho Power Company to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder other than as referred to in subsection (a) of this Section, for a period of ninety (90) days after written notice, specifying such failure and requesting that it be remedied, given to the Idaho Power Company by the Board or the Trustee, unless the Board and the Trustee shall agree in writing to extension of such time prior to its expiration; or

(c) If the Idaho Power Company shall file a petition in bankruptcy or for reorganization or for an arrangement pursuant to the general bankruptcy act, as amended, or any similar Federal or state law, or shall be adjudged a bankrupt or become insolvent, or shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts generally as they become due, or if a petition or answer proposing the adjudication of the Idaho Power Company as a bankrupt or its reorganization under the general bankruptcy act or any similar Federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within sixty (60) days after the filing thereof, or if a receiver, trustee or liquidator (or similar official) of the Idaho Power Company or of more than one-third of the property of the Idaho Power Company shall be appointed in any proceeding or by any Federal or state officer or agency, and shall not be discharged within sixty (60) days after such appointment; or

(d) The occurrence of an "event of default" under Section 901 of the Indenture.

The provisions of (b) of this Section are subject to the following limitations: If by reason of uncontrollable forces the Idaho Power Company is unable, in whole or in part, to carry out its agreements on its part herein contained, other than the obligations of the Idaho Power Company contained herein to make the Falling Water Payments and the Supplemental Falling Water Payments, the Idaho Power Company shall not be deemed in default during the continuance of such inability. The term "uncontrollable forces" shall mean any cause beyond the control of the Idaho Power Company and

which, by the exercise of reasonable diligence, the Idaho Power Company is unable to overcome, and shall include, but not be limited to, an act of God, fire, flood, explosion, earthquake, strike, sabotage, an act of the public enemy, civil or military authority, including court orders, injunctions, and orders of government agencies with proper jurisdiction prohibiting acts necessary to performance hereunder or permitting any such act only subject to unreasonable conditions, insurrection or riot, an act of the elements, failure of equipment, or inability to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Nothing contained herein shall be construed so as to require the Idaho Power Company to settle any strike or labor dispute in which it may be involved. If the Idaho Power Company is rendered unable to fulfill any obligation by reason of uncontrollable forces it shall exercise due diligence to remove such inability with all reasonable dispatch.

SECTION 11.2. *Remedies on Default.* Whenever any event of default referred to in Section 11.1 hereof shall have happened and be subsisting, the Constructing Agency, or the Trustee on behalf of the Constructing Agency, may take any one or more of the following remedial steps:

(a) Whenever an event of default hereunder shall have occurred and be continuing, and notwithstanding the fact that the Constructing Agency or the Trustee may have some other remedy hereunder or by virtue hereof, to give a notice of intention pursuant to the provisions of Section 14.6 hereof to terminate this Falling Water Contract on a date specified in such notice, which date shall be not less than thirty (30) days after the date of giving such notice. If the Idaho Power Company is given notice as provided herein, the Idaho Power Company's interest in, to and under this Falling Water Contract shall terminate upon the date so specified in said notice, and the Idaho Power Company thereafter shall have no right, title or interest in, to or with respect to the Falling Water but Idaho Power Company shall remain liable as hereinafter provided.

(b) In the event of any termination of this Falling Water Contract as provided in subsection (a) above, the Constructing Agency or the Trustee, as provided in the Indenture, shall forthwith, notwithstanding any other provision of this Falling Water Contract to the contrary, be entitled to recover from the Idaho Power Company, as and for liquidated damages (in lieu of all other claims for damages on account of such termination) and not as a penalty, an amount equal to the unpaid principal amount of the Bonds then outstanding as defined in the Indenture.

(c) Whenever an event of default hereunder shall have occurred and be continuing, the Constructing Agency or the Trustee on behalf of the Constructing Agency, shall have the right, then or at any time thereafter while any event of default hereunder shall continue, to request the Contracting Officer to suspend any and all rights of the Idaho Power Company to the use of the Falling Water or any water accruing to the storage space of a Defaulted Spaceholder or of a Non-Participating Wateruser upon not less than twelve (12) days' notice to the Idaho Power Company given as provided in Section 14.6 hereof. The Contracting Officer, acting with the consent of either the Constructing Agency or the Trustee, may, without further notice to the Idaho Power Company, suspend such rights of the Idaho Power Company and grant any or all of the suspended rights to any person for the duration of the suspension. Idaho Power Company agrees that, in addition to its other obligations under this Falling Water Contract, upon demand it will pay to the Trustee, the Constructing Agency and the Contracting Officer all expenses incurred in connection with such suspension and any grant of the suspended rights to another person, and that the Idaho Power Company will be and remain liable to make all payments, when due, required to be made by the Idaho Power Company hereunder, without regard to any such suspension and as if any suspended rights exercised by another person were exercised by the Idaho Power Company. The Constructing Agency, or the Trustee acting on behalf of the Constructing Agency, shall have the right from time to time to begin and maintain successive proceedings against the Idaho Power Company for the recovery of damages or for a sum equal to any and all Installments of the Falling Water Payments and Supplemental Falling Water Payments and any other payments required to be made by the Idaho Power Company pursuant to this Falling Water Contract, and to recover the same upon the liability of the Idaho Power Company herein provided. Nothing herein contained

shall be deemed to require the Constructing Agency or the Trustee to defer commencement of any such proceedings until the end of the Original Term of this Falling Water Contract.

(d) No suspension of any or all of the Idaho Power Company's rights to the use of the Falling Water under this Falling Water Contract shall be construed as an election on the part of the Construction Agency, the Trustee or the Contracting Officer to terminate the Idaho Power Company's interest in, to and under this Falling Water Contract unless a notice of intention be given to the Idaho Power Company or unless such termination be decreed at the instance of the Constructing Agency or the Trustee by a court of competent jurisdiction.

(e) The Constructing Agency, or the Trustee on behalf of the Constructing Agency, may take whatever action at law or in equity may appear necessary or desirable to collect the Falling Water Payments, or the Supplemental Falling Water Payments, or any other amounts payable by Idaho Power Company hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Idaho Power Company under this Falling Water Contract.

Any amounts collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

SECTION 11.3. *No Remedy Exclusive.* No right or remedy herein conferred upon or reserved to the Constructing Agency, or to the Trustee on behalf of the Constructing Agency is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing, upon the occurrence of an event of default hereunder. The failure of the Constructing Agency, or the Trustee on behalf of the Constructing Agency, to insist at any time upon the strict observance or performance by the Idaho Power Company of any of the provisions of this Falling Water Contract, or to exercise any right or remedy provided for in this Falling Water Contract, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof for the future. Receipt by the Trustee, on behalf of the Constructing Agency, of any Falling Water Payment or Supplemental Falling Water Payment required to be made hereunder with knowledge of the breach of any provisions of this Falling Water Contract, shall not be deemed a waiver of such breach. In addition to all other remedies provided in this Falling Water Contract, the Constructing Agency and the Trustee on behalf of the Constructing Agency, shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of the violation, or attempted or threatened violation, of any of the provisions of this Falling Water Contract, or to a decree concerning performance of any of the provisions of this Falling Water Contract, or to any other remedy legally allowed to the Constructing Agency or to the Trustee on behalf of the Constructing Agency.

If any proceeding shall be brought for the enforcement of any right or remedy provided for in this Falling Water Contract in which it shall be determined that any event of default hereunder has occurred and was continuing at the time of commencement thereof, the Idaho Power Company shall pay to the Constructing Agency or to the Trustee on behalf of the Constructing Agency, all expenses incurred in connection therewith including, without limitation, reasonable attorneys' fees and expenses.

At any time the Trustee on behalf of the Constructing Agency or the holders of the Bonds, is entitled to enforce any of the rights or remedies provided for in this Falling Water Contract, it may proceed either in its own name and as Trustee of an express trust or otherwise to protect and enforce its rights and those of the Constructing Agency under this Falling Water Contract, whether or not the Constructing Agency shall have complied with any of the provisions hereof or proceeded to take any action authorized or permitted under applicable law. Such rights and remedies as are given the Constructing Agency hereunder shall also extend to the Trustee, and the Trustee and the holders of the Bonds, subject to the provisions of the Indenture, shall be entitled to the benefit of all covenants and agreements herein contained.

SECTION 11.4. *No Additional Waiver Implied by One Waiver.* Any waiver by a party of its rights with respect to an event of default under this Falling Water Contract, or with respect to any other matter arising in connection with this Falling Water Contract, shall not be deemed to be a waiver with respect to any other matter arising in connection with this Falling Water Contract. No delay in asserting or enforcing any rights hereunder shall be deemed a wavier of such rights.

ARTICLE XII

SPECIAL COVENANTS

SECTION 12.1. *Compliance with Laws, Rules and Regulations.* The Idaho Power Company and the Constructing Agency agree in the performance of their obligations hereunder to comply fully with all laws, rules and regulations pertaining to the subject matter of this Falling Water Contract including particularly the Federal Power Act, the Idaho Public Utilities Act and the rules and regulations of the Federal Power Commission and the Idaho Public Utilities Commission, and to the extent that their operations may be subject to the jurisdiction of any state or Federal regulatory agencies, subject to the terms of all valid and applicable orders of any of such agencies. This Falling Water Contract is subject to the laws of the State of Idaho and is subject to the approval of any state or Federal regulatory agency having jurisdiction thereof. The Idaho Power Company agrees to pay any and all costs and expenses of itself and the Constructing Agency in effecting compliance with any such laws, rules, regulations and orders which apply to construction, operation or maintenance of the Powerplant. Before incurring any such costs or expenses the Constructing Agency shall consult with the Idaho Power Company.

SECTION 12.2. *No Warranty of Suitability.* The Constructing Agency makes no warranty, either express or implied, as to the Replacement Dam or the Falling Water or that the Replacement Dam or the Falling Water or the design or the operation of the Replacement Dam will be suitable for Idaho Power Company's purposes or needs.

SECTION 12.3. *Rights of Access to the Constructing Agency and the United States for Construction, Operation, and Maintenance of the American Falls Replacement Dam Program.* The Constructing Agency and the Contracting Officer and their duly authorized agents, shall, without charge, have such rights of access to the Powerplant and for ingress and egress on all lands which are within the project area as defined in the License, as may be reasonably necessary to coordinate the construction of the Powerplant with the construction of the Replacement Dam, to permit the proper operation and maintenance of the Existing Dam during the construction of the Replacement Dam including the interim operation of the water control structures (as defined in the Government Contract) of the Replacement Dam at such time during construction that water control at the Existing Dam is transferred to water control at the Replacement Dam, and upon substantial completion of the Replacement Dam and Related Facilities for the proper operation and maintenance thereof by the United States.

The United States shall have the right to utilize without charge in the operation and maintenance of the Minidoka Project those lands of the United States which are within the area covered by the Idaho Power Company's License for the construction and operation and maintenance of the Powerplant, so long as such use by the United States is not inconsistent with or does not interfere with the uses intended in the License.

SECTION 12.4. *Corporate Existence of Idaho Power Company; Mergers and Consolidation.* The Idaho Power Company agrees that during the Original Term of this Falling Water Contract it will maintain its corporate existence, will continue to be a corporation either organized under the laws of or duly qualified to do business as a foreign corporation in the State of Idaho, and will not dispose of all or substantially all of its assets nor consolidate with nor merge into another corporation unless the acquirer of its assets or the corporation with which it shall consolidate or into which it shall merge shall be a corporation organized and existing under the laws of one of the States of the United States of America and shall be qualified and admitted to do business in the State of Idaho, shall be or as a result of the

transaction shall become a public utility, shall have a net worth immediately subsequent to such acquisition, consolidation or merger at least equal to that of the Idaho Power Company immediately prior to such acquisition, consolidation or merger, and shall assume in writing all of the obligations of the Idaho Power Company herein.

SECTION 12.5. *Approvals.* Whenever under the provisions of this Falling Water Contract the approval of the Idaho Power Company is required or the Constructing Agency is required to take some action at the request of the Idaho Power Company, such approval or such request shall be made by the Authorized Idaho Power Company Representative unless otherwise specified in this Falling Water Contract and the Constructing Agency or the Trustee shall be authorized to act on any such approval or request and the Idaho Power Company shall have no complaint against the Constructing Agency or the Trustee as the result of taking any such action.

SECTION 12.6. *Financial Reports of Idaho Power Company and Constructing Agency.* The Idaho Power Company agrees to furnish to the Constructing Agency and to the Trustee a copy of each of the financial statements certified by a certified public accountant that it customarily furnishes to its stockholders. The Constructing Agency agrees annually to furnish to the Idaho Power Company, the Trustee, the Contracting Officer and each of the Spaceholders, a copy of a report of an independent certified public accountant, or state auditing official, if appropriate, reflecting in reasonable detail the status of each fund or account created under the terms of the Indenture, including the amount and source of the deposits therein, the amount and purpose of withdrawals, and the balance therein at the beginning and end of each fiscal year, as defined in the Indenture.

SECTION 12.7. *Non-Arbitrage Certifications and Representations.* The Constructing Agency and the Idaho Power Company covenant and represent to each other that:

1. On the basis of their own knowledge, and on examination of the reports and cost projections in connection with the construction of the American Falls Replacement Dam Program:

(a) All of the principal proceeds of the Series 1976 Bonds are needed for the purpose of paying the Cost of Construction of the American Falls Replacement Dam Program, including expenses preliminary and incidental thereto and to the issuance of the Series 1976 Bonds.

(b) At least 85% of the expendable proceeds of the Series 1976 Bonds, including investment proceeds, will be expended for the Cost of Construction of the American Falls Replacement Dam Program on or before three years following the date of issue of the Series 1976 Bonds.

(c) The Constructing Agency, prior to the issuance of the Series 1976 Bonds, will have incurred substantial binding obligations equal to at least 2½% of the total Cost of Construction of the American Falls Replacement Dam Program.

(d) Work on the construction of the American Falls Replacement Dam Program is expected to proceed with due diligence to completion.

(e) Except as required pursuant to the provisions of the Act of December 28, 1973, the American Falls Replacement Dam Program is not expected to be sold or otherwise disposed of, in whole or in part, prior to the maturity of the Series 1976 Bonds.

(f) Accrued interest received upon the sale of the Series 1976 Bonds is to be applied to the first interest due thereon.

2. On the basis of the foregoing certifications and representations, it is not expected by either the Constructing Agency or the Idaho Power Company that the proceeds of the Series 1976 Bonds will be used in a manner that would cause the Series 1976 Bonds to be classified as an "arbitrage bond" under Section 103(d) of the Internal Revenue Code of 1954, as amended, and the regulations

promulgated under that section; that to the best knowledge and belief of the Constructing Agency and the Idaho Power Company, there are no facts or circumstances that would materially change the foregoing conclusion.

SECTION 12.8. *Non-Arbitrage Covenants.* The Constructing Agency and the Idaho Power Company jointly and severally covenant that so long as any of the Series 1976 Bonds shall remain outstanding and any provision in this Falling Water Contract or the Indenture to the contrary notwithstanding with respect to an investment of moneys, whether such moneys were derived from the proceeds of the Series 1976 Bonds, or from any other source, no use will be made of such moneys which, if such use could have been reasonably expected on the date of the issue of the Series 1976 Bonds, would have caused the Series 1976 Bonds to be classified as an "arbitrage bond" within the meaning of Section 103(d) of the Internal Revenue Code of 1943, as amended, and further jointly and severally covenant to comply with the requirements of said Section 103(d) and any regulations promulgated thereunder.

ARTICLE XIII

ASSIGNMENT

SECTION 13.1. *Conditions on Assignments by Idaho Power Company.* This Falling Water Contract may be assigned in whole or in part, and the use of the Falling Water may be assigned as a whole or in part, by the Idaho Power Company without the necessity of obtaining the consent of either the Constructing Agency or the Trustee, but only upon obtaining the consent of the Secretary, subject, however, to each of the following conditions:

(a) No assignment (other than pursuant to Section 12.4 hereof) shall relieve the Idaho Power Company from primary liability for any of its obligations hereunder, and in the event of any such assignment the Idaho Power Company shall continue to remain primarily liable for payment of the Falling Water Payments and the Supplemental Falling Water Payments, and for the performance and observance of the other covenants, representations, warranties and agreements on its part herein provided to be performed and observed by it to the same extent as though no assignment has been made.

(b) The assignee of the Idaho Power Company shall expressly assume in writing the obligations of the Idaho Power Company hereunder to the extent of the interest assigned.

(c) The Idaho Power Company shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Constructing Agency, the Secretary and the Trustee a true and complete copy of each such assignment or assumption or obligation as the case may be.

SECTION 13.2. *Assignments or Dissolution by Constructing Agency.* The Constructing Agency may assign its interest in, and pledge any moneys receivable under this Falling Water Contract, to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds, and applicable premium, if any, but each such assignment or pledge shall be subject and subordinate to the rights of the Idaho Power Company under this Falling Water Contract. The Constructing Agency, to the extent it may legally so covenant, covenants and agrees with Idaho Power Company that it will not dissolve or otherwise abandon its existence so long as this Falling Water Contract is in existence without the written consent of the Contracting Officer and the Idaho Power Company, and so long as any of the Bonds are outstanding, without the written consent of the Trustee.

ARTICLE XIV

GENERAL

SECTION 14.1. *Original Term; Liability of Constructing Agency.* This Falling Water Contract shall become effective upon its execution by the Constructing Agency and the Idaho Power Company and its approval by the Contracting Officer and, unless extended as hereinafter provided in Section 14.2

hereof, or unless this Falling Water Contract shall have been terminated in accordance with the provisions of Section 4.10 hereof, the Original Term of this Contract shall terminate on March 31, 2025, being fifty (50) years from the date of the License. The Idaho Power Company irrevocably waives, to the extent that it lawfully may, any defense based on the adequacy of a remedy at law which might be asserted as a bar to the remedy of specific performance, any suit in equity, action at law, or other legal or equitable proceeding brought against it for specific performance of the obligation of Idaho Power Company to make the Falling Water Payments and the Supplemental Falling Water Payments of this Falling Water Contract by the Constructing Agency, any receiver or the Trustee, as well as any defense to any other such proceeding which might be brought against the Idaho Power Company to enforce any of the rights or remedies provided for in this Falling Water Contract based on the fact that, at the time any payment hereunder is requested, the Constructing Agency is or may be insolvent. The Idaho Power Company's remedy for any act or omission by the Constructing Agency shall be limited to an action or actions for specific performance of this Falling Water Contract by the Constructing Agency; provided, however, as long as any Bonds are outstanding no such action shall be taken which will reduce the amount of the Installments of the Falling Water Payments or the amount of the Supplemental Falling Water Payments needed to pay principal of, premium, if any, or interest on the Bonds or will interfere with the right of the Trustee to receive and apply such Falling Water Payments and Supplemental Falling Water Payments. It is recognized by the Constructing Agency and the Idaho Power Company that the end of the term of this Falling Water Contract shall not preclude the other from seeking damages for any cause of action which shall have arisen prior to the end of the term of this Falling Water Contract.

SECTION 14.2. *Renewal Term.* If, after expiration of the Original Term of the License of the Idaho Power Company for the construction, operation, and maintenance of the Powerplant, such License is continued or renewed this Falling Water Contract shall thereupon be continued in effect during such period of continuation or the Renewal Term; provided, however, that the Constructing Agency and the Idaho Power Company may mutually consent to such annual payments to be made by Idaho Power Company to the Constructing Agency on behalf of the Spaceholders as shall be agreed to at that time.

SECTION 14.3. *Execution of Documents.* The Constructing Agency and the Idaho Power Company, upon request by the other, shall make, execute and deliver any and all documents reasonably required to implement the terms of this Falling Water Contract.

SECTION 14.4. *Supplements and Amendments.* Prior to the sale of the Series 1976 Bonds this Falling Water Contract may be supplemented or amended with the consent of the Secretary, for the purpose of complying with any directive, order or license requirement of the Federal Power Commission or of any other regulatory agency having jurisdiction over the parties and the Powerplant, or of any order, judgment or decree of any court of competent jurisdiction, either state or Federal, provided that no such supplement or amendment shall reduce the obligation of the Idaho Power Company to pay the Falling Water Payments or the Supplemental Falling Water Payments.

Subsequent to the sale of the Series 1976 Bonds, and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Falling Water Contract may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee and of the Secretary.

SECTION 14.5. *Spaceholders Third Party Beneficiaries.* The parties hereto recognize that the Spaceholders on whose behalf Spaceholder Contracts have been executed with the Constructing Agency in accordance with Section 3 of the Act of December 28, 1973, are in fact third party beneficiaries of the obligations of Idaho Power Company to make the Falling Water Payments and the Supplemental Falling Water Payments pursuant to this Falling Water Contract. The rights of Spaceholders shall be governed by the provisions of the Spaceholder Contracts entered among the Spaceholders, the Contracting Officer, and the Constructing Agency. The monetary return to the Constructing Agency as a result of this Falling Water Contract, shall be utilized to defray the Cost of Construction of the American Falls Replacement Dam Program as hereinabove agreed for the proportionate benefit of all Spaceholders on whose behalf

contracts are executed for the repayment of their proportionate share of the Cost of Construction of the American Falls Replacement Dam Program.

SECTION 14.6. *Notices; Manner of Giving; Duplicate Copies to United States and Trustee.* Any notice, demand, or request provided for in this Falling Water Contract, or given or made in connection with this Falling Water Contract to or upon the Constructing Agency, shall be deemed to be properly given or made if delivered or sent by registered mail to 1132 Locust Street, Twin Falls, Idaho 83301. Any notice, demand, or request provided for in this Falling Water Contract to or upon the Idaho Power Company shall be deemed to be properly given or made if delivered or sent by registered mail to 1220 Idaho Street, Boise, Idaho 83701. Any notice, demand, or request provided for in this Falling Water Contract, or given or made in connection with this Falling Water Contract to or upon the United States, shall be deemed to be properly given or made if delivered or sent by registered mail to Regional Director, Pacific Northwest Region, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, Idaho 83724.

Any notice, demand or request provided for in this Falling Water Contract or given in connection with this Falling Water Contract to or upon the Trustee shall be deemed to be properly given or made if delivered or sent by registered mail to the corporate trust office of the Trustee.

Any notice, demand or request provided for in this Falling Water Contract or given in connection with this Falling Water Contract to or upon the Spaceholders shall be deemed to be properly given or made if delivered or sent by registered mail to the Authorized Spaceholder Representative.

A duplicate copy or copies of each notice given hereunder by either the Constructing Agency or the Idaho Power Company to the other shall also be given to the United States and the Trustee. A duplicate copy of each notice given by either Constructing Agency or Idaho Power Company to either the Trustee or the United States shall also be given to the other party hereto.

The designation or the address of any person specified in this Section may be changed at any time by written notice to the other persons whose addresses are set forth in this Section.

SECTION 14.7. *Benefit of Falling Water Contract.* This Falling Water Contract shall inure to the benefit of and shall be binding upon the Constructing Agency, the Idaho Power Company, and their respective successors and assigns, subject, however, to the limitations contained in Sections 12.4, 13.1 and 13.2 hereof.

SECTION 14.8. *Severability.* In the event any provision of this Falling Water Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 14.9. *Amounts in Bond Fund.* Any amounts remaining in the Bond Fund upon expiration or sooner termination of the Original Term as provided in this Falling Water Contract, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and the fees, charges and expenses of the Trustee and paying agents in accordance with the Indenture and all other amounts required to be paid under this Falling Water Contract and the Indenture, shall be paid by the Trustee to the Constructing Agency for disposition in accordance with the provisions of the Spaceholder Contracts and to Idaho Power Company in the proportion that the respective obligations of the Spaceholders and of Idaho Power Company to pay the principal of the Bonds as determined under Sections 9.7, 9.10 and 9.11 hereof bears to the total principal amount of the Bonds.

SECTION 14.10. *Execution in Counterparts.* This Falling Water Contract may be executed in several counterparts, each of which shall be an original, and all such shall constitute and be one and the same instrument.

SECTION 14.11. *Choice of Law.* This Falling Water Contract shall be construed and governed exclusively by the applicable laws of the State of Idaho.

SECTION 14.12. *Waiver of Subrogation Rights.* No payment of any kind to the Trustee or the holders of the Bonds by the Idaho Power Company pursuant to the provisions hereof, including without limitation Section 11.2 hereof, shall entitle the Idaho Power Company, by subrogation to the rights of the holders of the Bonds in respect of which such payment is made or otherwise, to any payment by the Constructing Agency or to any payment required to be made by a Spaceholder pursuant to a Spaceholder Contract or out of the property of Constructing Agency in enforcement of the Indenture or otherwise, except after payment in full of the entire principal of and premium, if any, and interest on the Bonds and any and all indebtedness evidenced by the Bonds or the Indenture, or provision for such payment satisfactory to the Trustee.

IN WITNESS WHEREOF, the Constructing Agency and the Idaho Power Company have caused this Falling Water Contract to be executed in their respective names and their respective seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

AMERICAN FALLS RESERVOIR DISTRICT

By: /s/ JOHN M. BARKER
President

(SEAL)

Attest:

/s/ DIANNE BRIDEGUM
Secretary

IDAHO POWER COMPANY

By: /s/ JAMES E. BRUCE
President

(SEAL)

Attest:

/s/ PAUL L. JAUREGUI
Secretary

APPROVED this 31st day of March, 1976

UNITED STATES SECRETARY OF THE INTERIOR

By: /s/ RODNEY J. VISSIA
Regional Director

Pacific Northwest Region
Bureau of Reclamation
Box 043—550 West Fort Street
Boise, Idaho 83724

STATE OF IDAHO }
COUNTY OF ADA } ss.

On this 24th day of March, in the year 1976, before me, John A. Rosholt, a Notary Public, personally appeared John M. Barker and Dianne Bridegum, known to me to be, respectively, the President and the Secretary of the American Falls Reservoir District that executed the said instrument, and acknowledged to me that the American Falls Reservoir District executed the same.

IN WITNESS WHEREOF, I set my hand and affix my official seal the day and year first above written.

/s/ JOHN A. ROSHOLT

Notary Public in and for the State of Idaho

Residing at: Twin Falls, Idaho

My commission expires: 1979

(SEAL)

STATE OF IDAHO }
COUNTY OF ADA } ss.

On this 24th day of March, in the year 1976, before me, Mary L. Morton, a Notary Public, personally appeared James E. Bruce and Paul L. Jauregui, known to me to be the President and Secretary of the corporation that executed the said instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I set my hand and affix my official seal the day and year first above written.

/s/ MARY L. MORTON

Notary Public in and for the State of Idaho

Residing at: Boise, Idaho

My commission expires: 4-1-76

(SEAL)

SPACEHOL
HOLDINGS OF SPACE IN AMER. .N FALLS RESERVOIR

Water User	Contract No.	Date	Date of Supplemental Contract	Approximate Acre-Feet	Percent of Active Capacity —Percent to Distribute Construction Costs	Percent to Distribute Annual Replacement Dam Operation and Maintenance Costs	Percent to Distribute Annual Water Quality Operation and Maintenance Costs
UPPER VALLEY ORGANIZATIONS							
Aberdeen-Springfield Canal Company(1)	14-06-W-24	10-22-52	9-26-63	32.572	1.9160	1.8276	1.9680
Andrus, Ray	14-06-100-7771	5-16-73	None	191	0.0112	.0107	.0115
The Blackfoot Irrigating Company	14-06-W-39	12-12-52	2-6-63	12.763	0.7508	.7161	.7712
The Butte and Market Lake Canal Company	14-06-W-38	12-12-52	2-6-63	4.666	0.2745	.2618	.2819
Clement Brothers, a partnership	14-06-100-7446	9-9-72	None	71	0.0042	.0040	.0043
Corbet Slough Ditch Company	14-06-W-12	12-12-52	2-6-63	3.396	0.1998	.1905	.2052
The Enterprize Canal Company, Ltd.	14-06-W-15	12-12-52	2-1-63	8,923	0.5249	.5007	.5392
Enterprise Irrigation District	14-06-100-1912	6-2-60	None	10,188	0.5993	.5716	.6156
Harrison Canal and Irrigation Company	14-06-W-30	12-12-52	2-1-63	12,025	0.7074	.6747	.7266
Michaud Division, Fort Hall Indian Reservation	Memorandum of Agreement	4-25-57	None	47,700	2.8059	2.6764	2.8822
New Sweden Irrigation District	14-06-W-14	12-12-52	2-1-63	25,731	1.5136	1.4438	1.5547
Poplar Irrigation District	14-06-W-45	12-18-52	2-1-63	673	0.0396	.0378	.0407
Progressive Irrigation District	14-06-W-47	12-18-52	1-31-63	12.485	0.7344	.7005	.7544
Rudy Canal Company, Limited	14-06-W-37	12-12-52	2-1-63	2,649	0.1558	.1486	.1601
Snake River Valley Irrigation District	14-06-W-35	12-12-52	2-1-63	26,367	1.5510	1.4795	1.5932
The Trego Ditch Company	14-06-W-23	12-12-52	2-6-63	1,314	0.0773	.0737	.0794
LOWER VALLEY ORGANIZATIONS							
American Falls Reservoir District(2)	14-06-W-59	5-13-54	3-14-60	460,170	27.0688	25.8199	27.8048
American Falls Reservoir District No. 2	14-06-W-73	10-14-54	2-2-60	400,000	23.5294	22.4438	24.1692
Hillsdale Irrigation District	Ilr-252	7-22-23 as amended and supplemented	None	41,146	2.4203	2.3087	2.4862
Milner Low Lift Irrigation District	14-06-W-92	1-7-55	1-21-66	45,687	2.6875	2.5635	2.7605
North Side Canal Company, Limited(1)	14-06-W-28	12-12-52	2-29-60	118.380	6.9635	6.6422	7.1529
A & B Irrigation District	14-06-100-2368	2-9-62	None	47,593	2.7996	2.6704	2.8757
Idaho Power Company	Ilr-733	6-15-23	None	45,000	2.6471	7.1388(3)	None

(1) Also has space through American Falls Reservoir District.

(2) American Falls Reservoir District holds this space for the following:

UPPER VALLEY ORGANIZATIONS	Percent of Capacity	Approximate Acre-Feet
Aberdeen-Springfield Canal Co.	1.3541	23,019
Martin Canal Co.	0.0839	1,426
Woodville Canal Co.	0.3356	5,706
LOWER VALLEY ORGANIZATIONS		
North Side Canal Co., Ltd.	16.4020	278,834
Twin Falls Canal Co.	8.8932	151,185
	27.0688*	460,170

* Erroneously typed as 27.0687 in supplemental contract of 3-14-60.

(3) Computed on the basis of article 17 of the contract of 6-15-23.

EXHIBIT 1

NON-PARTICIPATING WATERUSERS

HOLDINGS OF SPACE IN AMERICAN FALLS RESERVOIR

Water User	Contract No.	Date	Date of Supplemental Contract	Approximate Acre-Feet	Percent of Active Capacity —Percent to Distribute Construction Costs	Percent to Distribute Annual Replacement Dam Operation and Maintenance Costs	Percent to Distribute Annual Water Quality Operation and Maintenance Costs
UPPER VALLEY ORGANIZATIONS							
Burgess Canal and Irrigating Company..	14-06-W-41	12-18-52	2-1-63	9,496	0.5586	.5328	.5738
Dilts Irrigation Company, Limited	14-06-W-32	12-12-52	2-6-63	886	0.0521	.0497	.0535
Falls Irrigation District	14-06-100-851	12-9-55	9-15-64	23,300	1.3706	1.3074	1.4079
Idaho Irrigation District	14-06-W-33	12-12-52	2-6-63	22,911	1.3477	1.2855	1.3844
The Lenroot Canal Company	14-06-W-22	12-12-52	2-1-63	3,868	0.2275	.2170	.2337
The Martin Canal Company(1)	14-06-W-36	12-12-52	9-10-73	580	0.0341	.0326	.0350
Peoples Canal & Irrigation Company ...	14-06-W-44	12-18-52	1-31-63	21,415	1.2597	1.2016	1.2940
Reid Canal Company	14-06-W-10	12-12-52	2-6-63	2,549	0.1499	.1430	.1540
Utah-Idaho Sugar Company ..... (Osgood tract)	Ilr-538	6-6-25	(2)	13,459	0.7917	.7552	.8132
The Woodville Canal Company(1)	14-06-W-49	12-18-52	9-10-73	341	0.0200	.0191	.0206
LOWER VALLEY ORGANIZATIONS							
Burley Irrigation District	14-06-W-48	12-18-52	1-25-60	157,942	9.2907	8.8621	9.5433
Minidoka Irrigation District	14-06-100-1833	2-2-60	None	83,563	4.9155	4.6887	5.0491

(1) Also has space through American Falls Reservoir District.

(2) Has contract for 15,852 acre-feet—is entitled to an additional 5,378 acre-feet of which total 7,771 is transferred to Jackson. Contract to accomplish this is in progress.

EXHIBIT II