

TOWAMENCIN MUNICIPAL AUTHORITY

RESOLUTION NO. 2023-01

WHEREAS, on May 25, 2022, following a competitive bid process, Towamencin Township (“Township”) adopted Ordinance No. 22-04 (“Ordinance”)¹ authorizing, with Towamencin Municipal Authority (“Authority”) consent, the sale of its sanitary wastewater collection and treatment system with all associated assets, properties (whether tangible, real, personal or mixed), and rights (collectively “System”) to NextEra Towamencin Wastewater, LLC (“Sale”);

WHEREAS, at the time NextEra Towamencin Wastewater, LLC (“NextEra”) was determined to be offering the best overall bid for the purchase of the System with Pennsylvania-American Water Company (“PA American”) providing the second-best overall bid;

WHEREAS, on June 14, 2022, in accord with the Ordinance, NextEra, the Township, and the Authority, duly authorized under Resolution No. 2022-01, dated March 18, 2022,² entered into an Asset Purchase Agreement (“Purchase Agreement”) to facilitate the Sale;

WHEREAS, subsequent to execution of the Purchase Agreement, NextEra made the Township aware of its business decision to redirect its strategic plan away from water and wastewater acquisitions to focus more on renewable energy projects and the Township in kind made the Authority aware of this development;

WHEREAS NextEra’s business decision resulted in a decision to explore assignment of its water and wastewater assets, including the Purchase Agreement;

WHEREAS, in furtherance of its business decision, NextEra intends to assign its contractual rights and obligations under the Purchase Agreement to PA American by way of an assignment agreement (“Assignment”) and First Amendment to the Asset Purchase Agreement (“Amended Purchase Agreement”);

WHEREAS, PA American was the second-best overall bidder in the competitive bid process conducted by the Township and has offered the

¹ See Ordinance 22-04 of the Township’s Code, which was properly adopted by the Township on May 25, 2022.

² See Authority Resolution 2022-01, which was adopted on May 18, 2022.

Township a purchase price of \$104,000,000 (\$11,600,000 in excess of its original bid);

WHEREAS, given this recent change of events, the Township now determines (a) PA American is now the best overall bid; and (b) effecting the Sale with PA American is in the Township's best interest;

WHEREAS, the Township, subject to the Authority's consent, intends to enter into the Assignment and Amended Purchase Agreement with PA American; and

WHEREAS, the Authority consents to entering into the Assignment and Amended Purchase Agreement with PA American, and in so doing, adopts this Resolution No. 2023-01 ("Resolution") to authorize and facilitate all needed associated actions.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Authority Board:

1. **Replacement of Resolution 2022-01.** The Authority Board replaces Resolution 2022-01 in its entirety with this Resolution.
2. **Signing Authorization.** The Authority Board consents to entering into the Assignment and Amended Purchase Agreement with PA American, designated as the Purchaser. The Authority Board's Chairman or Vice Chairman is directed to sign the Assignment, Amended Purchase Agreement, and all associated documents (collectively "Sale Documentation") and take all actions necessary to facilitate the signing of such documentation.
2. **Related Agreements Assignment.** The Authority Board authorizes the assignment of applicable rights and obligations in all related agreements, as required under the Sale Documentation, to Purchaser. The Authority Board's Chairman or Vice Chairman is directed to sign the associated assignment documents, provided the terms and conditions of such documents are satisfactory to the Authority's Solicitor. The Authority Board's Chairman or Vice Chairman is further directed to take all actions necessary to facilitate such assignment.
3. **Providing Information and Cooperation.** The Authority Board authorizes the Authority, its agents, and employees, as directed by the Authority Board, to provide information and cooperate

with the Township to facilitate the Sale and System's continued operation and use of System Assets.

4. **General Authorization.** The Authority Board authorizes the Authority, its agents, and employees, as directed by the Authority Board, to take all needed actions required by applicable law, or otherwise, to complete the Sale.

RESOLVED and **ADOPTED** at the Board's March 23, 2023 special meeting.

TOWAMENCIN MUNICIPAL AUTHORITY



JEFFREY C. SCHOPPE, *Chairman*

Attest:



ELIZABETH SMITH, *Secretary*

Date: March 23, 2023

TOWAMENCIN TOWNSHIP

ORDINANCE NO. 22-04

AN ORDINANCE AUTHORIZING THE TOWNSHIP TO: (1) ENTER INTO AN ASSET PURCHASE AGREEMENT WITH PURCHASER FOR THE SALE OF THE TOWNSHIP'S SEWER SYSTEM; (2) ASSIGN APPLICABLE RIGHTS AND OBLIGATIONS IN ALL RELATED AGREEMENTS TO PURCHASER; (3) TRANSFER ALL ASSOCIATED CONVEYANCE INSTRUMENTS TO PURCHASER; (4) PROVIDE INFORMATION AND COOPERATE WITH PURCHASER; AND (5) TAKE ALL REQUIRED ACTION TO FACILITATE THE ASSET PURCHASE.

ENACTED: 5/25/2022

TOWAMENCIN TOWNSHIP

ORDINANCE NO. 22-04

AN ORDINANCE AUTHORIZING THE TOWNSHIP TO: (1) ENTER INTO AN ASSET PURCHASE AGREEMENT WITH PURCHASER FOR THE SALE OF THE TOWNSHIP'S SEWER SYSTEM; (2) ASSIGN APPLICABLE RIGHTS AND OBLIGATIONS IN ALL RELATED AGREEMENTS TO PURCHASER; (3) TRANSFER ALL ASSOCIATED CONVEYANCE INSTRUMENTS TO PURCHASER; (4) PROVIDE INFORMATION AND COOPERATE WITH PURCHASER; AND (5) TAKE ALL REQUIRED ACTION TO FACILITATE THE ASSET PURCHASE.

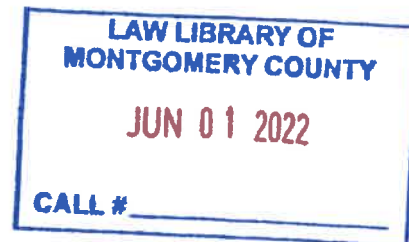
ATTESTATION

I attest that the attached Ordinance is a true and correct copy of the Towamencin Township Ordinance 22-04 that was enacted by Towamencin Township Board of Supervisors at its May 25, 2022 Meeting.

TOWAMENCIN TOWNSHIP


ROBERT J. IANNOZZI JR., *Solicitor*

Date: 5/27/2022



TOWAMENCIN TOWNSHIP

ORDINANCE NO. 22-04

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WHEREAS, Towamencin Municipal Authority ("Authority") currently owns and operates a certain sanitary wastewater collection and treatment system ("System"); and

WHEREAS, the Authority leases the System to Towamencin Township, a Second Class Township ("Township"), under a June 30, 2015 Lease and Service Agreement ("Lease"). Under the Lease, the Authority provides sanitary wastewater service to customers in the Township and portions of Lower Salford and Worcester Townships; and

WHEREAS, the Township previously decided to consider acquiring the System from the Authority and, with the Authority's approval, selling all System assets, properties (whether tangible, real, personal or mixed) and rights ("System Assets"), as set forth in the Asset Purchase Agreement ("Purchase Agreement"), through a competitive bidding process ("Sale"); and

WHEREAS, the Township previously issued Requests for Qualifications ("RFQ") and Requests for Bids ("RFB") to solicit bids to purchase the System from interested and qualified bidders; and

WHEREAS, the Township has received several RFQ responses, and after the opportunity for due diligence, has received RFB bids from five interested and qualified bidders ("Qualified Bidders"); and

WHEREAS, the Township has reviewed the Qualified Bidders' bids and determined that the Sale to the Qualified Bidder, NextEra Towamencin

Wastewater, LLC. ("Successful Bidder"), offering the highest and best overall bid—is in the Township's best interest; and

WHEREAS, the Board, with the Authority's approval as a condition precedent, intends to enter into the Purchase Agreement with the Successful Bidder; and

WHEREAS, pursuant to the Purchase Agreement, the Township will transfer to the Successful Bidder ownership of the System Assets through the execution and delivery of all associated and required bills of sale; instruments of assignment; consents to transfer; deeds; and other conveyance agreements, documents, and instruments (collectively, "Conveyance Instruments"); and

WHEREAS, the Township currently receives information as to water consumption by customers within the service area of the System from companies to facilitate accurate billing ("System Billing Information") and intends to provide the System Billing Information and all Township rights in connection therewith to the Purchaser and cooperate with the Purchaser to ensure the System's continued operation.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board:

1. **Awarding of Successful Bidder and Purchase Agreement Authorization**

The Board awards the Purchase Agreement to NextEra Towamencin Wastewater, LLC., the Successful Bidder, designates it as the Purchaser hereunder, and authorizes, with the Authority's approval, the entering into and performance of the Purchase Agreement with Purchaser, substantially in the form attached hereto as Exhibit A.

The Board's Chairman or Vice Chairman is directed to sign the Purchase Agreement and all associated documents and take all actions necessary to facilitate the Purchase Agreement.

2. **Related Agreements Assignment**

The Board authorizes the assignment of applicable rights and obligations in all related agreements, as required under the Purchase Agreement, to Purchaser.

The Board's Chairman or Vice Chairman is directed to sign the associated assignment documents, provided the terms and conditions of such documents are satisfactory to the Township Solicitor and Special Counsel.

The Board's Chairman or Vice Chairman is further directed to take all actions necessary to facilitate such assignment.

3. **Conveyance Instruments Transfer**

The Board authorizes the transfer of the associated Conveyance Instruments as required under the Purchase Agreement.

The Board's Chairman or Vice Chairman is directed to sign the Conveyance Instruments, provided the terms and conditions of such documentation are satisfactory to the Township Solicitor and Special Counsel.

4. **Use of Sale Proceeds**

The Board shall determine the application of the Sale proceeds for the benefit of the Township in a manner consistent with the Pennsylvania Second Class Township Code and with the advice of the Township's Financial Advisor and Special Counsel, provided, however, the Sale proceeds shall first be immediately used to extinguish or defease all existing Township and Authority sewer debt.

5. **Information and Cooperation**

The Board authorizes the Township, its agents and employees, to provide needed information to Purchaser relative to the System Billing Information with all Township rights in connection therewith, as well as other information as directed by the Board.

The Board further authorizes the Township to cooperate with the Purchaser for the System's continued operation and use of System Assets.

6. **General Authorization**

The Board authorizes the Township, its agents and employees, as directed by the Board, to take all needed actions required by the Code, other applicable law, or otherwise, to complete the Sale.

7. **Severability**

This Ordinance's provisions are intended to be severable. If any section, sentence, clause, part, or provision of this Ordinance is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction, such determination shall not affect or impair this Ordinance's remaining sections, sentences, clauses, parts, or provisions.

Furthermore, it is declared to be this Board's express intent that this Ordinance still be adopted even if such an illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included.

8. **Effective Date**

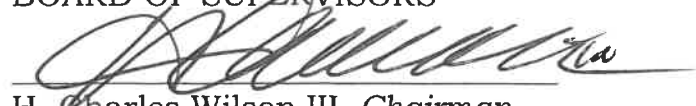
This Ordinance shall take effect five days from this Board's approval of it as required by the Pennsylvania law.

9. **Repealer**

All other ordinances and resolutions or parts thereof as they are inconsistent with this Ordinance are repealed.

ORDAINED and **ENACTED** at the Board's May 25, 2022 meeting.

TOWAMENCIN TOWNSHIP
BOARD OF SUPERVISORS


H. Charles Wilson III, *Chairman*

Attest:



Laura C. Smith, *Secretary*

EXHIBIT A
Purchase Agreement

Draft 12/21/21

ASSET PURCHASE AGREEMENT

By and Among

Township of Towamencin, Montgomery County

As Seller

Towamencin Municipal Authority

and

[]

As Buyer

Dated as of _____, 2021

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of _____, 2021 (the "Effective Date"), is made and entered into by and between the Township of Towamencin, Montgomery County, a body corporate and politic, organized under the Pennsylvania law, (the "Seller" or the "Township"), the Towamencin Municipal Authority, a body corporate and politic created under the Pennsylvania Municipal Authorities Act (the "Authority") and [____], (the "Buyer"), a [Pennsylvania] [corporation/municipal authority].

WITNESSETH:

WHEREAS, the Authority owns that certain sanitary wastewater collection and treatment system (the "System") which is leased to the Township under a Lease and Service Agreement dated June 30, 2015 ("Lease") pursuant to which the Authority provides sanitary wastewater service to various customers in the Township and portions of Lower Salford, and Worcester, Montgomery County, Pennsylvania (the "Service Area"); and

WHEREAS, the Seller, acting by and through its Board of Supervisors (the "Municipal Board") intends to terminate the Lease and acquire possession and operational control of the assets of the System on or before the Closing Date (as defined herein); and

WHEREAS, Buyer is, or as of the Closing Date will be, a [regulated public utility] [municipal authority] that furnishes wastewater service to the public [in Pennsylvania]; and

WHEREAS, Buyer, in reliance upon the representations, warranties and covenants of the Seller and Authority herein, desires to purchase and acquire from the Seller, and the Seller, in reliance upon the representations, warranties and covenants of Buyer herein, desires to sell, transfer and convey to Buyer all of the assets of the System (other than the Excluded Assets), and in connection therewith, Buyer has agreed to assume certain ongoing obligations and liabilities of the Seller related to such acquired assets, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual representations, warranties, covenants, and agreements contained in this Agreement, the receipt and sufficiency of which are acknowledged, intending to be legally bound, the Parties agree as follows:

ARTICLE I.

DEFINITIONS

In addition to the capitalized terms defined elsewhere in this Agreement, the following terms, as used in this Agreement (unless otherwise specified in this Agreement), have the meanings specified in this Article I:

"**Abstractor**" has the meaning specified in Section 6.05(a).

“Accounts Receivables” means all accounts or notes receivable held by Seller, and any security, claim, remedy or other right related to the foregoing, including the right to receive and collect payment for sanitary wastewater customer services and to receive and hold customer deposits in connection thereof.

“Acquired Assets” has the meaning specified in Section 2.01.

“Act 537” has the meaning specified in Section 7.10.

“Act 537 Plan” has the meaning specified in Section 7.10.

“Affiliate” means, when used to indicate a relationship with a specified Person, a Person that, directly or indirectly, through one or more intermediaries has a 10% or more voting or economic interest in such specified Person or controls, is controlled by or is under common control with (which include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person is deemed to be controlled by another Person if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (and for purposes of this definition, a managed fund or trust is deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust is deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

“Agreement” has the meaning specified in the preamble to this Agreement (and includes all Schedules and Exhibits referred to herein), as amended, modified and supplemented from time to time in accordance with the terms hereof.

“Allocation Schedule” has the meaning specified in Section 3.03.

“Assigned Contracts” has the meaning specified in Section 4.15 and includes the Municipal Agreements.

“Assignment and Assumption Agreement” has the meaning specified in Section 13.02(c).

“Assumed Liabilities” has the meaning specified in Section 2.04(a).

“Authority Board” means the five member board of the Towamencin Municipal Authority who are appointed by the Municipal Board.

“Authorizations and Permits” mean all licenses, permits, franchises, authorizations, certificates, registrations, consents, orders, adjudications, variances, waivers and approvals currently in effect issued or granted by Governmental Authorities, including without limitation, environmental permits, operating permits and approvals that are held by the Seller or the

Authority that primarily relate directly or indirectly to the operation of the System, including those set forth on Schedule 4.14.

“**Authority**” has the meaning specified in the preamble of this Agreement.

“**Business Day**” means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by either the Commonwealth of Pennsylvania or the United States government.

“**Buyer**” has the meaning specified in the preamble of this Agreement.

“**Buyer Fundamental Representations**” has the meaning specified in Section 8.01.

“**Buyer Indemnified Persons**” has the meaning specified in Section 8.02.

“**CERCLA**” means the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended.

“**Closing**” means the consummation of the sale and purchase of the Acquired Assets and assumption of the Assumed Liabilities, the release/waiver of liabilities and the other transactions contemplated by this Agreement, all in accordance with the terms and conditions of this Agreement and as provided for in Article XIII.

“**Closing Date**” has the meaning specified in Section 13.01.

“**Closing Effective Time**” has the meaning specified in Section 13.01.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Collective Bargaining Agreement**” means the existing collective bargaining agreement between the Authority, as predecessor-in-interest to Seller, and the Union for the period beginning February 1, 2019 and ending January 31, 2023, as amended by the First Amendment and as may be amended from time to time.

“**Confidential Information**” means any information about Buyer, Seller or the System related to the transactions contemplated by this Agreement; except that such term does not include information which the receiving Party can demonstrate (a) is generally available to or known by the public other than as a result of improper disclosure by the receiving Party, (b) is obtained by the receiving Party from a source other than the disclosing Party, and that such source was not bound by a duty of confidentiality to the disclosing Party with respect to such information, or (c) is legally in the public domain.

“**Easements**” means all easements, rights of way, licenses, use agreements, occupancy agreements, leases and other agreements and appurtenances for and over the real property of third parties that, in each case, is for or used in connection with the operation of the System or to provide continuous and unimpeded rights of way for the Acquired Assets (including access thereto).

“**EDU**” means the equivalent dwelling unit that also equates to 280 gallons per day.

“**Effective Date**” has the meaning specified in the preamble.

“**Environment**” means soil, surface waters, ground waters, land, stream sediments, flora, fauna, surface or subsurface strata and ambient air.

“**Environmental Claims**” means all notices of investigations, warnings, notice letters, notices of violations, Liens, orders, claims, demands, suits or administrative or judicial actions for any injunctive relief, fines, penalties, third party claims, or other claims asserting violations or liability pursuant to Environmental Requirements or responsibility for Environmental Liabilities.

“**Environmental Conditions**” means the Release of Hazardous Materials or the presence of Hazardous Materials on, in, under or within any property (including the presence in the Environment), other than the presence of Hazardous Materials in locations and at concentrations that are naturally occurring.

“**Environmental Liabilities**” means any legal obligation or liability arising under Environmental Requirements or related to or arising out of any Environmental Condition, including those consisting of or relating to any (a) duty imposed by, breach of or noncompliance with any Environmental Requirements; (b) environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of Hazardous Materials); (c) Remedial Action undertaken by any Person; (d) bodily injury (including illness, disability and death, and regardless of when any such bodily injury occurred, was incurred or manifested itself), property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real or personal property), or other losses or damages incurred by any other Person (including any employee or former employee of such Person); (e) any injury to, destruction of, or loss of natural resources, or costs of any natural resource damage assessments; (f) exposure of any Person to any Hazardous Materials; and (g) the presence or Release of any Hazardous Materials.

“**Environmental Requirements**” mean all Laws (including common law), regulations, legally binding or otherwise enforceable requirements and Authorizations and Permits relating to human health, pollution, or protection of the Environment (including ambient air, surface water, ground water, land surface or surface strata), including (i) those relating to emissions, discharges, Releases, or threatened Releases of Hazardous Materials, and (ii) those relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, release, recovery, transport or other handling of Hazardous Materials. Without limiting the foregoing, the term “**Environmental Requirements**” includes (1) CERCLA; the Superfund Amendments and Reauthorization Act, Public Law 99-499, 100 Stat. 1613; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Sections 11001-11050; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901-6992k (“**RCRA**”); the Safe Drinking Water Act, 42 U.S.C. Sections 300f to 300j-26; the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2692; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 5101-5127; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1387; the Oil Pollution Act of 1990, 33 U.S.C. Sections 2701--2761; the Clean Air Act, 42 U.S.C. Sections 7401-7671q;

the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2011 et seq.; the Low Level Radioactive Waste Policy Act, as amended, 42 U.S.C. Section 2021b et seq.; the Occupational Safety and Health Act, 29 U.S.C. Sections 651-678, and the regulations promulgated pursuant to the above-listed federal statutes, and (2) counterpart Laws and regulations promulgated or issued by any state or local Governmental Authority, specifically including the Pennsylvania Storage Tank and Spill Prevention Act of 1989 (35 Pa. C.S.A. § 6021.101 *et. seq.*).

“EPA” means the United States Environmental Protection Agency, or a successor Governmental Authority with substantially similar power and authority thereto.

“**Equipment and Machinery**” means (i) all the equipment, tangible personal property, machinery, office furniture and equipment, fixtures, tooling, spare maintenance or replacement parts, environmental testing equipment, and vehicles owned or leased by the Seller or the Authority (including all leases of such property), which are primarily used in the operation of the System, (ii) any rights of the Seller or the Authority to warranties applicable to the foregoing (to the extent assignable), and licenses received from manufacturers and seller of any such item, and (iii) any related claims, credits, and rights of recovery with respect thereto, as listed on Schedule 4.10.

“**Escrow Agreement**” has the meaning set forth in Section 3.01.

“**Excluded Assets**” has the meaning specified in Section 2.02.

“**Excluded Liability**” or “**Excluded Liabilities**” means all liabilities other than Assumed Liabilities.

“**Files and Records**” means all files and records of each of the Seller and the Authority primarily relating to the System and the Acquired Assets, whether in hard copy, digital, or magnetic or other format including data, geographic information system data, plans, and contracts relating to the Acquired Assets (including property records, related to the foregoing), customer and supplier records, customer lists (both current and prospective), personnel and human resources records related to the Personnel, records of sales calls, manuals, books, files, records, engineering data, procedures, systems, instructions, drawings, blueprints, plans, designs, specifications, equipment lists, parts lists, equipment maintenance records, equipment warranty information, plant plans, specifications and drawings, sales and advertising material, computer software, and records, whether stored on-site or off-site.

“**Final Order**” means a Governmental Approval by a Governmental Authority as to which (a) no request for stay of the action is pending, no such stay is in effect and if any time period is permitted by statute or regulation for filing any request for such stay, such time period has passed, (b) no petition for rehearing, re-argument, reconsideration, clarification, rescission, amendment, or supersedes of the action is pending and the time for filing any such petition has passed, (c) such Governmental Authority does not have action under consideration on its own motion and (d) no appeal to a court or administrative tribunal or a request for stay by a court or administrative tribunal of the Government Authority’s action is pending or in effect and the deadline for filing any such appeal or request for stay has passed.

[“**Freeze Period**” has the meaning specified in Section 7.04.]

“Governmental Approval” means any consent, approval, authorization, notice, filing, registration, submission, reporting, order, adjudication or similar item of, to or with any Governmental Authority.

“Governmental Authority” or **“Governmental Authorities”** means any court, department, commission, board, bureau, municipality, municipal authority (established pursuant to the Pennsylvania Municipal Authorities Act of the Commonwealth of Pennsylvania), agency or instrumentality of the United States, any state, county, city or political subdivision thereof, or any foreign governmental body, including without limitation, [the PaPUC], the EPA, PaDEP, the Municipal Board and the Authority Board.

“Hazardous Materials” means any solid, liquid, gas, odor, heat, sound, vibration, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, hazardous waste, residual waste, solid waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Requirements or which is classified as hazardous or toxic under applicable Environmental Requirements (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation).

“Indemnified Party” means any Buyer Indemnified Persons or Seller Indemnified Persons, as applicable, entitled to indemnification pursuant to Article VIII.

“Indemnifying Party” means a Party which is obligated to indemnify the Buyer Indemnified Persons or the Seller Indemnified Persons, as applicable, pursuant to Article VIII.

“Knowledge” means either (i) the actual knowledge of a Representative of Buyer and the knowledge that such person would reasonably be expected to obtain in the course of diligently performing his or her duties for Buyer or (ii) the actual knowledge of Senior Staff, the Municipal Board and the Authority Board, and in the case of Senior Staff, the knowledge that each person would reasonably be expected to obtain in the course of diligently performing his or her duties for Seller or the Authority, as applicable based on the context in which the term is used.

“Law” means any applicable law, statute, regulation, ordinance, rule, order, judicial, administrative and regulatory decree, judgment, adjudication, consent decree, settlement agreement or governmental requirement enacted, promulgated, entered into, agreed or imposed by any Governmental Authority, as may be in effect at the relevant time or times in the context in which the term is used.

“Lease” has the meaning specified in the preamble of this Agreement.

“Lender” means the Delaware Valley Regional Finance Authority.

“Liability Cap” has the meaning specified in Section 8.05(c).

“Lien” means any lien in a fixed and ascertainable monetary sum, or any pledge, mortgage, deed of trust or security interest securing a fixed and ascertainable monetary sum, or any charge or claim in a fixed and ascertainable monetary sum. In addition, in connection with

Real Property, any item otherwise falling within the definition of a “Lien” must be filed of record by the responsible Party in accordance with the terms of this Agreement.

“**Loss**” means any and all losses, liabilities, obligations, damages, penalties, interest, Taxes, claims, actions, demands, causes of action, judgments, reasonable attorneys’, consultants’ and other professional fees, and all other reasonable costs and expenses sustained or incurred in investigating, preparing or defending or otherwise incident to any such claim, action, demand, cause of action or judgment or the enforcement of a Party’s rights under Article VIII; except that “**Losses**” do not include punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except in the case of fraud or to the extent actually awarded to a Governmental Authority or other third party in respect of a Third Party Claim.

“**Material Adverse Effect,**” means any result, occurrence, fact, change, event or effect that has a materially adverse effect on the business, financial condition or results of operations of the System; except that no effect arising out of or in connection with or resulting from any of the following will be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions (either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the real estate, financial services, construction, water utility or sewer utility industries generally; (iv) any existing event, circumstance, condition or occurrence of which the Buyer has Knowledge as of the Effective Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement or attributable to the execution, performance or announcement of this Agreement or the transactions contemplated by this Agreement; and (vi) negligence, intentional misconduct or bad faith of the Buyer or its Representatives.

“**Missing Easements**” means, as of any particular date, each Easement that either (a) has not been expressly obtained through a duly executed and recorded instrument by the Authority or Seller and is for or used in connection with the operation of the System or (b) if such Easement has been obtained by the Authority or Seller, such Easement is unrecorded or such Easement is not sufficient to operate the System as currently conducted.

“**Municipal Agreements**” means, collectively, the inter-municipal agreements pursuant to which the Seller or the Authority provides sanitary wastewater service in various municipalities in Montgomery County, Pennsylvania, as more specifically set forth in Schedule 4.15.

“**Municipal Board**” has the meaning set forth in the recitals to this Agreement.

“**Non-Union Personnel**” means Personnel who are not members of the Union.

“**Objection Notice**” has the meaning set forth in Section 6.02(a).

“**Outside Date**” means the date that is 180 days after the Effective Date for a municipal authority and with respect to a regulated utility 365 days after the later to occur of (i) the date the

application to the PaPUC is accepted as complete by the PaPUC, and (ii) the date the statutory 6-month consideration period is initiated.

“Outstanding Indebtedness” means the following outstanding indebtedness of the Seller and the Authority: Delaware Valley Regional Finance Authority Guaranteed Sewer Revenue Notes, 2019 Series and the Delaware Valley Regional Finance Authority Guaranteed Sewer Revenue Notes, 2013 Series.

“PaDEP” means the Pennsylvania Department of Environmental Protection, or any successor Governmental Authority with substantially similar powers thereto.

[**“PaPUC”** means the Pennsylvania Public Utility Commission, or any successor Governmental Authority with substantially similar powers thereto.]

“Party” means Buyer, the Authority or the Seller and the term **“Parties”** means collectively Buyer, the Authority and the Seller.

“PCB Equipment” means PCB equipment as defined in 40 C.F.R. Part 761.

“Pending Development Plan” means any project for the development of real property which is the subject of a subdivision or land development plan that has been submitted to the Seller for approval, or for which the Seller already has granted approval, pursuant to the Pennsylvania Municipal Planning Code, but which has yet to be constructed as of the Effective Date (and as updated before the Closing Date), as provided in Schedule 4.19.

“Permitted Liens” means (a) Liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures; (b) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property and Easements as set forth on Schedule 4.09; (c) other than with respect to Real Property owned by Seller, Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; (d) other imperfections of title or Liens, if any, that have not had, and would not have, a Material Adverse Effect; and (e) any encumbrances set forth in the Title Commitment not identified in the Objection Notice in accordance with the procedures and deadlines prescribed in Section 6.02(a).

“Person” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority.

“Personnel” means the employees of the Authority who are primarily employed to operate the System and includes Union Personnel and Non-Union Personnel.

“Purchase Price” has the meaning specified in Section 3.01.

“Real Property” means those certain parcels of land, with the buildings, improvements, and Equipment and Machinery affixed thereto, that are part of the System and fee simple title to which is to be conveyed by Seller to Buyer as part of the Acquired Assets.

“Regulated Asbestos Containing Material” means regulated asbestos containing material as defined by 40 C.F.R. § 61.141.

“Release” means any actual or threatened spilling, leaking, pumping, pouring, injecting, emptying, discharging, emitting, escaping, leaching, dumping, disposal, or release or migration of Hazardous Materials into the Environment, including the abandonment or discarding of barrels, containers and other receptacles containing any Hazardous Materials.

“Remedial Action” means any and all actions to (a) investigate, clean up, remediate, remove, treat, contain or in any other way address any Hazardous Materials in the Environment, (b) prevent the Release or threat of Release or minimize the further Release of any Hazardous Materials so it does not migrate or endanger public health or welfare or the indoor or outdoor Environment, and (c) perform pre-remedial studies and investigations and post-remedial monitoring, maintenance and care. The term **“Remedial Action”** includes any action which constitutes (i) a “removal”, “remedial action” or “response” as defined by Section 101 of CERCLA, 42 U.S.C. §§ 9601(23), (24), and (25); (ii) a “corrective action” as defined in RCRA, 42 U.S.C. § 6901 et seq.; or (iii) a “response” or “interim response” as defined in the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. §6020.103.

“Representative” means, with respect to any Person, any director (including, in the case of the Seller, any member of the Municipal Board and, in the case of the Authority, any member of the Authority Board), officer, employee, official, lender mortgagee, financier, provider of any financial instrument (or any agent or trustee acting on their behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its “Representative.”

“Schedules” means the disclosure schedules delivered by Seller and Buyer, respectively, concurrently with the execution and delivery of this Agreement, and as may be supplemented and updated pursuant to Sections 9.03 and 10.04. Any disclosure set forth on any particular Schedule are deemed disclosure in reference to all Schedules comprising the Schedules to which such disclosure is reasonably apparent.

“Seller” has the meaning specified in the preamble of this Agreement.

“Seller DEP Permits” means the permits listed on Schedule 4.14 issued by PaDEP to Seller with respect to the System, including any revisions or amendments thereto.

“Seller Fundamental Representations” has the meaning specified in Section 8.01.

“Seller Indemnified Persons” has the meaning specified in Section 8.03.

“Seller’s Benefit Obligations” means all material obligations, arrangements, or practices, whether or not legally enforceable, to provide benefits, other than salary or wages to present or former directors, employees or agents, (other than obligations, arrangements and practices that are Seller’s Plans), that were owed, adopted or followed by the Authority, and upon the termination of the Authority, are now owned, adopted or followed by the Seller.

Seller's Benefit Obligations also include consulting agreements under which the compensation paid does not depend upon the amount of service rendered, sabbatical policies, severance payment policies and fringe benefits within the meaning of Code §132.

"Seller's Plans" means each voluntary employees' beneficiary association under Section 501(c)(9) of the Code whose members include any Personnel and any employee benefit plans or any other retirement, pension, profit sharing, stock option, stock bonus, deferred compensation (including any "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code), severance, sick leave or other material plan or arrangement providing benefits to current or former Personnel, in each case, if either currently in effect or terminated within the last six (6) years, to which the Authority is a plan sponsor or to which the Authority otherwise contributes or has contributed within the last six (6) years, or in which the Authority otherwise participates or has participated within the last six (6) years.

"Senior Staff" means the Township Manager, the Township Director of Finance and Administration, the Township Sanitary Sewer Engineer and Authority Engineer.

"Service Area" has the meaning specified in the recitals to this Agreement.

"Supplies" means all lubricants, spare parts, fuel, chemicals, raw materials, and other supplies and inventory as related to the Acquired Assets, and all rights to warranties received from suppliers with respect to the foregoing, and related claims, credits, and rights of recovery with respect thereto.

"System" has the meaning specified in the recitals to this Agreement and includes the Acquired Assets and excludes the Excluded Assets.

"System Improvements" has the meaning specified in Section 7.10(a).

"Taxes" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, abandoned or unclaimed property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

"Third Party Claim" has the meaning specified in Section 8.05(a)

"Threshold Amount" has the meaning specified in Section 8.05(a).

"Title Commitment" has the meaning specified in Section 6.01.

"Title Company" has the meaning specified in Section 6.01.

"Title Policy" has the meaning specified in Section 2.03.

“**Township**” has the meaning specified in the preamble of this Agreement.

“**Transferred Personnel**” has the meaning specified in Section 7.03(a).

“**UCC Search**” has the meaning specified in Section 6.04.

“**Union**” means District Council 88, American Federation of State, County and Municipal Employees AFL-CIO.

“**Union Personnel**” means Personnel who are members of the Union.

“**Unscheduled Real Property**” has the meaning specified in Section 6.06.

“**Utility Valuation Expert**” means an expert that has applied and has been approved by the PaPUC and is currently, at the time of this Agreement, on the list of approved appraisers maintained by the PaPUC.

ARTICLE II.

TERMS OF PURCHASE AND ASSUMPTION OF LIABILITIES

Section 2.01. Purchase and Sale of Acquired Assets

Subject to the terms and conditions set forth in this Agreement, at Closing, Buyer shall purchase from the Seller and the Seller shall sell, transfer, assign and deliver to Buyer, free and clear of all Liens except for Permitted Liens, all of Seller’s right, title and interest in and to all assets, facilities, business, goodwill, properties and rights of the Seller of every kind and description, whether tangible or intangible, real, personal or mixed, wherever situated, in each case used in, held for use in, or acquired or developed for use in, the System, or otherwise related to, or arising out of the operation or conduct of the System (whether or not any such assets have any value for accounting purposes or are carried or reflected on the books or financial records of the Seller), including any of the foregoing in which Seller is entitled to acquire such rights or interests but in all cases other than the Excluded Assets (the foregoing collectively referred to as the “Acquired Assets”), including:

(a) all real property and appurtenant interests necessary for the operation of the System, including without limitation (i) good and marketable fee simple title to the Real Property set forth on Schedule 4.09 hereof, and (ii) all Easements, including without limitation those set forth on Schedule 4.09;

(b) all sanitary wastewater related treatment and conveyance facilities, including but not limited to the Seller’s (i) assets set forth on Schedule 2.01(b), (ii) sewage treatment plant located in the Township and (iii) all collection system mains (whether gravity or force mains), laterals (from the collection system main to the edge-of-road or curb-line when the main is located within a public right-of-way or the edge of an easement where the main is located within private property), generators, manholes, pump stations and other related appurtenances and any billing and collections related assets necessary to own and operate the System;

(c) all contracts, licenses and leases set forth on Schedule 4.15 to which the Seller (or the Authority as predecessor in interest) is a party, including without limitation, all Municipal Agreements, customer service agreements or applications for service, construction contracts, surety bonds, operation and maintenance agreements, management agreements, reserved capacity agreements, architect agreements and consultant agreements, and agreements relating to vehicles and other items of personal property (the “Assigned Contracts”);

(d) all Supplies;

(e) all personal property and fixed assets, including all Equipment and Machinery, auxiliary equipment and plant equipment, including without limitation those items listed on Schedule 4.10 hereof;

(f) all expenses prepaid by Seller or the Authority and security deposits by Seller and by the Authority;

(g) all Files and Records;

(h) Accounts Receivable arising on or after the Closing Date; and

(i) all Authorizations and Permits of or held by the Seller (or the Authority as predecessor in interest) (to the extent transferrable to Buyer under Law), including all Authorizations and Permits which are environmental permits, the Seller DEP Permits as set forth on Schedule 4.14 hereto and other operating permits and those items set forth on Schedule 4.14 hereto; and

(j) all goodwill of the System.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTIES OF ANY KIND WHATSOEVER REGARDING THE VALUE OF ANY OF THE ACQUIRED ASSETS OF THE SYSTEM OR THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING [THAT MAY BE ALLOWED BY THE PAPUC] FOR ANY OF THE ACQUIRED ASSETS. NOTWITHSTANDING THE FOREGOING, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE VALID UNTIL THE TIME OF CLOSING.

Section 2.02. **Excluded Assets**

Notwithstanding Section 2.01 or any other provision of this Agreement to the contrary, the Acquired Assets do not include the following (the “Excluded Assets”):

(a) all contracts, licenses and leases that are not Assigned Contracts;

(b) the seals, organizational documents, minute books, Tax returns, books of account or other records having to do with the organization of Seller and the organization of the Authority;

(c) cash (including any cash whenever received resulting from the payment received by Seller or the Authority attributable to wastewater service provided to EDU's before the Closing Date) and cash equivalents, including Accounts Receivable accrued before the Closing Date and existing financial security guaranteeing installation of public improvements (including sewer facilities);

(d) all insurance policies of Seller and all insurance policies of the Authority and all rights to applicable claims and proceeds thereunder;

(e) all Seller's Plans and trusts or other assets attributable thereto;

(f) other than to the extent relating to any Assumed Liability, all actions, suit or claim of any nature available to or being pursued by Seller or the Authority, whether arising by way of counterclaim or otherwise;

(g) all assets, properties and rights used by Seller or the Authority other than those which primarily relate to the operations of the System;

(h) the assets, properties and rights specifically set forth on Schedule 2.02(h);

(i) all municipal separate storm sewer system ("MS4") assets and stormwater assets of the Seller or the Authority (and any related NPDES permits); and

(j) the rights which accrue or will accrue to Seller or the Authority under this Agreement and any related agreement, exhibit or schedule.

Section 2.03. **Sale Free of Liens**

After Buyer fulfills its obligations pursuant to Section 3.01(a), on the Closing Date, the Acquired Assets will be free and clear of all Liens other than Permitted Liens. The Seller (or the Authority as predecessor in interest) shall convey such Acquired Assets by appropriate special warranty or other deed (subject to Section 6.02(c)), bills of sale, endorsements, assignments and other instruments of transfer or conveyance described in the Agreement, or by transfer documents satisfactory in form and substance reasonably acceptable to Buyer and Seller and their counsel in their reasonable discretion. At Closing, Buyer shall cause the Title Company to insure the Real Property, at the Title Company's filed rates, as a good and marketable title, free and clear of all Liens and exceptions to title insurance coverage, except for the Permitted Liens, pursuant to an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006, subject to the terms of Section 6.02 below (the "Title Policy").

Section 2.04. **Assumption of Liabilities**

(a) On the terms and subject to the conditions set forth in this Agreement and excluding the Excluded Liabilities, Buyer shall assume and agrees to pay, perform and discharge when due any and all liabilities and obligations of the Seller (1) arising under the Seller DEP Permits (arising from, related to, or based on events or circumstances occurring on or after the Closing Date), (2) arising under the Collective Bargaining Agreement or an amended and restated collective bargaining agreement with respect to any Transferred Personnel (arising from,

related to or based on events or circumstances occurring on or after the Closing Date), and (3) arising out of or relating to the System or the Acquired Assets on or after the Closing, including, without limitation, the following:

(i) all liabilities and obligations under the Assigned Contracts and Authorizations and Permits resulting from events that occur or conditions that arise on or after the Closing;

(ii) any litigation initiated against Seller or the Authority related to the System or the Acquired Assets resulting from events that occur or conditions that arise on or after the Closing;

(iii) all liabilities and obligations for Taxes relating to the System, its operation, the Acquired Assets and the Assumed Liabilities attributable to the period beginning on the Closing Date; and

(iv) all other liabilities and obligations arising out of or relating to Buyer's ownership or operation of the System and the Acquired Assets on or after the Closing (all of the aforementioned liabilities in this Section 2.04(a) are referred to as the "Assumed Liabilities").

(b) After the Closing, Buyer shall indemnify Seller against its obligations under the Assumed Liabilities in accordance with Section 8.03.

(c) Buyer shall not assume or be liable to pay any liabilities or obligations relating to the Excluded Liabilities or any other liabilities or obligations that are not Assumed Liabilities.

Section 2.05. **Further Assurances** At any time and from time to time after the Closing Date, the Seller shall, upon the request of Buyer, and Buyer shall, upon the request of the Seller, at the cost of requesting Party, promptly execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate, (a) the sale, conveyance, transfer, assignment and delivery hereunder of the Acquired Assets to Buyer, (b) the assumption by Buyer of any of the Assumed Liabilities, (c) performance by the Parties of any of their other respective obligations under this Agreement, (d) the vesting in Buyer of all right, title and interest in the Acquired Assets and the System as provided herein, and (e) any other matters reasonably requested by a Party to carry out the provisions, purposes and intent of this Agreement.

Section 2.06. **Certain Transfers; Assignment of Contracts**

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.06(a) and Section 2.06(b), to the extent that the sale, transfer, assignment, conveyance and delivery, or attempted sale, transfer, assignment, conveyance and delivery, to Buyer of any Assigned Contract or other Acquired Asset would result in a violation of Law, or would require the consent, authorization, approval or waiver of any Person (other than the Parties hereto), including any Governmental Authority, and such consent, authorization,

approval or waiver has not been obtained before the Closing, this Agreement shall not constitute a sale, transfer, assignment, conveyance and delivery, or an attempted sale, transfer, assignment, conveyance and delivery, thereof (any such Acquired Asset, a “Nonassignable Asset”). Following the Closing, the Seller and the Buyer shall use commercially reasonable efforts (at the cost and expense of the Party that is responsible for compliance with such Law or obtaining such consent, authorization, approval or waiver), and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution, novation or amendment required to sell, transfer, assign, convey and deliver any such Nonassignable Asset to Buyer; except that in no event will Buyer be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, the Seller shall sell, transfer, assign, convey and deliver to Buyer the relevant Acquired Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Any applicable sales, transfer and other similar Taxes in connection with such sale, transfer, assignment, conveyance and delivery shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller.

(b) Until such time as a Nonassignable Asset is transferred to Buyer pursuant to this Article II, Buyer and Seller shall cooperate in any commercially reasonable and economically feasible arrangements (such as subleasing, sublicensing or subcontracting) to provide to the Parties the economic and, to the extent permitted under Law, operational equivalent of the transfer of such Nonassignable Asset to Buyer at the Closing and the performance by Buyer of its obligations with respect thereto, and so long as the Seller transfers and turns over all economic and beneficial rights with respect to each such Nonassignable Asset, Buyer shall, to the extent permitted under Law and the terms of any applicable contract that constitutes a Nonassignable Asset, as agent or subcontractor for the Seller, pay, perform and discharge the liabilities and obligations of the Seller thereunder from and after the Closing Date, but only to the extent that such liabilities and obligations would constitute Assumed Liabilities if the applicable consent or approval had been obtained on or before the Closing Date and such Nonassignable Asset had been assigned to Buyer at Closing. To the extent permitted under Law, the Seller shall hold in trust for and pay to Buyer promptly upon receipt thereof, such Nonassignable Asset and all income, proceeds and other monies received by Seller with respect to such Nonassignable Asset in connection with the arrangements under this Article II.

(c) If, following the Effective Date and before the Closing, Buyer identifies any contract to which the Seller (or the Authority) is a party which is not set forth on Schedule 4.15 as an Assigned Contract as of the Effective Date, and Buyer reasonably determines such contract is necessary to the operation of the System, Buyer shall notify Seller of such determination and Seller shall, promptly following receipt of such notice, deliver to Buyer an updated Schedule 4.15 reflecting the addition of such contract, and such contract will thereafter constitute and be deemed an Assigned Contract for all purposes hereunder.

(d) If, during the twenty four (24) month period following the Closing, Buyer identifies any contract to which the Seller or the Authority was a party as of the Closing and which (i) was not set forth on Schedule 4.15 (as may be updated pursuant to (c)) and (ii) Buyer reasonably believes is necessary to the operation of the System, the Seller shall, promptly following Buyer’s written request therefor, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and

other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate the assignment of such contract to Buyer for no additional consideration, and upon such assignment, such contract will be deemed an Assigned Contract for all purposes hereunder.

ARTICLE III.

PURCHASE PRICE

Section 3.01. Purchase Price

The purchase price for the Acquired Assets is _____ Million Dollars (\$____,000,000) (the "Purchase Price") which Buyer shall pay as follows at Closing unless otherwise indicated:

(a) Deposit.

(i) Buyer shall pay One Hundred Thousand Dollars (\$100,000) to Seller as a deposit on account of the Purchase Price (the "Deposit") upon the third Business Day following the execution by the Parties of this Agreement; and

(ii) Seller shall be free to use the Deposit as it determines in the Seller's sole discretion;

(iii) In the event that this Agreement is terminated for any reason, half of the Deposit shall be refundable to the Buyer within ninety days following the effective date of termination per Section 14.01, provided, however, if the Agreement is terminated by Seller pursuant to Section 14.01(c), then Seller shall be permitted to offset against Seller's obligation to refund the Deposit any damages recoverable by Seller per the terms of this Agreement.

(b) Outstanding Indebtedness. Buyer shall pay an amount equal to \$_____ (the "Payoff Amount") to pay in full the total amount of Outstanding Indebtedness;

(c) Escrow. Buyer shall cause to be deposited in escrow pursuant to an escrow agreement substantially in the form attached as Exhibit C and entered into by and among the Seller, the Buyer and the escrow agent party thereto (the "Escrow Agreement") an amount calculated in accordance with Section 6.05(e);

(d) Final Payment. Subject to any adjustment in Purchase Price resulting from the proration procedures specified in Section 3.01(e) below, Buyer shall pay to the Seller at Closing by wire transfer of immediately available funds the balance of the Purchase Price remaining after the payment of the Deposit, the debt repayment pursuant to Section 3.01(b), and any escrow as set forth in Section 6.05(e), to one or more accounts that Seller designates and provides to Buyer at least three (3) Business Days before the Closing Date; and

(e) Final Billing. The Buyer is entitled to all customer billings with respect to sanitary wastewater customer services for the period on or after the Closing Effective Time, and the Seller is entitled to all such billings before the Closing Effective Time. The Parties shall

cooperate to calculate an agreed upon proration of billing amounts and to the extent that a Party collects billings that are attributable to service provided by another Party, the Party holding the other Party's billing collections shall pay such amount to the other Party.

Section 3.02. **Fair Consideration**

The Parties acknowledge and agree that the consideration provided for in this Article III represents fair consideration and reasonable equivalent value for the sale and transfer of the Acquired Assets and the transactions, covenants and agreements set forth in this Agreement, which consideration was agreed upon as the result of arm's-length good faith negotiations between the Parties and their respective Representatives.

Section 3.03. **Allocation Schedule**

The Purchase Price (which for purposes of this Section 3.03 shall include any liabilities required to be treated as part of the Purchase Price for federal income tax purposes), may, at the option of the Buyer, be allocated among the Acquired Assets in accordance with the allocation reflected in a schedule prepared by Buyer and attached hereto as Schedule 3.03. In the event Buyer does not opt to prepare a schedule pursuant to the preceding sentence, then within sixty (60) days following the Closing Date, Buyer may deliver to Seller a draft of the Allocation Schedule setting forth Buyer's proposed allocation for Seller's review. Seller shall have the right to review and reasonably comment upon Buyer's proposed Allocation Schedule, provided, that (a) such proposed Allocation Schedule shall be deemed approved by Seller and shall be final and binding upon the Parties unless Seller provides written notice of Seller's comments to one or more items reflected in the proposed Allocation Schedule within twenty (20) Business Days after delivery of the proposed Allocation Schedule to Seller, and (b) upon receipt of any such written comments from Seller with respect to the proposed Allocation Schedule, Buyer may make such adjustments or revisions to the proposed Allocation Schedule based on Seller's comments as Buyer determines in good faith to be necessary and appropriate, provided further, that Buyer shall have no obligation to make any such adjustments or revisions absent manifest error. The Parties shall adhere to the Allocation Schedule (as finally determined pursuant to this Section 3.03) for all purposes relevant to the calculation of federal or state Taxes, and will report the transactions contemplated herein in a manner consistent with such Allocation Schedule. Except as required by applicable Law, Buyer and Seller shall not take any position on their respective Tax Returns that is inconsistent with the Allocation Schedule.

Section 3.04. **Transfer Taxes**

Any and all deed stamps or transfer Taxes which may be due the Commonwealth of Pennsylvania or any political subdivision in connection with the sale, transfer, assignment, conveyance and delivery hereunder of the Acquired Assets to Buyer (collectively, "Transfer Taxes"), will be paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller. The terms hereof shall survive Closing. Seller and Buyer shall cooperate in good faith to prepare the Pennsylvania Form REV-138 (Realty Transfer Tax Statement of Value) setting forth the amount of the Purchase Price that shall be allocated to the Real Property for purposes of calculating Transfer Taxes.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF THE SELLER AND THE AUTHORITY

The Seller and Authority jointly and severally make only the specified representations and warranties which are set forth in this Article IV.

As a material inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated by this Agreement, the Seller and Authority represent and warrant, as of the Effective Date (except to the extent any of the following representations and warranties specifically apply to or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 4.01. **Organization**

Seller is a township of the Second Class of the Commonwealth of Pennsylvania duly organized under the Pennsylvania Second Class Township Code. The Authority is a body corporate and politic, duly organized and existing under the Municipal Authorities Act and incorporated by appropriate legal action of the Seller.

Section 4.02. **Power and Authority**

Seller has (i) duly adopted the ordinance(s) authorizing the transactions contemplated by this Agreement, which remain(s) in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement, and (iii) duly authorized and approved the performance by the Seller of its obligations contained in this Agreement. The Seller has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. The Authority has (i) duly adopted the resolution(s) authorizing the transactions contemplated by this Agreement, which remain(s) in full force and effect, and (ii) duly authorized and approved the performance by the Authority of the obligations specific and exclusive to the Authority as contained in this Agreement. The Authority has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

Section 4.03. **Enforceability**

This Agreement has been duly authorized, executed and delivered by each of the Seller and the Authority and constitutes a valid and legally binding obligation of the Seller and the Authority, enforceable against the Seller and the Authority in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

Section 4.04. **No Conflict or Violation**

The execution and delivery of this Agreement by each of the Seller and the Authority, the consummation of the transactions contemplated by this Agreement and the performance by the

Seller and the Authority of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Seller or the Authority under (i) any Law or (ii) any agreement, instrument or document to which the Seller or the Authority is a party or by which it is bound.

Section 4.05. **Consents and Approvals**

Schedule 4.05 sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by the Seller and the Authority or the performance by the Seller or the Authority of their respective obligations hereunder.

Section 4.06. **Undisclosed Liabilities**

Except as set forth on Schedule 4.06, there are no liabilities or obligations of Seller or the Authority as predecessor in interest, either accrued, absolute, contingent or otherwise, relating to the Acquired Assets, that would be required to be set forth on a balance sheet prepared under generally accepted accounting principles applicable to municipalities, other than liabilities incurred in the ordinary course that could not reasonably be expected to have a Material Adverse Effect on Buyer. Upon payment of the Purchase Price in accordance with Section 3.01(b), (a) all of the Outstanding Indebtedness shall, without further action, be immediately repaid, extinguished or defeased in full and (b) any security interests granted by Seller to secure its obligations pursuant thereto shall, without further action, be immediately extinguished or terminated at or before the Closing pursuant to the contractual terms applicable to such Outstanding Indebtedness.

Section 4.07. **Absence of Certain Changes or Events**

Except as set forth on Schedule 4.07, since December 31, 2020, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect and the Seller, either through itself or the Authority, has operated and maintained the System since December 31, 2020 in the ordinary course.

Section 4.08. **Tax Matters**

Except as set forth on Schedule 4.08 or as would not have a Material Adverse Effect, that (i) the Seller and the Authority as predecessor in interest have timely paid all Taxes that may have been or may be due and payable by the Seller or the Authority on or before the Closing Date, arising from the ownership or operation of the Acquired Assets or the System on or before the Closing Date; (ii) no Taxing authority has asserted any claim against either the Seller or the Authority for the assessment of any additional Tax liability or initiated any action or proceeding which could result in such an assertion; (iii) the Seller and the Authority have made all withholding of Taxes required to be made under all Laws and regulations, including without limitation, withholding with respect to compensation paid to employees, and the amounts withheld have been properly paid over to the appropriate Taxing authorities; and (iv) the Seller and the Authority have at all times been exempt from U.S. federal income Tax and from income Taxes imposed by the

Commonwealth of Pennsylvania (and its political subdivisions) and by other states (and their respective political subdivisions), and income and revenue produced by or with respect to the System and the Acquired Assets has at all times been excluded from gross income by virtue of the provisions of Section 115(1) of the Code. This section does not apply to any Tax matter related to an employee benefit plan or compensation arrangement that is addressed separately in Section 4.11.

Section 4.09. **Real Property and Easements**

Schedule 4.09 identifies all Real Property of Seller and the Authority, as applicable, and separately identifies all Easements. Except as provided in Schedule 4.09, Seller does not lease (as lessee) any real property that is used in the operation of the System. There are no pending condemnation proceedings relating to any of the Real Property or Easements nor has Seller actually received any written threats of any condemnation proceedings and, to the Knowledge of Seller, no such proceedings are threatened. Neither the Seller nor the Authority has received any written notices of any violations of any Law from any Governmental Authority with respect to the Real Property or the Easements which have not been cured in all material respects and, to Seller's Knowledge, no such violations of Law exist. With respect to the Real Property (i) there are no leases, options, rights of reversions or other rights of use or rights to acquire the Real Property held by third parties, (ii) Seller or Authority, as applicable, is in sole possession of the Real Property, and (iii) to Seller's Knowledge there are no encroachments either way across the boundary of the Real Property, nor any dispute with adjacent property owners over the location of boundaries or potential claims adverse to title.

Section 4.10. **Equipment and Machinery**

Schedule 4.10 sets forth all Equipment and Machinery included in the Acquired Assets. Except as set forth on Schedule 4.10, the Seller or Authority, as applicable, has good title, free and clear of all Liens (other than the Permitted Liens and Liens which are released on or before Closing) to such Equipment and Machinery. Except as specifically disclosed on Schedule 4.10, all the Equipment and machinery is owned by Seller or Authority, as applicable, and none is leased or used under any conditional sales, title-retention, lease, license or similar arrangement.

Section 4.11. **Employee Benefit Plans**

(a) Schedule 4.11(a) contains a true and complete list of all the Seller's Plans and Seller's Benefit Obligations, including amounts owed to current or past employees for severance, unpaid and unused vacation pay or sick leave, or similar obligations. All such Seller's Plans and Seller's Benefit Obligations are in full force and effect and are in material compliance both as to form and operation, with applicable provisions of Employee Retirement Income Security Act of 1974, as amended or the Code, and any other Laws, and with any applicable collective bargaining agreement. To Seller's Knowledge, no event has occurred which has resulted in the imposition of any liability on the Seller or the Authority under the Code or other Law with respect to any Seller's Plans or Seller's Benefit Obligations and there is no unfunded pension liability owed or owing to any Person pursuant to Seller's Plans that is required to be assumed by Buyer;

(b) Except as set forth on Schedule 4.11(b), with respect to the System, neither the Seller nor the Authority sponsor, maintain, contribute to, or are required to contribute to, any “multiemployer plan” within the meaning of Section 414(f) of the Code, and neither has any liability of any nature, whether known or unknown, fixed or contingent, with respect to any such multiemployer plan;

(c) Except as set forth on Schedule 4.11(c), neither the Seller nor the Authority sponsor, maintain, contribute to, or are required to contribute to, any medical, health, life or other welfare plan or benefits for present or future terminated or retired Personnel or their spouses or dependents, other than as required by COBRA, or any comparable state law, and neither has any liability of any nature, whether known or unknown, fixed or contingent, with respect to any such post-termination welfare benefits;

(d) The Seller and the Authority are and have been in compliance in all material respects with the requirements of COBRA regarding the Personnel and are not subject to any excise Tax under Code Section 4980B for the current or any prior taxable year; and

(e) Except as set forth on Schedule 4.11(e), neither the Seller nor the Authority has entered into any severance or similar arrangement with respect to any present or former Personnel that will result in any obligation (absolute or contingent) of Buyer to make any payment to any present or former Personnel following termination of employment, including the termination of employment effected by the transactions contemplated by this Agreement. The consummation of the transactions contemplated by this Agreement will not trigger any severance or other obligation of the Seller or the Authority as predecessor in interest for which Buyer shall have any liability.

Section 4.12. Seller’s Personnel

(a) Schedule 4.12(a) sets forth all collective bargaining agreements and contractual relationships with Personnel relating to the System to which the Seller or the Authority is a party, including the identification of the parties thereto and the expiration dates. Other than the collective bargaining agreements and relationships set forth on Schedule 4.12(a), there are no commitments, contracts, agreements, arrangements or understandings (whether written or oral, formal or informal) of the Seller or the Authority with respect to the Union or the Union Personnel, and the collective bargaining agreements set forth on Schedule 4.12(a) constitute the entire agreement between the Authority and the other parties thereto, with respect to the subject matter thereof.

(b) Except as set forth on Schedule 4.12(b), the Authority shall timely pay, or cause to be timely paid, the Personnel as required under its policies and/or by Law for accrued but unused and unpaid vacation, sick leave and other accrued benefits as of the Closing Date. To Seller’s Knowledge, all obligations to the Personnel under applicable wage and hour Laws and leave policies will have been satisfied by the Closing Date.

(c) The Authority or Seller has not, in the past five (5) years, effectuated:

(i) a “plant closing” (as defined in the Worker Adjustment and Retraining Notification Act (“WARN Act”)) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the System; or

(ii) a “mass layoff” (as defined in the WARN Act) affecting any site of employment or facility of the System; nor has the System been affected by any transaction or engaged in layoffs or employment terminations sufficient in number to trigger application of any similar state or local Law.

None of the Personnel has suffered an “employment loss” (as defined in the WARN Act) during the previous six months.

Section 4.13. Environmental Compliance

Except as set forth on Schedule 4.13 or that otherwise could not be expected to have a Material Adverse Effect:

(a) To the Seller’s Knowledge, the System as currently operated by the Seller and the Authority and all operations and activities conducted by the Seller and the Authority with respect to the System are in compliance in all material respects with all applicable Environmental Requirements.

(b) To the Seller’s Knowledge, the Seller and the Authority has generated, used, handled, treated, stored and disposed of all Hazardous Materials in (i) compliance in all material respects with all applicable Environmental Requirements and (ii) a manner that has not given, and could not reasonably be anticipated to give, rise to Environmental Liabilities.

(c) Except as has been disclosed to Buyer on Schedule 4.13, neither the Seller nor the Authority has received notice of any Environmental Claims related to the System that have not been fully and finally resolved, and to the Knowledge of Seller no claims of Environmental Liabilities have been threatened allegedly arising from or relating to the System that have not been fully and finally resolved.

(d) To Seller’s Knowledge, Hazardous Materials are not present at or on the System, there has been no Release of Hazardous Materials at, on or from any part of the System or the Acquired Assets, in each case in a manner that violates any Environmental Requirements or has resulted in, or could reasonably be anticipated to give rise to, Environmental Liabilities which has not been appropriately resolved pursuant to applicable Environmental Requirements.

(e) No Lien or activity use limitation or institutional control has been recorded affecting any Acquired Assets by any Governmental Authority due to either the presence of any Hazardous Material on or off the Acquired Assets or a violation of any Environmental Requirement except as has been disclosed by the Seller or the Authority to Buyer.

(f) Neither the Seller nor the Authority has Knowledge of any underground storage tanks on or at any of the Acquired Assets other than as set forth on Schedule 4.13. To the Seller’s Knowledge, any underground storage tanks previously located at the Acquired

Assets other than as set forth on Schedule 4.13 have been removed or otherwise closed, plugged and abandoned in compliance with applicable Environmental Requirements in effect at the time of such closure.

(g) Neither the Seller nor the Authority has Knowledge of any PCB Equipment on or at any of the Acquired Assets. Any PCB Equipment that previously existed at the Acquired Assets has been flushed of polychlorinated byphenyls or has been removed and properly disposed of, in compliance with applicable Environmental Requirements, and any remaining PCB Equipment is labeled to the extent required under applicable Environmental Requirements and being managed in compliance with applicable Environmental Requirements.

(h) Neither the Seller nor the Authority has Knowledge of the existence of any Regulated Asbestos Containing Material in or on the Acquired Assets in an aggregate amount that would reasonably be expected to result in an Environmental Liability; and any Regulated Asbestos Containing Material is being managed in compliance with all applicable Environmental Requirements.

(i) The Seller has delivered to Buyer (1) all environmental site assessments, if any, pertaining to the System, that the Seller or the Authority has Knowledge of, within the previous five (5) years, (2) all material compliance audits or compliance assurance reviews prepared within the previous five (5) years relating to compliance with Environmental Requirements by the System, and (3) all documents pertaining to, any known and unresolved Environmental Liabilities incurred in relation to the System, to the extent possessed by or under the reasonable control of the Seller or the Authority.

(j) Except as has been disclosed to Buyer on Schedule 4.13, neither the Seller nor the Authority has received notice or has Knowledge of any historic environmental conditions that could give rise to any Environmental Claims related to the System, any Acquired Asset, or the underlying Real Property.

Section 4.14. **Authorizations and Permits**

Schedule 4.14 sets forth the Authorizations and Permits of the Seller and the Authority as applicable. The Seller has made true and complete copies of all Authorizations and Permits available to Buyer. Except as set forth on Schedule 4.14, the Seller and Authority, as applicable, is in compliance in all material respects with all terms, conditions and requirements of all Authorizations and Permits, except in each case where such violation or failure, individually or in the aggregate, would not have a Material Adverse Effect, and no proceeding is pending or, to the Knowledge of the Seller threatened relating to the revocation or limitation of any of the Authorizations or Permits, other than those revocations or limitations which do not individually or in the aggregate have a Material Adverse Effect.

Section 4.15. **System Contracts**

(a) Schedule 4.15 sets forth a complete and accurate list of all the Assigned Contracts and any amendments thereto.

(b) Except as specifically identified on Schedule 4.15, the Seller and the Authority have made available to Buyer true and complete copies of all the contracts primarily related to the System, including the foregoing Assigned Contracts.

(c) All of the Assigned Contracts set forth on Schedule 4.15 are in full force and effect. Neither Seller nor the Authority has, nor to the Knowledge of the Seller has any other party thereto, breached any material provision of or defaulted under the material terms of, nor does any condition exist which, with notice or lapse of time, or both, would cause the Seller or the Authority, or to the Knowledge of Seller, any other party, to be in default under any Assigned Contract.

Section 4.16. Compliance with Law; Litigation

(a) The Seller and the Authority have operated and are operating the System in compliance, in all material respects, with all Laws, Authorizations and Permits and are not in breach of any Law, Authorization or Permit that would have a Material Adverse Effect on the operations of the System or on the Buyer. There are no Authorizations or Permits from any Governmental Authority necessary for the operation of the System as currently being operated except for those Authorizations and Permits listed in Schedule 4.14.

(b) Except as set forth on Schedule 4.16, there are no facts, circumstances, conditions or occurrences regarding the System that could reasonably be expected to give rise to any environmental claims or governmental enforcement actions that could reasonably be expected to have a Material Adverse Effect, and there are no past, pending or threatened environmental claims or governmental enforcement actions against the Seller or the Authority that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(c) Except as set forth on Schedule 4.16, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller or the Authority before or at the Closing Effective Time, which will have a Material Adverse Effect. There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller or the Authority which could materially affect the validity or enforceability of this Agreement.

Section 4.17. Broker's and Finder's Fees

No broker, finder, or Person is entitled to any commission or finder's fee by reason of any agreement or action of Seller or the Authority in connection with this Agreement or the transactions contemplated by this Agreement. Seller has employed PFM Financial Advisors LLC, as municipal advisor to provide transaction structuring advice and to provide Seller with municipal advice relating to the sale of the System. Seller is solely responsible to pay all fees owed to PFM Financial Advisors LLC in connection with the transactions contemplated by this Agreement.

Section 4.18. Title to the Acquired Assets; Sufficiency

(a) Except as set forth on Schedule 4.18(a), the Seller or the Authority as predecessor in interest has good and marketable title to, valid leasehold interest in or valid licenses or Easements to use, all of the Acquired Assets, free and clear of all Liens, other than Permitted Liens and Liens which will be fully and unconditionally released at or before Closing. The use of the Acquired Assets is not subject to any Liens, other than Permitted Liens, and such use does not encroach on the property or the rights of any Person.

(b) Except as set forth on Schedule 4.18(b), the Acquired Assets are sufficient for, and constitute all the assets, properties, business, goodwill and rights of every kind and description, and services required for, the continued conduct and operation of the System by Buyer in substantially the same manner as currently conducted and operated by Seller and the Authority. Except for the Excluded Assets and except as set forth on Schedule 4.18(b), (i) the Acquired Assets, taken as a whole, comprise all the assets, properties, business, goodwill and rights of every kind and description used or held for use in, or useful or necessary to the operation of the System as currently operated by Seller and the Authority, and (ii) there are no assets, properties, business, goodwill, rights or services used in the conduct or operation of the System that are owned by any Person other than Seller or the Authority as predecessor in interest that will not be licensed or leased to Buyer under valid, current license arrangements or leases pursuant to an Assigned Contract, if applicable. None of the Excluded Assets are material to the System.

Section 4.19. Pending Development Plans

Schedule 4.19 sets forth a full and complete list of all Pending Development Plans for which Seller has received notice as of the Effective Date. Each Pending Development Plan, if consummated, could result in additional customers and reduction of available treatment capacity. Seller provides no assurances whatsoever that any development or expansion of the Service Area associated with any Pending Development Plan will actually be undertaken or completed. The Parties expect that Schedule 4.19 will change from time to time between the Effective Date and Closing, and the Seller shall promptly provide updates to Schedule 4.19 upon the occurrence of any significant change, decision or development and shall further deliver such updates pursuant to Section 9.03.

Section 4.20. Customer Sewer Laterals and Grinder Pumps

As of the Closing Date, neither the Seller nor the Authority will own, or have any responsibility for: any grinder pumps; connecting facilities located in the area originating from the Seller's terminus point of the collection facilities at the edge-of-road or curb-line when the facilities are located with a public right-of-way or the edge of an easement where the collection facilities are located within private property to and throughout the customer's property; or any and all piping and fixtures internal to each individual customer structure (whether residential, commercial, industrial or other customer classes/types).

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes only the representations and warranties that are set forth in this Article V.

As a material inducement to the Seller to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer represents and warrants to the Seller, as of the Effective Date and as of the Closing Date (except to the extent any of the following representations and warranties specifically apply or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 5.01. **Organization**

Buyer is duly organized, validly existing and in good standing under the laws of the state of its organization.

Section 5.02. **Authorization and Validity of Agreement**

Buyer has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. This Agreement has been duly authorized, executed and delivered by the Buyer and constitutes a valid and legally binding obligation of the Buyer, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

Section 5.03. **No Conflict or Violation**

The execution and delivery of this Agreement by the Buyer, the consummation of the transactions contemplated by this Agreement and the performance by the Buyer of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Buyer under (i) any Law, (ii) any material agreement, instrument or document to which the Buyer is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Buyer.

Section 5.04. **Consents and Approvals**

Schedule 5.04, sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

Section 5.05. **Broker's and Finder's Fees**

No broker, finder or third party is entitled to any commission or finder's fee in connection with this Agreement or the transactions contemplated by this Agreement.

Section 5.06. **Financial Wherewithal**

Upon Closing, and after giving effect to the consummation of the transactions contemplated by this Agreement and the incurrence of any indebtedness in connection therewith, Buyer shall have the financial ability and will have sufficient working capital for its needs and anticipated needs to operate the System [as a certificated public utility system regulated by the PaPUC] authorized, among things, to provide wastewater utility services to retail residential, commercial and industrial customers in the System.

Section 5.07. **Sufficient Funds**

Buyer shall have sufficient funds available at Closing to consummate the transactions contemplated by this Agreement, to pay the Purchase Price in accordance with Article III and expenses related to the transactions contemplated by this Agreement, and on and after Closing, to generally provide ownership, operation and capital for the operations and capital needs of the System following the Closing, and assuring that the customers of the System will receive safe, adequate and reliable wastewater service equal to or better than such customers would have received without the transactions contemplated by this Agreement and at all times consistent with the provisions of the Pennsylvania Public Utility Code, 66 Pa. C. S. § 101 *et seq.*, and Law.

Section 5.08. **Independent Decision**

Except as expressly set forth in this Agreement, or any of the related agreements, Buyer acknowledges that (a) neither Seller nor any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of the System or information provided to Buyer, and (b) neither Seller nor any other Person shall have or be subject to any liability to Buyer or any other Person resulting from the distribution to Buyer, or Buyer use of, any information regarding the System or Acquired Assets that has been furnished or made available to Buyer and its Representatives. Buyer acknowledges that other than as expressly set forth in this Agreement or any related agreement, Seller expressly disclaims any warranty of future profitability or future earnings performance of any Acquired Assets or the System.

Section 5.09. **Scheduled Matters**

Buyer acknowledges that: (a) the inclusion of any matter on any Schedule is not an admission by Seller that such listed matter is material or that such listed matter has or could have a Material Adverse Effect or constitutes a material liability with respect to the Acquired Assets; (b) matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in such Schedules; and (c) such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

Section 5.10. **Independent Investigation**

Buyer acknowledges that it has conducted an independent investigation of the financial condition, assets, liabilities, properties and projected capital needs and operations of the System in making its determination as to the propriety of the transaction contemplated by this Agreement and, in entering into this Agreement and related agreements, has relied solely on the results of its

investigation and on the representations and warranties of the Seller and the Authority expressly contained in Article IV of this Agreement.

Section 5.11. **Litigation**

The Buyer is not in breach of any applicable Law that could have a Material Adverse Effect on the operations of the System or the Buyer. Neither the Buyer nor any Affiliate of the Buyer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors, or on any other list of Persons with which the Seller may not do business under applicable Law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. Except as set forth on Schedule 5.11, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Buyer, threatened against the Buyer before or at the Closing Effective Time, which will have a material adverse effect on (i) the transactions contemplated by this Agreement or (ii) the validity or enforceability of this Agreement.

ARTICLE VI.

TITLE TO REAL ESTATE; EASEMENTS

Section 6.01. **Evidence of Title**

Subject to Section 6.06, with respect to all Real Property, Buyer shall obtain, at its sole cost and expense, a commitment for an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006 (the "Title Commitment"), issued by a title insurance company selected by Buyer and licensed to insure title to real property by the Commonwealth of Pennsylvania (the "Title Company"), having an effective date after the Effective Date. Promptly following the Effective Date, Buyer shall order the Title Commitment from the Title Company and shall provide Seller evidence of the order. Notwithstanding anything to the contrary in Section 6.02(a) below, Buyer shall not be entitled to send an Objection Notice with respect to any parcel of Real Property and the Title Commitment for the same if, within forty five (45) Business Days after the Effective Date, Buyer has not ordered the Title Commitment from the Title Company for such parcel of Real Property and provided Seller with evidence of the same.

Section 6.02. **Objections to Title**

(a) **Notice of Objections.** Within thirty (30) days of Buyer's receipt from the Title Company of a Title Commitment for any of the parcels of Real Property, Buyer shall deliver to Seller a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the Title Commitment, along with Buyer's written notice to Seller of any of the exceptions to title set forth on Schedule B of such Title Commitment to which Buyer objects (the "Title Objection Items") (such written notice of Buyer being referred to as the "Objection Notice"). The Objection Notice shall (a) not contain exceptions that are Permitted Liens, (b) not relate to the Buyer or any requirements, conditions or

obligations of the Buyer, (c) not relate to matters of record and set forth in the Title Commitment and unrecorded matters revealed to Buyer in its due diligence or revealed in the survey unless such Title Objection Item materially and adversely in Buyer's commercially reasonable opinion restricts or prevents the use of the Real Property in the current operation of the System and (d) not contain the standard Title Company exceptions to the extent that such standard Title Company exceptions are commonly removed by the execution and delivery of a standard owner's affidavit by Seller. The Buyer shall include a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the same in the Objection Notice. If Buyer provides the Seller with an Objection Notice, the Seller shall use commercially reasonable efforts to have all of the Title Objection Items cured, satisfied or released of record, or insured over, by the Title Company (individually, "Cure" and collectively, "Cured") before or as of the Closing. At or before the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing that Seller has Cured all such Title Objection Items. In the event that Seller is unable to Cure any Title Objection Item per this Section 6.02(a), Seller shall indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.02(a) shall not be subject to the Threshold Amount nor the Liability Cap set forth in Section 8.05. For avoidance of doubt, Buyer acknowledges that no item listed in clauses (a) through and including (d) above, may be objected to by Buyer as a Title Objection Item.

(b) Liens. Without limiting the Seller's obligations pursuant to Section 6.02(a) above, before or as of the Closing, the Seller shall, at the Seller's cost and expense, Cure any Lien encumbering the Real Property which can be Cured by the payment of money (other than Permitted Liens).

(c) Title Endorsements/Survey. Buyer shall pay for any endorsements required by the Buyer or any mortgagee of the Buyer to Buyer's Title Policy. If any survey is required by Buyer or its mortgagee, either as a condition to any such endorsement or otherwise, the Buyer shall obtain it at its sole cost and expense. If Buyer obtains a survey of any or all of the Real Property and desires the deed to contain the legal description based on such survey, if the same is not identical to the legal description contained in Seller's deed of record, Seller is not obligated to include the same in the deed to Buyer unless the survey is certified to Seller and such description is included in the deed on a "quitclaim" basis only and without warranty of title.

(d) License at Closing. At Closing, Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's rights to access such Real Property (as acquired from the Authority) in order to allow Buyer to operate and maintain in the System until such time as Buyer is provided title to such Real Property as provided for in this Agreement. For the avoidance of doubt, Seller shall provide such title as soon as reasonably practicable in accordance with Section 6.01.

(e) Insurable Claims. To the extent any Claim for Losses under Article VIII constitutes an Insurable Claim (as defined below), Buyer shall assert the Insurable Claim and use its commercially reasonable efforts to obtain recovery for such Insurable Claim against the Title Company (which shall include commencing litigation and diligently prosecuting such Insurable Claim to judgment) before pursuing a Claim for Losses under Article VIII. If at any time

following a non-favorable judgment that substantially denies the relief sought by Buyer from the Title Company in connection with the Insurable Claim (each a “Non-Favorable Judgment”), Buyer may, following such Non-Favorable Judgment, pursue the Seller with a Claim for Losses under Article VIII (any such Claim against the Seller following an attempted Insurable Claim against the Title Company being a “Residual Title Claim”). Notwithstanding anything to the contrary in Article VIII, Buyer may assert a Claim for Losses based upon a Residual Title Claim for a sixty (60) day period after the Non-Favorable Judgment. For purposes of this Section 6.02(d), an “Insurable Claim” means a Claim that: (i) arises out of Buyer’s discovery of a title defect or encumbrance with respect to any of the Real Property following the Closing that materially restricts or prevents the use of such Real Property in the operation of the System; and (ii) constitutes a claim against the Title Company under Buyer’s Title Policy. Buyer acknowledges that any and all Claims which Buyer could otherwise bring as a breach of a covenant of title under the special warranty deed to the Real Property shall be included within the Claim for Losses under Article VIII and is subject to the terms of this Section 6.02(e).

Section 6.03. Title Expenses

Irrespective of whether the transactions described by this Agreement are consummated and Closing occurs, Buyer shall pay all costs and expenses of obtaining the Title Commitment, Title Policy and any survey.

Section 6.04. UCC Search; Releases

Not later than one hundred eighty (180) days after the Effective Date, Buyer shall obtain at its sole cost and expense a Uniform Commercial Code search against Seller covering any of the personal property or fixtures included among the Acquired Assets from the Office of the Secretary of the Commonwealth of Pennsylvania and the Recorder of Deeds Montgomery County, Pennsylvania (the “UCC Search”). On or before the Closing, Seller shall at its sole cost and expense obtain releases of any and all security interests in any of the Acquired Assets which are not Permitted Liens. The Seller shall provide the form of the releases of such security interests to Buyer on or before the Closing Date.

Section 6.05. Easements.

(a) Abstract of Easements. Within ninety (90) days after the Effective Date, the Seller shall, at its sole cost and expense, cause an abstractor selected by the Seller and reasonably acceptable to Buyer and the Title Company (the “Abstractor”), to perform a search of the public land records of Montgomery County, based on the Seller’s and the Authority’s records and plans of the System (and such other sources of information as are reasonably related thereto), by searching the grantee index in the names of the Seller and the Authority and such other searches as the Abstractor may reasonably make, to (i) identify and provide Buyer with title information on any and all recorded Easements (including information related to any Liens or encumbrances on Seller’s or the Authority’s title thereto), and (ii) taking into account any information provided by Buyer, identify all Missing Easements. During the process, as the Abstractor provides written search results to the Seller (including updated versions of the abstractor search result chart), the Seller will promptly provide the same to Buyer for its review, and, without limiting the foregoing, the Seller shall, or shall cause the Abstractor to, provide Buyer with periodic updates

(which shall occur no less frequently than bi-weekly) on the status of the activities set forth in the previous sentence.

(b) Notice of Objections. Within forty-five (45) days of Buyer's receipt from the Seller (or the Abstractor) of the information specified in subsection (a) above, Buyer shall deliver to Seller written notice identifying the encumbrances on the Easements that, in Buyer's reasonable commercial opinion, could materially and adversely restrict or prevent the use of the Easements in the current operation of the System (the "Easement Objection Items") (such written notice of Buyer being referred to as an "Easement Objection Notice"). The Easement Objection Notice shall not include any encumbrances that: (a) are Permitted Liens, (b) pertain to the Buyer or any requirements, conditions or obligations of the Buyer, or (c) are matters of record and set forth in the Abstractor's search results that do not, in Buyer's commercially reasonable opinion, materially and adversely restrict or prevent the use of the Easements in the current operation of the System (specifically including mortgages or other instruments securing indebtedness incurred by the owner of the land burdened by the Easement). If Buyer provides the Seller with an Easement Objection Notice, the Seller shall use commercially reasonable efforts to have the Easement Objection Items Cured, prior to or as of the Closing. At or prior to the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing Seller has Cured all Easement Objection Items. In the event that Seller is unable to Cure any such Easement Objection Item per this Section 6.05(b), Seller shall indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.05(b) shall not be subject to the Threshold Amount nor the Liability Cap set forth in Section 8.05.

(c) Missing Easements. If during the process of Abstractor's review and investigation of the Montgomery County land records, either Party determines, based on the Abstractor's investigation, that there is a Missing Easement, the Seller (at its cost and expense) shall take any and all actions (including the use of its power of condemnation) to obtain any such Missing Easements so that the same may be sold, assigned, transferred and conveyed to Buyer at the Closing pursuant to the terms and conditions of this Agreement. The Seller shall pay for all costs and expenses incurred in connection with obtaining each Missing Easement (including any consideration payable to the landowner in connection with condemnation, in lieu of condemnation or otherwise to obtain Missing Easements). If Seller has not obtained all Missing Easements by the date that is ninety (90) days after the date that Abstractor has completed his review of the County land records and delivered the last results of the same to Seller (the "Abstract Completion Date"), then the Seller (at its cost and expense) shall, as soon as reasonably practicable, commence and file in the Court of Common Pleas, Montgomery County, a condemnation or eminent domain proceeding to obtain any and all such Missing Easements. For the purposes of clarity, upon obtaining each Missing Easement (including upon the final resolution of a condemnation proceeding), each Missing Easement that has been acquired or obtained by the Seller is considered an Easement.

(d) License at Closing. At Closing, Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's and the Authority's rights to access such Missing Easement in order to allow Buyer to operate and maintain the System until such time as Buyer is provided title to such Missing Easement as provided for in this Agreement.

(e) Escrow at Closing for Missing Easements. For all of the Missing Easements listed on attached Schedule 6.05(e) as of the Closing Date, Seller will have additional time following the Closing Date to secure and assign and transfer the Missing Easements to Buyer. Seller shall diligently pursue and deliver the Missing Easements on or before the third (3rd) anniversary of the Closing Date, subject to any extension as permitted by the Escrow Agreement, in the form attached as Exhibit C, that will require, among other things, the funding of an escrow account in the amount of Two Thousand Dollars (\$2,000) for each Missing Easement set forth on Schedule 6.05(e) as of the Closing Date to secure the Seller's obligations under this Agreement and the Escrow Agreement.

Section 6.06. Unscheduled Property

The Parties acknowledge that the Seller may own interests in or have the legal right to use or occupy the Real Property and/or Easements that are necessary or essential to the operation of the System and that are not set forth in Schedule 4.09 (the "Unscheduled Real Property"). If the Parties discover before or after the Closing Date, one or more parcels of Unscheduled Real Property, the discovering Party shall give written notice of such discovery to the non-discovering Party. In addition to its obligations in Section 2.03, Seller shall convey, assign or otherwise transfer any rights to each parcel of Unscheduled Real Property, with no adjustment to the Purchase Price, in such a manner as to provide Buyer with reasonable assurances that Buyer will have the right to use or occupy the Unscheduled Real Property as it was used by Seller as of the Effective Date.

ARTICLE VII.

OTHER AGREEMENTS

Section 7.01. Taxes

Except as provided in this Agreement, Seller or the Authority as predecessor in interest shall pay any and all Taxes, if any, arising out of the ownership of the Acquired Assets and out of the operation of the System before the Closing Date.

Section 7.02. Cooperation on Tax Matters

Seller and the Authority shall furnish or cause to be furnished to Buyer, as promptly as practicable, whether before or after the Closing Date, such information and assistance relating to the System as is reasonably necessary for the preparation and filing by Buyer of any filings relating to any Tax matters.

Section 7.03. Personnel Matters

(a) Subject to the obligations of the Authority under applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Buyer shall, or shall cause an Affiliate of Buyer to, offer employment effective on the Closing Date, to the Personnel set forth on Schedule 7.03(a), who are available to commence work on the Closing Date, subject to Buyer's existing standard hiring policies and procedures applicable to new employees, (including background check and drug testing, and written acknowledgment of

Buyer's Code of Conduct and other employment policies, if applicable) except with respect to benefits as otherwise provided in Section 7.03(c). The Personnel who accept such employment and commence employment on the Closing Date, are referred to in this Agreement as the "Transferred Personnel." Schedule 7.03(a) shall not be amended after the date this Agreement is executed without the prior written consent of Buyer. For purposes of clarity, nothing contained in this Section 7.03 limits, restricts or prohibits Buyer from interviewing the Personnel for informational purposes only in connection with the transfer of employment of the Personnel to Buyer as provided in this Section 7.03. Buyer may make the required offer of employment at such a time to permit Buyer to require such offerees' decision to accept or reject such offers up to three (3) months prior to the Closing Date. Nothing contained in Section 7.03 limits or restricts Buyer from interviewing Personnel for employment purposes in connection with the transfer of Personnel to Buyer.

(b) Transferred Personnel who are Non-Union Personnel will be employees-at-will of Buyer. Buyer shall provide each of the Transferred Personnel who are Non-Union Personnel compensation and benefits which are substantially comparable to the compensation and benefits then provided to similarly situated employees of Buyer. Nothing in this Agreement requires Buyer to provide any particular form or type of employee benefit program, plan or policy to any Transferred Personnel who are Non-Union Personnel as a result of the transaction contemplated by this Agreement.

(c) Subject to the obligations of the Authority under the Collective Bargaining Agreement and Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, with respect to any employee benefit plan maintained by Buyer or an Affiliate of Buyer for the benefit of any Transferred Personnel, effective as of the Closing, Buyer shall, or shall cause its Affiliate to, recognize all service of the Transferred Personnel with the Authority, as if such service were with Buyer for purposes of determining eligibility and vesting for benefits (except where doing so would result in a duplication of benefits). Buyer's pension plans and retiree medical plans are excluded from the foregoing sentence.

(d) Subject to the obligations of the Authority under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, effective as of the Closing, the Transferred Personnel employment with the Authority will end and will cease active participation in the Seller's Plans. Seller shall remain liable for all eligible claims for benefits under the Seller's Plans that are incurred by the Transferred Personnel before the Closing Date. Subject to the obligations of Seller, as successor to the Authority, under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Seller shall remain liable to make any contributions to Seller's Plans related to, and/or to fund any retirement benefits accrued by, the Transferred Personnel before Closing. Notwithstanding anything in this Agreement to the contrary, Seller will remain liable for all pay, expenses, liabilities, wages, Taxes and all other obligations and liabilities of any nature whatsoever relating to (i) the period prior to the Closing Date with respect to any Personnel that become Transferred Personnel and (ii) relating to all periods before or after the Closing Date with respect to any current or former Personnel who do not become Transferred Personnel.

(e) This Section 7.03 binds and inures solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 7.03, express or implied, is conferred upon any other Person any rights or remedies of any nature whatsoever under or because of this Section 7.03. This Section 7.03 does not create any right in any Transferred Personnel or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever, and is not be deemed to restrict Buyer in the exercise of its independent business judgment in establishing or modifying any of the terms or conditions of the employment of the Transferred Personnel. Nothing contained in this Section 7.03 constitutes an amendment of, or an undertaking to amend, any employee benefit plan, program or arrangement maintained by Buyer or its Affiliates or is intended to prevent Buyer or its Affiliates from amending or terminating any such employee benefit plan, program or arrangement in accordance with its terms.

(f) Notwithstanding anything in this Agreement to the contrary, it is expressly understood that Buyer will not acquire any asset, or assume any liability or obligation in connection with the transactions contemplated by this Agreement relating to any of the Seller's Plans or Seller's Benefit Obligations. Seller is solely responsible for any liability, funding obligation, claim or expense arising from the Seller's Plans or Seller's Benefit Obligations, both before, and after, the Closing Date, except as provided in Section 7.03(c).

(g) At a reasonable time prior to the Closing Date, Seller and Authority shall transfer all records pertaining to the employment of the Transferred Personnel to Buyer including, but not limited to, all personnel and human resources Files and Records.

(h) Effective as of and conditioned upon Closing and to the greatest extent permissible by law:

(1) Buyer shall recognize the Union as the exclusive bargaining representative for Union Personnel in their current bargaining unit if the Buyer's employees performing the bargaining unit work previously performed by Union Personnel constitute at least a majority of Union Personnel in the applicable bargaining unit and the related bargaining unit contains more than one (1) employee.

(2) To the extent the Union is recognized pursuant to Section 7.03(h)(1) herein, Buyer shall collectively bargain in good faith with the Union to establish a new collective bargaining agreement. Except as outlined in Section 7.03(h)(3) herein, if initial terms and conditions of employment cannot be agreed to by the Buyer and the Union, Buyer will adopt Seller's Collective Bargaining Agreement for employees in the applicable bargaining unit as of and conditioned upon Closing.

(3) Buyer is not required, however, to provide medical insurance, paid time off or pension benefits as provided for in the Collective Bargaining Agreements, but instead may provide Union Personnel with the medical insurance, paid time off and retirement benefits it provides to similarly situated employees. The Buyer also shall not be bound by and any provision of the Collective Bargaining Agreement with which it legally cannot comply. Seller makes no representations, and Buyer is solely responsible for determining, that these terms meet Buyer's obligations under applicable labor law.

Section 7.04. **Initial and Future Rates**

(a) **Rates.** After Closing, Buyer shall implement the Seller's sanitary wastewater rates then in effect at Closing, as set forth on Schedule 7.04 and inclusive of any PaPUC permitted or required surcharges or pass-through costs ("Base Rates"), as Buyer's effective sanitary wastewater rates, provided that the rates reflected on Schedule 7.04 (at Closing) shall not be lower than those in effect on the date of the Effective Date. The Base Rates shall not be increased until after the second anniversary of the Closing Date (the "Freeze Period") provided that the foregoing Freeze Period restriction shall not apply to rates applicable to the Municipal Agreements or any customer(s) receiving services pursuant to such Municipal Agreements nor shall the Freeze Period apply to any customer receiving services pursuant to any other agreement set forth set forth on Schedule 4.15. During the Freeze Period, Buyer shall apply its then-existing miscellaneous fees and charges, rules and regulations for wastewater service as set forth in Buyer's tariff within Seller's Service Area. Buyer intends to bill on a monthly basis.

(b) [PaPUC Approval. The Buyer shall include the rate provisions of Section 7.04(a) in its requested PaPUC Governmental Approval.]

Section 7.05. **Buyer Taxpayer**

From and after the Closing Date, Buyer acknowledges that, upon conveyance of the Acquired Assets to Buyer, the Buyer will be subject to, among other Taxes, real estate Taxes, which Buyer shall pay when due. But solely to the extent such Taxes are owed for and relating to periods after the Closing]

Section 7.06. **PaPUC Approval**

(a) Promptly after the Effective Date, Buyer shall timely initiate and faithfully prosecute the necessary proceedings to obtain from the PaPUC (i) the issuance of certificates of public convenience to Buyer to provide wastewater services in the Service Area, (ii) the approval of the acquisition of the System by Buyer under terms and conditions that are reasonably acceptable to Seller and Buyer, and (iii) the approval of any inter-municipal agreements. Seller shall cooperate with and assist Buyer in proceedings before the PaPUC.

(b) The Parties agree that the procedures for determining fair market value of the System and Acquired Assets outlined in subsection (a) of Section 1329 of Title 66 of the Pennsylvania Consolidated Statutes ("Section 1329") shall be utilized and filed with the PaPUC as contemplated by Section 1329.

(c) The fees and expenses related to engaging the licensed engineer for such Section 1329 determination shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by the Seller.

(d) To the extent requested by Buyer, Seller shall participate in any proceedings before the PaPUC as an intervenor and active party, provided that the Seller shall bear the fees and expenses directly related to such intervention. Seller may be represented by the counsel of its choice in any such proceedings.

(e) Buyer, in Buyer's first base rate proceeding with respect to the System following the Closing, shall propose the use of statutory and regulatory mechanisms that may be available to Buyer to benefit the Buyer's acquired customers for ratemaking purposes. In the Buyer's first base rate proceedings including the Seller's System, the Seller shall not file an intervention, complaint (formal or informal), or protest of Buyer's base rate proceedings. For the avoidance of doubt this provision does not apply to citizens in the Township.]

Section 7.07. **Remedies for Breach of Article VII Agreements**

If Buyer breaches any of the covenants and agreements set forth in this Article VII, in addition to all other rights and remedies available at law or in equity, including specific performance and/or injunctive relief, Seller may commence proceedings before the PaPUC seeking enforcement of such covenants and agreements.]

Section 7.08. **Operation and Maintenance of MS4 and Stormwater Systems**

Subject to Law, the Seller shall at all times maintain ownership of its MS4 system and stormwater system assets. This provision shall not preclude Seller from transferring its MS4 system and stormwater system assets to another governmental entity, municipal authority or other qualified purchaser at a future time.

Section 7.09. **Pending Development Plans**

(a) Buyer and the Seller acknowledge that from the time of the Effective Date, the Seller shall continue to administer, and perform its duties and responsibilities with respect to the Pending Development Plans set forth on Schedule 4.19. For the avoidance of doubt, after the Closing Date, the Seller shall not seek to collect any EDU or tapping related fees.

(b) Following the Effective Date, Seller shall not enter into any contract with a third party that contemplates the construction of new sanitary wastewater facilities or upgrades to existing facilities, including, without limitation, pumping stations, force mains, manholes, or pipelines for service to future customers related to Pending Development Plans (collectively, "New System Assets") without providing a draft of such contracts to Buyer for its review and approval as to the design and specifications before execution by the parties to such contracts. Buyer shall have fifteen (15) Business Days to review and approve such contracts, and Buyer's failure to object in writing to any terms of such contracts within such fifteen (15) Business Day review period is deemed an approval of the same by Buyer.

Section 7.10. **Act 537 Plan**

(a) Buyer acknowledges that Seller and the Authority as predecessor in interest have previously committed to an official plan, commonly known as an Act 537 Plan (the "Act 537 Plan") under the Pennsylvania Sewage Facilities Act ("Act 537"), which has been made available to Buyer. Buyer understands that the Act 537 Plan contains obligations and commitments, as more fully set forth in the Act 537 Plan to complete certain improvements and upgrades to the System (the "System Improvements"). Buyer shall accept and complete all of the System Improvements as Seller and the Authority agreed to complete under the existing Act 537 Plan. Prior to agreeing to further obligations pursuant to future amendments to the Act 537

Plan that could reasonably be deemed to affect Buyer, Seller shall provide written notice of such proposed amendment(s), and Buyer and Seller shall negotiate in good faith to resolve any objections Buyer may raise in connection with such proposed amendment(s).

(b) Buyer acknowledges Seller and the Authority as predecessor in interest has jurisdiction over sewage facilities planning and sewer service within portions of the System that provide service within the Service Area through the Act 537 Plan and its Act 537 planning program, zoning, subdivision and land development ordinances and comprehensive land use planning policies. Buyer, Seller and the Authority shall cooperate with respect to current and future sewage facilities planning and sewer service consistent with the provisions of this Section 7.10.

(c) [Subject to PaPUC approval of the Service Area as provided in Section 7.06], Buyer shall extend sewer lines and provide sewage collection and treatment services to properties within the Service Area in a manner consistent with the Act 537 Plan and the Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders. Seller will confer with Buyer concerning any amendment to the Act 537 Plan that would affect the provision of sewage collection and treatment services within the Service Area. Neither Seller nor the Authority shall propose or adopt any amendment to the Act 537 Plan that would reduce the Service Area or divert wastewater flows generated from properties located within the Service Area from being served by the System without the approval of Buyer.

(d) Buyer will not request, pursue, or implement expansions of the System within the Seller beyond the current Service Area (that would trigger an Act 537 Plan amendment) without the prior written approval of Seller and the PaDEP. Seller shall promptly notify and confer with Buyer, and consider Buyer's comments, concerning any proposed Act 537 Plan amendment (including any sewage facilities planning module) that would involve the provision of sewage collection and treatment services by the System to area or properties outside of the Service Area. With respect to any such potential Act 537 Plan amendment, Seller and Buyer shall cooperate in evaluating alternatives for provision of sewage services to such areas consistent with the requirements of 25 Pa Code Ch. 71, including consideration of the technical feasibility, economic feasibility and cost effectiveness, consistency with the objectives and policies of plans and requirements of 25 Pa. Code Ch. 71.21(a)(5), consistency with municipal land use plans and ordinances, subdivision ordinances and other ordinances and plans for controlling land use and development, technically and administratively able to be implemented, and other factors required under Act 537 or under Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders.

(e) If Seller and Buyer each determine that the provision of sewage collection and treatment services by the System to certain areas or properties outside of the Service Area is technically feasible, economically feasible and cost effective, and meets all of the requirements set forth in Act 537 and 25 Pa. Code Ch. 71, the Seller and the Authority shall amend the Act 537 Plan to include such identified areas and properties in the Service Area. If Seller and the Authority amend the Act 537 Plan pursuant to this subsection and such amendment is approved by PaDEP, (i) [Buyer shall request that the modified Service Area be approved by PaPUC]; and (ii) [subject to PaPUC approval of the inclusion of such modified Service Area], Buyer shall

extend sewer lines and provide sewage collection services to properties within such Service Area in a manner consistent with the Act 537 Plan and Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders.

Section 7.11. **Utility Valuation Experts**

Buyer and Seller shall each be responsible for the costs associated with their respective Utility Valuation Expert for the preparation and completion of their respective Utility Valuation Expert's appraisal report and any additional work by their respective Utility Valuation Expert necessary to assist in the processing and prosecution of the application to the PaPUC in regard to this transaction under Section 1329.

Section 7.12. **Compliance and Operational Reports**

After the Effective Date and through the Closing Date, Seller shall provide Buyer with a monthly report to the person designated by Buyer, disclosing any and all material compliance or operational deficiencies that occurred during the previous month. During the same period, Seller shall also provide Buyer with copies of all reports filed with PaDEP regarding the System, including any discharge monitoring reports, associated supplemental reports, and WETT reports, when available. Seller shall permit Buyer to complete an inspection of the Acquired Assets within twenty (20) days prior to Closing.

Section 7.13. **Implementation and Enforcement of Municipal Code**

Following the Effective Date and continuing after Closing Date, Seller shall continue to implement and enforce the relevant provisions of the Municipal Code of the Township of Towamencin, as amended, including, without limitation, enforcement of the Seller's fats, oils, and grease program, lateral inspection program, investigation of illegal connections, and related operations and maintenance programs.

Section 7.14. **Covenant Survival**

The covenants in this Article survive Closing.

Section 7.15. **Phase I Environmental Site Assessment**

Following the Effective Date, if requested by Buyer, Seller and the Authority shall make the System and the Real Property available for Phase I environmental site assessment by Buyer at Buyer's expense and Buyer's Representatives during normal business hours upon reasonable notice.

ARTICLE VIII.

INDEMNIFICATION

Section 8.01. **Survival**

All representations and warranties contained in this Agreement shall survive until twelve (12) months following the Closing Date, except that (a) the representations and warranties of the Seller and the Authority specified in Section 4.01 (Organization), Section 4.02 (Power and Authority), Section 4.03 (Enforceability), Section 4.17 (Brokers' and Finders' Fees) and Section 4.18 (Title to Acquired Assets) (collectively, the "Seller Fundamental Representations") shall survive the Closing indefinitely or until the latest date permitted by applicable Law, (b) the representations and warranties of Seller and the Authority specified in Section 4.13 (Environmental Compliance) shall survive Closing until the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof) , and (c) the representations and warranties of Buyer specified in Section 5.01 (Organization), Section 5.02 (Authorization and Validity of Agreement), and Section 5.05 (Brokers' and Finders' Fees) (collectively, the "Buyer Fundamental Representations") shall survive the Closing indefinitely or until the latest date permitted by applicable Law. The covenants and agreements of the Parties contained herein shall survive the Closing indefinitely or for the shorter period explicitly specified therein, except that for such covenants and agreements that survive for such shorter period, breaches thereof shall survive indefinitely or until the latest date permitted by applicable Law. Notwithstanding the preceding sentences, (x) any breach of representation, warranty, covenant or agreement in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentences, if notice of the inaccuracy or breach thereof giving rise to such right of indemnity shall have been given to the party against whom such indemnity may be sought before such time, and (y) nothing contained in this Section 8.01 shall limit in any way any rights a Party may have to bring claims grounded in fraud, intentional misrepresentation or willful misconduct, which rights shall survive the Closing indefinitely.

Section 8.02. Indemnification by the Seller

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, the Seller shall indemnify, defend and hold harmless, Buyer and its successors and Affiliates and their respective employees, officers, directors, trustees and agents (the "Buyer Indemnified Persons"), from and against any and all claims for Losses arising from or relating to: (a) any misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of the Seller and/or the Authority contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller or the Authority before the Closing pursuant to this Agreement (without regard to any materiality, Material Adverse Effect or related qualifications in the relevant representation or warranty (except where such provision requires disclosure of lists of items of a material nature or above a specified threshold)); (b) any material breach or material nonfulfillment of any of the covenants or agreements of the or the Authority Seller contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller or the Authority before the Closing pursuant to this Agreement; or (c) any Excluded Liability or Excluded Asset, or (d) the ownership, use, operation or control of the Acquired Assets or the System prior to the Closing or any incident, occurrence, condition or claim arising prior to Closing and relating to the ownership, use, operation or control of the System prior to Closing.

Section 8.03. Indemnification by Buyer

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, Buyer shall defend, indemnify and hold harmless the Seller and its successors and Affiliates and each of their respective employees, officers, directors and agents (the “Seller Indemnified Persons”) from and against any and all claims for Losses arising from or relating to: (a) any misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of Buyer contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Buyer pursuant to this Agreement; (b) any material breach of any of the covenants or agreements of Buyer contained in this Agreement or in any exhibit, schedule certificate or other instrument or document furnished or to be furnished by the Buyer pursuant to this Agreement; (c) any Assumed Liability as and when payment and performance is due, including without limitation any liability related to any claims by any Governmental Authority; (d) Buyer’s actions involving Environmental Requirements, Hazardous Materials or environmental claims from and after the Closing Date; or (e) the ownership, operation or control of the Acquired Assets or the System from and after the Closing Date.

Section 8.04. **Indemnification Procedure**

(a) **Third Party Claims**. If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a “Third Party Claim”) against such Indemnified Party with respect to which the Indemnifying Party may be obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party may participate in, or by giving written notice to the Indemnified Party (and subject to the other requirements herein) to assume the defense of any Third Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel (which counsel is reasonably acceptable to the Indemnified Party), so long as (i) the Indemnifying Party notifies the Indemnified Party, within ten (10) Business Days after the Indemnified Party has given notice of the Third Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response) that the Indemnifying Party is assuming the defense of such Third Party Claim, provided, that if the Indemnifying Party assumes control of such defense it must first agree and acknowledge in such notice that the Indemnifying Party is fully responsible (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) for all Losses relating to such Third Party Claim, (ii) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently and at its own cost and expense, and (iii) the Third Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Buyer or its Affiliates, (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there

may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend. The Indemnified Party shall reasonably cooperate in good faith in such defense. If the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 8.04(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party may, at its own cost and expense, participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 8.04(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. The Seller and Buyer shall reasonably and in good faith cooperate with one another in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 8.04(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give prompt written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within fifteen (15) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.04(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party with respect to any Loss which does not arise or result from a Third Party Claim (a "Direct Claim") shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail and shall indicate the estimated

amount, if reasonably practicable, of the Losses that have been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During the thirty (30) day period, the Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity and amount of such Direct Claim. If the Indemnifying Party does not so respond within such thirty (30) day period, by delivery of written notice disputing the basis or amount of the Direct Claim, the Indemnifying Party is deemed to have rejected such claim, in which case the Indemnified Party is free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party has timely disputed its indemnity obligation for any Losses with respect to such Direct Claim, the Parties shall proceed in good faith to negotiate a resolution of such dispute and, if not resolved through negotiations, such dispute may be resolved by litigation in an appropriate court of jurisdiction determined pursuant to this Agreement.

Section 8.05. Limitations on Indemnification Obligations

(a) Subject to the other limitations contained in this Section 8.05, neither Buyer nor Buyer Indemnified Persons is entitled to indemnification pursuant to Section 8.02(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Buyer and Buyer Indemnified Persons under this Agreement exceeds one percent (1%) of the Purchase Price in the aggregate (the "Threshold Amount"), in which case Seller shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification (i) based on fraud, intentional misrepresentation or willful misconduct, (ii) based on any inaccuracy in, misrepresentation as to or breach of any of the Seller Fundamental Representations or any of the representations and warranties set forth in Section 4.13, or (iii) pursuant to Section 8.02(d).

(b) Subject to the other limitations contained in this Section 8.05 neither Seller nor the Seller Indemnified Persons is entitled to indemnification pursuant to Section 8.03(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Seller and Seller Indemnified Persons under this Agreement exceeds the Threshold Amount, in which case Buyer shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct or pursuant to Sections 8.03(c), (d) and (e).

(c) Except in the case of fraud, intentional misrepresentation or willful misconduct (for which all applicable legal and equitable remedies will be available to Buyer), the Buyer Indemnified Parties shall only be entitled to assert claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, which shall not be limited by this Section 8.05(c)) up to the aggregate amount of 8% of Purchase Price (the "Liability Cap"), which shall represent the sole and exclusive remedy of Buyer and the other Buyer Indemnified Parties for any such claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, in the case of fraud, intentional misrepresentation or willful misconduct or pursuant to Section 8.02(c) which shall not be subject to the Liability Cap, but is capped at the Purchase Price).

(d) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss is limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds actually received and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses before seeking indemnification under this Agreement.

(e) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss will be reduced by an amount equal to any Tax benefit realized or reasonably expected to be realized as a result of such Loss by the Indemnified Party.

(f) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

(g) Subject to the provisions of Sections 3.02, 7.07, 15.11 and any other provisions for equitable relief and/or specific performance, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VIII. In furtherance of the foregoing, each Party waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Party hereto and their Affiliates and each of their respective representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article VIII. Nothing in this Section 8.05(g) limits any Parties' right to seek and obtain any equitable relief and/or specific performance to which any Party is entitled pursuant to this Agreement.

Section 8.06. **Knowledge of Breach**

Seller will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement if Buyer had Knowledge of such inaccuracy or breach before the Closing Date. Buyer will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement if Seller had Knowledge of such inaccuracy or breach before the Closing Date.

ARTICLE IX.

PRE-CLOSING COVENANTS OF THE SELLER AND THE AUTHORITY

Section 9.01. **Operation of the System**

Except as otherwise expressly permitted by this Agreement, as required by applicable Law or with the prior written consent of Buyer (which consent shall not be unreasonably withheld,

delayed or conditioned), from the Effective Date until the Closing, the Seller and the Authority shall (i) operate and manage the System only in the ordinary course of business in accordance with past practices and procedures, (ii) comply in all material respects with all applicable Laws and Authorizations and Permits, (iii) use commercially reasonable efforts to maintain and preserve intact the business and assets of the System and preserve the rights, franchises, goodwill and relationships of the Seller, the Authority and the System and their customers, lenders, suppliers, regulators and others having business relationships with the Seller, the Authority and the System including, but not limited to, the land development agreements and the agreements with Clemens Food Group (Hatfield Quality Meats) in existence as of the Effective Date which such agreements shall not be extended, renewed, replaced or materially amended without notice to and the consent of Buyer, which consent shall not be unreasonably withheld or delayed, and (iv) prior to Closing, maintain the existence of the Lease except for purposes of acquiring title to the System by the Seller in order to consummate the sale of the System to Buyer.

Section 9.02. Cooperation

The Seller and the Authority shall reasonably cooperate with Buyer and its employees, attorneys, accountants and other agents and, generally, act in reasonably good faith to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated by this Agreement, including without limitation to effect the following at or before the Closing: (i) the repayment of the Outstanding Indebtedness, and (ii) the acquisition by Seller of title to all Acquired Assets.

Section 9.03. Supplements and Updates

The Seller and the Authority shall promptly deliver to Buyer any supplemental information updating the information set forth in the representations and warranties in Article IV of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. At least ten (10) Business Days of having Knowledge of the same, but in no event later than (3) Business Days before the Closing Date, the Seller shall advise Buyer of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained in this Agreement. For the avoidance of doubt, no such supplemental information or facts provided pursuant to this Section 9.03 shall be deemed to alter any Schedules without the prior written consent of Buyer (such consent not to be unreasonably withheld, conditioned or delayed).

Section 9.04. Governmental Approvals

Promptly after the execution of this Agreement, or as required by Law, except as provided in Section 7.06 or otherwise expressly provided herein, the Seller and the Authority, as applicable, shall file all applications and reports that are required to be filed by Seller or the Authority with any Governmental Authority as provided on Schedule 4.05 to the Buyer. The Seller and the Authority shall also promptly provide all information that any Governmental Authority may require in connection with any such application or report. The Seller and the Authority shall use commercially reasonable efforts to obtain all required material consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person in connection with the

transactions contemplated by this Agreement, including as required under any Assigned Contract. All authorizations of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement shall be in form and content reasonably satisfactory to Buyer and the Seller before Closing and must be final and non-appealable. [If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and the Seller may agree to proceed to consummate the transaction.]

ARTICLE X.

PRE-CLOSING COVENANTS OF BUYER

Section 10.01. Actions Before the Closing Date

Buyer shall not take any action that will cause it to be in breach of any representation, warranty, covenant or agreement contained in this Agreement or cause it to be unable to perform in any material respect its obligations hereunder, and Buyer shall use commercially reasonable efforts (subject to any conditions set forth in this Agreement) to perform and satisfy all conditions to Closing to be performed or satisfied by Buyer under this Agreement, including action necessary to obtain all consents and approvals of third parties required to be obtained by Buyer to effect the transactions contemplated by this Agreement.

Section 10.02. Governmental Approvals

Promptly after the execution of this Agreement, or as required by Law, except as otherwise expressly provided herein, Buyer shall file all applications and reports which are required to be filed by Buyer with any Governmental Authority as provided on Schedule 5.04. Buyer shall also promptly provide all information that any Governmental Authority may reasonably require in connection with any such application or report. Buyer shall use commercially reasonable efforts to obtain all consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person necessary to consummate the transactions contemplated by this Agreement.

Section 10.03. Cooperation

Buyer shall reasonably cooperate with the Seller and the Authority and their employees, attorneys, accountants and other agents and, generally, do such other acts and things in good faith as may be reasonable to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated in accordance with the provisions of this Agreement.

Section 10.04. Supplements and Updates

Buyer shall promptly deliver to the Seller any supplemental information updating the information set forth in the representations and warranties in Article V of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. Within ten (10) Business Days of having Knowledge of the same, and at least three (3) Business Days before the Closing Date, Buyer shall advise the Seller of any facts which

would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein.

ARTICLE XI.

CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

The obligation of the Seller to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by the Seller in its sole discretion:

Section 11.01. Consents and Approvals

Receipt of all required consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person and any other approvals necessary to consummate the transactions contemplated by this Agreement set forth on Schedule 5.04, including without limitation all required EPA and PaDEP approvals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired). Seller shall obtain the consent of any Governmental Authority as required by the PaPUC.

Section 11.02. Representations and Warranties of Buyer

The representations and warranties made by Buyer in Article V which are (a) not qualified by materiality shall be true and correct in all material respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all material respects as of such specified date) and (b) qualified by materiality shall be true and correct in all respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all respects as of such specified date), and the Seller shall have received a certificate to the effect of the foregoing from a duly authorized officer of Buyer dated as of the Closing Date.

Section 11.03. [PaPUC Approval]

PaPUC must have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and Buyer. If a party to the PaPUC proceeding appeals or files a petition for reconsideration of the PaPUC authorization of the transaction, the Buyer and Seller may mutually agree to proceed to consummate the transaction.]

Section 11.04. No Injunctions

Neither Seller nor Buyer shall be subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 11.05. Performance of the Obligations of Buyer

Buyer shall have performed and been in compliance in all material respects with all obligations and covenants required under this Agreement to be performed by Buyer on or before the Closing Date, and the Seller shall have received a certificate to that effect from Buyer dated the Closing Date.

Section 11.06. **Deliveries by Buyer**

Buyer shall have made delivery to the Seller of the documents and items specified in Section 13.03.

Section 11.07. **No Material Adverse Effect**

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

ARTICLE XII.

CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligation of Buyer to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by Buyer in its sole discretion:

Section 12.01. **Consents and Approvals**

(a) Receipt of all required material, non-governmental third party consents and any other approvals necessary or advisable to consummate the transactions contemplated by this Agreement set forth on Schedule 4.05 and all consents, waivers, authorizations and approvals of any Governmental Authority required pursuant to Section 5.04, including without limitation all required EPA and PaDEP approvals/renewals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired); and

(b) Approval by the Municipal Board and the Authority Board for: (i) defeasance and redemption of any outstanding bonds issued by the Seller or the Authority on the System included in the Outstanding Indebtedness, and (ii) discharge of any other outstanding debt issued to the Seller or the Authority and payable to any current lender secured by the lease payments under the Lease.

(c) Delivery of evidence that Seller shall have taken all actions to acquire title to the System and the Acquired Assets required to permit Seller to convey the System and the Acquired Assets to Buyer as pursuant to this Agreement; and

(d) Delivery of evidence of: (1) the termination of the Authority or transfer of all leasehold and operating rights in the assets of the System to the Township and the assumption of the Authority's rights and obligations thereunder, and (2) the transfer of the ownership to the Township of the laterals from the collection system main to the edge-of-road or curb-line when

the main is located within a public right-of-way or the edge of easement where the main is located within private property.

Section 12.02. Representations and Warranties of Seller

The representations and warranties made by the Seller and the Authority in Article IV of this Agreement (disregarding all “materiality” and “Material Adverse Effect” or similar qualifications contained therein) shall be true and correct on and as of the Closing Date (except for representations and warranties expressly stated to relate to a specific date, in which case each such representation and warranty shall be true and correct as of such earlier date), with only such exceptions as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and the Buyer shall have received a certificate to that effect from the Seller dated as of the Closing Date.

Section 12.03. [PaPUC Approval]

[PaPUC must have issued a Final Order authorizing the Buyer to operate as a public utility in the Commonwealth of Pennsylvania and Final Order(s) approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and Buyer. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and Seller may agree to proceed to consummate the transaction.]

Section 12.04. No Injunctions

The Seller, the Authority and the Buyer are not subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 12.05. No Material Adverse Effect

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

Section 12.06. Deliveries by Seller

Seller shall have made delivery to Buyer of the documents and items specified in Section 13.02.

Section 12.07. Performance of the Obligations of Seller

Seller shall have performed and been in compliance in all material respects with all obligations and covenants required under this Agreement to be performed by Seller on or before the Closing Date, and Buyer shall have received a certificate to that effect from Seller dated the Closing Date.

Section 12.08. Phase 1 Environmental Site Assessment

If applicable under Section 7.15 hereof, a Phase 1 environmental site assessment shall have been properly completed in respect of the System and the Real Property.

ARTICLE XIII.

CLOSING

Section 13.01. Closing Date

The Closing shall take place at a place in Pennsylvania that is mutually agreed upon by the Parties, at 10:00 a.m. eastern standard time on the earliest agreed upon date or within twenty (20) Business Days after the date upon which all the conditions precedent to Closing described in this Agreement have been fulfilled or waived and Buyer and the Seller receive the last of the required consents, waivers, authorizations and approvals from the Governmental Authorities, in each case, for the transactions contemplated by this Agreement, or at such other place and time, by such other method, or on such other date, as may be mutually agreed to by the Parties (the "Closing Date"). The Closing will be effective at 12:01 a.m., Township of Towamencin, PA time, on the Closing Date (the "Closing Effective Time").

Section 13.02. Deliveries by the Seller

At the Closing, Seller, shall have delivered or cause to be delivered to Buyer executed copies of the following agreements, documents and other items:

(a) A Bill of Sale transferring all of the Acquired Assets comprising personal property, in the form attached hereto as Exhibit A;

(b) Possession of the Acquired Assets, including without limitation, the Real Property, the Easements and an interest in the Missing Easements, including a license from Seller to Buyer;

(c) A duly executed counterpart to an Assignment and Assumption Agreement with respect to the Assumed Liabilities (the "Assignment and Assumption Agreement"), in the form attached hereto as Exhibit B;

(d) The consents to transfer all of the Assigned Contracts and Authorizations and Permits (including environmental Authorizations and Permits), to the extent required hereunder;

(e) One or more special warranty or other deeds in recordable form reasonably acceptable to Buyer transferring fee simple title of Real Property, and one or more assignments in recordable form reasonably acceptable to Buyer with respect to the Easements (exclusive of any Missing Easements);

(f) Copies or originals of all Files and Records, materials, documents and records in possession of the Seller relating to the Real Property or the Assigned Contracts;

(g) Certificate of Seller pursuant to Section 12.02 of this Agreement;

(h) Certificate of Seller pursuant to Section 12.07 of this Agreement;

(i) Any documents duly executed by Seller required by the Title Company to issue final owner's title policies in accordance with the procedures set forth in Article VI;

(j) A duly executed counterpart to the Escrow Agreement;

(k) Pursuant to Section 12.09(d), documents and certificates, as applicable, evidencing that the System is reclaimed from the Authority and the Authority conveyed the System to Seller, in accordance with the Pennsylvania Municipal Authorities Act;

(k) All such other instruments of conveyance or other documents as shall, in the reasonable opinion of Buyer and its counsel, be necessary to transfer to Buyer the Acquired Assets in accordance with this Agreement or to carry out the terms of this Agreement, duly executed and acknowledged by Seller, if necessary, and in a recordable form;

(l) A form W-9 properly completed by the Seller;

(m) Simultaneously with Closing, evidence of UCC-3 termination statements filed with the Secretary of State of the Commonwealth of Pennsylvania releasing all liens held in the Acquired Assets by or on behalf of the Lender;

(n) An executed release, in form and substance acceptable to the Buyer, from the Lender confirming the discharge of the Outstanding Indebtedness and release of any and all security interests in any of the Acquired Assets which are not Permitted Liens, subject only to the receipt by the Lender of the Payoff Amount at Closing; and

(o) Copies of the duly adopted ordinance(s) and resolution(s) of the Seller and the Authority authorizing the transactions contemplated by this Agreement.

Section 13.03. Deliveries by Buyer

At the Closing, Buyer shall have delivered or caused to be delivered to the Seller the following agreements, documents and other items:

(a) Payment in full of the Purchase Price;

(b) A duly executed counterpart to the Assignment and Assumption Agreement;

(c) Certificate of Buyer pursuant to Section 11.02 of this Agreement;

(d) Certificate of Buyer pursuant to Section 11.05 of this Agreement;

(e) [Evidence of PaPUC approval as provided in Section 12.03];

(f) A duly executed counterpart to the Escrow Agreement; and

(g) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement.

ARTICLE XIV.

TERMINATION

Section 14.01. Events of Termination

This Agreement may, by notice given in the manner provided in this Agreement, be terminated and abandoned at any time before completion of the Closing:

(a) By the consent of both of the Seller and the Buyer;

(b) By any of the Seller or the Buyer if:

(i) the Closing shall not have occurred on or before the Outside Date; except that the Buyer shall have the one-time right to extend the Outside Date for up to ninety (90) days if, in the Buyer's sole discretion, any such amount of time up to ninety (90) days is necessary to obtain a required Governmental Approval; or

(ii) any Governmental Authority shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the material transactions contemplated by this Agreement and such order, decree, ruling or other action will have become final and non-appealable, provided however, that the Party seeking termination pursuant to this clause (b) of this Section 14.01 is not in breach in any material respect of any of its representations, warranties, covenants or agreements contained in this Agreement;

(c) By the Seller (if Seller is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Buyer pursuant to the terms of this Agreement or of any representation or warranty of the Buyer contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Seller to the Buyer or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XI of this Agreement not being satisfied (which condition has not been waived by the Seller in writing); or

(d) By the Buyer (if Buyer is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Seller or the Authority pursuant to the terms of this Agreement or of any representation or warranty of the Seller or the Authority contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Buyer to the Seller or the Authority or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XII of this Agreement not being satisfied (which condition has not been waived by the Buyer in writing).

This Agreement may not be terminated after completion of the Closing.

Section 14.02. Effect of Termination

If this Agreement is terminated by the Seller or the Buyer pursuant to Section 14.01, written notice thereof will forthwith be given to the other and all further obligations of the Parties under this Agreement will terminate without further action by any Party and without liability or other obligation of any Party to any other Party hereunder; except that no Party will be released from liability hereunder if this Agreement is terminated and the transactions abandoned because of any willful breach of this Agreement.

ARTICLE XV.

MISCELLANEOUS

Section 15.01. Confidentiality

Except as and to the extent required by applicable Law (including but not limited to the Pennsylvania Right-To-Know Act at 65 Pa § 67.101) or pursuant to an order of a court of competent jurisdiction and as required hereunder to obtain any and all required Governmental Approvals, no Party hereto shall, directly or indirectly, disclose or use (and no Party shall permit its representatives to disclose or use) any Confidential Information with respect to any other Party furnished, or to be furnished, by such other Party hereto or its shareholders, directors, officers, agents, or representatives to the other Party hereto or its employees, directors, officers, agents or representatives in connection herewith at any time or in any manner other than in connection with the completion of the transactions contemplated by this Agreement and related transactions.

Section 15.02. Public Announcements Subject to applicable Law or listing rules of an exchange on which Buyer's parent corporation's stock is listed, and except as otherwise set forth in this Agreement, the initial public announcement relating to the transactions contemplated herein will be mutually agreed upon and jointly made by the Parties. Subsequent public announcements by one Party are subject to review and approval by the other Parties before issuance, such approval not to be unreasonably withheld, conditioned or delayed.

Section 15.03. Notices

The Parties shall make all notices, other communications and approvals required or permitted by this Agreement in writing, stating specifically that they are being given pursuant to this Agreement and shall be addressed as follows:

in the case of the Seller and the Authority:

Attention:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Township Manager
Fax: 215-368-7650

with a copy to:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Solicitor
Fax: 215-368-7650

in the case of the Buyer:

Attention:

-

Attention:

Fax:

or such other persons or addresses as a Party may from time to time designate by notice to the other Party. A notice, other communication or approval is deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval is deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by United States registered or certified mail.

Section 15.04. **Headings**

The article, section and paragraph headings in this Agreement are for reference purposes only and have no affect the meaning or interpretation of this Agreement.

Section 15.05. **Severability**

If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement remain in full force and effect and in no way be affected, impaired or invalidated.

Section 15.06. **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party because of such provision of this Agreement having been drafted on behalf of one Party rather than the other Party.

Section 15.07. Amendments; Waivers

This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.

Section 15.08. Parties in Interest; Third Party Beneficiary

Except as provided in this Agreement, this Agreement is not intended to and shall not be construed to create upon any Person other than the Parties any rights or remedies hereunder.

Section 15.09. Successors and Assigns

None of the Parties to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other Parties, and any purported assignment or purported delegation without prior written consent is void. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective permitted successors and assigns.

Section 15.10. Governing Law; Jurisdiction

The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising and relating to this Agreement, including torts. The Parties irrevocably agree and consent to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Agreement. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth in this Agreement shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE

FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 15.11. **Specific Performance**

The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties is entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 15.12. **Interpretation.**

For purposes of this Agreement: (a) the words “include,” “includes”, and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein”, “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. The definition given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined.

Section 15.13. **Counterparts; Electronic Mail; Facsimile Execution**

This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to each Party. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Parties by electronic mail or facsimile transmission. Such Party is deemed to have executed and delivered this Agreement on the date it sent such electronic mail or facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

[THIS SPACE INTENTIONALLY LEFT BLANK;

SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.

TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY

[BUYER]

By: _____
Name:
Its:

By: _____
Name:
Its:

ATTEST:

ATTEST:

By: _____
Name:
Its:

By: _____
Name:
Its:

TOWAMENCIN MUNICIPAL AUTHORITY

By: _____
Name:
Its:

ATTEST:

By: _____
Name:
Its:

TOWAMENCIN MUNICIPAL AUTHORITY

RESOLUTION NO. 2022-01

WHEREAS, Towamencin Municipal Authority (“Authority”) currently owns and operates a certain sanitary wastewater collection and treatment system (“System”); and

WHEREAS, the Authority leases the System to Towamencin Township, a Second Class Township (“Township”), under a June 30, 2015 Lease and Service Agreement (“Lease”). Under the Lease, the Authority provides sanitary wastewater service to customers in the Township and portions of Lower Salford and Worcester Townships; and

WHEREAS, the Township previously decided to consider acquiring the System from the Authority and, with approval from the Authority Board (“Board”), selling all System assets, properties (whether tangible, real, personal or mixed) and rights (“System Assets”), as set forth in the Asset Purchase Agreement (“Purchase Agreement”), through a competitive bidding process (“Sale”); and

WHEREAS, the Township previously issued Requests for Qualifications (“RFQ”) and Requests for Bids (“RFB”) to solicit bids to purchase the System from interested and qualified bidders; and

WHEREAS, the Township has received several RFQ responses, and after the opportunity for due diligence, has received RFB bids from five interested and qualified bidders (“Qualified Bidders”); and

WHEREAS, the Township has reviewed the Qualified Bidders’ bids and determined that the Sale to the Qualified Bidder, NextEra Towamencin Wastewater, LLC., (“Successful Bidder”)—offering the highest and best overall bid—is in the Township’s best interest; and

WHEREAS, the Township, with the Board’s approval as a condition precedent, intends to enter into the Purchase Agreement with the Successful Bidder; and complete the Sale

NOW THEREFORE, BE IT RESOLVED AND ADOPTED by the Board:

1. **Purchase Agreement Authorization**. The Board approves the Township’s entering into and performance of the Purchase

Agreement with NextEra Towamencin Wastewater, LLC., the Successful Bidder, designated as the Purchaser hereunder, substantially in the form attached hereto as Exhibit A. The Board's Chairman or Vice Chairman is directed to sign the Purchase Agreement and all associated documents and take all actions necessary to facilitate the Purchase Agreement.

2. **Related Agreements Assignment.** The Board authorizes the assignment of applicable rights and obligations in all related agreements, as required under the Purchase Agreement, to Purchaser. The Board's Chairman or Vice Chairman is directed to sign the associated assignment documents, provided the terms and conditions of such documents are satisfactory to the Board's Solicitor. The Board's Chairman or Vice Chairman is further directed to take all actions necessary to facilitate such assignment.

3. **Providing Information and Cooperation.** The Board authorizes the Authority, its agents and employees, as directed by the Board, to provide information and cooperate with the Township to facilitate the Sale and System's continued operation and use of System Assets.

4. **General Authorization.** The Board authorizes the Authority, its agents and employees, as directed by the Board, to take all needed actions required by applicable law, or otherwise, to complete the Sale.

RESOLVED and **ADOPTED** at the Board's May 18, 2022 special public meeting.

TOWAMENCIN MUNICIPAL AUTHORITY


Chairman

Attest:



Secretary

EXHIBIT A
Purchase Agreement

Draft 12/21/21

ASSET PURCHASE AGREEMENT

By and Among

Township of Towamencin, Montgomery County

As Seller

Towamencin Municipal Authority

and

[]

As Buyer

Dated as of _____, 2021

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of _____, 2021 (the "Effective Date"), is made and entered into by and between the Township of Towamencin, Montgomery County, a body corporate and politic, organized under the Pennsylvania law, (the "Seller" or the "Township"), the Towamencin Municipal Authority, a body corporate and politic created under the Pennsylvania Municipal Authorities Act (the "Authority") and [____], (the "Buyer"), a [Pennsylvania] [corporation/municipal authority].

WITNESSETH:

WHEREAS, the Authority owns that certain sanitary wastewater collection and treatment system (the "System") which is leased to the Township under a Lease and Service Agreement dated June 30, 2015 ("Lease") pursuant to which the Authority provides sanitary wastewater service to various customers in the Township and portions of Lower Salford, and Worcester, Montgomery County, Pennsylvania (the "Service Area"); and

WHEREAS, the Seller, acting by and through its Board of Supervisors (the "Municipal Board") intends to terminate the Lease and acquire possession and operational control of the assets of the System on or before the Closing Date (as defined herein); and

WHEREAS, Buyer is, or as of the Closing Date will be, a [regulated public utility] [municipal authority] that furnishes wastewater service to the public [in Pennsylvania]; and

WHEREAS, Buyer, in reliance upon the representations, warranties and covenants of the Seller and Authority herein, desires to purchase and acquire from the Seller, and the Seller, in reliance upon the representations, warranties and covenants of Buyer herein, desires to sell, transfer and convey to Buyer all of the assets of the System (other than the Excluded Assets), and in connection therewith, Buyer has agreed to assume certain ongoing obligations and liabilities of the Seller related to such acquired assets, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual representations, warranties, covenants, and agreements contained in this Agreement, the receipt and sufficiency of which are acknowledged, intending to be legally bound, the Parties agree as follows:

ARTICLE I.

DEFINITIONS

In addition to the capitalized terms defined elsewhere in this Agreement, the following terms, as used in this Agreement (unless otherwise specified in this Agreement), have the meanings specified in this Article I:

"**Abstractor**" has the meaning specified in Section 6.05(a).

“Accounts Receivables” means all accounts or notes receivable held by Seller, and any security, claim, remedy or other right related to the foregoing, including the right to receive and collect payment for sanitary wastewater customer services and to receive and hold customer deposits in connection thereof.

“Acquired Assets” has the meaning specified in Section 2.01.

“Act 537” has the meaning specified in Section 7.10.

“Act 537 Plan” has the meaning specified in Section 7.10.

“Affiliate” means, when used to indicate a relationship with a specified Person, a Person that, directly or indirectly, through one or more intermediaries has a 10% or more voting or economic interest in such specified Person or controls, is controlled by or is under common control with (which include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person is deemed to be controlled by another Person if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (and for purposes of this definition, a managed fund or trust is deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust is deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

“Agreement” has the meaning specified in the preamble to this Agreement (and includes all Schedules and Exhibits referred to herein), as amended, modified and supplemented from time to time in accordance with the terms hereof.

“Allocation Schedule” has the meaning specified in Section 3.03.

“Assigned Contracts” has the meaning specified in Section 4.15 and includes the Municipal Agreements.

“Assignment and Assumption Agreement” has the meaning specified in Section 13.02(c).

“Assumed Liabilities” has the meaning specified in Section 2.04(a).

“Authority Board” means the five member board of the Towamencin Municipal Authority who are appointed by the Municipal Board.

“Authorizations and Permits” mean all licenses, permits, franchises, authorizations, certificates, registrations, consents, orders, adjudications, variances, waivers and approvals currently in effect issued or granted by Governmental Authorities, including without limitation, environmental permits, operating permits and approvals that are held by the Seller or the

Authority that primarily relate directly or indirectly to the operation of the System, including those set forth on Schedule 4.14.

“**Authority**” has the meaning specified in the preamble of this Agreement.

“**Business Day**” means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by either the Commonwealth of Pennsylvania or the United States government.

“**Buyer**” has the meaning specified in the preamble of this Agreement.

“**Buyer Fundamental Representations**” has the meaning specified in Section 8.01.

“**Buyer Indemnified Persons**” has the meaning specified in Section 8.02.

“**CERCLA**” means the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended.

“**Closing**” means the consummation of the sale and purchase of the Acquired Assets and assumption of the Assumed Liabilities, the release/waiver of liabilities and the other transactions contemplated by this Agreement, all in accordance with the terms and conditions of this Agreement and as provided for in Article XIII.

“**Closing Date**” has the meaning specified in Section 13.01.

“**Closing Effective Time**” has the meaning specified in Section 13.01.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Collective Bargaining Agreement**” means the existing collective bargaining agreement between the Authority, as predecessor-in-interest to Seller, and the Union for the period beginning February 1, 2019 and ending January 31, 2023, as amended by the First Amendment and as may be amended from time to time.

“**Confidential Information**” means any information about Buyer, Seller or the System related to the transactions contemplated by this Agreement; except that such term does not include information which the receiving Party can demonstrate (a) is generally available to or known by the public other than as a result of improper disclosure by the receiving Party, (b) is obtained by the receiving Party from a source other than the disclosing Party, and that such source was not bound by a duty of confidentiality to the disclosing Party with respect to such information, or (c) is legally in the public domain.

“**Easements**” means all easements, rights of way, licenses, use agreements, occupancy agreements, leases and other agreements and appurtenances for and over the real property of third parties that, in each case, is for or used in connection with the operation of the System or to provide continuous and unimpeded rights of way for the Acquired Assets (including access thereto).

“**EDU**” means the equivalent dwelling unit that also equates to 280 gallons per day.

“**Effective Date**” has the meaning specified in the preamble.

“**Environment**” means soil, surface waters, ground waters, land, stream sediments, flora, fauna, surface or subsurface strata and ambient air.

“**Environmental Claims**” means all notices of investigations, warnings, notice letters, notices of violations, Liens, orders, claims, demands, suits or administrative or judicial actions for any injunctive relief, fines, penalties, third party claims, or other claims asserting violations or liability pursuant to Environmental Requirements or responsibility for Environmental Liabilities.

“**Environmental Conditions**” means the Release of Hazardous Materials or the presence of Hazardous Materials on, in, under or within any property (including the presence in the Environment), other than the presence of Hazardous Materials in locations and at concentrations that are naturally occurring.

“**Environmental Liabilities**” means any legal obligation or liability arising under Environmental Requirements or related to or arising out of any Environmental Condition, including those consisting of or relating to any (a) duty imposed by, breach of or noncompliance with any Environmental Requirements; (b) environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of Hazardous Materials); (c) Remedial Action undertaken by any Person; (d) bodily injury (including illness, disability and death, and regardless of when any such bodily injury occurred, was incurred or manifested itself), property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real or personal property), or other losses or damages incurred by any other Person (including any employee or former employee of such Person); (e) any injury to, destruction of, or loss of natural resources, or costs of any natural resource damage assessments; (f) exposure of any Person to any Hazardous Materials; and (g) the presence or Release of any Hazardous Materials.

“**Environmental Requirements**” mean all Laws (including common law), regulations, legally binding or otherwise enforceable requirements and Authorizations and Permits relating to human health, pollution, or protection of the Environment (including ambient air, surface water, ground water, land surface or surface strata), including (i) those relating to emissions, discharges, Releases, or threatened Releases of Hazardous Materials, and (ii) those relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, release, recovery, transport or other handling of Hazardous Materials. Without limiting the foregoing, the term “**Environmental Requirements**” includes (1) CERCLA; the Superfund Amendments and Reauthorization Act, Public Law 99-499, 100 Stat. 1613; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Sections 11001-11050; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901-6992k (“**RCRA**”); the Safe Drinking Water Act, 42 U.S.C. Sections 300f to 300j-26; the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2692; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 5101-5127; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1387; the Oil Pollution Act of 1990, 33 U.S.C. Sections 2701--2761; the Clean Air Act, 42 U.S.C. Sections 7401-7671q;

the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2011 et seq.; the Low Level Radioactive Waste Policy Act, as amended, 42 U.S.C. Section 2021b et seq.; the Occupational Safety and Health Act, 29 U.S.C. Sections 651-678, and the regulations promulgated pursuant to the above-listed federal statutes, and (2) counterpart Laws and regulations promulgated or issued by any state or local Governmental Authority, specifically including the Pennsylvania Storage Tank and Spill Prevention Act of 1989 (35 Pa. C.S.A. § 6021.101 *et. seq.*).

“EPA” means the United States Environmental Protection Agency, or a successor Governmental Authority with substantially similar power and authority thereto.

“**Equipment and Machinery**” means (i) all the equipment, tangible personal property, machinery, office furniture and equipment, fixtures, tooling, spare maintenance or replacement parts, environmental testing equipment, and vehicles owned or leased by the Seller or the Authority (including all leases of such property), which are primarily used in the operation of the System, (ii) any rights of the Seller or the Authority to warranties applicable to the foregoing (to the extent assignable), and licenses received from manufacturers and seller of any such item, and (iii) any related claims, credits, and rights of recovery with respect thereto, as listed on Schedule 4.10.

“**Escrow Agreement**” has the meaning set forth in Section 3.01.

“**Excluded Assets**” has the meaning specified in Section 2.02.

“**Excluded Liability**” or “**Excluded Liabilities**” means all liabilities other than Assumed Liabilities.

“**Files and Records**” means all files and records of each of the Seller and the Authority primarily relating to the System and the Acquired Assets, whether in hard copy, digital, or magnetic or other format including data, geographic information system data, plans, and contracts relating to the Acquired Assets (including property records, related to the foregoing), customer and supplier records, customer lists (both current and prospective), personnel and human resources records related to the Personnel, records of sales calls, manuals, books, files, records, engineering data, procedures, systems, instructions, drawings, blueprints, plans, designs, specifications, equipment lists, parts lists, equipment maintenance records, equipment warranty information, plant plans, specifications and drawings, sales and advertising material, computer software, and records, whether stored on-site or off-site.

“**Final Order**” means a Governmental Approval by a Governmental Authority as to which (a) no request for stay of the action is pending, no such stay is in effect and if any time period is permitted by statute or regulation for filing any request for such stay, such time period has passed, (b) no petition for rehearing, re-argument, reconsideration, clarification, rescission, amendment, or supersedes of the action is pending and the time for filing any such petition has passed, (c) such Governmental Authority does not have action under consideration on its own motion and (d) no appeal to a court or administrative tribunal or a request for stay by a court or administrative tribunal of the Government Authority’s action is pending or in effect and the deadline for filing any such appeal or request for stay has passed.

[“**Freeze Period**” has the meaning specified in Section 7.04.]

“Governmental Approval” means any consent, approval, authorization, notice, filing, registration, submission, reporting, order, adjudication or similar item of, to or with any Governmental Authority.

“Governmental Authority” or **“Governmental Authorities”** means any court, department, commission, board, bureau, municipality, municipal authority (established pursuant to the Pennsylvania Municipal Authorities Act of the Commonwealth of Pennsylvania), agency or instrumentality of the United States, any state, county, city or political subdivision thereof, or any foreign governmental body, including without limitation, [the PaPUC], the EPA, PaDEP, the Municipal Board and the Authority Board.

“Hazardous Materials” means any solid, liquid, gas, odor, heat, sound, vibration, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, hazardous waste, residual waste, solid waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Requirements or which is classified as hazardous or toxic under applicable Environmental Requirements (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation).

“Indemnified Party” means any Buyer Indemnified Persons or Seller Indemnified Persons, as applicable, entitled to indemnification pursuant to Article VIII.

“Indemnifying Party” means a Party which is obligated to indemnify the Buyer Indemnified Persons or the Seller Indemnified Persons, as applicable, pursuant to Article VIII.

“Knowledge” means either (i) the actual knowledge of a Representative of Buyer and the knowledge that such person would reasonably be expected to obtain in the course of diligently performing his or her duties for Buyer or (ii) the actual knowledge of Senior Staff, the Municipal Board and the Authority Board, and in the case of Senior Staff, the knowledge that each person would reasonably be expected to obtain in the course of diligently performing his or her duties for Seller or the Authority, as applicable based on the context in which the term is used.

“Law” means any applicable law, statute, regulation, ordinance, rule, order, judicial, administrative and regulatory decree, judgment, adjudication, consent decree, settlement agreement or governmental requirement enacted, promulgated, entered into, agreed or imposed by any Governmental Authority, as may be in effect at the relevant time or times in the context in which the term is used.

“Lease” has the meaning specified in the preamble of this Agreement.

“Lender” means the Delaware Valley Regional Finance Authority.

“Liability Cap” has the meaning specified in Section 8.05(c).

“Lien” means any lien in a fixed and ascertainable monetary sum, or any pledge, mortgage, deed of trust or security interest securing a fixed and ascertainable monetary sum, or any charge or claim in a fixed and ascertainable monetary sum. In addition, in connection with

Real Property, any item otherwise falling within the definition of a “Lien” must be filed of record by the responsible Party in accordance with the terms of this Agreement.

“**Loss**” means any and all losses, liabilities, obligations, damages, penalties, interest, Taxes, claims, actions, demands, causes of action, judgments, reasonable attorneys’, consultants’ and other professional fees, and all other reasonable costs and expenses sustained or incurred in investigating, preparing or defending or otherwise incident to any such claim, action, demand, cause of action or judgment or the enforcement of a Party’s rights under Article VIII; except that “**Losses**” do not include punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except in the case of fraud or to the extent actually awarded to a Governmental Authority or other third party in respect of a Third Party Claim.

“**Material Adverse Effect,**” means any result, occurrence, fact, change, event or effect that has a materially adverse effect on the business, financial condition or results of operations of the System; except that no effect arising out of or in connection with or resulting from any of the following will be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions (either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the real estate, financial services, construction, water utility or sewer utility industries generally; (iv) any existing event, circumstance, condition or occurrence of which the Buyer has Knowledge as of the Effective Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement or attributable to the execution, performance or announcement of this Agreement or the transactions contemplated by this Agreement; and (vi) negligence, intentional misconduct or bad faith of the Buyer or its Representatives.

“**Missing Easements**” means, as of any particular date, each Easement that either (a) has not been expressly obtained through a duly executed and recorded instrument by the Authority or Seller and is for or used in connection with the operation of the System or (b) if such Easement has been obtained by the Authority or Seller, such Easement is unrecorded or such Easement is not sufficient to operate the System as currently conducted.

“**Municipal Agreements**” means, collectively, the inter-municipal agreements pursuant to which the Seller or the Authority provides sanitary wastewater service in various municipalities in Montgomery County, Pennsylvania, as more specifically set forth in Schedule 4.15.

“**Municipal Board**” has the meaning set forth in the recitals to this Agreement.

“**Non-Union Personnel**” means Personnel who are not members of the Union.

“**Objection Notice**” has the meaning set forth in Section 6.02(a).

“**Outside Date**” means the date that is 180 days after the Effective Date for a municipal authority and with respect to a regulated utility 365 days after the later to occur of (i) the date the

application to the PaPUC is accepted as complete by the PaPUC, and (ii) the date the statutory 6-month consideration period is initiated.

“Outstanding Indebtedness” means the following outstanding indebtedness of the Seller and the Authority: Delaware Valley Regional Finance Authority Guaranteed Sewer Revenue Notes, 2019 Series and the Delaware Valley Regional Finance Authority Guaranteed Sewer Revenue Notes, 2013 Series.

“PaDEP” means the Pennsylvania Department of Environmental Protection, or any successor Governmental Authority with substantially similar powers thereto.

[**“PaPUC”** means the Pennsylvania Public Utility Commission, or any successor Governmental Authority with substantially similar powers thereto.]

“Party” means Buyer, the Authority or the Seller and the term **“Parties”** means collectively Buyer, the Authority and the Seller.

“PCB Equipment” means PCB equipment as defined in 40 C.F.R. Part 761.

“Pending Development Plan” means any project for the development of real property which is the subject of a subdivision or land development plan that has been submitted to the Seller for approval, or for which the Seller already has granted approval, pursuant to the Pennsylvania Municipal Planning Code, but which has yet to be constructed as of the Effective Date (and as updated before the Closing Date), as provided in Schedule 4.19.

“Permitted Liens” means (a) Liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures; (b) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property and Easements as set forth on Schedule 4.09; (c) other than with respect to Real Property owned by Seller, Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; (d) other imperfections of title or Liens, if any, that have not had, and would not have, a Material Adverse Effect; and (e) any encumbrances set forth in the Title Commitment not identified in the Objection Notice in accordance with the procedures and deadlines prescribed in Section 6.02(a).

“Person” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority.

“Personnel” means the employees of the Authority who are primarily employed to operate the System and includes Union Personnel and Non-Union Personnel.

“Purchase Price” has the meaning specified in Section 3.01.

“Real Property” means those certain parcels of land, with the buildings, improvements, and Equipment and Machinery affixed thereto, that are part of the System and fee simple title to which is to be conveyed by Seller to Buyer as part of the Acquired Assets.

“Regulated Asbestos Containing Material” means regulated asbestos containing material as defined by 40 C.F.R. § 61.141.

“Release” means any actual or threatened spilling, leaking, pumping, pouring, injecting, emptying, discharging, emitting, escaping, leaching, dumping, disposal, or release or migration of Hazardous Materials into the Environment, including the abandonment or discarding of barrels, containers and other receptacles containing any Hazardous Materials.

“Remedial Action” means any and all actions to (a) investigate, clean up, remediate, remove, treat, contain or in any other way address any Hazardous Materials in the Environment, (b) prevent the Release or threat of Release or minimize the further Release of any Hazardous Materials so it does not migrate or endanger public health or welfare or the indoor or outdoor Environment, and (c) perform pre-remedial studies and investigations and post-remedial monitoring, maintenance and care. The term **“Remedial Action”** includes any action which constitutes (i) a “removal”, “remedial action” or “response” as defined by Section 101 of CERCLA, 42 U.S.C. §§ 9601(23), (24), and (25); (ii) a “corrective action” as defined in RCRA, 42 U.S.C. § 6901 et seq.; or (iii) a “response” or “interim response” as defined in the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. §6020.103.

“Representative” means, with respect to any Person, any director (including, in the case of the Seller, any member of the Municipal Board and, in the case of the Authority, any member of the Authority Board), officer, employee, official, lender mortgagee, financier, provider of any financial instrument (or any agent or trustee acting on their behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its “Representative.”

“Schedules” means the disclosure schedules delivered by Seller and Buyer, respectively, concurrently with the execution and delivery of this Agreement, and as may be supplemented and updated pursuant to Sections 9.03 and 10.04. Any disclosure set forth on any particular Schedule are deemed disclosure in reference to all Schedules comprising the Schedules to which such disclosure is reasonably apparent.

“Seller” has the meaning specified in the preamble of this Agreement.

“Seller DEP Permits” means the permits listed on Schedule 4.14 issued by PaDEP to Seller with respect to the System, including any revisions or amendments thereto.

“Seller Fundamental Representations” has the meaning specified in Section 8.01.

“Seller Indemnified Persons” has the meaning specified in Section 8.03.

“Seller’s Benefit Obligations” means all material obligations, arrangements, or practices, whether or not legally enforceable, to provide benefits, other than salary or wages to present or former directors, employees or agents, (other than obligations, arrangements and practices that are Seller’s Plans), that were owed, adopted or followed by the Authority, and upon the termination of the Authority, are now owned, adopted or followed by the Seller.

Seller's Benefit Obligations also include consulting agreements under which the compensation paid does not depend upon the amount of service rendered, sabbatical policies, severance payment policies and fringe benefits within the meaning of Code §132.

"Seller's Plans" means each voluntary employees' beneficiary association under Section 501(c)(9) of the Code whose members include any Personnel and any employee benefit plans or any other retirement, pension, profit sharing, stock option, stock bonus, deferred compensation (including any "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code), severance, sick leave or other material plan or arrangement providing benefits to current or former Personnel, in each case, if either currently in effect or terminated within the last six (6) years, to which the Authority is a plan sponsor or to which the Authority otherwise contributes or has contributed within the last six (6) years, or in which the Authority otherwise participates or has participated within the last six (6) years.

"Senior Staff" means the Township Manager, the Township Director of Finance and Administration, the Township Sanitary Sewer Engineer and Authority Engineer.

"Service Area" has the meaning specified in the recitals to this Agreement.

"Supplies" means all lubricants, spare parts, fuel, chemicals, raw materials, and other supplies and inventory as related to the Acquired Assets, and all rights to warranties received from suppliers with respect to the foregoing, and related claims, credits, and rights of recovery with respect thereto.

"System" has the meaning specified in the recitals to this Agreement and includes the Acquired Assets and excludes the Excluded Assets.

"System Improvements" has the meaning specified in Section 7.10(a).

"Taxes" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, abandoned or unclaimed property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

"Third Party Claim" has the meaning specified in Section 8.05(a)

"Threshold Amount" has the meaning specified in Section 8.05(a).

"Title Commitment" has the meaning specified in Section 6.01.

"Title Company" has the meaning specified in Section 6.01.

"Title Policy" has the meaning specified in Section 2.03.

“**Township**” has the meaning specified in the preamble of this Agreement.

“**Transferred Personnel**” has the meaning specified in Section 7.03(a).

“**UCC Search**” has the meaning specified in Section 6.04.

“**Union**” means District Council 88, American Federation of State, County and Municipal Employees AFL-CIO.

“**Union Personnel**” means Personnel who are members of the Union.

“**Unscheduled Real Property**” has the meaning specified in Section 6.06.

“**Utility Valuation Expert**” means an expert that has applied and has been approved by the PaPUC and is currently, at the time of this Agreement, on the list of approved appraisers maintained by the PaPUC.

ARTICLE II.

TERMS OF PURCHASE AND ASSUMPTION OF LIABILITIES

Section 2.01. Purchase and Sale of Acquired Assets

Subject to the terms and conditions set forth in this Agreement, at Closing, Buyer shall purchase from the Seller and the Seller shall sell, transfer, assign and deliver to Buyer, free and clear of all Liens except for Permitted Liens, all of Seller’s right, title and interest in and to all assets, facilities, business, goodwill, properties and rights of the Seller of every kind and description, whether tangible or intangible, real, personal or mixed, wherever situated, in each case used in, held for use in, or acquired or developed for use in, the System, or otherwise related to, or arising out of the operation or conduct of the System (whether or not any such assets have any value for accounting purposes or are carried or reflected on the books or financial records of the Seller), including any of the foregoing in which Seller is entitled to acquire such rights or interests but in all cases other than the Excluded Assets (the foregoing collectively referred to as the “Acquired Assets”), including:

(a) all real property and appurtenant interests necessary for the operation of the System, including without limitation (i) good and marketable fee simple title to the Real Property set forth on Schedule 4.09 hereof, and (ii) all Easements, including without limitation those set forth on Schedule 4.09;

(b) all sanitary wastewater related treatment and conveyance facilities, including but not limited to the Seller’s (i) assets set forth on Schedule 2.01(b), (ii) sewage treatment plant located in the Township and (iii) all collection system mains (whether gravity or force mains), laterals (from the collection system main to the edge-of-road or curb-line when the main is located within a public right-of-way or the edge of an easement where the main is located within private property), generators, manholes, pump stations and other related appurtenances and any billing and collections related assets necessary to own and operate the System;

(c) all contracts, licenses and leases set forth on Schedule 4.15 to which the Seller (or the Authority as predecessor in interest) is a party, including without limitation, all Municipal Agreements, customer service agreements or applications for service, construction contracts, surety bonds, operation and maintenance agreements, management agreements, reserved capacity agreements, architect agreements and consultant agreements, and agreements relating to vehicles and other items of personal property (the “Assigned Contracts”);

(d) all Supplies;

(e) all personal property and fixed assets, including all Equipment and Machinery, auxiliary equipment and plant equipment, including without limitation those items listed on Schedule 4.10 hereof;

(f) all expenses prepaid by Seller or the Authority and security deposits by Seller and by the Authority;

(g) all Files and Records;

(h) Accounts Receivable arising on or after the Closing Date; and

(i) all Authorizations and Permits of or held by the Seller (or the Authority as predecessor in interest) (to the extent transferrable to Buyer under Law), including all Authorizations and Permits which are environmental permits, the Seller DEP Permits as set forth on Schedule 4.14 hereto and other operating permits and those items set forth on Schedule 4.14 hereto; and

(j) all goodwill of the System.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTIES OF ANY KIND WHATSOEVER REGARDING THE VALUE OF ANY OF THE ACQUIRED ASSETS OF THE SYSTEM OR THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING [THAT MAY BE ALLOWED BY THE PAPUC] FOR ANY OF THE ACQUIRED ASSETS. NOTWITHSTANDING THE FOREGOING, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE VALID UNTIL THE TIME OF CLOSING.

Section 2.02. **Excluded Assets**

Notwithstanding Section 2.01 or any other provision of this Agreement to the contrary, the Acquired Assets do not include the following (the “Excluded Assets”):

(a) all contracts, licenses and leases that are not Assigned Contracts;

(b) the seals, organizational documents, minute books, Tax returns, books of account or other records having to do with the organization of Seller and the organization of the Authority;

(c) cash (including any cash whenever received resulting from the payment received by Seller or the Authority attributable to wastewater service provided to EDU's before the Closing Date) and cash equivalents, including Accounts Receivable accrued before the Closing Date and existing financial security guaranteeing installation of public improvements (including sewer facilities);

(d) all insurance policies of Seller and all insurance policies of the Authority and all rights to applicable claims and proceeds thereunder;

(e) all Seller's Plans and trusts or other assets attributable thereto;

(f) other than to the extent relating to any Assumed Liability, all actions, suit or claim of any nature available to or being pursued by Seller or the Authority, whether arising by way of counterclaim or otherwise;

(g) all assets, properties and rights used by Seller or the Authority other than those which primarily relate to the operations of the System;

(h) the assets, properties and rights specifically set forth on Schedule 2.02(h);

(i) all municipal separate storm sewer system ("MS4") assets and stormwater assets of the Seller or the Authority (and any related NPDES permits); and

(j) the rights which accrue or will accrue to Seller or the Authority under this Agreement and any related agreement, exhibit or schedule.

Section 2.03. **Sale Free of Liens**

After Buyer fulfills its obligations pursuant to Section 3.01(a), on the Closing Date, the Acquired Assets will be free and clear of all Liens other than Permitted Liens. The Seller (or the Authority as predecessor in interest) shall convey such Acquired Assets by appropriate special warranty or other deed (subject to Section 6.02(c)), bills of sale, endorsements, assignments and other instruments of transfer or conveyance described in the Agreement, or by transfer documents satisfactory in form and substance reasonably acceptable to Buyer and Seller and their counsel in their reasonable discretion. At Closing, Buyer shall cause the Title Company to insure the Real Property, at the Title Company's filed rates, as a good and marketable title, free and clear of all Liens and exceptions to title insurance coverage, except for the Permitted Liens, pursuant to an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006, subject to the terms of Section 6.02 below (the "Title Policy").

Section 2.04. **Assumption of Liabilities**

(a) On the terms and subject to the conditions set forth in this Agreement and excluding the Excluded Liabilities, Buyer shall assume and agrees to pay, perform and discharge when due any and all liabilities and obligations of the Seller (1) arising under the Seller DEP Permits (arising from, related to, or based on events or circumstances occurring on or after the Closing Date), (2) arising under the Collective Bargaining Agreement or an amended and restated collective bargaining agreement with respect to any Transferred Personnel (arising from,

related to or based on events or circumstances occurring on or after the Closing Date), and (3) arising out of or relating to the System or the Acquired Assets on or after the Closing, including, without limitation, the following:

(i) all liabilities and obligations under the Assigned Contracts and Authorizations and Permits resulting from events that occur or conditions that arise on or after the Closing;

(ii) any litigation initiated against Seller or the Authority related to the System or the Acquired Assets resulting from events that occur or conditions that arise on or after the Closing;

(iii) all liabilities and obligations for Taxes relating to the System, its operation, the Acquired Assets and the Assumed Liabilities attributable to the period beginning on the Closing Date; and

(iv) all other liabilities and obligations arising out of or relating to Buyer's ownership or operation of the System and the Acquired Assets on or after the Closing (all of the aforementioned liabilities in this Section 2.04(a) are referred to as the "Assumed Liabilities").

(b) After the Closing, Buyer shall indemnify Seller against its obligations under the Assumed Liabilities in accordance with Section 8.03.

(c) Buyer shall not assume or be liable to pay any liabilities or obligations relating to the Excluded Liabilities or any other liabilities or obligations that are not Assumed Liabilities.

Section 2.05. **Further Assurances** At any time and from time to time after the Closing Date, the Seller shall, upon the request of Buyer, and Buyer shall, upon the request of the Seller, at the cost of requesting Party, promptly execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate, (a) the sale, conveyance, transfer, assignment and delivery hereunder of the Acquired Assets to Buyer, (b) the assumption by Buyer of any of the Assumed Liabilities, (c) performance by the Parties of any of their other respective obligations under this Agreement, (d) the vesting in Buyer of all right, title and interest in the Acquired Assets and the System as provided herein, and (e) any other matters reasonably requested by a Party to carry out the provisions, purposes and intent of this Agreement.

Section 2.06. **Certain Transfers; Assignment of Contracts**

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.06(a) and Section 2.06(b), to the extent that the sale, transfer, assignment, conveyance and delivery, or attempted sale, transfer, assignment, conveyance and delivery, to Buyer of any Assigned Contract or other Acquired Asset would result in a violation of Law, or would require the consent, authorization, approval or waiver of any Person (other than the Parties hereto), including any Governmental Authority, and such consent, authorization,

approval or waiver has not been obtained before the Closing, this Agreement shall not constitute a sale, transfer, assignment, conveyance and delivery, or an attempted sale, transfer, assignment, conveyance and delivery, thereof (any such Acquired Asset, a “Nonassignable Asset”). Following the Closing, the Seller and the Buyer shall use commercially reasonable efforts (at the cost and expense of the Party that is responsible for compliance with such Law or obtaining such consent, authorization, approval or waiver), and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution, novation or amendment required to sell, transfer, assign, convey and deliver any such Nonassignable Asset to Buyer; except that in no event will Buyer be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, the Seller shall sell, transfer, assign, convey and deliver to Buyer the relevant Acquired Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Any applicable sales, transfer and other similar Taxes in connection with such sale, transfer, assignment, conveyance and delivery shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller.

(b) Until such time as a Nonassignable Asset is transferred to Buyer pursuant to this Article II, Buyer and Seller shall cooperate in any commercially reasonable and economically feasible arrangements (such as subleasing, sublicensing or subcontracting) to provide to the Parties the economic and, to the extent permitted under Law, operational equivalent of the transfer of such Nonassignable Asset to Buyer at the Closing and the performance by Buyer of its obligations with respect thereto, and so long as the Seller transfers and turns over all economic and beneficial rights with respect to each such Nonassignable Asset, Buyer shall, to the extent permitted under Law and the terms of any applicable contract that constitutes a Nonassignable Asset, as agent or subcontractor for the Seller, pay, perform and discharge the liabilities and obligations of the Seller thereunder from and after the Closing Date, but only to the extent that such liabilities and obligations would constitute Assumed Liabilities if the applicable consent or approval had been obtained on or before the Closing Date and such Nonassignable Asset had been assigned to Buyer at Closing. To the extent permitted under Law, the Seller shall hold in trust for and pay to Buyer promptly upon receipt thereof, such Nonassignable Asset and all income, proceeds and other monies received by Seller with respect to such Nonassignable Asset in connection with the arrangements under this Article II.

(c) If, following the Effective Date and before the Closing, Buyer identifies any contract to which the Seller (or the Authority) is a party which is not set forth on Schedule 4.15 as an Assigned Contract as of the Effective Date, and Buyer reasonably determines such contract is necessary to the operation of the System, Buyer shall notify Seller of such determination and Seller shall, promptly following receipt of such notice, deliver to Buyer an updated Schedule 4.15 reflecting the addition of such contract, and such contract will thereafter constitute and be deemed an Assigned Contract for all purposes hereunder.

(d) If, during the twenty four (24) month period following the Closing, Buyer identifies any contract to which the Seller or the Authority was a party as of the Closing and which (i) was not set forth on Schedule 4.15 (as may be updated pursuant to (c)) and (ii) Buyer reasonably believes is necessary to the operation of the System, the Seller shall, promptly following Buyer’s written request therefor, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and

other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate the assignment of such contract to Buyer for no additional consideration, and upon such assignment, such contract will be deemed an Assigned Contract for all purposes hereunder.

ARTICLE III.

PURCHASE PRICE

Section 3.01. Purchase Price

The purchase price for the Acquired Assets is _____ Million Dollars (\$____,000,000) (the "Purchase Price") which Buyer shall pay as follows at Closing unless otherwise indicated:

(a) Deposit.

(i) Buyer shall pay One Hundred Thousand Dollars (\$100,000) to Seller as a deposit on account of the Purchase Price (the "Deposit") upon the third Business Day following the execution by the Parties of this Agreement; and

(ii) Seller shall be free to use the Deposit as it determines in the Seller's sole discretion;

(iii) In the event that this Agreement is terminated for any reason, half of the Deposit shall be refundable to the Buyer within ninety days following the effective date of termination per Section 14.01, provided, however, if the Agreement is terminated by Seller pursuant to Section 14.01(c), then Seller shall be permitted to offset against Seller's obligation to refund the Deposit any damages recoverable by Seller per the terms of this Agreement.

(b) Outstanding Indebtedness. Buyer shall pay an amount equal to \$_____ (the "Payoff Amount") to pay in full the total amount of Outstanding Indebtedness;

(c) Escrow. Buyer shall cause to be deposited in escrow pursuant to an escrow agreement substantially in the form attached as Exhibit C and entered into by and among the Seller, the Buyer and the escrow agent party thereto (the "Escrow Agreement") an amount calculated in accordance with Section 6.05(e);

(d) Final Payment. Subject to any adjustment in Purchase Price resulting from the proration procedures specified in Section 3.01(e) below, Buyer shall pay to the Seller at Closing by wire transfer of immediately available funds the balance of the Purchase Price remaining after the payment of the Deposit, the debt repayment pursuant to Section 3.01(b), and any escrow as set forth in Section 6.05(e), to one or more accounts that Seller designates and provides to Buyer at least three (3) Business Days before the Closing Date; and

(e) Final Billing. The Buyer is entitled to all customer billings with respect to sanitary wastewater customer services for the period on or after the Closing Effective Time, and the Seller is entitled to all such billings before the Closing Effective Time. The Parties shall

cooperate to calculate an agreed upon proration of billing amounts and to the extent that a Party collects billings that are attributable to service provided by another Party, the Party holding the other Party's billing collections shall pay such amount to the other Party.

Section 3.02. **Fair Consideration**

The Parties acknowledge and agree that the consideration provided for in this Article III represents fair consideration and reasonable equivalent value for the sale and transfer of the Acquired Assets and the transactions, covenants and agreements set forth in this Agreement, which consideration was agreed upon as the result of arm's-length good faith negotiations between the Parties and their respective Representatives.

Section 3.03. **Allocation Schedule**

The Purchase Price (which for purposes of this Section 3.03 shall include any liabilities required to be treated as part of the Purchase Price for federal income tax purposes), may, at the option of the Buyer, be allocated among the Acquired Assets in accordance with the allocation reflected in a schedule prepared by Buyer and attached hereto as Schedule 3.03. In the event Buyer does not opt to prepare a schedule pursuant to the preceding sentence, then within sixty (60) days following the Closing Date, Buyer may deliver to Seller a draft of the Allocation Schedule setting forth Buyer's proposed allocation for Seller's review. Seller shall have the right to review and reasonably comment upon Buyer's proposed Allocation Schedule, provided, that (a) such proposed Allocation Schedule shall be deemed approved by Seller and shall be final and binding upon the Parties unless Seller provides written notice of Seller's comments to one or more items reflected in the proposed Allocation Schedule within twenty (20) Business Days after delivery of the proposed Allocation Schedule to Seller, and (b) upon receipt of any such written comments from Seller with respect to the proposed Allocation Schedule, Buyer may make such adjustments or revisions to the proposed Allocation Schedule based on Seller's comments as Buyer determines in good faith to be necessary and appropriate, provided further, that Buyer shall have no obligation to make any such adjustments or revisions absent manifest error. The Parties shall adhere to the Allocation Schedule (as finally determined pursuant to this Section 3.03) for all purposes relevant to the calculation of federal or state Taxes, and will report the transactions contemplated herein in a manner consistent with such Allocation Schedule. Except as required by applicable Law, Buyer and Seller shall not take any position on their respective Tax Returns that is inconsistent with the Allocation Schedule.

Section 3.04. **Transfer Taxes**

Any and all deed stamps or transfer Taxes which may be due the Commonwealth of Pennsylvania or any political subdivision in connection with the sale, transfer, assignment, conveyance and delivery hereunder of the Acquired Assets to Buyer (collectively, "Transfer Taxes"), will be paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller. The terms hereof shall survive Closing. Seller and Buyer shall cooperate in good faith to prepare the Pennsylvania Form REV-138 (Realty Transfer Tax Statement of Value) setting forth the amount of the Purchase Price that shall be allocated to the Real Property for purposes of calculating Transfer Taxes.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF THE SELLER AND THE AUTHORITY

The Seller and Authority jointly and severally make only the specified representations and warranties which are set forth in this Article IV.

As a material inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated by this Agreement, the Seller and Authority represent and warrant, as of the Effective Date (except to the extent any of the following representations and warranties specifically apply to or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 4.01. **Organization**

Seller is a township of the Second Class of the Commonwealth of Pennsylvania duly organized under the Pennsylvania Second Class Township Code. The Authority is a body corporate and politic, duly organized and existing under the Municipal Authorities Act and incorporated by appropriate legal action of the Seller.

Section 4.02. **Power and Authority**

Seller has (i) duly adopted the ordinance(s) authorizing the transactions contemplated by this Agreement, which remain(s) in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement, and (iii) duly authorized and approved the performance by the Seller of its obligations contained in this Agreement. The Seller has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. The Authority has (i) duly adopted the resolution(s) authorizing the transactions contemplated by this Agreement, which remain(s) in full force and effect, and (ii) duly authorized and approved the performance by the Authority of the obligations specific and exclusive to the Authority as contained in this Agreement. The Authority has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

Section 4.03. **Enforceability**

This Agreement has been duly authorized, executed and delivered by each of the Seller and the Authority and constitutes a valid and legally binding obligation of the Seller and the Authority, enforceable against the Seller and the Authority in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

Section 4.04. **No Conflict or Violation**

The execution and delivery of this Agreement by each of the Seller and the Authority, the consummation of the transactions contemplated by this Agreement and the performance by the

Seller and the Authority of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Seller or the Authority under (i) any Law or (ii) any agreement, instrument or document to which the Seller or the Authority is a party or by which it is bound.

Section 4.05. **Consents and Approvals**

Schedule 4.05 sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by the Seller and the Authority or the performance by the Seller or the Authority of their respective obligations hereunder.

Section 4.06. **Undisclosed Liabilities**

Except as set forth on Schedule 4.06, there are no liabilities or obligations of Seller or the Authority as predecessor in interest, either accrued, absolute, contingent or otherwise, relating to the Acquired Assets, that would be required to be set forth on a balance sheet prepared under generally accepted accounting principles applicable to municipalities, other than liabilities incurred in the ordinary course that could not reasonably be expected to have a Material Adverse Effect on Buyer. Upon payment of the Purchase Price in accordance with Section 3.01(b), (a) all of the Outstanding Indebtedness shall, without further action, be immediately repaid, extinguished or defeased in full and (b) any security interests granted by Seller to secure its obligations pursuant thereto shall, without further action, be immediately extinguished or terminated at or before the Closing pursuant to the contractual terms applicable to such Outstanding Indebtedness.

Section 4.07. **Absence of Certain Changes or Events**

Except as set forth on Schedule 4.07, since December 31, 2020, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect and the Seller, either through itself or the Authority, has operated and maintained the System since December 31, 2020 in the ordinary course.

Section 4.08. **Tax Matters**

Except as set forth on Schedule 4.08 or as would not have a Material Adverse Effect, that (i) the Seller and the Authority as predecessor in interest have timely paid all Taxes that may have been or may be due and payable by the Seller or the Authority on or before the Closing Date, arising from the ownership or operation of the Acquired Assets or the System on or before the Closing Date; (ii) no Taxing authority has asserted any claim against either the Seller or the Authority for the assessment of any additional Tax liability or initiated any action or proceeding which could result in such an assertion; (iii) the Seller and the Authority have made all withholding of Taxes required to be made under all Laws and regulations, including without limitation, withholding with respect to compensation paid to employees, and the amounts withheld have been properly paid over to the appropriate Taxing authorities; and (iv) the Seller and the Authority have at all times been exempt from U.S. federal income Tax and from income Taxes imposed by the

Commonwealth of Pennsylvania (and its political subdivisions) and by other states (and their respective political subdivisions), and income and revenue produced by or with respect to the System and the Acquired Assets has at all times been excluded from gross income by virtue of the provisions of Section 115(1) of the Code. This section does not apply to any Tax matter related to an employee benefit plan or compensation arrangement that is addressed separately in Section 4.11.

Section 4.09. **Real Property and Easements**

Schedule 4.09 identifies all Real Property of Seller and the Authority, as applicable, and separately identifies all Easements. Except as provided in Schedule 4.09, Seller does not lease (as lessee) any real property that is used in the operation of the System. There are no pending condemnation proceedings relating to any of the Real Property or Easements nor has Seller actually received any written threats of any condemnation proceedings and, to the Knowledge of Seller, no such proceedings are threatened. Neither the Seller nor the Authority has received any written notices of any violations of any Law from any Governmental Authority with respect to the Real Property or the Easements which have not been cured in all material respects and, to Seller's Knowledge, no such violations of Law exist. With respect to the Real Property (i) there are no leases, options, rights of reversions or other rights of use or rights to acquire the Real Property held by third parties, (ii) Seller or Authority, as applicable, is in sole possession of the Real Property, and (iii) to Seller's Knowledge there are no encroachments either way across the boundary of the Real Property, nor any dispute with adjacent property owners over the location of boundaries or potential claims adverse to title.

Section 4.10. **Equipment and Machinery**

Schedule 4.10 sets forth all Equipment and Machinery included in the Acquired Assets. Except as set forth on Schedule 4.10, the Seller or Authority, as applicable, has good title, free and clear of all Liens (other than the Permitted Liens and Liens which are released on or before Closing) to such Equipment and Machinery. Except as specifically disclosed on Schedule 4.10, all the Equipment and machinery is owned by Seller or Authority, as applicable, and none is leased or used under any conditional sales, title-retention, lease, license or similar arrangement.

Section 4.11. **Employee Benefit Plans**

(a) Schedule 4.11(a) contains a true and complete list of all the Seller's Plans and Seller's Benefit Obligations, including amounts owed to current or past employees for severance, unpaid and unused vacation pay or sick leave, or similar obligations. All such Seller's Plans and Seller's Benefit Obligations are in full force and effect and are in material compliance both as to form and operation, with applicable provisions of Employee Retirement Income Security Act of 1974, as amended or the Code, and any other Laws, and with any applicable collective bargaining agreement. To Seller's Knowledge, no event has occurred which has resulted in the imposition of any liability on the Seller or the Authority under the Code or other Law with respect to any Seller's Plans or Seller's Benefit Obligations and there is no unfunded pension liability owed or owing to any Person pursuant to Seller's Plans that is required to be assumed by Buyer;

(b) Except as set forth on Schedule 4.11(b), with respect to the System, neither the Seller nor the Authority sponsor, maintain, contribute to, or are required to contribute to, any “multiemployer plan” within the meaning of Section 414(f) of the Code, and neither has any liability of any nature, whether known or unknown, fixed or contingent, with respect to any such multiemployer plan;

(c) Except as set forth on Schedule 4.11(c), neither the Seller nor the Authority sponsor, maintain, contribute to, or are required to contribute to, any medical, health, life or other welfare plan or benefits for present or future terminated or retired Personnel or their spouses or dependents, other than as required by COBRA, or any comparable state law, and neither has any liability of any nature, whether known or unknown, fixed or contingent, with respect to any such post-termination welfare benefits;

(d) The Seller and the Authority are and have been in compliance in all material respects with the requirements of COBRA regarding the Personnel and are not subject to any excise Tax under Code Section 4980B for the current or any prior taxable year; and

(e) Except as set forth on Schedule 4.11(e), neither the Seller nor the Authority has entered into any severance or similar arrangement with respect to any present or former Personnel that will result in any obligation (absolute or contingent) of Buyer to make any payment to any present or former Personnel following termination of employment, including the termination of employment effected by the transactions contemplated by this Agreement. The consummation of the transactions contemplated by this Agreement will not trigger any severance or other obligation of the Seller or the Authority as predecessor in interest for which Buyer shall have any liability.

Section 4.12. Seller’s Personnel

(a) Schedule 4.12(a) sets forth all collective bargaining agreements and contractual relationships with Personnel relating to the System to which the Seller or the Authority is a party, including the identification of the parties thereto and the expiration dates. Other than the collective bargaining agreements and relationships set forth on Schedule 4.12(a), there are no commitments, contracts, agreements, arrangements or understandings (whether written or oral, formal or informal) of the Seller or the Authority with respect to the Union or the Union Personnel, and the collective bargaining agreements set forth on Schedule 4.12(a) constitute the entire agreement between the Authority and the other parties thereto, with respect to the subject matter thereof.

(b) Except as set forth on Schedule 4.12(b), the Authority shall timely pay, or cause to be timely paid, the Personnel as required under its policies and/or by Law for accrued but unused and unpaid vacation, sick leave and other accrued benefits as of the Closing Date. To Seller’s Knowledge, all obligations to the Personnel under applicable wage and hour Laws and leave policies will have been satisfied by the Closing Date.

(c) The Authority or Seller has not, in the past five (5) years, effectuated:

(i) a “plant closing” (as defined in the Worker Adjustment and Retraining Notification Act (“WARN Act”)) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the System; or

(ii) a “mass layoff” (as defined in the WARN Act) affecting any site of employment or facility of the System; nor has the System been affected by any transaction or engaged in layoffs or employment terminations sufficient in number to trigger application of any similar state or local Law.

None of the Personnel has suffered an “employment loss” (as defined in the WARN Act) during the previous six months.

Section 4.13. Environmental Compliance

Except as set forth on Schedule 4.13 or that otherwise could not be expected to have a Material Adverse Effect:

(a) To the Seller’s Knowledge, the System as currently operated by the Seller and the Authority and all operations and activities conducted by the Seller and the Authority with respect to the System are in compliance in all material respects with all applicable Environmental Requirements.

(b) To the Seller’s Knowledge, the Seller and the Authority has generated, used, handled, treated, stored and disposed of all Hazardous Materials in (i) compliance in all material respects with all applicable Environmental Requirements and (ii) a manner that has not given, and could not reasonably be anticipated to give, rise to Environmental Liabilities.

(c) Except as has been disclosed to Buyer on Schedule 4.13, neither the Seller nor the Authority has received notice of any Environmental Claims related to the System that have not been fully and finally resolved, and to the Knowledge of Seller no claims of Environmental Liabilities have been threatened allegedly arising from or relating to the System that have not been fully and finally resolved.

(d) To Seller’s Knowledge, Hazardous Materials are not present at or on the System, there has been no Release of Hazardous Materials at, on or from any part of the System or the Acquired Assets, in each case in a manner that violates any Environmental Requirements or has resulted in, or could reasonably be anticipated to give rise to, Environmental Liabilities which has not been appropriately resolved pursuant to applicable Environmental Requirements.

(e) No Lien or activity use limitation or institutional control has been recorded affecting any Acquired Assets by any Governmental Authority due to either the presence of any Hazardous Material on or off the Acquired Assets or a violation of any Environmental Requirement except as has been disclosed by the Seller or the Authority to Buyer.

(f) Neither the Seller nor the Authority has Knowledge of any underground storage tanks on or at any of the Acquired Assets other than as set forth on Schedule 4.13. To the Seller’s Knowledge, any underground storage tanks previously located at the Acquired

Assets other than as set forth on Schedule 4.13 have been removed or otherwise closed, plugged and abandoned in compliance with applicable Environmental Requirements in effect at the time of such closure.

(g) Neither the Seller nor the Authority has Knowledge of any PCB Equipment on or at any of the Acquired Assets. Any PCB Equipment that previously existed at the Acquired Assets has been flushed of polychlorinated byphenyls or has been removed and properly disposed of, in compliance with applicable Environmental Requirements, and any remaining PCB Equipment is labeled to the extent required under applicable Environmental Requirements and being managed in compliance with applicable Environmental Requirements.

(h) Neither the Seller nor the Authority has Knowledge of the existence of any Regulated Asbestos Containing Material in or on the Acquired Assets in an aggregate amount that would reasonably be expected to result in an Environmental Liability; and any Regulated Asbestos Containing Material is being managed in compliance with all applicable Environmental Requirements.

(i) The Seller has delivered to Buyer (1) all environmental site assessments, if any, pertaining to the System, that the Seller or the Authority has Knowledge of, within the previous five (5) years, (2) all material compliance audits or compliance assurance reviews prepared within the previous five (5) years relating to compliance with Environmental Requirements by the System, and (3) all documents pertaining to, any known and unresolved Environmental Liabilities incurred in relation to the System, to the extent possessed by or under the reasonable control of the Seller or the Authority.

(j) Except as has been disclosed to Buyer on Schedule 4.13, neither the Seller nor the Authority has received notice or has Knowledge of any historic environmental conditions that could give rise to any Environmental Claims related to the System, any Acquired Asset, or the underlying Real Property.

Section 4.14. **Authorizations and Permits**

Schedule 4.14 sets forth the Authorizations and Permits of the Seller and the Authority as applicable. The Seller has made true and complete copies of all Authorizations and Permits available to Buyer. Except as set forth on Schedule 4.14, the Seller and Authority, as applicable, is in compliance in all material respects with all terms, conditions and requirements of all Authorizations and Permits, except in each case where such violation or failure, individually or in the aggregate, would not have a Material Adverse Effect, and no proceeding is pending or, to the Knowledge of the Seller threatened relating to the revocation or limitation of any of the Authorizations or Permits, other than those revocations or limitations which do not individually or in the aggregate have a Material Adverse Effect.

Section 4.15. **System Contracts**

(a) Schedule 4.15 sets forth a complete and accurate list of all the Assigned Contracts and any amendments thereto.

(b) Except as specifically identified on Schedule 4.15, the Seller and the Authority have made available to Buyer true and complete copies of all the contracts primarily related to the System, including the foregoing Assigned Contracts.

(c) All of the Assigned Contracts set forth on Schedule 4.15 are in full force and effect. Neither Seller nor the Authority has, nor to the Knowledge of the Seller has any other party thereto, breached any material provision of or defaulted under the material terms of, nor does any condition exist which, with notice or lapse of time, or both, would cause the Seller or the Authority, or to the Knowledge of Seller, any other party, to be in default under any Assigned Contract.

Section 4.16. Compliance with Law; Litigation

(a) The Seller and the Authority have operated and are operating the System in compliance, in all material respects, with all Laws, Authorizations and Permits and are not in breach of any Law, Authorization or Permit that would have a Material Adverse Effect on the operations of the System or on the Buyer. There are no Authorizations or Permits from any Governmental Authority necessary for the operation of the System as currently being operated except for those Authorizations and Permits listed in Schedule 4.14.

(b) Except as set forth on Schedule 4.16, there are no facts, circumstances, conditions or occurrences regarding the System that could reasonably be expected to give rise to any environmental claims or governmental enforcement actions that could reasonably be expected to have a Material Adverse Effect, and there are no past, pending or threatened environmental claims or governmental enforcement actions against the Seller or the Authority that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(c) Except as set forth on Schedule 4.16, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller or the Authority before or at the Closing Effective Time, which will have a Material Adverse Effect. There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller or the Authority which could materially affect the validity or enforceability of this Agreement.

Section 4.17. Broker's and Finder's Fees

No broker, finder, or Person is entitled to any commission or finder's fee by reason of any agreement or action of Seller or the Authority in connection with this Agreement or the transactions contemplated by this Agreement. Seller has employed PFM Financial Advisors LLC, as municipal advisor to provide transaction structuring advice and to provide Seller with municipal advice relating to the sale of the System. Seller is solely responsible to pay all fees owed to PFM Financial Advisors LLC in connection with the transactions contemplated by this Agreement.

Section 4.18. Title to the Acquired Assets; Sufficiency

(a) Except as set forth on Schedule 4.18(a), the Seller or the Authority as predecessor in interest has good and marketable title to, valid leasehold interest in or valid licenses or Easements to use, all of the Acquired Assets, free and clear of all Liens, other than Permitted Liens and Liens which will be fully and unconditionally released at or before Closing. The use of the Acquired Assets is not subject to any Liens, other than Permitted Liens, and such use does not encroach on the property or the rights of any Person.

(b) Except as set forth on Schedule 4.18(b), the Acquired Assets are sufficient for, and constitute all the assets, properties, business, goodwill and rights of every kind and description, and services required for, the continued conduct and operation of the System by Buyer in substantially the same manner as currently conducted and operated by Seller and the Authority. Except for the Excluded Assets and except as set forth on Schedule 4.18(b), (i) the Acquired Assets, taken as a whole, comprise all the assets, properties, business, goodwill and rights of every kind and description used or held for use in, or useful or necessary to the operation of the System as currently operated by Seller and the Authority, and (ii) there are no assets, properties, business, goodwill, rights or services used in the conduct or operation of the System that are owned by any Person other than Seller or the Authority as predecessor in interest that will not be licensed or leased to Buyer under valid, current license arrangements or leases pursuant to an Assigned Contract, if applicable. None of the Excluded Assets are material to the System.

Section 4.19. Pending Development Plans

Schedule 4.19 sets forth a full and complete list of all Pending Development Plans for which Seller has received notice as of the Effective Date. Each Pending Development Plan, if consummated, could result in additional customers and reduction of available treatment capacity. Seller provides no assurances whatsoever that any development or expansion of the Service Area associated with any Pending Development Plan will actually be undertaken or completed. The Parties expect that Schedule 4.19 will change from time to time between the Effective Date and Closing, and the Seller shall promptly provide updates to Schedule 4.19 upon the occurrence of any significant change, decision or development and shall further deliver such updates pursuant to Section 9.03.

Section 4.20. Customer Sewer Laterals and Grinder Pumps

As of the Closing Date, neither the Seller nor the Authority will own, or have any responsibility for: any grinder pumps; connecting facilities located in the area originating from the Seller's terminus point of the collection facilities at the edge-of-road or curb-line when the facilities are located with a public right-of-way or the edge of an easement where the collection facilities are located within private property to and throughout the customer's property; or any and all piping and fixtures internal to each individual customer structure (whether residential, commercial, industrial or other customer classes/types).

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes only the representations and warranties that are set forth in this Article V.

As a material inducement to the Seller to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer represents and warrants to the Seller, as of the Effective Date and as of the Closing Date (except to the extent any of the following representations and warranties specifically apply or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 5.01. **Organization**

Buyer is duly organized, validly existing and in good standing under the laws of the state of its organization.

Section 5.02. **Authorization and Validity of Agreement**

Buyer has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. This Agreement has been duly authorized, executed and delivered by the Buyer and constitutes a valid and legally binding obligation of the Buyer, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

Section 5.03. **No Conflict or Violation**

The execution and delivery of this Agreement by the Buyer, the consummation of the transactions contemplated by this Agreement and the performance by the Buyer of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Buyer under (i) any Law, (ii) any material agreement, instrument or document to which the Buyer is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Buyer.

Section 5.04. **Consents and Approvals**

Schedule 5.04, sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

Section 5.05. **Broker's and Finder's Fees**

No broker, finder or third party is entitled to any commission or finder's fee in connection with this Agreement or the transactions contemplated by this Agreement.

Section 5.06. **Financial Wherewithal**

Upon Closing, and after giving effect to the consummation of the transactions contemplated by this Agreement and the incurrence of any indebtedness in connection therewith, Buyer shall have the financial ability and will have sufficient working capital for its needs and anticipated needs to operate the System [as a certificated public utility system regulated by the PaPUC] authorized, among things, to provide wastewater utility services to retail residential, commercial and industrial customers in the System.

Section 5.07. **Sufficient Funds**

Buyer shall have sufficient funds available at Closing to consummate the transactions contemplated by this Agreement, to pay the Purchase Price in accordance with Article III and expenses related to the transactions contemplated by this Agreement, and on and after Closing, to generally provide ownership, operation and capital for the operations and capital needs of the System following the Closing, and assuring that the customers of the System will receive safe, adequate and reliable wastewater service equal to or better than such customers would have received without the transactions contemplated by this Agreement and at all times consistent with the provisions of the Pennsylvania Public Utility Code, 66 Pa. C. S. § 101 *et seq.*, and Law.

Section 5.08. **Independent Decision**

Except as expressly set forth in this Agreement, or any of the related agreements, Buyer acknowledges that (a) neither Seller nor any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of the System or information provided to Buyer, and (b) neither Seller nor any other Person shall have or be subject to any liability to Buyer or any other Person resulting from the distribution to Buyer, or Buyer use of, any information regarding the System or Acquired Assets that has been furnished or made available to Buyer and its Representatives. Buyer acknowledges that other than as expressly set forth in this Agreement or any related agreement, Seller expressly disclaims any warranty of future profitability or future earnings performance of any Acquired Assets or the System.

Section 5.09. **Scheduled Matters**

Buyer acknowledges that: (a) the inclusion of any matter on any Schedule is not an admission by Seller that such listed matter is material or that such listed matter has or could have a Material Adverse Effect or constitutes a material liability with respect to the Acquired Assets; (b) matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in such Schedules; and (c) such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

Section 5.10. **Independent Investigation**

Buyer acknowledges that it has conducted an independent investigation of the financial condition, assets, liabilities, properties and projected capital needs and operations of the System in making its determination as to the propriety of the transaction contemplated by this Agreement and, in entering into this Agreement and related agreements, has relied solely on the results of its

investigation and on the representations and warranties of the Seller and the Authority expressly contained in Article IV of this Agreement.

Section 5.11. **Litigation**

The Buyer is not in breach of any applicable Law that could have a Material Adverse Effect on the operations of the System or the Buyer. Neither the Buyer nor any Affiliate of the Buyer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors, or on any other list of Persons with which the Seller may not do business under applicable Law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. Except as set forth on Schedule 5.11, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Buyer, threatened against the Buyer before or at the Closing Effective Time, which will have a material adverse effect on (i) the transactions contemplated by this Agreement or (ii) the validity or enforceability of this Agreement.

ARTICLE VI.

TITLE TO REAL ESTATE; EASEMENTS

Section 6.01. **Evidence of Title**

Subject to Section 6.06, with respect to all Real Property, Buyer shall obtain, at its sole cost and expense, a commitment for an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006 (the "Title Commitment"), issued by a title insurance company selected by Buyer and licensed to insure title to real property by the Commonwealth of Pennsylvania (the "Title Company"), having an effective date after the Effective Date. Promptly following the Effective Date, Buyer shall order the Title Commitment from the Title Company and shall provide Seller evidence of the order. Notwithstanding anything to the contrary in Section 6.02(a) below, Buyer shall not be entitled to send an Objection Notice with respect to any parcel of Real Property and the Title Commitment for the same if, within forty five (45) Business Days after the Effective Date, Buyer has not ordered the Title Commitment from the Title Company for such parcel of Real Property and provided Seller with evidence of the same.

Section 6.02. **Objections to Title**

(a) **Notice of Objections.** Within thirty (30) days of Buyer's receipt from the Title Company of a Title Commitment for any of the parcels of Real Property, Buyer shall deliver to Seller a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the Title Commitment, along with Buyer's written notice to Seller of any of the exceptions to title set forth on Schedule B of such Title Commitment to which Buyer objects (the "Title Objection Items") (such written notice of Buyer being referred to as the "Objection Notice"). The Objection Notice shall (a) not contain exceptions that are Permitted Liens, (b) not relate to the Buyer or any requirements, conditions or

obligations of the Buyer, (c) not relate to matters of record and set forth in the Title Commitment and unrecorded matters revealed to Buyer in its due diligence or revealed in the survey unless such Title Objection Item materially and adversely in Buyer's commercially reasonable opinion restricts or prevents the use of the Real Property in the current operation of the System and (d) not contain the standard Title Company exceptions to the extent that such standard Title Company exceptions are commonly removed by the execution and delivery of a standard owner's affidavit by Seller. The Buyer shall include a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the same in the Objection Notice. If Buyer provides the Seller with an Objection Notice, the Seller shall use commercially reasonable efforts to have all of the Title Objection Items cured, satisfied or released of record, or insured over, by the Title Company (individually, "Cure" and collectively, "Cured") before or as of the Closing. At or before the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing that Seller has Cured all such Title Objection Items. In the event that Seller is unable to Cure any Title Objection Item per this Section 6.02(a), Seller shall indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.02(a) shall not be subject to the Threshold Amount nor the Liability Cap set forth in Section 8.05. For avoidance of doubt, Buyer acknowledges that no item listed in clauses (a) through and including (d) above, may be objected to by Buyer as a Title Objection Item.

(b) Liens. Without limiting the Seller's obligations pursuant to Section 6.02(a) above, before or as of the Closing, the Seller shall, at the Seller's cost and expense, Cure any Lien encumbering the Real Property which can be Cured by the payment of money (other than Permitted Liens).

(c) Title Endorsements/Survey. Buyer shall pay for any endorsements required by the Buyer or any mortgagee of the Buyer to Buyer's Title Policy. If any survey is required by Buyer or its mortgagee, either as a condition to any such endorsement or otherwise, the Buyer shall obtain it at its sole cost and expense. If Buyer obtains a survey of any or all of the Real Property and desires the deed to contain the legal description based on such survey, if the same is not identical to the legal description contained in Seller's deed of record, Seller is not obligated to include the same in the deed to Buyer unless the survey is certified to Seller and such description is included in the deed on a "quitclaim" basis only and without warranty of title.

(d) License at Closing. At Closing, Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's rights to access such Real Property (as acquired from the Authority) in order to allow Buyer to operate and maintain in the System until such time as Buyer is provided title to such Real Property as provided for in this Agreement. For the avoidance of doubt, Seller shall provide such title as soon as reasonably practicable in accordance with Section 6.01.

(e) Insurable Claims. To the extent any Claim for Losses under Article VIII constitutes an Insurable Claim (as defined below), Buyer shall assert the Insurable Claim and use its commercially reasonable efforts to obtain recovery for such Insurable Claim against the Title Company (which shall include commencing litigation and diligently prosecuting such Insurable Claim to judgment) before pursuing a Claim for Losses under Article VIII. If at any time

following a non-favorable judgment that substantially denies the relief sought by Buyer from the Title Company in connection with the Insurable Claim (each a “Non-Favorable Judgment”), Buyer may, following such Non-Favorable Judgment, pursue the Seller with a Claim for Losses under Article VIII (any such Claim against the Seller following an attempted Insurable Claim against the Title Company being a “Residual Title Claim”). Notwithstanding anything to the contrary in Article VIII, Buyer may assert a Claim for Losses based upon a Residual Title Claim for a sixty (60) day period after the Non-Favorable Judgment. For purposes of this Section 6.02(d), an “Insurable Claim” means a Claim that: (i) arises out of Buyer’s discovery of a title defect or encumbrance with respect to any of the Real Property following the Closing that materially restricts or prevents the use of such Real Property in the operation of the System; and (ii) constitutes a claim against the Title Company under Buyer’s Title Policy. Buyer acknowledges that any and all Claims which Buyer could otherwise bring as a breach of a covenant of title under the special warranty deed to the Real Property shall be included within the Claim for Losses under Article VIII and is subject to the terms of this Section 6.02(e).

Section 6.03. Title Expenses

Irrespective of whether the transactions described by this Agreement are consummated and Closing occurs, Buyer shall pay all costs and expenses of obtaining the Title Commitment, Title Policy and any survey.

Section 6.04. UCC Search; Releases

Not later than one hundred eighty (180) days after the Effective Date, Buyer shall obtain at its sole cost and expense a Uniform Commercial Code search against Seller covering any of the personal property or fixtures included among the Acquired Assets from the Office of the Secretary of the Commonwealth of Pennsylvania and the Recorder of Deeds Montgomery County, Pennsylvania (the “UCC Search”). On or before the Closing, Seller shall at its sole cost and expense obtain releases of any and all security interests in any of the Acquired Assets which are not Permitted Liens. The Seller shall provide the form of the releases of such security interests to Buyer on or before the Closing Date.

Section 6.05. Easements.

(a) Abstract of Easements. Within ninety (90) days after the Effective Date, the Seller shall, at its sole cost and expense, cause an abstractor selected by the Seller and reasonably acceptable to Buyer and the Title Company (the “Abstractor”), to perform a search of the public land records of Montgomery County, based on the Seller’s and the Authority’s records and plans of the System (and such other sources of information as are reasonably related thereto), by searching the grantee index in the names of the Seller and the Authority and such other searches as the Abstractor may reasonably make, to (i) identify and provide Buyer with title information on any and all recorded Easements (including information related to any Liens or encumbrances on Seller’s or the Authority’s title thereto), and (ii) taking into account any information provided by Buyer, identify all Missing Easements. During the process, as the Abstractor provides written search results to the Seller (including updated versions of the abstractor search result chart), the Seller will promptly provide the same to Buyer for its review, and, without limiting the foregoing, the Seller shall, or shall cause the Abstractor to, provide Buyer with periodic updates

(which shall occur no less frequently than bi-weekly) on the status of the activities set forth in the previous sentence.

(b) Notice of Objections. Within forty-five (45) days of Buyer's receipt from the Seller (or the Abstractor) of the information specified in subsection (a) above, Buyer shall deliver to Seller written notice identifying the encumbrances on the Easements that, in Buyer's reasonable commercial opinion, could materially and adversely restrict or prevent the use of the Easements in the current operation of the System (the "Easement Objection Items") (such written notice of Buyer being referred to as an "Easement Objection Notice"). The Easement Objection Notice shall not include any encumbrances that: (a) are Permitted Liens, (b) pertain to the Buyer or any requirements, conditions or obligations of the Buyer, or (c) are matters of record and set forth in the Abstractor's search results that do not, in Buyer's commercially reasonable opinion, materially and adversely restrict or prevent the use of the Easements in the current operation of the System (specifically including mortgages or other instruments securing indebtedness incurred by the owner of the land burdened by the Easement). If Buyer provides the Seller with an Easement Objection Notice, the Seller shall use commercially reasonable efforts to have the Easement Objection Items Cured, prior to or as of the Closing. At or prior to the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing Seller has Cured all Easement Objection Items. In the event that Seller is unable to Cure any such Easement Objection Item per this Section 6.05(b), Seller shall indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.05(b) shall not be subject to the Threshold Amount nor the Liability Cap set forth in Section 8.05.

(c) Missing Easements. If during the process of Abstractor's review and investigation of the Montgomery County land records, either Party determines, based on the Abstractor's investigation, that there is a Missing Easement, the Seller (at its cost and expense) shall take any and all actions (including the use of its power of condemnation) to obtain any such Missing Easements so that the same may be sold, assigned, transferred and conveyed to Buyer at the Closing pursuant to the terms and conditions of this Agreement. The Seller shall pay for all costs and expenses incurred in connection with obtaining each Missing Easement (including any consideration payable to the landowner in connection with condemnation, in lieu of condemnation or otherwise to obtain Missing Easements). If Seller has not obtained all Missing Easements by the date that is ninety (90) days after the date that Abstractor has completed his review of the County land records and delivered the last results of the same to Seller (the "Abstract Completion Date"), then the Seller (at its cost and expense) shall, as soon as reasonably practicable, commence and file in the Court of Common Pleas, Montgomery County, a condemnation or eminent domain proceeding to obtain any and all such Missing Easements. For the purposes of clarity, upon obtaining each Missing Easement (including upon the final resolution of a condemnation proceeding), each Missing Easement that has been acquired or obtained by the Seller is considered an Easement.

(d) License at Closing. At Closing, Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's and the Authority's rights to access such Missing Easement in order to allow Buyer to operate and maintain the System until such time as Buyer is provided title to such Missing Easement as provided for in this Agreement.

(e) Escrow at Closing for Missing Easements. For all of the Missing Easements listed on attached Schedule 6.05(e) as of the Closing Date, Seller will have additional time following the Closing Date to secure and assign and transfer the Missing Easements to Buyer. Seller shall diligently pursue and deliver the Missing Easements on or before the third (3rd) anniversary of the Closing Date, subject to any extension as permitted by the Escrow Agreement, in the form attached as Exhibit C, that will require, among other things, the funding of an escrow account in the amount of Two Thousand Dollars (\$2,000) for each Missing Easement set forth on Schedule 6.05(e) as of the Closing Date to secure the Seller's obligations under this Agreement and the Escrow Agreement.

Section 6.06. Unscheduled Property

The Parties acknowledge that the Seller may own interests in or have the legal right to use or occupy the Real Property and/or Easements that are necessary or essential to the operation of the System and that are not set forth in Schedule 4.09 (the "Unscheduled Real Property"). If the Parties discover before or after the Closing Date, one or more parcels of Unscheduled Real Property, the discovering Party shall give written notice of such discovery to the non-discovering Party. In addition to its obligations in Section 2.03, Seller shall convey, assign or otherwise transfer any rights to each parcel of Unscheduled Real Property, with no adjustment to the Purchase Price, in such a manner as to provide Buyer with reasonable assurances that Buyer will have the right to use or occupy the Unscheduled Real Property as it was used by Seller as of the Effective Date.

ARTICLE VII.

OTHER AGREEMENTS

Section 7.01. Taxes

Except as provided in this Agreement, Seller or the Authority as predecessor in interest shall pay any and all Taxes, if any, arising out of the ownership of the Acquired Assets and out of the operation of the System before the Closing Date.

Section 7.02. Cooperation on Tax Matters

Seller and the Authority shall furnish or cause to be furnished to Buyer, as promptly as practicable, whether before or after the Closing Date, such information and assistance relating to the System as is reasonably necessary for the preparation and filing by Buyer of any filings relating to any Tax matters.

Section 7.03. Personnel Matters

(a) Subject to the obligations of the Authority under applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Buyer shall, or shall cause an Affiliate of Buyer to, offer employment effective on the Closing Date, to the Personnel set forth on Schedule 7.03(a), who are available to commence work on the Closing Date, subject to Buyer's existing standard hiring policies and procedures applicable to new employees, (including background check and drug testing, and written acknowledgment of

Buyer's Code of Conduct and other employment policies, if applicable) except with respect to benefits as otherwise provided in Section 7.03(c). The Personnel who accept such employment and commence employment on the Closing Date, are referred to in this Agreement as the "Transferred Personnel." Schedule 7.03(a) shall not be amended after the date this Agreement is executed without the prior written consent of Buyer. For purposes of clarity, nothing contained in this Section 7.03 limits, restricts or prohibits Buyer from interviewing the Personnel for informational purposes only in connection with the transfer of employment of the Personnel to Buyer as provided in this Section 7.03. Buyer may make the required offer of employment at such a time to permit Buyer to require such offerees' decision to accept or reject such offers up to three (3) months prior to the Closing Date. Nothing contained in Section 7.03 limits or restricts Buyer from interviewing Personnel for employment purposes in connection with the transfer of Personnel to Buyer.

(b) Transferred Personnel who are Non-Union Personnel will be employees-at-will of Buyer. Buyer shall provide each of the Transferred Personnel who are Non-Union Personnel compensation and benefits which are substantially comparable to the compensation and benefits then provided to similarly situated employees of Buyer. Nothing in this Agreement requires Buyer to provide any particular form or type of employee benefit program, plan or policy to any Transferred Personnel who are Non-Union Personnel as a result of the transaction contemplated by this Agreement.

(c) Subject to the obligations of the Authority under the Collective Bargaining Agreement and Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, with respect to any employee benefit plan maintained by Buyer or an Affiliate of Buyer for the benefit of any Transferred Personnel, effective as of the Closing, Buyer shall, or shall cause its Affiliate to, recognize all service of the Transferred Personnel with the Authority, as if such service were with Buyer for purposes of determining eligibility and vesting for benefits (except where doing so would result in a duplication of benefits). Buyer's pension plans and retiree medical plans are excluded from the foregoing sentence.

(d) Subject to the obligations of the Authority under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, effective as of the Closing, the Transferred Personnel employment with the Authority will end and will cease active participation in the Seller's Plans. Seller shall remain liable for all eligible claims for benefits under the Seller's Plans that are incurred by the Transferred Personnel before the Closing Date. Subject to the obligations of Seller, as successor to the Authority, under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Seller shall remain liable to make any contributions to Seller's Plans related to, and/or to fund any retirement benefits accrued by, the Transferred Personnel before Closing. Notwithstanding anything in this Agreement to the contrary, Seller will remain liable for all pay, expenses, liabilities, wages, Taxes and all other obligations and liabilities of any nature whatsoever relating to (i) the period prior to the Closing Date with respect to any Personnel that become Transferred Personnel and (ii) relating to all periods before or after the Closing Date with respect to any current or former Personnel who do not become Transferred Personnel.

(e) This Section 7.03 binds and inures solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 7.03, express or implied, is conferred upon any other Person any rights or remedies of any nature whatsoever under or because of this Section 7.03. This Section 7.03 does not create any right in any Transferred Personnel or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever, and is not be deemed to restrict Buyer in the exercise of its independent business judgment in establishing or modifying any of the terms or conditions of the employment of the Transferred Personnel. Nothing contained in this Section 7.03 constitutes an amendment of, or an undertaking to amend, any employee benefit plan, program or arrangement maintained by Buyer or its Affiliates or is intended to prevent Buyer or its Affiliates from amending or terminating any such employee benefit plan, program or arrangement in accordance with its terms.

(f) Notwithstanding anything in this Agreement to the contrary, it is expressly understood that Buyer will not acquire any asset, or assume any liability or obligation in connection with the transactions contemplated by this Agreement relating to any of the Seller's Plans or Seller's Benefit Obligations. Seller is solely responsible for any liability, funding obligation, claim or expense arising from the Seller's Plans or Seller's Benefit Obligations, both before, and after, the Closing Date, except as provided in Section 7.03(c).

(g) At a reasonable time prior to the Closing Date, Seller and Authority shall transfer all records pertaining to the employment of the Transferred Personnel to Buyer including, but not limited to, all personnel and human resources Files and Records.

(h) Effective as of and conditioned upon Closing and to the greatest extent permissible by law:

(1) Buyer shall recognize the Union as the exclusive bargaining representative for Union Personnel in their current bargaining unit if the Buyer's employees performing the bargaining unit work previously performed by Union Personnel constitute at least a majority of Union Personnel in the applicable bargaining unit and the related bargaining unit contains more than one (1) employee.

(2) To the extent the Union is recognized pursuant to Section 7.03(h)(1) herein, Buyer shall collectively bargain in good faith with the Union to establish a new collective bargaining agreement. Except as outlined in Section 7.03(h)(3) herein, if initial terms and conditions of employment cannot be agreed to by the Buyer and the Union, Buyer will adopt Seller's Collective Bargaining Agreement for employees in the applicable bargaining unit as of and conditioned upon Closing.

(3) Buyer is not required, however, to provide medical insurance, paid time off or pension benefits as provided for in the Collective Bargaining Agreements, but instead may provide Union Personnel with the medical insurance, paid time off and retirement benefits it provides to similarly situated employees. The Buyer also shall not be bound by and any provision of the Collective Bargaining Agreement with which it legally cannot comply. Seller makes no representations, and Buyer is solely responsible for determining, that these terms meet Buyer's obligations under applicable labor law.

Section 7.04. **Initial and Future Rates**

(a) **Rates.** After Closing, Buyer shall implement the Seller's sanitary wastewater rates then in effect at Closing, as set forth on Schedule 7.04 and inclusive of any PaPUC permitted or required surcharges or pass-through costs ("Base Rates"), as Buyer's effective sanitary wastewater rates, provided that the rates reflected on Schedule 7.04 (at Closing) shall not be lower than those in effect on the date of the Effective Date. The Base Rates shall not be increased until after the second anniversary of the Closing Date (the "Freeze Period") provided that the foregoing Freeze Period restriction shall not apply to rates applicable to the Municipal Agreements or any customer(s) receiving services pursuant to such Municipal Agreements nor shall the Freeze Period apply to any customer receiving services pursuant to any other agreement set forth set forth on Schedule 4.15. During the Freeze Period, Buyer shall apply its then-existing miscellaneous fees and charges, rules and regulations for wastewater service as set forth in Buyer's tariff within Seller's Service Area. Buyer intends to bill on a monthly basis.

(b) [PaPUC Approval. The Buyer shall include the rate provisions of Section 7.04(a) in its requested PaPUC Governmental Approval.]

Section 7.05. **Buyer Taxpayer**

From and after the Closing Date, Buyer acknowledges that, upon conveyance of the Acquired Assets to Buyer, the Buyer will be subject to, among other Taxes, real estate Taxes, which Buyer shall pay when due. But solely to the extent such Taxes are owed for and relating to periods after the Closing]

Section 7.06. **PaPUC Approval**

(a) Promptly after the Effective Date, Buyer shall timely initiate and faithfully prosecute the necessary proceedings to obtain from the PaPUC (i) the issuance of certificates of public convenience to Buyer to provide wastewater services in the Service Area, (ii) the approval of the acquisition of the System by Buyer under terms and conditions that are reasonably acceptable to Seller and Buyer, and (iii) the approval of any inter-municipal agreements. Seller shall cooperate with and assist Buyer in proceedings before the PaPUC.

(b) The Parties agree that the procedures for determining fair market value of the System and Acquired Assets outlined in subsection (a) of Section 1329 of Title 66 of the Pennsylvania Consolidated Statutes ("Section 1329") shall be utilized and filed with the PaPUC as contemplated by Section 1329.

(c) The fees and expenses related to engaging the licensed engineer for such Section 1329 determination shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by the Seller.

(d) To the extent requested by Buyer, Seller shall participate in any proceedings before the PaPUC as an intervenor and active party, provided that the Seller shall bear the fees and expenses directly related to such intervention. Seller may be represented by the counsel of its choice in any such proceedings.

(e) Buyer, in Buyer's first base rate proceeding with respect to the System following the Closing, shall propose the use of statutory and regulatory mechanisms that may be available to Buyer to benefit the Buyer's acquired customers for ratemaking purposes. In the Buyer's first base rate proceedings including the Seller's System, the Seller shall not file an intervention, complaint (formal or informal), or protest of Buyer's base rate proceedings. For the avoidance of doubt this provision does not apply to citizens in the Township.]

Section 7.07. **Remedies for Breach of Article VII Agreements**

If Buyer breaches any of the covenants and agreements set forth in this Article VII, in addition to all other rights and remedies available at law or in equity, including specific performance and/or injunctive relief, Seller may commence proceedings before the PaPUC seeking enforcement of such covenants and agreements.]

Section 7.08. **Operation and Maintenance of MS4 and Stormwater Systems**

Subject to Law, the Seller shall at all times maintain ownership of its MS4 system and stormwater system assets. This provision shall not preclude Seller from transferring its MS4 system and stormwater system assets to another governmental entity, municipal authority or other qualified purchaser at a future time.

Section 7.09. **Pending Development Plans**

(a) Buyer and the Seller acknowledge that from the time of the Effective Date, the Seller shall continue to administer, and perform its duties and responsibilities with respect to the Pending Development Plans set forth on Schedule 4.19. For the avoidance of doubt, after the Closing Date, the Seller shall not seek to collect any EDU or tapping related fees.

(b) Following the Effective Date, Seller shall not enter into any contract with a third party that contemplates the construction of new sanitary wastewater facilities or upgrades to existing facilities, including, without limitation, pumping stations, force mains, manholes, or pipelines for service to future customers related to Pending Development Plans (collectively, "New System Assets") without providing a draft of such contracts to Buyer for its review and approval as to the design and specifications before execution by the parties to such contracts. Buyer shall have fifteen (15) Business Days to review and approve such contracts, and Buyer's failure to object in writing to any terms of such contracts within such fifteen (15) Business Day review period is deemed an approval of the same by Buyer.

Section 7.10. **Act 537 Plan**

(a) Buyer acknowledges that Seller and the Authority as predecessor in interest have previously committed to an official plan, commonly known as an Act 537 Plan (the "Act 537 Plan") under the Pennsylvania Sewage Facilities Act ("Act 537"), which has been made available to Buyer. Buyer understands that the Act 537 Plan contains obligations and commitments, as more fully set forth in the Act 537 Plan to complete certain improvements and upgrades to the System (the "System Improvements"). Buyer shall accept and complete all of the System Improvements as Seller and the Authority agreed to complete under the existing Act 537 Plan. Prior to agreeing to further obligations pursuant to future amendments to the Act 537

Plan that could reasonably be deemed to affect Buyer, Seller shall provide written notice of such proposed amendment(s), and Buyer and Seller shall negotiate in good faith to resolve any objections Buyer may raise in connection with such proposed amendment(s).

(b) Buyer acknowledges Seller and the Authority as predecessor in interest has jurisdiction over sewage facilities planning and sewer service within portions of the System that provide service within the Service Area through the Act 537 Plan and its Act 537 planning program, zoning, subdivision and land development ordinances and comprehensive land use planning policies. Buyer, Seller and the Authority shall cooperate with respect to current and future sewage facilities planning and sewer service consistent with the provisions of this Section 7.10.

(c) [Subject to PaPUC approval of the Service Area as provided in Section 7.06], Buyer shall extend sewer lines and provide sewage collection and treatment services to properties within the Service Area in a manner consistent with the Act 537 Plan and the Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders. Seller will confer with Buyer concerning any amendment to the Act 537 Plan that would affect the provision of sewage collection and treatment services within the Service Area. Neither Seller nor the Authority shall propose or adopt any amendment to the Act 537 Plan that would reduce the Service Area or divert wastewater flows generated from properties located within the Service Area from being served by the System without the approval of Buyer.

(d) Buyer will not request, pursue, or implement expansions of the System within the Seller beyond the current Service Area (that would trigger an Act 537 Plan amendment) without the prior written approval of Seller and the PaDEP. Seller shall promptly notify and confer with Buyer, and consider Buyer's comments, concerning any proposed Act 537 Plan amendment (including any sewage facilities planning module) that would involve the provision of sewage collection and treatment services by the System to area or properties outside of the Service Area. With respect to any such potential Act 537 Plan amendment, Seller and Buyer shall cooperate in evaluating alternatives for provision of sewage services to such areas consistent with the requirements of 25 Pa Code Ch. 71, including consideration of the technical feasibility, economic feasibility and cost effectiveness, consistency with the objectives and policies of plans and requirements of 25 Pa. Code Ch. 71.21(a)(5), consistency with municipal land use plans and ordinances, subdivision ordinances and other ordinances and plans for controlling land use and development, technically and administratively able to be implemented, and other factors required under Act 537 or under Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders.

(e) If Seller and Buyer each determine that the provision of sewage collection and treatment services by the System to certain areas or properties outside of the Service Area is technically feasible, economically feasible and cost effective, and meets all of the requirements set forth in Act 537 and 25 Pa. Code Ch. 71, the Seller and the Authority shall amend the Act 537 Plan to include such identified areas and properties in the Service Area. If Seller and the Authority amend the Act 537 Plan pursuant to this subsection and such amendment is approved by PaDEP, (i) [Buyer shall request that the modified Service Area be approved by PaPUC]; and (ii) [subject to PaPUC approval of the inclusion of such modified Service Area], Buyer shall

extend sewer lines and provide sewage collection services to properties within such Service Area in a manner consistent with the Act 537 Plan and Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders.

Section 7.11. **Utility Valuation Experts**

Buyer and Seller shall each be responsible for the costs associated with their respective Utility Valuation Expert for the preparation and completion of their respective Utility Valuation Expert's appraisal report and any additional work by their respective Utility Valuation Expert necessary to assist in the processing and prosecution of the application to the PaPUC in regard to this transaction under Section 1329.

Section 7.12. **Compliance and Operational Reports**

After the Effective Date and through the Closing Date, Seller shall provide Buyer with a monthly report to the person designated by Buyer, disclosing any and all material compliance or operational deficiencies that occurred during the previous month. During the same period, Seller shall also provide Buyer with copies of all reports filed with PaDEP regarding the System, including any discharge monitoring reports, associated supplemental reports, and WETT reports, when available. Seller shall permit Buyer to complete an inspection of the Acquired Assets within twenty (20) days prior to Closing.

Section 7.13. **Implementation and Enforcement of Municipal Code**

Following the Effective Date and continuing after Closing Date, Seller shall continue to implement and enforce the relevant provisions of the Municipal Code of the Township of Towamencin, as amended, including, without limitation, enforcement of the Seller's fats, oils, and grease program, lateral inspection program, investigation of illegal connections, and related operations and maintenance programs.

Section 7.14. **Covenant Survival**

The covenants in this Article survive Closing.

Section 7.15. **Phase I Environmental Site Assessment**

Following the Effective Date, if requested by Buyer, Seller and the Authority shall make the System and the Real Property available for Phase I environmental site assessment by Buyer at Buyer's expense and Buyer's Representatives during normal business hours upon reasonable notice.

ARTICLE VIII.

INDEMNIFICATION

Section 8.01. **Survival**

All representations and warranties contained in this Agreement shall survive until twelve (12) months following the Closing Date, except that (a) the representations and warranties of the Seller and the Authority specified in Section 4.01 (Organization), Section 4.02 (Power and Authority), Section 4.03 (Enforceability), Section 4.17 (Brokers' and Finders' Fees) and Section 4.18 (Title to Acquired Assets) (collectively, the "Seller Fundamental Representations") shall survive the Closing indefinitely or until the latest date permitted by applicable Law, (b) the representations and warranties of Seller and the Authority specified in Section 4.13 (Environmental Compliance) shall survive Closing until the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof) , and (c) the representations and warranties of Buyer specified in Section 5.01 (Organization), Section 5.02 (Authorization and Validity of Agreement), and Section 5.05 (Brokers' and Finders' Fees) (collectively, the "Buyer Fundamental Representations") shall survive the Closing indefinitely or until the latest date permitted by applicable Law. The covenants and agreements of the Parties contained herein shall survive the Closing indefinitely or for the shorter period explicitly specified therein, except that for such covenants and agreements that survive for such shorter period, breaches thereof shall survive indefinitely or until the latest date permitted by applicable Law. Notwithstanding the preceding sentences, (x) any breach of representation, warranty, covenant or agreement in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentences, if notice of the inaccuracy or breach thereof giving rise to such right of indemnity shall have been given to the party against whom such indemnity may be sought before such time, and (y) nothing contained in this Section 8.01 shall limit in any way any rights a Party may have to bring claims grounded in fraud, intentional misrepresentation or willful misconduct, which rights shall survive the Closing indefinitely.

Section 8.02. Indemnification by the Seller

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, the Seller shall indemnify, defend and hold harmless, Buyer and its successors and Affiliates and their respective employees, officers, directors, trustees and agents (the "Buyer Indemnified Persons"), from and against any and all claims for Losses arising from or relating to: (a) any misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of the Seller and/or the Authority contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller or the Authority before the Closing pursuant to this Agreement (without regard to any materiality, Material Adverse Effect or related qualifications in the relevant representation or warranty (except where such provision requires disclosure of lists of items of a material nature or above a specified threshold)); (b) any material breach or material nonfulfillment of any of the covenants or agreements of the or the Authority Seller contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller or the Authority before the Closing pursuant to this Agreement; or (c) any Excluded Liability or Excluded Asset, or (d) the ownership, use, operation or control of the Acquired Assets or the System prior to the Closing or any incident, occurrence, condition or claim arising prior to Closing and relating to the ownership, use, operation or control of the System prior to Closing.

Section 8.03. Indemnification by Buyer

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, Buyer shall defend, indemnify and hold harmless the Seller and its successors and Affiliates and each of their respective employees, officers, directors and agents (the “Seller Indemnified Persons”) from and against any and all claims for Losses arising from or relating to: (a) any misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of Buyer contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Buyer pursuant to this Agreement; (b) any material breach of any of the covenants or agreements of Buyer contained in this Agreement or in any exhibit, schedule certificate or other instrument or document furnished or to be furnished by the Buyer pursuant to this Agreement; (c) any Assumed Liability as and when payment and performance is due, including without limitation any liability related to any claims by any Governmental Authority; (d) Buyer’s actions involving Environmental Requirements, Hazardous Materials or environmental claims from and after the Closing Date; or (e) the ownership, operation or control of the Acquired Assets or the System from and after the Closing Date.

Section 8.04. **Indemnification Procedure**

(a) **Third Party Claims.** If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a “Third Party Claim”) against such Indemnified Party with respect to which the Indemnifying Party may be obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party may participate in, or by giving written notice to the Indemnified Party (and subject to the other requirements herein) to assume the defense of any Third Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel (which counsel is reasonably acceptable to the Indemnified Party), so long as (i) the Indemnifying Party notifies the Indemnified Party, within ten (10) Business Days after the Indemnified Party has given notice of the Third Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response) that the Indemnifying Party is assuming the defense of such Third Party Claim, provided, that if the Indemnifying Party assumes control of such defense it must first agree and acknowledge in such notice that the Indemnifying Party is fully responsible (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) for all Losses relating to such Third Party Claim, (ii) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently and at its own cost and expense, and (iii) the Third Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Buyer or its Affiliates, (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there

may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend. The Indemnified Party shall reasonably cooperate in good faith in such defense. If the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 8.04(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party may, at its own cost and expense, participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 8.04(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. The Seller and Buyer shall reasonably and in good faith cooperate with one another in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 8.04(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give prompt written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within fifteen (15) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.04(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party with respect to any Loss which does not arise or result from a Third Party Claim (a "Direct Claim") shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail and shall indicate the estimated

amount, if reasonably practicable, of the Losses that have been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During the thirty (30) day period, the Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity and amount of such Direct Claim. If the Indemnifying Party does not so respond within such thirty (30) day period, by delivery of written notice disputing the basis or amount of the Direct Claim, the Indemnifying Party is deemed to have rejected such claim, in which case the Indemnified Party is free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party has timely disputed its indemnity obligation for any Losses with respect to such Direct Claim, the Parties shall proceed in good faith to negotiate a resolution of such dispute and, if not resolved through negotiations, such dispute may be resolved by litigation in an appropriate court of jurisdiction determined pursuant to this Agreement.

Section 8.05. Limitations on Indemnification Obligations

(a) Subject to the other limitations contained in this Section 8.05, neither Buyer nor Buyer Indemnified Persons is entitled to indemnification pursuant to Section 8.02(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Buyer and Buyer Indemnified Persons under this Agreement exceeds one percent (1%) of the Purchase Price in the aggregate (the "Threshold Amount"), in which case Seller shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification (i) based on fraud, intentional misrepresentation or willful misconduct, (ii) based on any inaccuracy in, misrepresentation as to or breach of any of the Seller Fundamental Representations or any of the representations and warranties set forth in Section 4.13, or (iii) pursuant to Section 8.02(d).

(b) Subject to the other limitations contained in this Section 8.05 neither Seller nor the Seller Indemnified Persons is entitled to indemnification pursuant to Section 8.03(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Seller and Seller Indemnified Persons under this Agreement exceeds the Threshold Amount, in which case Buyer shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct or pursuant to Sections 8.03(c), (d) and (e).

(c) Except in the case of fraud, intentional misrepresentation or willful misconduct (for which all applicable legal and equitable remedies will be available to Buyer), the Buyer Indemnified Parties shall only be entitled to assert claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, which shall not be limited by this Section 8.05(c)) up to the aggregate amount of 8% of Purchase Price (the "Liability Cap"), which shall represent the sole and exclusive remedy of Buyer and the other Buyer Indemnified Parties for any such claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, in the case of fraud, intentional misrepresentation or willful misconduct or pursuant to Section 8.02(c) which shall not be subject to the Liability Cap, but is capped at the Purchase Price).

(d) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss is limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds actually received and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses before seeking indemnification under this Agreement.

(e) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss will be reduced by an amount equal to any Tax benefit realized or reasonably expected to be realized as a result of such Loss by the Indemnified Party.

(f) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

(g) Subject to the provisions of Sections 3.02, 7.07, 15.11 and any other provisions for equitable relief and/or specific performance, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VIII. In furtherance of the foregoing, each Party waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Party hereto and their Affiliates and each of their respective representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article VIII. Nothing in this Section 8.05(g) limits any Parties' right to seek and obtain any equitable relief and/or specific performance to which any Party is entitled pursuant to this Agreement.

Section 8.06. **Knowledge of Breach**

Seller will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement if Buyer had Knowledge of such inaccuracy or breach before the Closing Date. Buyer will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement if Seller had Knowledge of such inaccuracy or breach before the Closing Date.

ARTICLE IX.

PRE-CLOSING COVENANTS OF THE SELLER AND THE AUTHORITY

Section 9.01. **Operation of the System**

Except as otherwise expressly permitted by this Agreement, as required by applicable Law or with the prior written consent of Buyer (which consent shall not be unreasonably withheld,

delayed or conditioned), from the Effective Date until the Closing, the Seller and the Authority shall (i) operate and manage the System only in the ordinary course of business in accordance with past practices and procedures, (ii) comply in all material respects with all applicable Laws and Authorizations and Permits, (iii) use commercially reasonable efforts to maintain and preserve intact the business and assets of the System and preserve the rights, franchises, goodwill and relationships of the Seller, the Authority and the System and their customers, lenders, suppliers, regulators and others having business relationships with the Seller, the Authority and the System including, but not limited to, the land development agreements and the agreements with Clemens Food Group (Hatfield Quality Meats) in existence as of the Effective Date which such agreements shall not be extended, renewed, replaced or materially amended without notice to and the consent of Buyer, which consent shall not be unreasonably withheld or delayed, and (iv) prior to Closing, maintain the existence of the Lease except for purposes of acquiring title to the System by the Seller in order to consummate the sale of the System to Buyer.

Section 9.02. Cooperation

The Seller and the Authority shall reasonably cooperate with Buyer and its employees, attorneys, accountants and other agents and, generally, act in reasonably good faith to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated by this Agreement, including without limitation to effect the following at or before the Closing: (i) the repayment of the Outstanding Indebtedness, and (ii) the acquisition by Seller of title to all Acquired Assets.

Section 9.03. Supplements and Updates

The Seller and the Authority shall promptly deliver to Buyer any supplemental information updating the information set forth in the representations and warranties in Article IV of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. At least ten (10) Business Days of having Knowledge of the same, but in no event later than (3) Business Days before the Closing Date, the Seller shall advise Buyer of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained in this Agreement. For the avoidance of doubt, no such supplemental information or facts provided pursuant to this Section 9.03 shall be deemed to alter any Schedules without the prior written consent of Buyer (such consent not to be unreasonably withheld, conditioned or delayed).

Section 9.04. Governmental Approvals

Promptly after the execution of this Agreement, or as required by Law, except as provided in Section 7.06 or otherwise expressly provided herein, the Seller and the Authority, as applicable, shall file all applications and reports that are required to be filed by Seller or the Authority with any Governmental Authority as provided on Schedule 4.05 to the Buyer. The Seller and the Authority shall also promptly provide all information that any Governmental Authority may require in connection with any such application or report. The Seller and the Authority shall use commercially reasonable efforts to obtain all required material consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person in connection with the

transactions contemplated by this Agreement, including as required under any Assigned Contract. All authorizations of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement shall be in form and content reasonably satisfactory to Buyer and the Seller before Closing and must be final and non-appealable. [If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and the Seller may agree to proceed to consummate the transaction.]

ARTICLE X.

PRE-CLOSING COVENANTS OF BUYER

Section 10.01. Actions Before the Closing Date

Buyer shall not take any action that will cause it to be in breach of any representation, warranty, covenant or agreement contained in this Agreement or cause it to be unable to perform in any material respect its obligations hereunder, and Buyer shall use commercially reasonable efforts (subject to any conditions set forth in this Agreement) to perform and satisfy all conditions to Closing to be performed or satisfied by Buyer under this Agreement, including action necessary to obtain all consents and approvals of third parties required to be obtained by Buyer to effect the transactions contemplated by this Agreement.

Section 10.02. Governmental Approvals

Promptly after the execution of this Agreement, or as required by Law, except as otherwise expressly provided herein, Buyer shall file all applications and reports which are required to be filed by Buyer with any Governmental Authority as provided on Schedule 5.04. Buyer shall also promptly provide all information that any Governmental Authority may reasonably require in connection with any such application or report. Buyer shall use commercially reasonable efforts to obtain all consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person necessary to consummate the transactions contemplated by this Agreement.

Section 10.03. Cooperation

Buyer shall reasonably cooperate with the Seller and the Authority and their employees, attorneys, accountants and other agents and, generally, do such other acts and things in good faith as may be reasonable to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated in accordance with the provisions of this Agreement.

Section 10.04. Supplements and Updates

Buyer shall promptly deliver to the Seller any supplemental information updating the information set forth in the representations and warranties in Article V of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. Within ten (10) Business Days of having Knowledge of the same, and at least three (3) Business Days before the Closing Date, Buyer shall advise the Seller of any facts which

would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein.

ARTICLE XI.

CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

The obligation of the Seller to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by the Seller in its sole discretion:

Section 11.01. Consents and Approvals

Receipt of all required consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person and any other approvals necessary to consummate the transactions contemplated by this Agreement set forth on Schedule 5.04, including without limitation all required EPA and PaDEP approvals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired). Seller shall obtain the consent of any Governmental Authority as required by the PaPUC.

Section 11.02. Representations and Warranties of Buyer

The representations and warranties made by Buyer in Article V which are (a) not qualified by materiality shall be true and correct in all material respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all material respects as of such specified date) and (b) qualified by materiality shall be true and correct in all respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all respects as of such specified date), and the Seller shall have received a certificate to the effect of the foregoing from a duly authorized officer of Buyer dated as of the Closing Date.

Section 11.03. [PaPUC Approval]

PaPUC must have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and Buyer. If a party to the PaPUC proceeding appeals or files a petition for reconsideration of the PaPUC authorization of the transaction, the Buyer and Seller may mutually agree to proceed to consummate the transaction.]

Section 11.04. No Injunctions

Neither Seller nor Buyer shall be subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 11.05. Performance of the Obligations of Buyer

Buyer shall have performed and been in compliance in all material respects with all obligations and covenants required under this Agreement to be performed by Buyer on or before the Closing Date, and the Seller shall have received a certificate to that effect from Buyer dated the Closing Date.

Section 11.06. Deliveries by Buyer

Buyer shall have made delivery to the Seller of the documents and items specified in Section 13.03.

Section 11.07. No Material Adverse Effect

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

ARTICLE XII.

CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligation of Buyer to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by Buyer in its sole discretion:

Section 12.01. Consents and Approvals

(a) Receipt of all required material, non-governmental third party consents and any other approvals necessary or advisable to consummate the transactions contemplated by this Agreement set forth on Schedule 4.05 and all consents, waivers, authorizations and approvals of any Governmental Authority required pursuant to Section 5.04, including without limitation all required EPA and PaDEP approvals/renewals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired); and

(b) Approval by the Municipal Board and the Authority Board for: (i) defeasance and redemption of any outstanding bonds issued by the Seller or the Authority on the System included in the Outstanding Indebtedness, and (ii) discharge of any other outstanding debt issued to the Seller or the Authority and payable to any current lender secured by the lease payments under the Lease.

(c) Delivery of evidence that Seller shall have taken all actions to acquire title to the System and the Acquired Assets required to permit Seller to convey the System and the Acquired Assets to Buyer as pursuant to this Agreement; and

(d) Delivery of evidence of: (1) the termination of the Authority or transfer of all leasehold and operating rights in the assets of the System to the Township and the assumption of the Authority's rights and obligations thereunder, and (2) the transfer of the ownership to the Township of the laterals from the collection system main to the edge-of-road or curb-line when

the main is located within a public right-of-way or the edge of easement where the main is located within private property.

Section 12.02. Representations and Warranties of Seller

The representations and warranties made by the Seller and the Authority in Article IV of this Agreement (disregarding all “materiality” and “Material Adverse Effect” or similar qualifications contained therein) shall be true and correct on and as of the Closing Date (except for representations and warranties expressly stated to relate to a specific date, in which case each such representation and warranty shall be true and correct as of such earlier date), with only such exceptions as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and the Buyer shall have received a certificate to that effect from the Seller dated as of the Closing Date.

Section 12.03. [PaPUC Approval]

[PaPUC must have issued a Final Order authorizing the Buyer to operate as a public utility in the Commonwealth of Pennsylvania and Final Order(s) approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and Buyer. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and Seller may agree to proceed to consummate the transaction.]

Section 12.04. No Injunctions

The Seller, the Authority and the Buyer are not subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 12.05. No Material Adverse Effect

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

Section 12.06. Deliveries by Seller

Seller shall have made delivery to Buyer of the documents and items specified in Section 13.02.

Section 12.07. Performance of the Obligations of Seller

Seller shall have performed and been in compliance in all material respects with all obligations and covenants required under this Agreement to be performed by Seller on or before the Closing Date, and Buyer shall have received a certificate to that effect from Seller dated the Closing Date.

Section 12.08. Phase 1 Environmental Site Assessment

If applicable under Section 7.15 hereof, a Phase 1 environmental site assessment shall have been properly completed in respect of the System and the Real Property.

ARTICLE XIII.

CLOSING

Section 13.01. Closing Date

The Closing shall take place at a place in Pennsylvania that is mutually agreed upon by the Parties, at 10:00 a.m. eastern standard time on the earliest agreed upon date or within twenty (20) Business Days after the date upon which all the conditions precedent to Closing described in this Agreement have been fulfilled or waived and Buyer and the Seller receive the last of the required consents, waivers, authorizations and approvals from the Governmental Authorities, in each case, for the transactions contemplated by this Agreement, or at such other place and time, by such other method, or on such other date, as may be mutually agreed to by the Parties (the "Closing Date"). The Closing will be effective at 12:01 a.m., Township of Towamencin, PA time, on the Closing Date (the "Closing Effective Time").

Section 13.02. Deliveries by the Seller

At the Closing, Seller, shall have delivered or cause to be delivered to Buyer executed copies of the following agreements, documents and other items:

(a) A Bill of Sale transferring all of the Acquired Assets comprising personal property, in the form attached hereto as Exhibit A;

(b) Possession of the Acquired Assets, including without limitation, the Real Property, the Easements and an interest in the Missing Easements, including a license from Seller to Buyer;

(c) A duly executed counterpart to an Assignment and Assumption Agreement with respect to the Assumed Liabilities (the "Assignment and Assumption Agreement"), in the form attached hereto as Exhibit B;

(d) The consents to transfer all of the Assigned Contracts and Authorizations and Permits (including environmental Authorizations and Permits), to the extent required hereunder;

(e) One or more special warranty or other deeds in recordable form reasonably acceptable to Buyer transferring fee simple title of Real Property, and one or more assignments in recordable form reasonably acceptable to Buyer with respect to the Easements (exclusive of any Missing Easements);

(f) Copies or originals of all Files and Records, materials, documents and records in possession of the Seller relating to the Real Property or the Assigned Contracts;

(g) Certificate of Seller pursuant to Section 12.02 of this Agreement;

(h) Certificate of Seller pursuant to Section 12.07 of this Agreement;

(i) Any documents duly executed by Seller required by the Title Company to issue final owner's title policies in accordance with the procedures set forth in Article VI;

(j) A duly executed counterpart to the Escrow Agreement;

(k) Pursuant to Section 12.09(d), documents and certificates, as applicable, evidencing that the System is reclaimed from the Authority and the Authority conveyed the System to Seller, in accordance with the Pennsylvania Municipal Authorities Act;

(k) All such other instruments of conveyance or other documents as shall, in the reasonable opinion of Buyer and its counsel, be necessary to transfer to Buyer the Acquired Assets in accordance with this Agreement or to carry out the terms of this Agreement, duly executed and acknowledged by Seller, if necessary, and in a recordable form;

(l) A form W-9 properly completed by the Seller;

(m) Simultaneously with Closing, evidence of UCC-3 termination statements filed with the Secretary of State of the Commonwealth of Pennsylvania releasing all liens held in the Acquired Assets by or on behalf of the Lender;

(n) An executed release, in form and substance acceptable to the Buyer, from the Lender confirming the discharge of the Outstanding Indebtedness and release of any and all security interests in any of the Acquired Assets which are not Permitted Liens, subject only to the receipt by the Lender of the Payoff Amount at Closing; and

(o) Copies of the duly adopted ordinance(s) and resolution(s) of the Seller and the Authority authorizing the transactions contemplated by this Agreement.

Section 13.03. Deliveries by Buyer

At the Closing, Buyer shall have delivered or caused to be delivered to the Seller the following agreements, documents and other items:

(a) Payment in full of the Purchase Price;

(b) A duly executed counterpart to the Assignment and Assumption Agreement;

(c) Certificate of Buyer pursuant to Section 11.02 of this Agreement;

(d) Certificate of Buyer pursuant to Section 11.05 of this Agreement;

(e) [Evidence of PaPUC approval as provided in Section 12.03];

(f) A duly executed counterpart to the Escrow Agreement; and

(g) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement.

ARTICLE XIV.

TERMINATION

Section 14.01. **Events of Termination**

This Agreement may, by notice given in the manner provided in this Agreement, be terminated and abandoned at any time before completion of the Closing:

(a) By the consent of both of the Seller and the Buyer;

(b) By any of the Seller or the Buyer if:

(i) the Closing shall not have occurred on or before the Outside Date; except that the Buyer shall have the one-time right to extend the Outside Date for up to ninety (90) days if, in the Buyer's sole discretion, any such amount of time up to ninety (90) days is necessary to obtain a required Governmental Approval; or

(ii) any Governmental Authority shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the material transactions contemplated by this Agreement and such order, decree, ruling or other action will have become final and non-appealable, provided however, that the Party seeking termination pursuant to this clause (b) of this Section 14.01 is not in breach in any material respect of any of its representations, warranties, covenants or agreements contained in this Agreement;

(c) By the Seller (if Seller is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Buyer pursuant to the terms of this Agreement or of any representation or warranty of the Buyer contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Seller to the Buyer or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XI of this Agreement not being satisfied (which condition has not been waived by the Seller in writing); or

(d) By the Buyer (if Buyer is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Seller or the Authority pursuant to the terms of this Agreement or of any representation or warranty of the Seller or the Authority contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Buyer to the Seller or the Authority or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XII of this Agreement not being satisfied (which condition has not been waived by the Buyer in writing).

This Agreement may not be terminated after completion of the Closing.

Section 14.02. **Effect of Termination**

If this Agreement is terminated by the Seller or the Buyer pursuant to Section 14.01, written notice thereof will forthwith be given to the other and all further obligations of the Parties under this Agreement will terminate without further action by any Party and without liability or other obligation of any Party to any other Party hereunder; except that no Party will be released from liability hereunder if this Agreement is terminated and the transactions abandoned because of any willful breach of this Agreement.

ARTICLE XV.

MISCELLANEOUS

Section 15.01. Confidentiality

Except as and to the extent required by applicable Law (including but not limited to the Pennsylvania Right-To-Know Act at 65 Pa § 67.101) or pursuant to an order of a court of competent jurisdiction and as required hereunder to obtain any and all required Governmental Approvals, no Party hereto shall, directly or indirectly, disclose or use (and no Party shall permit its representatives to disclose or use) any Confidential Information with respect to any other Party furnished, or to be furnished, by such other Party hereto or its shareholders, directors, officers, agents, or representatives to the other Party hereto or its employees, directors, officers, agents or representatives in connection herewith at any time or in any manner other than in connection with the completion of the transactions contemplated by this Agreement and related transactions.

Section 15.02. Public Announcements Subject to applicable Law or listing rules of an exchange on which Buyer's parent corporation's stock is listed, and except as otherwise set forth in this Agreement, the initial public announcement relating to the transactions contemplated herein will be mutually agreed upon and jointly made by the Parties. Subsequent public announcements by one Party are subject to review and approval by the other Parties before issuance, such approval not to be unreasonably withheld, conditioned or delayed.

Section 15.03. Notices

The Parties shall make all notices, other communications and approvals required or permitted by this Agreement in writing, stating specifically that they are being given pursuant to this Agreement and shall be addressed as follows:

in the case of the Seller and the Authority:

Attention:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Township Manager
Fax: 215-368-7650

with a copy to:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Solicitor
Fax: 215-368-7650

in the case of the Buyer:

Attention:

-

Attention:

Fax:

or such other persons or addresses as a Party may from time to time designate by notice to the other Party. A notice, other communication or approval is deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval is deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by United States registered or certified mail.

Section 15.04. **Headings**

The article, section and paragraph headings in this Agreement are for reference purposes only and have no affect the meaning or interpretation of this Agreement.

Section 15.05. **Severability**

If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement remain in full force and effect and in no way be affected, impaired or invalidated.

Section 15.06. **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party because of such provision of this Agreement having been drafted on behalf of one Party rather than the other Party.

Section 15.07. Amendments; Waivers

This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.

Section 15.08. Parties in Interest; Third Party Beneficiary

Except as provided in this Agreement, this Agreement is not intended to and shall not be construed to create upon any Person other than the Parties any rights or remedies hereunder.

Section 15.09. Successors and Assigns

None of the Parties to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other Parties, and any purported assignment or purported delegation without prior written consent is void. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective permitted successors and assigns.

Section 15.10. Governing Law; Jurisdiction

The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising and relating to this Agreement, including torts. The Parties irrevocably agree and consent to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Agreement. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth in this Agreement shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE

FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 15.11. **Specific Performance**

The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties is entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 15.12. **Interpretation.**

For purposes of this Agreement: (a) the words “include,” “includes”, and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein”, “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. The definition given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined.

Section 15.13. **Counterparts; Electronic Mail; Facsimile Execution**

This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to each Party. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Parties by electronic mail or facsimile transmission. Such Party is deemed to have executed and delivered this Agreement on the date it sent such electronic mail or facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

[THIS SPACE INTENTIONALLY LEFT BLANK;

SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.

TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY

[BUYER]

By: _____
Name:
Its:

By: _____
Name:
Its:

ATTEST:

ATTEST:

By: _____
Name:
Its:

By: _____
Name:
Its:

TOWAMENCIN MUNICIPAL AUTHORITY

By: _____
Name:
Its:

ATTEST:

By: _____
Name:
Its:

TOWAMENCIN TOWNSHIP

ORDINANCE NO. 23-03

AN ORDINANCE AMENDING ORDINANCE 22-04 BY (1) AUTHORIZING THE ASSIGNMENT TO PENNSYLVANIA-AMERICAN WATER COMPANY AS PURCHASER OF THE TOWNSHIP'S SEWER SYSTEM BY NEXTERA TOWAMENCIN WASTEWATER, LLC; (2) AWARDED THE SALE TO PURCHASER AND AUTHORIZING THE AMENDED PURCHASE AGREEMENT WITH PURCHASER TO FACILITATE THE SALE; (3) ASSIGNING APPLICABLE TOWNSHIP SEWER SYSTEM RIGHTS AND OBLIGATIONS IN ALL RELATED AGREEMENTS AND OTHER DOCUMENTATION TO PURCHASER; (4) TRANSFERRING ALL ASSOCIATED CONVEYANCE INSTRUMENTS TO PURCHASER; (5) PROVIDING INFORMATION AND COOPERATION TO PURCHASER; AND (6) TAKING ALL REQUIRED ACTION TO FACILITATE THE SALE

ENACTED: 3/22/23

TOWAMENCIN TOWNSHIP

ORDINANCE NO. 23-03

AN ORDINANCE AMENDING ORDINANCE 22-04 BY (1) AUTHORIZING THE ASSIGNMENT TO PENNSYLVANIA-AMERICAN WATER COMPANY AS PURCHASER OF THE TOWNSHIP'S SEWER SYSTEM BY NEXTERA TOWAMENCIN WASTEWATER, LLC; (2) AWARDED THE SALE TO PURCHASER AND AUTHORIZING THE AMENDED PURCHASE AGREEMENT WITH PURCHASER TO FACILITATE THE SALE; (3) ASSIGNING APPLICABLE TOWNSHIP SEWER SYSTEM RIGHTS AND OBLIGATIONS IN ALL RELATED AGREEMENTS AND OTHER DOCUMENTATION TO PURCHASER; (4) TRANSFERRING ALL ASSOCIATED CONVEYANCE INSTRUMENTS TO PURCHASER; (5) PROVIDING INFORMATION AND COOPERATION TO PURCHASER; AND (6) TAKING ALL REQUIRED ACTION TO FACILITATE THE SALE

ATTESTATION

I attest that the attached Ordinance is a true and correct copy of Ordinance 23-03 that was adopted by Towamencin Township Board of Supervisors at their March 22, 2023 Meeting.

TOWAMENCIN TOWNSHIP



ROBERT J. IANNOZZI JR., *Solicitor*

Date: 3/23/23

TOWAMENCIN TOWNSHIP

ORDINANCE NO. 23-03

AN ORDINANCE AMENDING ORDINANCE 22-04 BY (1) AUTHORIZING THE ASSIGNMENT TO PENNSYLVANIA-AMERICAN WATER COMPANY AS PURCHASER OF THE TOWNSHIP'S SEWER SYSTEM BY NEXTERA TOWAMENCIN WASTEWATER, LLC; (2) AWARDED THE SALE TO PURCHASER AND AUTHORIZING THE AMENDED PURCHASE AGREEMENT WITH PURCHASER TO FACILITATE THE SALE; (3) ASSIGNING APPLICABLE TOWNSHIP SEWER SYSTEM RIGHTS AND OBLIGATIONS IN ALL RELATED AGREEMENTS AND OTHER DOCUMENTATION TO PURCHASER; (4) TRANSFERRING ALL ASSOCIATED CONVEYANCE INSTRUMENTS TO PURCHASER; (5) PROVIDING INFORMATION AND COOPERATION TO PURCHASER; AND (6) TAKING ALL REQUIRED ACTION TO FACILITATE THE SALE

WHEREAS, on May 25, 2022, following a competitive bid process, Towamencin Township ("Township") adopted Ordinance No. 22-04 ("Ordinance")¹ authorizing, with Towamencin Municipal Authority ("Authority") approval, the sale of its sanitary wastewater collection and treatment system with all associated assets, properties (whether tangible, real, personal or mixed), and rights (collectively "System") to NextEra Towamencin Wastewater, LLC ("Sale");

WHEREAS, at the time NextEra Towamencin Wastewater, LLC ("NextEra") was determined to be offering the best overall bid for the purchase of the System with Pennsylvania-American Water Company ("PA American") providing the second-best overall bid;

WHEREAS, on June 14, 2022, in accord with the Ordinance, NextEra, the Township, and the Authority entered into an Asset Purchase Agreement ("Purchase Agreement") to facilitate the Sale;

¹ See Ordinance 22-04 of the Township's Code, which was properly adopted by the Township on May 25, 2022.

WHEREAS, subsequent to execution of the Purchase Agreement, NextEra made the Township aware of its business decision to redirect its strategic plan away from water and wastewater acquisitions to focus more on renewable energy projects;

WHEREAS, NextEra's business decision resulted in a decision to explore assignment of its water and wastewater assets, including the Purchase Agreement;

WHEREAS, in furtherance of its business decision, NextEra intends to assign its contractual rights and obligations under the Purchase Agreement to PA American by way of an assignment agreement ("Assignment") and First Amendment to the Asset Purchase Agreement ("Amended Purchase Agreement");

WHEREAS, PA American was the second-best overall bidder in the competitive bid process conducted by the Township and has offered the Township a purchase price of \$104,000,000 (\$11,600,000 in excess of its original bid);

WHEREAS, given this recent change of events, the Township now determines (a) PA American is now the best overall bid; and (b) effecting the Sale with PA American is in the Township's best interest;

WHEREAS, the Board, subject to the Authority's approval, intends to enter into the Assignment and Amended Purchase Agreement with PA American;

WHEREAS, pursuant to the Assignment and Amended Purchase Agreement, the Township will transfer to PA American ownership of the System through the execution and delivery of all associated and required bills of sale; instruments of assignment; consents to transfer; deeds; and all other conveyance agreements, documents, and instruments (collectively "Conveyance Instruments"); and

WHEREAS, the Township currently receives information as to water consumption by customers within the service area of the System to facilitate accurate billing for wastewater collection and treatment ("System Billing Information") and intends to provide the System's Billing Information and all Township rights in connection therewith and cooperate with PA American to facilitate the Sale and ensure the System's continued operation.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board:

1. **Authorizing the Assignment, Approving the Sale to PA American, and Authorizing the Amended Purchase Agreement**

The Board (a) authorizes the assignment of the Purchase Agreement to PA American; (b) awards the sale of the System to PA American for a purchase price of \$104,000,000; and (3) authorizes, subject to the Authority's approval, the Township's entering into and performance under the Assignment and Amended Purchase Agreement with Purchaser, substantially in the forms attached hereto as Exhibit A, subject to such changes as the Township's Solicitor and Special Counsel may approve.

The Board's Chairman or Vice Chairman is directed to take all needed actions to finalize and execute the Assignment, Amended Purchase Agreement, and all associated documents (collectively "Sale Documentation").

2. **Assignment of System Related Agreements and Other Documentation**

The Board authorizes the assignment to Purchaser of applicable rights and obligations in all System related agreements and other documentation as required under the Sale Documentation.

The Board's Chairman or Vice Chairman is directed to take all necessary actions to finalize and sign such documentation, provided the terms and conditions of such documentation are satisfactory to the Township Solicitor and Special Counsel.

3. **Conveyance Instruments Transfer**

The Board authorizes the transfer of the associated Conveyance Instruments to Purchaser as required under the Sale Documentation.

The Board's Chairman or Vice Chairman is directed to take all needed actions to finalize and sign such documentation, provided the terms and conditions of such documentation are satisfactory to the Township Solicitor and Special Counsel.

4. **Use of Sale Proceeds**

The Board shall determine the application of the Sale proceeds for the benefit of the Township in a manner consistent with the Pennsylvania Second Class Township Code and with the advice of the Township's Financial Advisor and Special Counsel, provided, however, the Sale proceeds shall first be immediately used to extinguish or defease all outstanding Township and Authority sewer debt.

5. **Information and Cooperation**

The Board hereby authorizes the Township, its agents and employees, to provide needed information to Purchaser relative to the System's Billing Information with all Township rights in connection therewith, as well as other information as directed by the Board.

The Board further authorizes the Township to cooperate with Purchaser for the System's continued use and operation.

6. **General Authorization**

The Board hereby authorizes the Township, its agents and employees, as directed by the Board, to take all necessary and appropriate actions required by the Code, other applicable law, or otherwise to complete the Sale.

7. **Severability**

This ordinance's provisions are intended to be severable. If any section, sentence, clause, part, or provision of this ordinance is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction, such determination shall not affect or impair this Ordinance's remaining sections, sentences, clauses, parts, or provisions.

Furthermore, it is hereby declared to be this Board's express intent that this ordinance still be adopted even if such an illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included.

8. **Effective Date**

This ordinance shall take effect five days from this Board's approval of it as required by the Pennsylvania law.

9. **Repealer**

All other ordinances and resolutions or parts thereof as they are inconsistent with this ordinance are hereby repealed.

[Signatures on Next Page]

ORDAINED and **ENACTED** at the Township's March 22, 2023, Meeting.

TOWAMENCIN TOWNSHIP
BOARD OF SUPERVISORS


H. Charles Wilson III, *Chairman*

Attest:

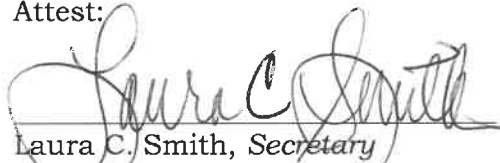

Laura C. Smith, *Secretary*

EXHIBIT A

Assignment and Amended Purchase Agreement

ASSIGNMENT

Assignment and Assumption Agreement of Asset Purchase Agreement

This Assignment and Assumption Agreement ("**Agreement**") effective as of March 23, 2023 (the "**Effective Date**"), is entered into by and among NextEra Water Pennsylvania, LLC, a Delaware limited liability company, ("**NEWPA**"), Pennsylvania American Water Company, a Pennsylvania Corporation, ("**PAWC**"), Township of Towamencin, Montgomery County, a body corporate and politic, organized under the Pennsylvania law, ("**Township**"), and the Towamencin Municipal Authority, a body corporate and politic created under the Pennsylvania Municipal Authorities Act ("**Authority**", and, together with Township, the "**Remaining Parties**"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the APA (as hereinafter defined).

WHEREAS, NEWPA, Township and Authority entered into that certain Asset Purchase Agreement dated as of June 14, 2022, as amended by that First Amendment to Asset Purchase Agreement dated on or about the Effective Date hereof, a copy of which is attached in Exhibit A hereto (the "**APA**");

WHEREAS, in connection with the APA, NEWPA, Township and the U.S. Bank National Association ("**Escrow Agent**") have entered into that certain Escrow Agreement dated as of June 14, 2022 (the "**Escrow Agreement**"), pursuant to which NEWPA has deposited in escrow an amount of \$10,000.000 as an additional deposit on account of the Purchase Price (the "**Additional Deposit**");

WHEREAS, NEWPA desires to assign to PAWC all of its rights and transfer and delegate to PAWC all of its obligations under the APA;

WHEREAS, PAWC desires to accept such assignment of rights and transfer and delegation of obligations under the APA; and

WHEREAS, Remaining Parties desire to release NEWPA from its obligations under the APA, consent to the assignment of NEWPA's rights under the APA to PAWC and substitute PAWC as a party to the APA in NEWPA's place.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt, and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment and Assumption.

1.1 Assignment. Effective on the date when NEWPA receives the Additional Deposit (such date, the "**Additional Deposit Refund Date**"), NEWPA irrevocably sells, assigns, grants, conveys, and transfers to PAWC all of NEWPA's right, title, and interest in and to the APA.

1.2 Assumption. Effective on the Additional Deposit Refund Date, PAWC unconditionally accepts such assignment of NEWPA's right, title, and interest in and to the APA and assumes all of NEWPA's duties, liabilities, and obligations under the APA, and agrees to pay, perform, and discharge, as and when due, all of the obligations of NEWPA under the APA accruing on and after the Additional Deposit Refund Date.

2. Release. Notwithstanding anything to the contrary in the APA, each of the Remaining Parties hereby releases and forever discharges NEWPA, as well as its directors, managers, members, officers, employees, agents, and representatives, from all further obligations arising under the APA, and from all manner of actions, causes of action, suits, debts, damages, expenses, claims, and demands whatsoever that each of the Remaining Parties has or may have against any of the foregoing persons, arising out of or in any way connected to performance under the APA on and after the Additional Deposit Refund Date. For avoidance of doubt, nothing herein affects any rights, liabilities, or obligations of the Remaining Parties or NEWPA due to be performed before the Additional Deposit Refund Date.

3. Substitution. The parties intend that the PAWC be substituted for the NEWPA. Each of the Remaining Parties consents to this Agreement and recognizes PAWC as NEWPA's successor-in-interest in and to the APA. PAWC by this Agreement becomes entitled to all right, title, and interest of NEWPA in and to the APA in as much as PAWC is the substituted party to the APA as of and after the Additional Deposit Refund Date. Each of the Remaining Parties and PAWC shall be bound by the terms of the APA in every way as if PAWC is named in the APA in place of NEWPA as a party thereto.

4. Consideration. As consideration for the Remaining Parties' consent to this Agreement, NEWPA agrees to pay an amount equal to Five Hundred Thousand U.S. Dollars (\$500,000) (the "**Consideration**") in immediately available funds by wire transfer to an account designated by Township in writing. NEWPA shall pay the Consideration no later than three (3) Business Days after the Additional Deposit Refund Date, provided that Township has provided the details of the account for the wire transfer to NEWPA no later than one (1) Business Day after the Effective Date.

5. Release of Additional Deposit. No later than one (1) Business Day after the Effective Date hereof, Towamencin and NEWPA shall direct Escrow Agent to release the Additional Deposit to NEWPA in accordance with Section 4(a) of the Escrow Agreement. Promptly after receiving the Additional Deposit, NEWPA shall provide Notice thereof to PAWC and the Remaining Parties. For the avoidance of doubt, the parties agree that this Agreement shall not become effective until and unless the Additional Deposit is received by NEWPA.

6. Representations and Warranties.

6.1 Representations and Warranties of NEWPA and PAWC. Each of NEWPA and PAWC represents and warrants as follows: (a) it is duly organized, validly existing, and in good standing under the laws of the state of its incorporation; (b) it has the full right, corporate power, and authority to enter into this Agreement and to perform its obligations hereunder; (c) it has taken all necessary corporate action to authorize the execution of this Agreement by its representative whose signature is set forth at the end hereof; and (d) when executed and delivered by it, this Agreement will constitute the legal, valid, and binding obligation of such representing party, enforceable against it in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

6.2 Representations and Warranties of Remaining Parties. Each of the Remaining Parties represents and warrants as follows: (a) it is duly organized, validly existing, and in good standing under the laws of the state of its incorporation; (b) it has duly adopted the ordinance(s) or resolution(s), as applicable, authorizing the transactions contemplated by

this Agreement, which remain(s) in full force and effect, (c) it has duly authorized and approved the execution and delivery of this Agreement and the performance of its obligations, as applicable to it, contained in this Agreement; (d) it has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof; and (e) when executed and delivered by it, this Agreement will constitute the legal, valid, and binding obligation of such representing party, enforceable against it in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

7. Miscellaneous.

7.1 Further Assurances. On the other party's reasonable request, each party shall, at its sole cost and expense, execute and deliver all such further documents and instruments, and take all such further acts, necessary to give full effect to this Agreement.

7.2 Notices. Each party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "Notice") in writing and addressed to the other party at its address set forth below (or to such other address that the receiving party may designate from time to time in accordance with this section). Each party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

Notice to NEWPA:

NextEra Water Pennsylvania, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Eric Mooney
E-mail: eric.mooney@nexteraenergy.com

with a copy to:
NextEra Water Pennsylvania, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Vice President & General Counsel
E-mail: Neer-General-Counsel@nexteraenergy.com

Notice to PAWC:

Pennsylvania American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
Attention: Justin Ladner, President
Email: Justin.Ladner@amwater.com

with a copy to:

Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055
Attention: Andrew Swope, General Counsel
Email: Andrew.Swope@amwater.com

Notice to Remaining Parties: Township of Towamencin
1090 Troxel Road, Lansdale, PA 19446
Email: DKraynik@towamencin.org
Attention: Township Manager

Towamencin Municipal Authority
c/o Robert J. Iannozzi Jr., Esquire
800 Pennbrook Parkway, Suite 200, Lansdale, PA 19446
Email: riannozzi@dbdlaw.com
Attention: Solicitor

7.3 Interpretation. For purposes of this Agreement: (a) the words “include,” “includes,” and “including” are deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references in this Agreement: (x) to sections, schedules, and exhibits mean the sections of, and schedules and exhibits attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The schedules and exhibits referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

7.4 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability does not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

7.5 Entire Agreement. This Agreement, together with all related exhibits and schedules, is the sole and entire agreement of the parties to this Agreement regarding the subject matter contained herein and therein, and supersedes all prior and contemporaneous

understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.

7.6 Amendments; Waivers. No amendment to this Agreement is effective unless it is in writing and signed by an authorized representative of each party to this Agreement. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.

7.7 Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, NO PARTY SHALL BE LIABLE TO ANY OTHER PARTY HERETO FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING LOSS OF FUTURE REVENUE OR INCOME, LOSS OF BUSINESS REPUTATION OR OPPORTUNITY ARISING OUT OF OR RELATED TO THIS AGREEMENT.

7.8 Cumulative Remedies. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, or otherwise.

7.9 Successors and Assigns; No Third-Party Beneficiaries. None of the parties to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other parties, and any purported assignment or purported delegation without prior written consent is void. This Agreement benefits solely the parties to this Agreement and their respective permitted successors and permitted assigns and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

7.10 Governing Law; Jurisdiction. This Agreement must be construed and interpreted in accordance with the internal laws of the State of Pennsylvania without giving effect to the conflict of laws principles thereof that would require the application of any other laws. Each of the parties hereto irrevocably (a) consents to the exclusive jurisdiction and venue of the state and federal courts in the State of Pennsylvania in connection with any matter arising out of this Agreement, (b) waives any objection to such jurisdiction or venue (c) agrees not to commence any legal proceedings related hereto except in such courts, and (d) consents to and agrees to accept service of process to vest personal jurisdiction over it in any such courts made as set forth in Section 7.2. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY

TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

7.11 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.

NEXTERA WATER PENNSYLVANIA, LLC

By _____
Name:
Title:

**PENNSYLVANIA AMERICAN WATER
COMPANY**

By _____
Name:
Title:

**TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY**

By _____
Name:
Title:

TOWAMENCIN MUNICIPAL AUTHORITY

By _____
Name:
Title:

EXHIBIT A - ASSET PURCHASE AGREEMENT

Execution Version

ASSET PURCHASE AGREEMENT

By and Among

Township of Towamencin, Montgomery County

As Seller

Towamencin Municipal Authority

and

NextEra Water Pennsylvania, LLC

As Buyer

Dated as of June 14, 2022

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of June 14, 2022 (the “Effective Date”), is made and entered into by and between the Township of Towamencin, Montgomery County, a body corporate and politic, organized under the Pennsylvania law, (the “Seller” or the “Township”), the Towamencin Municipal Authority, a body corporate and politic created under the Pennsylvania Municipal Authorities Act (the “Authority”) and NextEra Water Pennsylvania, LLC (formerly known as NextEra Towamencin Wastewater, LLC) (the “Buyer”), a Delaware limited liability company.

WITNESSETH:

WHEREAS, the Authority owns that certain sanitary wastewater collection and treatment system (the “System”) which is leased to the Township under a Lease and Service Agreement dated June 30, 2015 (“Lease”) pursuant to which the Authority provides sanitary wastewater service to various customers in the Township and portions of Lower Salford, and Worcester, Montgomery County, Pennsylvania (the “Service Area”); and

WHEREAS, the Seller, acting by and through its Board of Supervisors (the “Municipal Board”) intends to terminate the Lease and acquire possession and operational control of the assets of the System on or before the Closing Date (as defined herein); and

WHEREAS, Buyer is, or as of the Closing Date will be, a regulated public utility that furnishes wastewater service to the public in Pennsylvania; and

WHEREAS, Buyer, in reliance upon the representations, warranties and covenants of the Seller and Authority herein, desires to purchase and acquire from the Seller, and the Seller, in reliance upon the representations, warranties and covenants of Buyer herein, desires to sell, transfer and convey to Buyer all of the assets of the System (other than the Excluded Assets), and in connection therewith, Buyer has agreed to assume certain ongoing obligations and liabilities of the Seller related to such acquired assets, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual representations, warranties, covenants, and agreements contained in this Agreement, the receipt and sufficiency of which are acknowledged, intending to be legally bound, the Parties agree as follows:

ARTICLE I.

DEFINITIONS

In addition to the capitalized terms defined elsewhere in this Agreement, the following terms, as used in this Agreement (unless otherwise specified in this Agreement), have the meanings specified in this Article I:

“**Abstractor**” has the meaning specified in Section 6.05(a).

“**Accounts Receivables**” means all accounts or notes receivable held by Seller, and any security, claim, remedy or other right related to the foregoing, including the right to receive and collect payment for sanitary wastewater customer services and to receive and hold customer deposits in connection thereof.

“**Acquired Assets**” has the meaning specified in Section 2.01.

“**Act 537**” has the meaning specified in Section 7.10(a).

“**Act 537 Plan**” has the meaning specified in Section 7.10(a).

“**Additional Deposit**” has the meaning specified in Section 3.01(b).

“**Additional Deposit Escrow Agreement**” has the meaning specified in Section 3.01(b).

“**Affiliate**” means, when used to indicate a relationship with a specified Person, a Person that, directly or indirectly, through one or more intermediaries has a 10% or more voting or economic interest in such specified Person or controls, is controlled by or is under common control with (which include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person is deemed to be controlled by another Person if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (and for purposes of this definition, a managed fund or trust is deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust is deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

“**Agreement**” has the meaning specified in the preamble to this Agreement (and includes all Schedules and Exhibits referred to herein), as amended, modified and supplemented from time to time in accordance with the terms hereof.

“**Allocation Schedule**” has the meaning specified in **Error! Reference source not found.**

“**Assigned Contracts**” has the meaning specified in Section 2.01(c) and includes the Municipal Agreements.

“**Assignment and Assumption Agreement**” has the meaning specified in Section 13.02(c).

“**Assumed Liabilities**” has the meaning specified in Section 2.04(a).

“**Authority Board**” means the five member board of the Towamencin Municipal Authority who are appointed by the Municipal Board.

“Authorizations and Permits” mean all licenses, permits, franchises, authorizations, certificates, registrations, consents, orders, adjudications, variances, waivers and approvals currently in effect issued or granted by Governmental Authorities, including without limitation, environmental permits, operating permits and approvals that are held by the Seller or the Authority that primarily relate directly or indirectly to the operation of the System, including those set forth on Schedule 4.14.

“Authority” has the meaning specified in the preamble of this Agreement.

“Business Day” means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by either the Commonwealth of Pennsylvania or the United States government.

“Buyer” has the meaning specified in the preamble of this Agreement.

“Buyer Fundamental Representations” has the meaning specified in Section 8.01.

“Buyer Indemnified Persons” has the meaning specified in Section 8.02.

“CERCLA” means the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended.

“Closing” means the consummation of the sale and purchase of the Acquired Assets and assumption of the Assumed Liabilities, the release/waiver of liabilities and the other transactions contemplated by this Agreement, all in accordance with the terms and conditions of this Agreement and as provided for in Article XIII.

“Closing Date” has the meaning specified in Section 13.01.

“Closing Effective Time” has the meaning specified in Section 13.01.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collective Bargaining Agreement” means the existing collective bargaining agreement between the Authority, as predecessor-in-interest to Seller, and the Union for the period beginning February 1, 2019 and ending January 31, 2023, as amended by the First Amendment and as may be amended from time to time.

“Confidential Information” means any information about Buyer, Seller or the System related to the transactions contemplated by this Agreement; except that such term does not include information which the receiving Party can demonstrate (a) is generally available to or known by the public other than as a result of improper disclosure by the receiving Party, (b) is obtained by the receiving Party from a source other than the disclosing Party, and that such source was not bound by a duty of confidentiality to the disclosing Party with respect to such information, or (c) is legally in the public domain.

“Deposit” has the meaning specified in Section 3.01(a).

“**Easements**” means all easements, rights of way, licenses, use agreements, occupancy agreements, leases and other agreements and appurtenances for and over the real property of third parties that, in each case, is for or used in connection with the operation of the System or to provide continuous and unimpeded rights of way for the Acquired Assets (including access thereto).

“**EDU**” means the equivalent dwelling unit that also equates to 280 gallons per day.

“**Effective Date**” has the meaning specified in the preamble.

“**Environment**” means soil, surface waters, ground waters, land, stream sediments, flora, fauna, surface or subsurface strata and ambient air.

“**Environmental Claims**” means all notices of investigations, warnings, notice letters, notices of violations, Liens, orders, claims, demands, suits or administrative or judicial actions for any injunctive relief, fines, penalties, third party claims, or other claims asserting violations or liability pursuant to Environmental Requirements or responsibility for Environmental Liabilities.

“**Environmental Conditions**” means the Release of Hazardous Materials or the presence of Hazardous Materials on, in, under or within any property (including the presence in the Environment), other than the presence of Hazardous Materials in locations and at concentrations that are naturally occurring.

“**Environmental Liabilities**” means any legal obligation or liability arising under Environmental Requirements or related to or arising out of any Environmental Condition, including those consisting of or relating to any (a) duty imposed by, breach of or noncompliance with any Environmental Requirements; (b) environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of Hazardous Materials); (c) Remedial Action undertaken by any Person; (d) bodily injury (including illness, disability and death, and regardless of when any such bodily injury occurred, was incurred or manifested itself), property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real or personal property), or other losses or damages incurred by any other Person (including any employee or former employee of such Person); (e) any injury to, destruction of, or loss of natural resources, or costs of any natural resource damage assessments; (f) exposure of any Person to any Hazardous Materials; and (g) the presence or Release of any Hazardous Materials.

“**Environmental Requirements**” mean all Laws (including common law), regulations, legally binding or otherwise enforceable requirements and Authorizations and Permits relating to human health, pollution, or protection of the Environment (including ambient air, surface water, ground water, land surface or surface strata), including (i) those relating to emissions, discharges, Releases, or threatened Releases of Hazardous Materials, and (ii) those relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, release, recovery, transport or other handling of Hazardous Materials. Without limiting the foregoing, the term “**Environmental Requirements**” includes (1) CERCLA; the Superfund Amendments and Reauthorization Act, Public Law 99-499, 100 Stat. 1613; the Emergency

Planning and Community Right to Know Act, 42 U.S.C. Sections 11001-11050; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901-6992k (“RCRA”); the Safe Drinking Water Act, 42 U.S.C. Sections 300f to 300j-26; the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2692; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 5101-5127; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1387; the Oil Pollution Act of 1990, 33 U.S.C. Sections 2701--2761; the Clean Air Act, 42 U.S.C. Sections 7401-7671q; the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2011 et seq.; the Low Level Radioactive Waste Policy Act, as amended, 42 U.S.C. Section 2021b et seq.; the Occupational Safety and Health Act, 29 U.S.C. Sections 651-678, and the regulations promulgated pursuant to the above-listed federal statutes, and (2) counterpart Laws and regulations promulgated or issued by any state or local Governmental Authority, specifically including the Pennsylvania Storage Tank and Spill Prevention Act of 1989 (35 Pa. C.S.A. § 6021.101 *et. seq.*).

“EPA” means the United States Environmental Protection Agency, or a successor Governmental Authority with substantially similar power and authority thereto.

“Equipment and Machinery” means (i) all the equipment, tangible personal property, machinery, office furniture and equipment, fixtures, tooling, spare maintenance or replacement parts, environmental testing equipment, and vehicles owned or leased by the Seller or the Authority (including all leases of such property), which are primarily used in the operation of the System, (ii) any rights of the Seller or the Authority to warranties applicable to the foregoing (to the extent assignable), and licenses received from manufacturers and seller of any such item, and (iii) any related claims, credits, and rights of recovery with respect thereto, as listed on Schedule 4.10.

“Escrow Agreement” has the meaning set forth in **Error! Reference source not found.**(d).

“Excluded Assets” has the meaning specified in Section 2.02.

“Excluded Liability” or “Excluded Liabilities” means all liabilities other than Assumed Liabilities.

“Files and Records” means all files and records of each of the Seller and the Authority primarily relating to the System and the Acquired Assets, whether in hard copy, digital, or magnetic or other format including data, geographic information system data, plans, and contracts relating to the Acquired Assets (including property records, related to the foregoing), customer and supplier records, customer lists (both current and prospective), personnel and human resources records related to the Personnel, records of sales calls, manuals, books, files, records, engineering data, procedures, systems, instructions, drawings, blueprints, plans, designs, specifications, equipment lists, parts lists, equipment maintenance records, equipment warranty information, plant plans, specifications and drawings, sales and advertising material, computer software, and records, whether stored on-site or off-site.

“Final Order” means a Governmental Approval by a Governmental Authority as to which (a) no request for stay of the action is pending, no such stay is in effect and if any time period is permitted by statute or regulation for filing any request for such stay, such time period has

passed, (b) no petition for rehearing, re-argument, reconsideration, clarification, rescission, amendment, or supersedes of the action is pending and the time for filing any such petition has passed, (c) such Governmental Authority does not have action under consideration on its own motion and (d) no appeal to a court or administrative tribunal or a request for stay by a court or administrative tribunal of the Government Authority's action is pending or in effect and the deadline for filing any such appeal or request for stay has passed.

"Freeze Period" has the meaning specified in Section 7.04(a).

"Governmental Approval" means any consent, approval, authorization, notice, filing, registration, submission, reporting, order, adjudication or similar item of, to or with any Governmental Authority.

"Governmental Authority" or **"Governmental Authorities"** means any court, department, commission, board, bureau, municipality, municipal authority (established pursuant to the Pennsylvania Municipal Authorities Act of the Commonwealth of Pennsylvania), agency or instrumentality of the United States, any state, county, city or political subdivision thereof, or any foreign governmental body, including without limitation, the PaPUC, the EPA, PaDEP, the Municipal Board and the Authority Board.

"Hazardous Materials" means any solid, liquid, gas, odor, heat, sound, vibration, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, hazardous waste, residual waste, solid waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Requirements or which is classified as hazardous or toxic under applicable Environmental Requirements (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation).

"Indemnified Party" means any Buyer Indemnified Persons or Seller Indemnified Persons, as applicable, entitled to indemnification pursuant to Article VIII.

"Indemnifying Party" means a Party which is obligated to indemnify the Buyer Indemnified Persons or the Seller Indemnified Persons, as applicable, pursuant to Article VIII.

"Knowledge" means either (i) the actual knowledge of a Representative of Buyer and the knowledge that such person would reasonably be expected to obtain in the course of diligently performing his or her duties for Buyer or (ii) the actual knowledge of Senior Staff, the Municipal Board and the Authority Board, and in the case of Senior Staff, the knowledge that each person would reasonably be expected to obtain in the course of diligently performing his or her duties for Seller or the Authority, as applicable based on the context in which the term is used.

"Law" means any applicable law, statute, regulation, ordinance, rule, order, judicial, administrative and regulatory decree, judgment, adjudication, consent decree, settlement agreement or governmental requirement enacted, promulgated, entered into, agreed or imposed by any Governmental Authority, as may be in effect at the relevant time or times in the context in which the term is used.

“Lease” has the meaning specified in the preamble of this Agreement.

“Lender” means the Delaware Valley Regional Finance Authority.

“Liability Cap” has the meaning specified in Section 8.05(c).

“Lien” means any lien in a fixed and ascertainable monetary sum, or any pledge, mortgage, deed of trust or security interest securing a fixed and ascertainable monetary sum, or any charge or claim in a fixed and ascertainable monetary sum. In addition, in connection with Real Property, any item otherwise falling within the definition of a “Lien” must be filed of record by the responsible Party in accordance with the terms of this Agreement.

“Loss” means any and all losses, liabilities, obligations, damages, penalties, interest, Taxes, claims, actions, demands, causes of action, judgments, reasonable attorneys’, consultants’ and other professional fees, and all other reasonable costs and expenses sustained or incurred in investigating, preparing or defending or otherwise incident to any such claim, action, demand, cause of action or judgment or the enforcement of a Party’s rights under Article VIII; except that **“Losses”** do not include punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except in the case of fraud or to the extent actually awarded to a Governmental Authority or other third party in respect of a Third Party Claim.

“Material Adverse Effect,” means any result, occurrence, fact, change, event or effect that has a materially adverse effect on the business, financial condition or results of operations of the System; except that no effect arising out of or in connection with or resulting from any of the following will be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions (either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the real estate, financial services, construction, water utility or sewer utility industries generally; (iv) any existing event, circumstance, condition or occurrence of which the Buyer has Knowledge as of the Effective Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement or attributable to the execution, performance or announcement of this Agreement or the transactions contemplated by this Agreement; and (vi) negligence, intentional misconduct or bad faith of the Buyer or its Representatives.

“Missing Easements” means, as of any particular date, each Easement that either (a) has not been expressly obtained through a duly executed and recorded instrument by the Authority or Seller and is for or used in connection with the operation of the System or (b) if such Easement has been obtained by the Authority or Seller, such Easement is unrecorded or such Easement is not sufficient to operate the System as currently conducted.

“Municipal Agreements” means, collectively, the inter-municipal agreements pursuant to which the Seller or the Authority provides sanitary wastewater service in various municipalities in Montgomery County, Pennsylvania, as more specifically set forth in Schedule 4.15.

“**Municipal Board**” has the meaning set forth in the recitals to this Agreement.

“**Non-Union Personnel**” means Personnel who are not members of the Union.

“**Objection Notice**” has the meaning set forth in Section 6.02(a).

“**Outside Date**” means the date that is 180 days after the Effective Date for a municipal authority and with respect to a regulated utility 365 days after the later to occur of (i) the date the application to the PaPUC is accepted as complete by the PaPUC, and (ii) the date the statutory 6-month consideration period is initiated.

“**Outstanding Indebtedness**” means the following outstanding indebtedness of the Seller and the Authority: Delaware Valley Regional Finance Authority Guaranteed Sewer Revenue Notes, 2019 Series and the Delaware Valley Regional Finance Authority Guaranteed Sewer Revenue Notes, 2013 Series.

“**PaDEP**” means the Pennsylvania Department of Environmental Protection, or any successor Governmental Authority with substantially similar powers thereto.

“**PaPUC**” means the Pennsylvania Public Utility Commission, or any successor Governmental Authority with substantially similar powers thereto.

“**Party**” means Buyer, the Authority or the Seller and the term “Parties” means collectively Buyer, the Authority and the Seller.

“**PCB Equipment**” means PCB equipment as defined in 40 C.F.R. Part 761.

“**Pending Development Plan**” means any project for the development of real property which is the subject of a subdivision or land development plan that has been submitted to the Seller for approval, or for which the Seller already has granted approval, pursuant to the Pennsylvania Municipal Planning Code, but which has yet to be constructed as of the Effective Date (and as updated before the Closing Date), as provided in Schedule 4.19.

“**Permitted Liens**” means (a) Liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures; (b) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property and Easements as set forth on Schedule 4.09; (c) other than with respect to Real Property owned by Seller, Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; (d) other imperfections of title or Liens, if any, that have not had, and would not have, a Material Adverse Effect; and (e) any encumbrances set forth in the Title Commitment not identified in the Objection Notice in accordance with the procedures and deadlines prescribed in Section 6.02(a).

“**Person**” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority.

“**Personnel**” means the employees of the Authority who are primarily employed to operate the System and includes Union Personnel and Non-Union Personnel.

“**Purchase Price**” has the meaning specified in Section 3.01.

“**Real Property**” means those certain parcels of land, with the buildings, improvements, and Equipment and Machinery affixed thereto, that are part of the System and fee simple title to which is to be conveyed by Seller to Buyer as part of the Acquired Assets.

“**Regulated Asbestos Containing Material**” means regulated asbestos containing material as defined by 40 C.F.R. § 61.141.

“**Release**” means any actual or threatened spilling, leaking, pumping, pouring, injecting, emptying, discharging, emitting, escaping, leaching, dumping, disposal, or release or migration of Hazardous Materials into the Environment, including the abandonment or discarding of barrels, containers and other receptacles containing any Hazardous Materials.

“**Remedial Action**” means any and all actions to (a) investigate, clean up, remediate, remove, treat, contain or in any other way address any Hazardous Materials in the Environment, (b) prevent the Release or threat of Release or minimize the further Release of any Hazardous Materials so it does not migrate or endanger public health or welfare or the indoor or outdoor Environment, and (c) perform pre-remedial studies and investigations and post-remedial monitoring, maintenance and care. The term “**Remedial Action**” includes any action which constitutes (i) a “removal”, “remedial action” or “response” as defined by Section 101 of CERCLA, 42 U.S.C. §§ 9601(23), (24), and (25); (ii) a “corrective action” as defined in RCRA, 42 U.S.C. § 6901 et seq.; or (iii) a “response” or “interim response” as defined in the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. §6020.103.

“**Representative**” means, with respect to any Person, any director (including, in the case of the Seller, any member of the Municipal Board and, in the case of the Authority, any member of the Authority Board), officer, employee, official, lender mortgagee, financier, provider of any financial instrument (or any agent or trustee acting on their behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its “Representative.”

“**Schedules**” means the disclosure schedules delivered by Seller and Buyer, respectively, concurrently with the execution and delivery of this Agreement, and as may be supplemented and updated pursuant to Sections 9.03 and 10.04. Any disclosure set forth on any particular Schedule are deemed disclosure in reference to all Schedules comprising the Schedules to which such disclosure is reasonably apparent.

“**Seller**” has the meaning specified in the preamble of this Agreement.

“**Seller DEP Permits**” means the permits listed on Schedule 4.14 issued by PaDEP to Seller with respect to the System, including any revisions or amendments thereto.

“**Seller Fundamental Representations**” has the meaning specified in Section 8.01.

“**Seller Indemnified Persons**” has the meaning specified in Section 8.03.

“**Seller’s Benefit Obligations**” means all material obligations, arrangements, or practices, whether or not legally enforceable, to provide benefits, other than salary or wages to present or former directors, employees or agents, (other than obligations, arrangements and practices that are Seller’s Plans), that were owed, adopted or followed by the Authority, and upon the termination of the Authority, are now owned, adopted or followed by the Seller. Seller’s Benefit Obligations also include consulting agreements under which the compensation paid does not depend upon the amount of service rendered, sabbatical policies, severance payment policies and fringe benefits within the meaning of Code §132.

“**Seller’s Plans**” means each voluntary employees’ beneficiary association under Section 501(c)(9) of the Code whose members include any Personnel and any employee benefit plans or any other retirement, pension, profit sharing, stock option, stock bonus, deferred compensation (including any “nonqualified deferred compensation plan” within the meaning of Section 409A of the Code), severance, sick leave or other material plan or arrangement providing benefits to current or former Personnel, in each case, if either currently in effect or terminated within the last six (6) years, to which the Authority is a plan sponsor or to which the Authority otherwise contributes or has contributed within the last six (6) years, or in which the Authority otherwise participates or has participated within the last six (6) years.

“**Senior Staff**” means the Township Manager, the Township Director of Finance and Administration, the Township Sanitary Sewer Engineer and Authority Engineer.

“**Service Area**” has the meaning specified in the recitals to this Agreement.

“**Supplies**” means all lubricants, spare parts, fuel, chemicals, raw materials, and other supplies and inventory as related to the Acquired Assets, and all rights to warranties received from suppliers with respect to the foregoing, and related claims, credits, and rights of recovery with respect thereto.

“**System**” has the meaning specified in the recitals to this Agreement and includes the Acquired Assets and excludes the Excluded Assets.

“**System Improvements**” has the meaning specified in Section 7.10(a).

“**Taxes**” means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, abandoned or unclaimed property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

“**Third Party Claim**” has the meaning specified in Section 8.04(a).

“**Threshold Amount**” has the meaning specified in Section 8.05(a).

“**Title Commitment**” has the meaning specified in Section 6.01.

“**Title Company**” has the meaning specified in Section 6.01.

“**Title Policy**” has the meaning specified in Section 2.03.

“**Township**” has the meaning specified in the preamble of this Agreement.

“**Transferred Personnel**” has the meaning specified in Section 7.03(a).

“**UCC Search**” has the meaning specified in Section 6.04.

“**Union**” means District Council 88, American Federation of State, County and Municipal Employees AFL-CIO.

“**Union Personnel**” means Personnel who are members of the Union.

“**Unscheduled Real Property**” has the meaning specified in Section 6.06.

“**Utility Valuation Expert**” means an expert that has applied and has been approved by the PaPUC and is currently, at the time of this Agreement, on the list of approved appraisers maintained by the PaPUC.

ARTICLE II.

TERMS OF PURCHASE AND ASSUMPTION OF LIABILITIES

Section 2.01. Purchase and Sale of Acquired Assets

Subject to the terms and conditions set forth in this Agreement, at Closing, Buyer shall purchase from the Seller and the Seller shall sell, transfer, assign and deliver to Buyer, free and clear of all Liens except for Permitted Liens, all of Seller’s right, title and interest in and to all assets, facilities, business, goodwill, properties and rights of the Seller of every kind and description, whether tangible or intangible, real, personal or mixed, wherever situated, in each case used in, held for use in, or acquired or developed for use in, the System, or otherwise related to, or arising out of the operation or conduct of the System (whether or not any such assets have any value for accounting purposes or are carried or reflected on the books or financial records of the Seller), including any of the foregoing in which Seller is entitled to acquire such rights or interests but in all cases other than the Excluded Assets (the foregoing collectively referred to as the “Acquired Assets”), including:

(a) all real property and appurtenant interests necessary for the operation of the System, including without limitation (i) good and marketable fee simple title to the Real Property set forth on Schedule 4.09 hereof, and (ii) all Easements, including without limitation those set forth on Schedule 4.09;

(b) all sanitary wastewater related treatment and conveyance facilities, including but not limited to the Seller's (i) assets set forth on Schedule 2.01(b), (ii) sewage treatment plant located in the Township and (iii) all collection system mains (whether gravity or force mains), laterals (from the collection system main to the edge-of-road or curb-line when the main is located within a public right-of-way or the edge of an easement where the main is located within private property), generators, manholes, pump stations and other related appurtenances and any billing and collections related assets necessary to own and operate the System;

(c) all contracts, licenses and leases set forth on Schedule 4.15 to which the Seller (or the Authority as predecessor in interest) is a party, including without limitation, all Municipal Agreements, customer service agreements or applications for service, construction contracts, surety bonds, operation and maintenance agreements, management agreements, reserved capacity agreements, architect agreements and consultant agreements, and agreements relating to vehicles and other items of personal property (the "Assigned Contracts");

(d) all Supplies;

(e) all personal property and fixed assets, including all Equipment and Machinery, auxiliary equipment and plant equipment, including without limitation those items listed on Schedule 4.10 hereof;

(f) all expenses prepaid by Seller or the Authority and security deposits by Seller and by the Authority;

(g) all Files and Records;

(h) Accounts Receivable arising on or after the Closing Date; and

(i) all Authorizations and Permits of or held by the Seller (or the Authority as predecessor in interest) (to the extent transferrable to Buyer under Law), including all Authorizations and Permits which are environmental permits, the Seller DEP Permits as set forth on Schedule 4.14 hereto and other operating permits and those items set forth on Schedule 4.14 hereto; and

(j) all goodwill of the System.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTIES OF ANY KIND WHATSOEVER REGARDING THE VALUE OF ANY OF THE ACQUIRED ASSETS OF THE SYSTEM OR THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING THAT MAY BE ALLOWED BY THE PAPUC FOR ANY OF THE ACQUIRED ASSETS. NOTWITHSTANDING THE FOREGOING, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE VALID UNTIL THE TIME OF CLOSING.

Section 2.02. **Excluded Assets**

Notwithstanding Section 2.01 or any other provision of this Agreement to the contrary, the Acquired Assets do not include the following (the “Excluded Assets”):

- (a) all contracts, licenses and leases that are not Assigned Contracts;
- (b) the seals, organizational documents, minute books, Tax returns, books of account or other records having to do with the organization of Seller and the organization of the Authority;
- (c) cash (including any cash whenever received resulting from the payment received by Seller or the Authority attributable to wastewater service provided to EDU’s before the Closing Date) and cash equivalents, including Accounts Receivable accrued before the Closing Date and existing financial security guaranteeing installation of public improvements (including sewer facilities);
- (d) all insurance policies of Seller and all insurance policies of the Authority and all rights to applicable claims and proceeds thereunder;
- (e) all Seller’s Plans and trusts or other assets attributable thereto;
- (f) other than to the extent relating to any Assumed Liability, all actions, suit or claim of any nature available to or being pursued by Seller or the Authority, whether arising by way of counterclaim or otherwise;
- (g) all assets, properties and rights used by Seller or the Authority other than those which primarily relate to the operations of the System;
- (h) the assets, properties and rights specifically set forth on Schedule 2.02(h);
- (i) all municipal separate storm sewer system (“MS4”) assets and stormwater assets of the Seller or the Authority (and any related NPDES permits); and
- (j) the rights which accrue or will accrue to Seller or the Authority under this Agreement and any related agreement, exhibit or schedule.

Section 2.03. **Sale Free of Liens**

After Buyer fulfills its obligations pursuant to Section 3.01(a), on the Closing Date, the Acquired Assets will be free and clear of all Liens other than Permitted Liens. The Seller (or the Authority as predecessor in interest) shall convey such Acquired Assets by appropriate special warranty or other deed (subject to Section 6.02(c)), bills of sale, endorsements, assignments and other instruments of transfer or conveyance described in the Agreement, or by transfer documents satisfactory in form and substance reasonably acceptable to Buyer and Seller and their counsel in their reasonable discretion. At Closing, Buyer shall cause the Title Company to insure the Real Property, at the Title Company’s filed rates, as a good and marketable title, free and clear of all Liens and exceptions to title insurance coverage, except for the Permitted Liens, pursuant to an

owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006, subject to the terms of Section 6.02 below (the "Title Policy").

Section 2.04. **Assumption of Liabilities**

(a) On the terms and subject to the conditions set forth in this Agreement and excluding the Excluded Liabilities, Buyer shall assume and agrees to pay, perform and discharge when due any and all liabilities and obligations of the Seller (1) arising under the Seller DEP Permits (arising from, related to, or based on events or circumstances occurring on or after the Closing Date), (2) arising under the Collective Bargaining Agreement or an amended and restated collective bargaining agreement with respect to any Transferred Personnel (arising from, related to or based on events or circumstances occurring on or after the Closing Date), and (3) arising out of or relating to the System or the Acquired Assets on or after the Closing, including, without limitation, the following:

(i) all liabilities and obligations under the Assigned Contracts and Authorizations and Permits resulting from events that occur or conditions that arise on or after the Closing;

(ii) any litigation initiated against Seller or the Authority related to the System or the Acquired Assets resulting from events that occur or conditions that arise on or after the Closing;

(iii) all liabilities and obligations for Taxes relating to the System, its operation, the Acquired Assets and the Assumed Liabilities attributable to the period beginning on the Closing Date; and

(iv) all other liabilities and obligations arising out of or relating to Buyer's ownership or operation of the System and the Acquired Assets on or after the Closing (all of the aforementioned liabilities in this Section 2.04(a) are referred to as the "Assumed Liabilities").

(b) After the Closing, Buyer shall indemnify Seller against its obligations under the Assumed Liabilities in accordance with Section 8.03.

(c) Buyer shall not assume or be liable to pay any liabilities or obligations relating to the Excluded Liabilities or any other liabilities or obligations that are not Assumed Liabilities.

Section 2.05. **Further Assurances** At any time and from time to time after the Closing Date, the Seller shall, upon the request of Buyer, and Buyer shall, upon the request of the Seller, at the cost of requesting Party, promptly execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate, (a) the sale, conveyance, transfer, assignment and delivery hereunder of the Acquired Assets to Buyer, (b) the assumption by Buyer of any of the Assumed Liabilities, (c) performance by the Parties of any of their other respective obligations under this Agreement, (d) the vesting in Buyer of all right, title and

interest in the Acquired Assets and the System as provided herein, and (e) any other matters reasonably requested by a Party to carry out the provisions, purposes and intent of this Agreement.

Section 2.06. **Certain Transfers; Assignment of Contracts**

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.06(a) and Section 2.06(b), to the extent that the sale, transfer, assignment, conveyance and delivery, or attempted sale, transfer, assignment, conveyance and delivery, to Buyer of any Assigned Contract or other Acquired Asset would result in a violation of Law, or would require the consent, authorization, approval or waiver of any Person (other than the Parties hereto), including any Governmental Authority, and such consent, authorization, approval or waiver has not been obtained before the Closing, this Agreement shall not constitute a sale, transfer, assignment, conveyance and delivery, or an attempted sale, transfer, assignment, conveyance and delivery, thereof (any such Acquired Asset, a “Nonassignable Asset”). Following the Closing, the Seller and the Buyer shall use commercially reasonable efforts (at the cost and expense of the Party that is responsible for compliance with such Law or obtaining such consent, authorization, approval or waiver), and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution, novation or amendment required to sell, transfer, assign, convey and deliver any such Nonassignable Asset to Buyer; except that in no event will Buyer be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, the Seller shall sell, transfer, assign, convey and deliver to Buyer the relevant Acquired Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Any applicable sales, transfer and other similar Taxes in connection with such sale, transfer, assignment, conveyance and delivery shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller.

(b) Until such time as a Nonassignable Asset is transferred to Buyer pursuant to this Article II, Buyer and Seller shall cooperate in any commercially reasonable and economically feasible arrangements (such as subleasing, sublicensing or subcontracting) to provide to the Parties the economic and, to the extent permitted under Law, operational equivalent of the transfer of such Nonassignable Asset to Buyer at the Closing and the performance by Buyer of its obligations with respect thereto, and so long as the Seller transfers and turns over all economic and beneficial rights with respect to each such Nonassignable Asset, Buyer shall, to the extent permitted under Law and the terms of any applicable contract that constitutes a Nonassignable Asset, as agent or subcontractor for the Seller, pay, perform and discharge the liabilities and obligations of the Seller thereunder from and after the Closing Date, but only to the extent that such liabilities and obligations would constitute Assumed Liabilities if the applicable consent or approval had been obtained on or before the Closing Date and such Nonassignable Asset had been assigned to Buyer at Closing. To the extent permitted under Law, the Seller shall hold in trust for and pay to Buyer promptly upon receipt thereof, such Nonassignable Asset and all income, proceeds and other monies received by Seller with respect to such Nonassignable Asset in connection with the arrangements under this Article II.

(c) If, following the Effective Date and before the Closing, Buyer identifies any contract to which the Seller (or the Authority) is a party which is not set forth on Schedule 4.15 as an Assigned Contract as of the Effective Date, and Buyer reasonably determines such contract is necessary to the operation of the System, Buyer shall notify Seller of such determination and Seller shall, promptly following receipt of such notice, deliver to Buyer an updated Schedule 4.15 reflecting the addition of such contract, and such contract will thereafter constitute and be deemed an Assigned Contract for all purposes hereunder.

(d) If, during the twenty four (24) month period following the Closing, Buyer identifies any contract to which the Seller or the Authority was a party as of the Closing and which (i) was not set forth on Schedule 4.15 (as may be updated pursuant to (c)) and (ii) Buyer reasonably believes is necessary to the operation of the System, the Seller shall, promptly following Buyer's written request therefor, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate the assignment of such contract to Buyer for no additional consideration, and upon such assignment, such contract will be deemed an Assigned Contract for all purposes hereunder.

ARTICLE III. **PURCHASE PRICE**

Section 3.01. Purchase Price

The purchase price for the Acquired Assets is One Hundred Fifteen Million Three Hundred Thousand Dollars (\$115,300,000) (the "Purchase Price") which Buyer shall pay as follows at Closing unless otherwise indicated:

(a) **Deposit.**

(i) Buyer shall pay One Hundred Thousand Dollars (\$100,000) to Seller as a deposit on account of the Purchase Price (the "Deposit") upon the third Business Day following the execution by the Parties of this Agreement; and

(ii) Seller shall be free to use the Deposit as it determines in the Seller's sole discretion;

(iii) In the event that this Agreement is terminated for any reason, half of the Deposit shall be refundable to the Buyer within ninety days following the effective date of termination per Section 14.01, provided, however, if the Agreement is terminated by Seller pursuant to Section 14.01(c), then Seller shall be permitted to offset against Seller's obligation to refund the Deposit any damages recoverable by Seller per the terms of this Agreement.

(b) **Additional Deposit.**

(i) Buyer shall cause to be deposited in escrow pursuant to an escrow agreement substantially in the form attached as Exhibit D and entered into by and among the Seller, the Buyer and the escrow agent party thereto (the “Additional Deposit Escrow Agreement”), an amount equal to Ten Million Dollars (\$10,000,000) as a deposit on account of the Purchase Price (the “Additional Deposit”) upon the third Business Day following the execution by the Parties of this Agreement;

(ii) Seller shall be free to use the Additional Deposit solely in accordance with the terms and conditions of the Additional Deposit Escrow Agreement; and

(iii) In the event that this Agreement is terminated for any reason, the Additional Deposit shall be refunded to the Buyer within thirty days following the effective date of termination per Section 14.01 in accordance with the Additional Deposit Escrow Agreement.

(c) Outstanding Indebtedness. Buyer shall pay in full the total amount of Outstanding Indebtedness;

(d) Escrow. Buyer shall cause to be deposited in escrow pursuant to an escrow agreement, in form and substance as mutually agreed by Buyer and Seller and entered into by and among the Seller, the Buyer and the escrow agent party thereto (the “Escrow Agreement”), an amount calculated in accordance with Section 6.05(e);

(e) Final Payment. Subject to any adjustment in Purchase Price resulting from the proration procedures specified in Section 3.01(f) below, Buyer shall pay to the Seller at Closing by wire transfer of immediately available funds the balance of the Purchase Price remaining after the payment of the Deposit, the Additional Deposit, debt repayment pursuant to Section 3.01(b), and any escrow as set forth in Section 6.05(e), to one or more accounts that Seller designates and provides to Buyer at least three (3) Business Days before the Closing Date; and

(f) Final Billing. The Buyer is entitled to all customer billings with respect to sanitary wastewater customer services for the period on or after the Closing Effective Time, and the Seller is entitled to all such billings before the Closing Effective Time. The Parties shall cooperate to calculate an agreed upon proration of billing amounts and to the extent that a Party collects billings that are attributable to service provided by another Party, the Party holding the other Party’s billing collections shall pay such amount to the other Party.

Section 3.02. Fair Consideration

The Parties acknowledge and agree that the consideration provided for in this Article III represents fair consideration and reasonable equivalent value for the sale and transfer of the Acquired Assets and the transactions, covenants and agreements set forth in this Agreement, which consideration was agreed upon as the result of arm’s-length good faith negotiations between the Parties and their respective Representatives.

Section 3.03. Allocation Schedule

The Purchase Price (which for purposes of this Section 3.03 shall include any liabilities required to be treated as part of the Purchase Price for federal income tax purposes), may, at the option of the Buyer, be allocated among the Acquired Assets in accordance with the allocation reflected in a schedule prepared by Buyer and attached hereto as Schedule 3.03. In the event Buyer does not opt to prepare a schedule pursuant to the preceding sentence, then within sixty (60) days following the Closing Date, Buyer may deliver to Seller a draft of the Allocation Schedule setting forth Buyer's proposed allocation for Seller's review. Seller shall have the right to review and reasonably comment upon Buyer's proposed Allocation Schedule, provided, that (a) such proposed Allocation Schedule shall be deemed approved by Seller and shall be final and binding upon the Parties unless Seller provides written notice of Seller's comments to one or more items reflected in the proposed Allocation Schedule within twenty (20) Business Days after delivery of the proposed Allocation Schedule to Seller, and (b) upon receipt of any such written comments from Seller with respect to the proposed Allocation Schedule, Buyer may make such adjustments or revisions to the proposed Allocation Schedule based on Seller's comments as Buyer determines in good faith to be necessary and appropriate, provided further, that Buyer shall have no obligation to make any such adjustments or revisions absent manifest error. The Parties shall adhere to the Allocation Schedule (as finally determined pursuant to this **Error! Reference source not found.**) for all purposes relevant to the calculation of federal or state Taxes, and will report the transactions contemplated herein in a manner consistent with such Allocation Schedule. Except as required by applicable Law, Buyer and Seller shall not take any position on their respective Tax Returns that is inconsistent with the Allocation Schedule.

Section 3.04. **Transfer Taxes**

Any and all deed stamps or transfer Taxes which may be due the Commonwealth of Pennsylvania or any political subdivision in connection with the sale, transfer, assignment, conveyance and delivery hereunder of the Acquired Assets to Buyer (collectively, "**Transfer Taxes**"), will be paid fifty percent (50%) by Buyer and fifty percent (50%) by Seller. The terms hereof shall survive Closing. Seller and Buyer shall cooperate in good faith to prepare the Pennsylvania Form REV-138 (Realty Transfer Tax Statement of Value) setting forth the amount of the Purchase Price that shall be allocated to the Real Property for purposes of calculating Transfer Taxes.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF THE SELLER AND THE AUTHORITY

The Seller and Authority jointly and severally make only the specified representations and warranties which are set forth in this Article IV.

As a material inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated by this Agreement, the Seller and Authority represent and warrant, as of the Effective Date (except to the extent any of the following representations and warranties specifically apply to or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 4.01. **Organization**

Seller is a township of the Second Class of the Commonwealth of Pennsylvania duly organized under the Pennsylvania Second Class Township Code. The Authority is a body corporate and politic, duly organized and existing under the Municipal Authorities Act and incorporated by appropriate legal action of the Seller.

Section 4.02. **Power and Authority**

Seller has (i) duly adopted the ordinance(s) authorizing the transactions contemplated by this Agreement, which remain(s) in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement, and (iii) duly authorized and approved the performance by the Seller of its obligations contained in this Agreement. The Seller has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. The Authority has (i) duly adopted the resolution(s) authorizing the transactions contemplated by this Agreement, which remain(s) in full force and effect, and (ii) duly authorized and approved the performance by the Authority of the obligations specific and exclusive to the Authority as contained in this Agreement. The Authority has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

Section 4.03. **Enforceability**

This Agreement has been duly authorized, executed and delivered by each of the Seller and the Authority and constitutes a valid and legally binding obligation of the Seller and the Authority, enforceable against the Seller and the Authority in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

Section 4.04. **No Conflict or Violation**

The execution and delivery of this Agreement by each of the Seller and the Authority, the consummation of the transactions contemplated by this Agreement and the performance by the Seller and the Authority of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Seller or the Authority under (i) any Law or (ii) any agreement, instrument or document to which the Seller or the Authority is a party or by which it is bound.

Section 4.05. **Consents and Approvals**

Schedule 4.05 sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by the Seller and the Authority or the performance by the Seller or the Authority of their respective obligations hereunder.

Section 4.06. **Undisclosed Liabilities**

Except as set forth on Schedule 4.06, there are no liabilities or obligations of Seller or the Authority as predecessor in interest, either accrued, absolute, contingent or otherwise, relating to the Acquired Assets, that would be required to be set forth on a balance sheet prepared under generally accepted accounting principles applicable to municipalities, other than liabilities incurred in the ordinary course that could not reasonably be expected to have a Material Adverse Effect on Buyer. Upon payment of the Purchase Price in accordance with Section 3.01, (a) all of the Outstanding Indebtedness shall, without further action, be immediately repaid, extinguished or defeased in full and (b) any security interests granted by Seller to secure its obligations pursuant thereto shall, without further action, be immediately extinguished or terminated at or before the Closing pursuant to the contractual terms applicable to such Outstanding Indebtedness.

Section 4.07. **Absence of Certain Changes or Events**

Except as set forth on Schedule 4.07, since December 31, 2020, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect and the Seller, either through itself or the Authority, has operated and maintained the System since December 31, 2020 in the ordinary course.

Section 4.08. **Tax Matters**

Except as set forth on Schedule 4.08 or as would not have a Material Adverse Effect, that (i) the Seller and the Authority as predecessor in interest have timely paid all Taxes that may have been or may be due and payable by the Seller or the Authority on or before the Closing Date, arising from the ownership or operation of the Acquired Assets or the System on or before the Closing Date; (ii) no Taxing authority has asserted any claim against either the Seller or the Authority for the assessment of any additional Tax liability or initiated any action or proceeding which could result in such an assertion; (iii) the Seller and the Authority have made all withholding of Taxes required to be made under all Laws and regulations, including without limitation, withholding with respect to compensation paid to employees, and the amounts withheld have been properly paid over to the appropriate Taxing authorities; and (iv) the Seller and the Authority have at all times been exempt from U.S. federal income Tax and from income Taxes imposed by the Commonwealth of Pennsylvania (and its political subdivisions) and by other states (and their respective political subdivisions), and income and revenue produced by or with respect to the System and the Acquired Assets has at all times been excluded from gross income by virtue of the provisions of Section 115(1) of the Code. This section does not apply to any Tax matter related to an employee benefit plan or compensation arrangement that is addressed separately in Section 4.11.

Section 4.09. **Real Property and Easements**

Schedule 4.09 identifies all Real Property of Seller and the Authority, as applicable, and separately identifies all Easements. Except as provided in Schedule 4.09, Seller does not lease (as lessee) any real property that is used in the operation of the System. There are no pending condemnation proceedings relating to any of the Real Property or Easements nor has Seller

actually received any written threats of any condemnation proceedings and, to the Knowledge of Seller, no such proceedings are threatened. Neither the Seller nor the Authority has received any written notices of any violations of any Law from any Governmental Authority with respect to the Real Property or the Easements which have not been cured in all material respects and, to Seller's Knowledge, no such violations of Law exist. With respect to the Real Property (i) there are no leases, options, rights of reversions or other rights of use or rights to acquire the Real Property held by third parties, (ii) Seller or Authority, as applicable, is in sole possession of the Real Property, and (iii) to Seller's Knowledge there are no encroachments either way across the boundary of the Real Property, nor any dispute with adjacent property owners over the location of boundaries or potential claims adverse to title.

Section 4.10. **Equipment and Machinery**

Schedule 4.10 sets forth all Equipment and Machinery included in the Acquired Assets. Except as set forth on Schedule 4.10, the Seller or Authority, as applicable, has good title, free and clear of all Liens (other than the Permitted Liens and Liens which are released on or before Closing) to such Equipment and Machinery. Except as specifically disclosed on Schedule 4.10, all the Equipment and machinery is owned by Seller or Authority, as applicable, and none is leased or used under any conditional sales, title-retention, lease, license or similar arrangement.

Section 4.11. **Employee Benefit Plans**

(a) Schedule 4.11(a) contains a true and complete list of all the Seller's Plans and Seller's Benefit Obligations, including amounts owed to current or past employees for severance, unpaid and unused vacation pay or sick leave, or similar obligations. All such Seller's Plans and Seller's Benefit Obligations are in full force and effect and are in material compliance both as to form and operation, with applicable provisions of Employee Retirement Income Security Act of 1974, as amended or the Code, and any other Laws, and with any applicable collective bargaining agreement. To Seller's Knowledge, no event has occurred which has resulted in the imposition of any liability on the Seller or the Authority under the Code or other Law with respect to any Seller's Plans or Seller's Benefit Obligations and there is no unfunded pension liability owed or owing to any Person pursuant to Seller's Plans that is required to be assumed by Buyer;

(b) Except as set forth on Schedule 4.11(b), with respect to the System, neither the Seller nor the Authority sponsor, maintain, contribute to, or are required to contribute to, any "multiemployer plan" within the meaning of Section 414(f) of the Code, and neither has any liability of any nature, whether known or unknown, fixed or contingent, with respect to any such multiemployer plan;

(c) Except as set forth on Schedule 4.11(c), neither the Seller nor the Authority sponsor, maintain, contribute to, or are required to contribute to, any medical, health, life or other welfare plan or benefits for present or future terminated or retired Personnel or their spouses or dependents, other than as required by COBRA, or any comparable state law, and neither has any liability of any nature, whether known or unknown, fixed or contingent, with respect to any such post-termination welfare benefits;

(d) The Seller and the Authority are and have been in compliance in all material respects with the requirements of COBRA regarding the Personnel and are not subject to any excise Tax under Code Section 4980B for the current or any prior taxable year; and

(e) Except as set forth on Schedule 4.11(e), neither the Seller nor the Authority has entered into any severance or similar arrangement with respect to any present or former Personnel that will result in any obligation (absolute or contingent) of Buyer to make any payment to any present or former Personnel following termination of employment, including the termination of employment effected by the transactions contemplated by this Agreement. The consummation of the transactions contemplated by this Agreement will not trigger any severance or other obligation of the Seller or the Authority as predecessor in interest for which Buyer shall have any liability.

Section 4.12. Seller's Personnel

(a) Schedule 4.12(a) sets forth all collective bargaining agreements and contractual relationships with Personnel relating to the System to which the Seller or the Authority is a party, including the identification of the parties thereto and the expiration dates. Other than the collective bargaining agreements and relationships set forth on Schedule 4.12(a), there are no commitments, contracts, agreements, arrangements or understandings (whether written or oral, formal or informal) of the Seller or the Authority with respect to the Union or the Union Personnel, and the collective bargaining agreements set forth on Schedule 4.12(a) constitute the entire agreement between the Authority and the other parties thereto, with respect to the subject matter thereof.

(b) Except as set forth on Schedule 4.12(b), the Authority shall timely pay, or cause to be timely paid, the Personnel as required under its policies and/or by Law for accrued but unused and unpaid vacation, sick leave and other accrued benefits as of the Closing Date. To Seller's Knowledge, all obligations to the Personnel under applicable wage and hour Laws and leave policies will have been satisfied by the Closing Date.

(c) The Authority or Seller has not, in the past five (5) years, effectuated:

(i) a "plant closing" (as defined in the Worker Adjustment and Retraining Notification Act ("WARN Act")) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the System; or

(ii) a "mass layoff" (as defined in the WARN Act) affecting any site of employment or facility of the System; nor has the System been affected by any transaction or engaged in layoffs or employment terminations sufficient in number to trigger application of any similar state or local Law.

None of the Personnel has suffered an "employment loss" (as defined in the WARN Act) during the previous six months.

Section 4.13. Environmental Compliance

Except as set forth on Schedule 4.13 or that otherwise could not be expected to have a Material Adverse Effect:

(a) To the Seller's Knowledge, the System as currently operated by the Seller and the Authority and all operations and activities conducted by the Seller and the Authority with respect to the System are in compliance in all material respects with all applicable Environmental Requirements.

(b) To the Seller's Knowledge, the Seller and the Authority has generated, used, handled, treated, stored and disposed of all Hazardous Materials in (i) compliance in all material respects with all applicable Environmental Requirements and (ii) a manner that has not given, and could not reasonably be anticipated to give, rise to Environmental Liabilities.

(c) Except as has been disclosed to Buyer on Schedule 4.13, neither the Seller nor the Authority has received notice of any Environmental Claims related to the System that have not been fully and finally resolved, and to the Knowledge of Seller no claims of Environmental Liabilities have been threatened allegedly arising from or relating to the System that have not been fully and finally resolved.

(d) To Seller's Knowledge, Hazardous Materials are not present at or on the System, there has been no Release of Hazardous Materials at, on or from any part of the System or the Acquired Assets, in each case in a manner that violates any Environmental Requirements or has resulted in, or could reasonably be anticipated to give rise to, Environmental Liabilities which has not been appropriately resolved pursuant to applicable Environmental Requirements.

(e) No Lien or activity use limitation or institutional control has been recorded affecting any Acquired Assets by any Governmental Authority due to either the presence of any Hazardous Material on or off the Acquired Assets or a violation of any Environmental Requirement except as has been disclosed by the Seller or the Authority to Buyer.

(f) Neither the Seller nor the Authority has Knowledge of any underground storage tanks on or at any of the Acquired Assets other than as set forth on Schedule 4.13. To the Seller's Knowledge, any underground storage tanks previously located at the Acquired Assets other than as set forth on Schedule 4.13 have been removed or otherwise closed, plugged and abandoned in compliance with applicable Environmental Requirements in effect at the time of such closure.

(g) Neither the Seller nor the Authority has Knowledge of any PCB Equipment on or at any of the Acquired Assets. Any PCB Equipment that previously existed at the Acquired Assets has been flushed of polychlorinated byphenyls or has been removed and properly disposed of, in compliance with applicable Environmental Requirements, and any remaining PCB Equipment is labeled to the extent required under applicable Environmental Requirements and being managed in compliance with applicable Environmental Requirements.

(h) Neither the Seller nor the Authority has Knowledge of the existence of any Regulated Asbestos Containing Material in or on the Acquired Assets in an aggregate amount that would reasonably be expected to result in an Environmental Liability; and any Regulated Asbestos Containing Material is being managed in compliance with all applicable Environmental Requirements.

(i) The Seller has delivered to Buyer (1) all environmental site assessments, if any, pertaining to the System, that the Seller or the Authority has Knowledge of, within the previous five (5) years, (2) all material compliance audits or compliance assurance reviews prepared within the previous five (5) years relating to compliance with Environmental Requirements by the System, and (3) all documents pertaining to, any known and unresolved Environmental Liabilities incurred in relation to the System, to the extent possessed by or under the reasonable control of the Seller or the Authority.

(j) Except as has been disclosed to Buyer on Schedule 4.13, neither the Seller nor the Authority has received notice or has Knowledge of any historic environmental conditions that could give rise to any Environmental Claims related to the System, any Acquired Asset, or the underlying Real Property.

Section 4.14. **Authorizations and Permits**

Schedule 4.14 sets forth the Authorizations and Permits of the Seller and the Authority as applicable. The Seller has made true and complete copies of all Authorizations and Permits available to Buyer. Except as set forth on Schedule 4.14, the Seller and Authority, as applicable, is in compliance in all material respects with all terms, conditions and requirements of all Authorizations and Permits, except in each case where such violation or failure, individually or in the aggregate, would not have a Material Adverse Effect, and no proceeding is pending or, to the Knowledge of the Seller threatened relating to the revocation or limitation of any of the Authorizations or Permits, other than those revocations or limitations which do not individually or in the aggregate have a Material Adverse Effect.

Section 4.15. **System Contracts**

(a) Schedule 4.15 sets forth a complete and accurate list of all the Assigned Contracts and any amendments thereto.

(b) Except as specifically identified on Schedule 4.15, the Seller and the Authority have made available to Buyer true and complete copies of all the contracts primarily related to the System, including the foregoing Assigned Contracts.

(c) All of the Assigned Contracts set forth on Schedule 4.15 are in full force and effect. Neither Seller nor the Authority has, nor to the Knowledge of the Seller has any other party thereto, breached any material provision of or defaulted under the material terms of, nor does any condition exist which, with notice or lapse of time, or both, would cause the Seller or the Authority, or to the Knowledge of Seller, any other party, to be in default under any Assigned Contract.

Section 4.16. **Compliance with Law; Litigation**

(a) The Seller and the Authority have operated and are operating the System in compliance, in all material respects, with all Laws, Authorizations and Permits and are not in breach of any Law, Authorization or Permit that would have a Material Adverse Effect on the operations of the System or on the Buyer. There are no Authorizations or Permits from any Governmental Authority necessary for the operation of the System as currently being operated except for those Authorizations and Permits listed in Schedule 4.14.

(b) Except as set forth on Schedule 4.16, there are no facts, circumstances, conditions or occurrences regarding the System that could reasonably be expected to give rise to any environmental claims or governmental enforcement actions that could reasonably be expected to have a Material Adverse Effect, and there are no past, pending or threatened environmental claims or governmental enforcement actions against the Seller or the Authority that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(c) Except as set forth on Schedule 4.16, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller or the Authority before or at the Closing Effective Time, which will have a Material Adverse Effect. There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller or the Authority which could materially affect the validity or enforceability of this Agreement.

Section 4.17. **Broker's and Finder's Fees**

No broker, finder, or Person is entitled to any commission or finder's fee by reason of any agreement or action of Seller or the Authority in connection with this Agreement or the transactions contemplated by this Agreement. Seller has employed PFM Financial Advisors LLC, as municipal advisor to provide transaction structuring advice and to provide Seller with municipal advice relating to the sale of the System. Seller is solely responsible to pay all fees owed to PFM Financial Advisors LLC in connection with the transactions contemplated by this Agreement.

Section 4.18. **Title to the Acquired Assets; Sufficiency**

(a) Except as set forth on Schedule 4.18(a), the Seller or the Authority as predecessor in interest has good and marketable title to, valid leasehold interest in or valid licenses or Easements to use, all of the Acquired Assets, free and clear of all Liens, other than Permitted Liens and Liens which will be fully and unconditionally released at or before Closing. The use of the Acquired Assets is not subject to any Liens, other than Permitted Liens, and such use does not encroach on the property or the rights of any Person.

(b) Except as set forth on Schedule 4.18(b), the Acquired Assets are sufficient for, and constitute all the assets, properties, business, goodwill and rights of every kind and description, and services required for, the continued conduct and operation of the System by Buyer in substantially the same manner as currently conducted and operated by Seller and the

Authority. Except for the Excluded Assets and except as set forth on Schedule 4.18(b), (i) the Acquired Assets, taken as a whole, comprise all the assets, properties, business, goodwill and rights of every kind and description used or held for use in, or useful or necessary to the operation of the System as currently operated by Seller and the Authority, and (ii) there are no assets, properties, business, goodwill, rights or services used in the conduct or operation of the System that are owned by any Person other than Seller or the Authority as predecessor in interest that will not be licensed or leased to Buyer under valid, current license arrangements or leases pursuant to an Assigned Contract, if applicable. None of the Excluded Assets are material to the System.

Section 4.19. **Pending Development Plans**

Schedule 4.19 sets forth a full and complete list of all Pending Development Plans for which Seller has received notice as of the Effective Date. Each Pending Development Plan, if consummated, could result in additional customers and reduction of available treatment capacity. Seller provides no assurances whatsoever that any development or expansion of the Service Area associated with any Pending Development Plan will actually be undertaken or completed. The Parties expect that Schedule 4.19 will change from time to time between the Effective Date and Closing, and the Seller shall promptly provide updates to Schedule 4.19 upon the occurrence of any significant change, decision or development and shall further deliver such updates pursuant to Section 9.03.

Section 4.20. **Customer Sewer Laterals and Grinder Pumps**

As of the Closing Date, neither the Seller nor the Authority will own, or have any responsibility for: any grinder pumps; connecting facilities located in the area originating from the Seller's terminus point of the collection facilities at the edge-of-road or curb-line when the facilities are located with a public right-of-way or the edge of an easement where the collection facilities are located within private property to and throughout the customer's property; or any and all piping and fixtures internal to each individual customer structure (whether residential, commercial, industrial or other customer classes/types).

ARTICLE V.
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer makes only the representations and warranties that are set forth in this Article V.

As a material inducement to the Seller to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer represents and warrants to the Seller, as of the Effective Date and as of the Closing Date (except to the extent any of the following representations and warranties specifically apply or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

Section 5.01. **Organization**

Buyer is duly organized, validly existing and in good standing under the laws of the state of its organization.

Section 5.02. **Authorization and Validity of Agreement**

Buyer has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. This Agreement has been duly authorized, executed and delivered by the Buyer and constitutes a valid and legally binding obligation of the Buyer, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

Section 5.03. **No Conflict or Violation**

The execution and delivery of this Agreement by the Buyer, the consummation of the transactions contemplated by this Agreement and the performance by the Buyer of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Buyer under (i) any Law, (ii) any material agreement, instrument or document to which the Buyer is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Buyer.

Section 5.04. **Consents and Approvals**

Schedule 5.04, sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

Section 5.05. **Broker's and Finder's Fees**

No broker, finder or third party is entitled to any commission or finder's fee in connection with this Agreement or the transactions contemplated by this Agreement.

Section 5.06. **Financial Wherewithal**

Upon Closing, and after giving effect to the consummation of the transactions contemplated by this Agreement and the incurrence of any indebtedness in connection therewith, Buyer shall have the financial ability and will have sufficient working capital for its needs and anticipated needs to operate the System as a certificated public utility system regulated by the PaPUC authorized, among things, to provide wastewater utility services to retail residential, commercial and industrial customers in the System.

Section 5.07. **Sufficient Funds**

Buyer shall have sufficient funds available at Closing to consummate the transactions contemplated by this Agreement, to pay the Purchase Price in accordance with Article III and expenses related to the transactions contemplated by this Agreement, and on and after Closing, to generally provide ownership, operation and capital for the operations and capital needs of the

System following the Closing, and assuring that the customers of the System will receive safe, adequate and reliable wastewater service equal to or better than such customers would have received without the transactions contemplated by this Agreement and at all times consistent with the provisions of the Pennsylvania Public Utility Code, 66 Pa. C. S. § 101 *et seq.*, and Law.

Section 5.08. **Independent Decision**

Except as expressly set forth in this Agreement, or any of the related agreements, Buyer acknowledges that (a) neither Seller nor any other Person has made any representation or warranty, express or implied, as to the accuracy or completeness of the System or information provided to Buyer, and (b) neither Seller nor any other Person shall have or be subject to any liability to Buyer or any other Person resulting from the distribution to Buyer, or Buyer use of, any information regarding the System or Acquired Assets that has been furnished or made available to Buyer and its Representatives. Buyer acknowledges that other than as expressly set forth in this Agreement or any related agreement, Seller expressly disclaims any warranty of future profitability or future earnings performance of any Acquired Assets or the System.

Section 5.09. **Scheduled Matters**

Buyer acknowledges that: (a) the inclusion of any matter on any Schedule is not an admission by Seller that such listed matter is material or that such listed matter has or could have a Material Adverse Effect or constitutes a material liability with respect to the Acquired Assets; (b) matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in such Schedules; and (c) such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

Section 5.10. **Independent Investigation**

Buyer acknowledges that it has conducted an independent investigation of the financial condition, assets, liabilities, properties and projected capital needs and operations of the System in making its determination as to the propriety of the transaction contemplated by this Agreement and, in entering into this Agreement and related agreements, has relied solely on the results of its investigation and on the representations and warranties of the Seller and the Authority expressly contained in Article IV of this Agreement.

Section 5.11. **Litigation**

The Buyer is not in breach of any applicable Law that could have a Material Adverse Effect on the operations of the System or the Buyer. Neither the Buyer nor any Affiliate of the Buyer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors, or on any other list of Persons with which the Seller may not do business under applicable Law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. Except as set forth on Schedule 5.11, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Buyer, threatened against the Buyer before or at the Closing Effective Time, which will have a material adverse effect on (i)

the transactions contemplated by this Agreement or (ii) the validity or enforceability of this Agreement.

ARTICLE VI.
TITLE TO REAL ESTATE; EASEMENTS

Section 6.01. Evidence of Title

Subject to Section 6.06, with respect to all Real Property, Buyer shall obtain, at its sole cost and expense, a commitment for an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006 (the "Title Commitment"), issued by a title insurance company selected by Buyer and licensed to insure title to real property by the Commonwealth of Pennsylvania (the "Title Company"), having an effective date after the Effective Date. Promptly following the Effective Date, Buyer shall order the Title Commitment from the Title Company and shall provide Seller evidence of the order. Notwithstanding anything to the contrary in Section 6.02(a) below, Buyer shall not be entitled to send an Objection Notice with respect to any parcel of Real Property and the Title Commitment for the same if, within forty five (45) Business Days after the Effective Date, Buyer has not ordered the Title Commitment from the Title Company for such parcel of Real Property and provided Seller with evidence of the same.

Section 6.02. Objections to Title

(a) **Notice of Objections.** Within thirty (30) days of Buyer's receipt from the Title Company of a Title Commitment for any of the parcels of Real Property, Buyer shall deliver to Seller a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the Title Commitment, along with Buyer's written notice to Seller of any of the exceptions to title set forth on Schedule B of such Title Commitment to which Buyer objects (the "Title Objection Items") (such written notice of Buyer being referred to as the "Objection Notice"). The Objection Notice shall (a) not contain exceptions that are Permitted Liens, (b) not relate to the Buyer or any requirements, conditions or obligations of the Buyer, (c) not relate to matters of record and set forth in the Title Commitment and unrecorded matters revealed to Buyer in its due diligence or revealed in the survey unless such Title Objection Item materially and adversely in Buyer's commercially reasonable opinion restricts or prevents the use of the Real Property in the current operation of the System and (d) not contain the standard Title Company exceptions to the extent that such standard Title Company exceptions are commonly removed by the execution and delivery of a standard owner's affidavit by Seller. The Buyer shall include a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the same in the Objection Notice. If Buyer provides the Seller with an Objection Notice, the Seller shall use commercially reasonable efforts to have all of the Title Objection Items cured, satisfied or released of record, or insured over, by the Title Company (individually, "Cure" and collectively, "Cured") before or as of the Closing. At or before the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing that Seller has Cured all such Title Objection Items. In the event that Seller is unable to Cure any Title Objection Item per this Section 6.02(a), Seller shall

indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.02(a) shall not be subject to the Threshold Amount nor the Liability Cap set forth in Section 8.05. For avoidance of doubt, Buyer acknowledges that no item listed in clauses (a) through and including (d) above, may be objected to by Buyer as a Title Objection Item.

(b) Liens. Without limiting the Seller's obligations pursuant to Section 6.02(a) above, before or as of the Closing, the Seller shall, at the Seller's cost and expense, Cure any Lien encumbering the Real Property which can be Cured by the payment of money (other than Permitted Liens).

(c) Title Endorsements/Survey. Buyer shall pay for any endorsements required by the Buyer or any mortgagee of the Buyer to Buyer's Title Policy. If any survey is required by Buyer or its mortgagee, either as a condition to any such endorsement or otherwise, the Buyer shall obtain it at its sole cost and expense. If Buyer obtains a survey of any or all of the Real Property and desires the deed to contain the legal description based on such survey, if the same is not identical to the legal description contained in Seller's deed of record, Seller is not obligated to include the same in the deed to Buyer unless the survey is certified to Seller and such description is included in the deed on a "quitclaim" basis only and without warranty of title.

(d) License at Closing. At Closing, Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's rights to access such Real Property (as acquired from the Authority) in order to allow Buyer to operate and maintain in the System until such time as Buyer is provided title to such Real Property as provided for in this Agreement. For the avoidance of doubt, Seller shall provide such title as soon as reasonably practicable in accordance with Section 6.01.

(e) Insurable Claims. To the extent any Claim for Losses under Article VIII constitutes an Insurable Claim (as defined below), Buyer shall assert the Insurable Claim and use its commercially reasonable efforts to obtain recovery for such Insurable Claim against the Title Company (which shall include commencing litigation and diligently prosecuting such Insurable Claim to judgment) before pursuing a Claim for Losses under Article VIII. If at any time following a non-favorable judgment that substantially denies the relief sought by Buyer from the Title Company in connection with the Insurable Claim (each a "Non-Favorable Judgment"), Buyer may, following such Non-Favorable Judgment, pursue the Seller with a Claim for Losses under Article VIII (any such Claim against the Seller following an attempted Insurable Claim against the Title Company being a "Residual Title Claim"). Notwithstanding anything to the contrary in Article VIII, Buyer may assert a Claim for Losses based upon a Residual Title Claim for a sixty (60) day period after the Non-Favorable Judgment. For purposes of this Section 6.02(e), an "Insurable Claim" means a Claim that: (i) arises out of Buyer's discovery of a title defect or encumbrance with respect to any of the Real Property following the Closing that materially restricts or prevents the use of such Real Property in the operation of the System; and (ii) constitutes a claim against the Title Company under Buyer's Title Policy. Buyer acknowledges that any and all Claims which Buyer could otherwise bring as a breach of a covenant of title under the special warranty deed to the Real Property shall be included within the Claim for Losses under Article VIII and is subject to the terms of this Section 6.02(e).

Section 6.03. **Title Expenses**

Irrespective of whether the transactions described by this Agreement are consummated and Closing occurs, Buyer shall pay all costs and expenses of obtaining the Title Commitment, Title Policy and any survey.

Section 6.04. **UCC Search; Releases**

Not later than one hundred eighty (180) days after the Effective Date, Buyer shall obtain at its sole cost and expense a Uniform Commercial Code search against Seller covering any of the personal property or fixtures included among the Acquired Assets from the Office of the Secretary of the Commonwealth of Pennsylvania and the Recorder of Deeds Montgomery County, Pennsylvania (the “UCC Search”). On or before the Closing, Seller shall at its sole cost and expense obtain releases of any and all security interests in any of the Acquired Assets which are not Permitted Liens. The Seller shall provide the form of the releases of such security interests to Buyer on or before the Closing Date.

Section 6.05. **Easements**

(a) **Abstract of Easements.** Within ninety (90) days after the Effective Date, the Seller shall, at its sole cost and expense, cause an abstractor selected by the Seller and reasonably acceptable to Buyer and the Title Company (the “Abstractor”), to perform a search of the public land records of Montgomery County, based on the Seller’s and the Authority’s records and plans of the System (and such other sources of information as are reasonably related thereto), by searching the grantee index in the names of the Seller and the Authority and such other searches as the Abstractor may reasonably make, to (i) identify and provide Buyer with title information on any and all recorded Easements (including information related to any Liens or encumbrances on Seller’s or the Authority’s title thereto), and (ii) taking into account any information provided by Buyer, identify all Missing Easements. During the process, as the Abstractor provides written search results to the Seller (including updated versions of the abstractor search result chart), the Seller will promptly provide the same to Buyer for its review, and, without limiting the foregoing, the Seller shall, or shall cause the Abstractor to, provide Buyer with periodic updates (which shall occur no less frequently than bi-weekly) on the status of the activities set forth in the previous sentence.

(b) **Notice of Objections.** Within forty-five (45) days of Buyer’s receipt from the Seller (or the Abstractor) of the information specified in subsection (a) above, Buyer shall deliver to Seller written notice identifying the encumbrances on the Easements that, in Buyer’s reasonable commercial opinion, could materially and adversely restrict or prevent the use of the Easements in the current operation of the System (the “Easement Objection Items”) (such written notice of Buyer being referred to as an “Easement Objection Notice”). The Easement Objection Notice shall not include any encumbrances that: (a) are Permitted Liens, (b) pertain to the Buyer or any requirements, conditions or obligations of the Buyer, or (c) are matters of record and set forth in the Abstractor’s search results that do not, in Buyer’s commercially reasonable opinion, materially and adversely restrict or prevent the use of the Easements in the current operation of the System (specifically including mortgages or other instruments securing indebtedness incurred by the owner of the land burdened by the Easement). If Buyer provides the Seller with an

Easement Objection Notice, the Seller shall use commercially reasonable efforts to have the Easement Objection Items Cured, prior to or as of the Closing. At or prior to the Closing, the Seller shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing Seller has Cured all Easement Objection Items. In the event that Seller is unable to Cure any such Easement Objection Item per this Section 6.05(b), Seller shall indemnify Buyer for such inability per the terms of Article VIII hereof, provided that Seller's indemnification obligation arising under this Section 6.05(b) shall not be subject to the Threshold Amount nor the Liability Cap set forth in Section 8.05.

(c) Missing Easements. If during the process of Abstractor's review and investigation of the Montgomery County land records, either Party determines, based on the Abstractor's investigation, that there is a Missing Easement, the Seller (at its cost and expense) shall take any and all actions (including the use of its power of condemnation) to obtain any such Missing Easements so that the same may be sold, assigned, transferred and conveyed to Buyer at the Closing pursuant to the terms and conditions of this Agreement. The Seller shall pay for all costs and expenses incurred in connection with obtaining each Missing Easement (including any consideration payable to the landowner in connection with condemnation, in lieu of condemnation or otherwise to obtain Missing Easements). If Seller has not obtained all Missing Easements by the date that is ninety (90) days after the date that Abstractor has completed his review of the County land records and delivered the last results of the same to Seller (the "Abstract Completion Date"), then the Seller (at its cost and expense) shall, as soon as reasonably practicable, commence and file in the Court of Common Pleas, Montgomery County, a condemnation or eminent domain proceeding to obtain any and all such Missing Easements. For the purposes of clarity, upon obtaining each Missing Easement (including upon the final resolution of a condemnation proceeding), each Missing Easement that has been acquired or obtained by the Seller is considered an Easement.

(d) License at Closing. At Closing, Seller shall provide Buyer with a license agreement granting Buyer a license in all of Seller's and the Authority's rights to access such Missing Easement in order to allow Buyer to operate and maintain the System until such time as Buyer is provided title to such Missing Easement as provided for in this Agreement.

(e) Escrow at Closing for Missing Easements. For all of the Missing Easements listed on attached Schedule 6.05(e) as of the Closing Date, Seller will have additional time following the Closing Date to secure and assign and transfer the Missing Easements to Buyer. Seller shall diligently pursue and deliver the Missing Easements on or before the third (3rd) anniversary of the Closing Date, subject to any extension as permitted by the Escrow Agreement, that will require, among other things, the funding of an escrow account in the amount of Two Thousand Dollars (\$2,000) for each Missing Easement set forth on Schedule 6.05(e) as of the Closing Date to secure the Seller's obligations under this Agreement and the Escrow Agreement.

Section 6.06. Unscheduled Property

The Parties acknowledge that the Seller may own interests in or have the legal right to use or occupy the Real Property and/or Easements that are necessary or essential to the operation of the System and that are not set forth in Schedule 4.09 (the "Unscheduled Real Property"). If the

Parties discover before or after the Closing Date, one or more parcels of Unscheduled Real Property, the discovering Party shall give written notice of such discovery to the non-discovering Party. In addition to its obligations in Section 2.03, Seller shall convey, assign or otherwise transfer any rights to each parcel of Unscheduled Real Property, with no adjustment to the Purchase Price, in such a manner as to provide Buyer with reasonable assurances that Buyer will have the right to use or occupy the Unscheduled Real Property as it was used by Seller as of the Effective Date.

ARTICLE VII.
OTHER AGREEMENTS

Section 7.01. **Taxes**

Except as provided in this Agreement, Seller or the Authority as predecessor in interest shall pay any and all Taxes, if any, arising out of the ownership of the Acquired Assets and out of the operation of the System before the Closing Date.

Section 7.02. **Cooperation on Tax Matters**

Seller and the Authority shall furnish or cause to be furnished to Buyer, as promptly as practicable, whether before or after the Closing Date, such information and assistance relating to the System as is reasonably necessary for the preparation and filing by Buyer of any filings relating to any Tax matters.

Section 7.03. **Personnel Matters**

(a) Subject to the obligations of the Authority under applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Buyer shall, or shall cause an Affiliate of Buyer to, offer employment effective on the Closing Date, to the Personnel set forth on Schedule 7.03(a), who are available to commence work on the Closing Date, subject to Buyer's existing standard hiring policies and procedures applicable to new employees, (including background check and drug testing, and written acknowledgment of Buyer's Code of Conduct and other employment policies, if applicable) except with respect to benefits as otherwise provided in Section 7.03(c). The Personnel who accept such employment and commence employment on the Closing Date, are referred to in this Agreement as the "Transferred Personnel." Schedule 7.03(a) shall not be amended after the date this Agreement is executed without the prior written consent of Buyer. For purposes of clarity, nothing contained in this Section 7.03 limits, restricts or prohibits Buyer from interviewing the Personnel for informational purposes only in connection with the transfer of employment of the Personnel to Buyer as provided in this Section 7.03. Buyer may make the required offer of employment at such a time to permit Buyer to require such offerees' decision to accept or reject such offers up to three (3) months prior to the Closing Date. Nothing contained in Section 7.03 limits or restricts Buyer from interviewing Personnel for employment purposes in connection with the transfer of Personnel to Buyer.

(b) Transferred Personnel who are Non-Union Personnel will be employees-at-will of Buyer. Buyer shall provide each of the Transferred Personnel who are Non-Union Personnel

compensation and benefits which are substantially comparable to the compensation and benefits then provided to similarly situated employees of Buyer. Nothing in this Agreement requires Buyer to provide any particular form or type of employee benefit program, plan or policy to any Transferred Personnel who are Non-Union Personnel as a result of the transaction contemplated by this Agreement.

(c) Subject to the obligations of the Authority under the Collective Bargaining Agreement and Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, with respect to any employee benefit plan maintained by Buyer or an Affiliate of Buyer for the benefit of any Transferred Personnel, effective as of the Closing, Buyer shall, or shall cause its Affiliate to, recognize all service of the Transferred Personnel with the Authority, as if such service were with Buyer for purposes of determining eligibility and vesting for benefits (except where doing so would result in a duplication of benefits). Buyer's pension plans and retiree medical plans are excluded from the foregoing sentence.

(d) Subject to the obligations of the Authority under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, effective as of the Closing, the Transferred Personnel employment with the Authority will end and will cease active participation in the Seller's Plans. Seller shall remain liable for all eligible claims for benefits under the Seller's Plans that are incurred by the Transferred Personnel before the Closing Date. Subject to the obligations of Seller, as successor to the Authority, under the Collective Bargaining Agreement and applicable Law and Buyer's obligations specified in Section 7.03(h) below with respect to Union Personnel, Seller shall remain liable to make any contributions to Seller's Plans related to, and/or to fund any retirement benefits accrued by, the Transferred Personnel before Closing. Notwithstanding anything in this Agreement to the contrary, Seller will remain liable for all pay, expenses, liabilities, wages, Taxes and all other obligations and liabilities of any nature whatsoever relating to (i) the period prior to the Closing Date with respect to any Personnel that become Transferred Personnel and (ii) relating to all periods before or after the Closing Date with respect to any current or former Personnel who do not become Transferred Personnel.

(e) This Section 7.03 binds and inures solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 7.03, express or implied, is conferred upon any other Person any rights or remedies of any nature whatsoever under or because of this Section 7.03. This Section 7.03 does not create any right in any Transferred Personnel or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever, and is not be deemed to restrict Buyer in the exercise of its independent business judgment in establishing or modifying any of the terms or conditions of the employment of the Transferred Personnel. Nothing contained in this Section 7.03 constitutes an amendment of, or an undertaking to amend, any employee benefit plan, program or arrangement maintained by Buyer or its Affiliates or is intended to prevent Buyer or its Affiliates from amending or terminating any such employee benefit plan, program or arrangement in accordance with its terms.

(f) Notwithstanding anything in this Agreement to the contrary, it is expressly understood that Buyer will not acquire any asset, or assume any liability or obligation in

connection with the transactions contemplated by this Agreement relating to any of the Seller's Plans or Seller's Benefit Obligations. Seller is solely responsible for any liability, funding obligation, claim or expense arising from the Seller's Plans or Seller's Benefit Obligations, both before, and after, the Closing Date, except as provided in Section 7.03(c).

(g) At a reasonable time prior to the Closing Date, Seller and Authority shall transfer all records pertaining to the employment of the Transferred Personnel to Buyer including, but not limited to, all personnel and human resources Files and Records.

(h) Effective as of and conditioned upon Closing and to the greatest extent permissible by law:

(1) Buyer shall recognize the Union as the exclusive bargaining representative for Union Personnel in their current bargaining unit if the Buyer's employees performing the bargaining unit work previously performed by Union Personnel constitute at least a majority of Union Personnel in the applicable bargaining unit and the related bargaining unit contains more than one (1) employee.

(2) To the extent the Union is recognized pursuant to Section 7.03(h)(1) herein, Buyer shall collectively bargain in good faith with the Union to establish a new collective bargaining agreement. Except as outlined in Section 7.03(h)(3) herein, if initial terms and conditions of employment cannot be agreed to by the Buyer and the Union, Buyer will adopt Seller's Collective Bargaining Agreement for employees in the applicable bargaining unit as of and conditioned upon Closing.

(3) Buyer is not required, however, to provide medical insurance, paid time off or pension benefits as provided for in the Collective Bargaining Agreements, but instead may provide Union Personnel with the medical insurance, paid time off and retirement benefits it provides to similarly situated employees. The Buyer also shall not be bound by and any provision of the Collective Bargaining Agreement with which it legally cannot comply. Seller makes no representations, and Buyer is solely responsible for determining, that these terms meet Buyer's obligations under applicable labor law.

Section 7.04. **Initial and Future Rates**

(a) **Rates**. After Closing, Buyer shall implement the Seller's sanitary wastewater rates then in effect at Closing, as set forth on Schedule 7.04 and inclusive of any PaPUC permitted or required surcharges or pass-through costs ("**Base Rates**"), as Buyer's effective sanitary wastewater rates, provided that the rates reflected on Schedule 7.04 (at Closing) shall not be lower than those in effect on the date of the Effective Date. The Base Rates shall not be increased until after the second anniversary of the Closing Date (the "**Freeze Period**") provided that the foregoing Freeze Period restriction shall not apply to rates applicable to the Municipal Agreements or any customer(s) receiving services pursuant to such Municipal Agreements nor shall the Freeze Period apply to any customer receiving services pursuant to any other agreement set forth set forth on Schedule 4.15. During the Freeze Period, Buyer shall apply its then-existing miscellaneous fees and charges, rules and regulations for wastewater service as set forth in Buyer's tariff within Seller's Service Area. Buyer intends to bill on a monthly basis.

(b) PaPUC Approval. The Buyer shall include the rate provisions of Section 7.04(a) in its requested PaPUC Governmental Approval.

Section 7.05. **Buyer Taxpayer**

From and after the Closing Date, Buyer acknowledges that, upon conveyance of the Acquired Assets to Buyer, the Buyer will be subject to, among other Taxes, real estate Taxes, which Buyer shall pay when due. But solely to the extent such Taxes are owed for and relating to periods after the Closing.

Section 7.06. **PaPUC Approval**

(a) Promptly after the Effective Date, Buyer shall timely initiate and faithfully prosecute the necessary proceedings to obtain from the PaPUC (i) the issuance of certificates of public convenience to Buyer to provide wastewater services in the Service Area, (ii) the approval of the acquisition of the System by Buyer under terms and conditions that are reasonably acceptable to Seller and Buyer, and (iii) the approval of any inter-municipal agreements. Seller shall cooperate with and assist Buyer in proceedings before the PaPUC.

(b) The Parties agree that the procedures for determining fair market value of the System and Acquired Assets outlined in subsection (a) of Section 1329 of Title 66 of the Pennsylvania Consolidated Statutes ("Section 1329") shall be utilized and filed with the PaPUC as contemplated by Section 1329.

(c) The fees and expenses related to engaging the licensed engineer for such Section 1329 determination shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by the Seller.

(d) To the extent requested by Buyer, Seller shall participate in any proceedings before the PaPUC as an intervenor and active party, provided that the Seller shall bear the fees and expenses directly related to such intervention. Seller may be represented by the counsel of its choice in any such proceedings.

(e) Buyer, in Buyer's first base rate proceeding with respect to the System following the Closing, shall propose the use of statutory and regulatory mechanisms that may be available to Buyer to benefit the Buyer's acquired customers for ratemaking purposes. In the Buyer's first base rate proceedings including the Seller's System, the Seller shall not file an intervention, complaint (formal or informal), or protest of Buyer's base rate proceedings. For the avoidance of doubt this provision does not apply to citizens in the Township.

Section 7.07. **Remedies for Breach of Article VII Agreements**

If Buyer breaches any of the covenants and agreements set forth in this Article VII, in addition to all other rights and remedies available at law or in equity, including specific performance and/or injunctive relief, Seller may commence proceedings before the PaPUC seeking enforcement of such covenants and agreements.

Section 7.08. **Operation and Maintenance of MS4 and Stormwater Systems**

Subject to Law, the Seller shall at all times maintain ownership of its MS4 system and stormwater system assets. This provision shall not preclude Seller from transferring its MS4 system and stormwater system assets to another governmental entity, municipal authority or other qualified purchaser at a future time.

Section 7.09. **Pending Development Plans**

(a) Buyer and the Seller acknowledge that from the time of the Effective Date, the Seller shall continue to administer, and perform its duties and responsibilities with respect to the Pending Development Plans set forth on Schedule 4.19. For the avoidance of doubt, after the Closing Date, the Seller shall not seek to collect any EDU or tapping related fees.

(b) Following the Effective Date, Seller shall not enter into any contract with a third party that contemplates the construction of new sanitary wastewater facilities or upgrades to existing facilities, including, without limitation, pumping stations, force mains, manholes, or pipelines for service to future customers related to Pending Development Plans (collectively, "New System Assets") without providing a draft of such contracts to Buyer for its review and approval as to the design and specifications before execution by the parties to such contracts. Buyer shall have fifteen (15) Business Days to review and approve such contracts, and Buyer's failure to object in writing to any terms of such contracts within such fifteen (15) Business Day review period is deemed an approval of the same by Buyer.

Section 7.10. **Act 537 Plan**

(a) Buyer acknowledges that Seller and the Authority as predecessor in interest have previously committed to an official plan, commonly known as an Act 537 Plan (the "Act 537 Plan") under the Pennsylvania Sewage Facilities Act ("Act 537"), which has been made available to Buyer. Buyer understands that the Act 537 Plan contains obligations and commitments, as more fully set forth in the Act 537 Plan to complete certain improvements and upgrades to the System (the "System Improvements"). Buyer shall accept and complete all of the System Improvements as Seller and the Authority agreed to complete under the existing Act 537 Plan. Prior to agreeing to further obligations pursuant to future amendments to the Act 537 Plan that could reasonably be deemed to affect Buyer, Seller shall provide written notice of such proposed amendment(s), and Buyer and Seller shall negotiate in good faith to resolve any objections Buyer may raise in connection with such proposed amendment(s).

(b) Buyer acknowledges Seller and the Authority as predecessor in interest has jurisdiction over sewage facilities planning and sewer service within portions of the System that provide service within the Service Area through the Act 537 Plan and its Act 537 planning program, zoning, subdivision and land development ordinances and comprehensive land use planning policies. Buyer, Seller and the Authority shall cooperate with respect to current and future sewage facilities planning and sewer service consistent with the provisions of this Section 7.10.

(c) Subject to PaPUC approval of the Service Area as provided in Section 7.06, Buyer shall extend sewer lines and provide sewage collection and treatment services to properties within the Service Area in a manner consistent with the Act 537 Plan and the Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders. Seller will confer with Buyer concerning any amendment to the Act 537 Plan that would affect the provision of sewage collection and treatment services within the Service Area. Neither Seller nor the Authority shall propose or adopt any amendment to the Act 537 Plan that would reduce the Service Area or divert wastewater flows generated from properties located within the Service Area from being served by the System without the approval of Buyer.

(d) Buyer will not request, pursue, or implement expansions of the System within the Seller beyond the current Service Area (that would trigger an Act 537 Plan amendment) without the prior written approval of Seller and the PaDEP. Seller shall promptly notify and confer with Buyer, and consider Buyer's comments, concerning any proposed Act 537 Plan amendment (including any sewage facilities planning module) that would involve the provision of sewage collection and treatment services by the System to area or properties outside of the Service Area. With respect to any such potential Act 537 Plan amendment, Seller and Buyer shall cooperate in evaluating alternatives for provision of sewage services to such areas consistent with the requirements of 25 Pa Code Ch. 71, including consideration of the technical feasibility, economic feasibility and cost effectiveness, consistency with the objectives and policies of plans and requirements of 25 Pa. Code Ch. 71.21(a)(5), consistency with municipal land use plans and ordinances, subdivision ordinances and other ordinances and plans for controlling land use and development, technically and administratively able to be implemented, and other factors required under Act 537 or under Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders.

(e) If Seller and Buyer each determine that the provision of sewage collection and treatment services by the System to certain areas or properties outside of the Service Area is technically feasible, economically feasible and cost effective, and meets all of the requirements set forth in Act 537 and 25 Pa. Code Ch. 71, the Seller and the Authority shall amend the Act 537 Plan to include such identified areas and properties in the Service Area. If Seller and the Authority amend the Act 537 Plan pursuant to this subsection and such amendment is approved by PaDEP, (i) Buyer shall request that the modified Service Area be approved by PaPUC; and (ii) subject to PaPUC approval of the inclusion of such modified Service Area, Buyer shall extend sewer lines and provide sewage collection services to properties within such Service Area in a manner consistent with the Act 537 Plan and Buyer's tariff, the Public Utility Code, and the Pa PUC's regulations and orders.

Section 7.11. Utility Valuation Experts

Buyer and Seller shall each be responsible for the costs associated with their respective Utility Valuation Expert for the preparation and completion of their respective Utility Valuation Expert's appraisal report and any additional work by their respective Utility Valuation Expert necessary to assist in the processing and prosecution of the application to the PaPUC in regard to this transaction under Section 1329.

Section 7.12. **Compliance and Operational Reports**

After the Effective Date and through the Closing Date, Seller shall provide Buyer with a monthly report to the person designated by Buyer, disclosing any and all material compliance or operational deficiencies that occurred during the previous month. During the same period, Seller shall also provide Buyer with copies of all reports filed with PaDEP regarding the System, including any discharge monitoring reports, associated supplemental reports, and WETT reports, when available. Seller shall permit Buyer to complete an inspection of the Acquired Assets within twenty (20) days prior to Closing.

Section 7.13. **Implementation and Enforcement of Municipal Code**

Following the Effective Date and continuing after Closing Date, Seller shall continue to implement and enforce the relevant provisions of the Municipal Code of the Township of Towamencin, as amended, including, without limitation, enforcement of the Seller's fats, oils, and grease program, lateral inspection program, investigation of illegal connections, and related operations and maintenance programs.

Section 7.14. **Covenant Survival**

The covenants in this Article survive Closing.

Section 7.15. **Phase I Environmental Site Assessment**

Following the Effective Date, if requested by Buyer, Seller and the Authority shall make the System and the Real Property available for Phase I environmental site assessment by Buyer at Buyer's expense and Buyer's Representatives during normal business hours upon reasonable notice.

**ARTICLE VIII.
INDEMNIFICATION**

Section 8.01. **Survival**

All representations and warranties contained in this Agreement shall survive until twelve (12) months following the Closing Date, except that (a) the representations and warranties of the Seller and the Authority specified in Section 4.01 (Organization), Section 4.02 (Power and Authority), Section 4.03 (Enforceability), Section 4.17 (Brokers' and Finders' Fees) and Section 4.18 (Title to Acquired Assets; Sufficiency) (collectively, the "**Seller Fundamental Representations**") shall survive the Closing indefinitely or until the latest date permitted by applicable Law, (b) the representations and warranties of Seller and the Authority specified in Section 4.13 (Environmental Compliance) shall survive Closing until the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof) , and (c) the representations and warranties of Buyer specified in Section 5.01 (Organization), Section 5.02 (Authorization and Validity of Agreement), and Section 5.05 (Brokers' and Finders' Fees) (collectively, the "**Buyer Fundamental Representations**") shall survive the Closing indefinitely or until the latest date permitted by applicable Law. The covenants and agreements

of the Parties contained herein shall survive the Closing indefinitely or for the shorter period explicitly specified therein, except that for such covenants and agreements that survive for such shorter period, breaches thereof shall survive indefinitely or until the latest date permitted by applicable Law. Notwithstanding the preceding sentences, (x) any breach of representation, warranty, covenant or agreement in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentences, if notice of the inaccuracy or breach thereof giving rise to such right of indemnity shall have been given to the party against whom such indemnity may be sought before such time, and (y) nothing contained in this Section 8.01 shall limit in any way any rights a Party may have to bring claims grounded in fraud, intentional misrepresentation or willful misconduct, which rights shall survive the Closing indefinitely.

Section 8.02. **Indemnification by the Seller**

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, the Seller shall indemnify, defend and hold harmless, Buyer and its successors and Affiliates and their respective employees, officers, directors, trustees and agents (the “Buyer Indemnified Persons”), from and against any and all claims for Losses arising from or relating to: (a) any misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of the Seller and/or the Authority contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller or the Authority before the Closing pursuant to this Agreement (without regard to any materiality, Material Adverse Effect or related qualifications in the relevant representation or warranty (except where such provision requires disclosure of lists of items of a material nature or above a specified threshold)); (b) any material breach or material nonfulfillment of any of the covenants or agreements of the or the Authority Seller contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller or the Authority before the Closing pursuant to this Agreement; or (c) any Excluded Liability or Excluded Asset, or (d) the ownership, use, operation or control of the Acquired Assets or the System prior to the Closing or any incident, occurrence, condition or claim arising prior to Closing and relating to the ownership, use, operation or control of the System prior to Closing.

Section 8.03. **Indemnification by Buyer**

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, Buyer shall defend, indemnify and hold harmless the Seller and its successors and Affiliates and each of their respective employees, officers, directors and agents (the “Seller Indemnified Persons”) from and against any and all claims for Losses arising from or relating to: (a) any misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of Buyer contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Buyer pursuant to this Agreement; (b) any material breach of any of the covenants or agreements of Buyer contained in this Agreement or in any exhibit, schedule certificate or other instrument or document furnished or to be furnished by the Buyer pursuant to this Agreement; (c) any Assumed Liability as and when payment and performance is due, including without limitation any liability related to any claims by any Governmental Authority; (d) Buyer’s actions involving Environmental Requirements,

Hazardous Materials or environmental claims from and after the Closing Date; or (e) the ownership, operation or control of the Acquired Assets or the System from and after the Closing Date.

Section 8.04. **Indemnification Procedure**

(a) **Third Party Claims.** If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of the foregoing (a "**Third Party Claim**") against such Indemnified Party with respect to which the Indemnifying Party may be obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party may participate in, or by giving written notice to the Indemnified Party (and subject to the other requirements herein) to assume the defense of any Third Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel (which counsel is reasonably acceptable to the Indemnified Party), so long as (i) the Indemnifying Party notifies the Indemnified Party, within ten (10) Business Days after the Indemnified Party has given notice of the Third Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response) that the Indemnifying Party is assuming the defense of such Third Party Claim, provided, that if the Indemnifying Party assumes control of such defense it must first agree and acknowledge in such notice that the Indemnifying Party is fully responsible (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) for all Losses relating to such Third Party Claim, (ii) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently and at its own cost and expense, and (iii) the Third Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Buyer or its Affiliates, (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend. The Indemnified Party shall reasonably cooperate in good faith in such defense. If the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 8.04(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party may, at its own cost and expense, participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third Party Claim or fails to promptly notify the

Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 8.04(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. The Seller and Buyer shall reasonably and in good faith cooperate with one another in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 8.04(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give prompt written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within fifteen (15) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.04(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party with respect to any Loss which does not arise or result from a Third Party Claim (a “Direct Claim”) shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Losses that have been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During the thirty (30) day period, the Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity and amount of such Direct Claim. If the Indemnifying Party does not so respond within such thirty (30) day period, by delivery of written notice disputing the basis or amount of the Direct Claim, the Indemnifying Party is deemed to have rejected such claim, in which case the Indemnified Party is free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party has timely disputed its indemnity obligation for any Losses with respect to such Direct Claim, the

Parties shall proceed in good faith to negotiate a resolution of such dispute and, if not resolved through negotiations, such dispute may be resolved by litigation in an appropriate court of jurisdiction determined pursuant to this Agreement.

Section 8.05. **Limitations on Indemnification Obligations**

(a) Subject to the other limitations contained in this Section 8.05, neither Buyer nor Buyer Indemnified Persons is entitled to indemnification pursuant to Section 8.02(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Buyer and Buyer Indemnified Persons under this Agreement exceeds one percent (1%) of the Purchase Price in the aggregate (the “Threshold Amount”), in which case Seller shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification (i) based on fraud, intentional misrepresentation or willful misconduct, (ii) based on any inaccuracy in, misrepresentation as to or breach of any of the Seller Fundamental Representations or any of the representations and warranties set forth in Section 4.13, or (iii) pursuant to Section 8.02(d).

(b) Subject to the other limitations contained in this Section 8.05 neither Seller nor the Seller Indemnified Persons is entitled to indemnification pursuant to Section 8.03(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Seller and Seller Indemnified Persons under this Agreement exceeds the Threshold Amount, in which case Buyer shall then be liable for Losses in excess of the Threshold Amount; except that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct or pursuant to Sections 8.03(c), (d) and (e).

(c) Except in the case of fraud, intentional misrepresentation or willful misconduct (for which all applicable legal and equitable remedies will be available to Buyer), the Buyer Indemnified Parties shall only be entitled to assert claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, which shall not be limited by this Section 8.05(c)) up to the aggregate amount of 8% of Purchase Price (the “Liability Cap”), which shall represent the sole and exclusive remedy of Buyer and the other Buyer Indemnified Parties for any such claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, in the case of fraud, intentional misrepresentation or willful misconduct or pursuant to Section 8.02(c) which shall not be subject to the Liability Cap, but is capped at the Purchase Price).

(d) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss is limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds actually received and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses before seeking indemnification under this Agreement.

(e) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss will be reduced by an amount equal to any Tax benefit realized or reasonably expected to be realized as a result of such Loss by the Indemnified Party.

(f) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

(g) Subject to the provisions of Sections 3.02, 7.07, 15.11 and any other provisions for equitable relief and/or specific performance, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VIII. In furtherance of the foregoing, each Party waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Party hereto and their Affiliates and each of their respective representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article VIII. Nothing in this Section 8.05(g) limits any Parties' right to seek and obtain any equitable relief and/or specific performance to which any Party is entitled pursuant to this Agreement.

Section 8.06. **Knowledge of Breach**

Seller will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement if Buyer had Knowledge of such inaccuracy or breach before the Closing Date. Buyer will not be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement if Seller had Knowledge of such inaccuracy or breach before the Closing Date.

ARTICLE IX.

PRE-CLOSING COVENANTS OF THE SELLER AND THE AUTHORITY

Section 9.01. **Operation of the System**

Except as otherwise expressly permitted by this Agreement, as required by applicable Law or with the prior written consent of Buyer (which consent shall not be unreasonably withheld, delayed or conditioned), from the Effective Date until the Closing, the Seller and the Authority shall (i) operate and manage the System only in the ordinary course of business in accordance with past practices and procedures, (ii) comply in all material respects with all applicable Laws and Authorizations and Permits, (iii) use commercially reasonable efforts to maintain and preserve intact the business and assets of the System and preserve the rights, franchises, goodwill and relationships of the Seller, the Authority and the System and their customers, lenders, suppliers, regulators and others having business relationships with the Seller, the Authority and the System including, but not limited to, the land development agreements and the agreements

with Clemens Food Group (Hatfield Quality Meats) in existence as of the Effective Date which such agreements shall not be extended, renewed, replaced or materially amended without notice to and the consent of Buyer, which consent shall not be unreasonably withheld or delayed, and (iv) prior to Closing, maintain the existence of the Lease except for purposes of acquiring title to the System by the Seller in order to consummate the sale of the System to Buyer.

Section 9.02. **Cooperation**

The Seller and the Authority shall reasonably cooperate with Buyer and its employees, attorneys, accountants and other agents and, generally, act in reasonably good faith to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated by this Agreement, including without limitation to effect the following at or before the Closing: (i) the repayment of the Outstanding Indebtedness, and (ii) the acquisition by Seller of title to all Acquired Assets.

Section 9.03. **Supplements and Updates**

The Seller and the Authority shall promptly deliver to Buyer any supplemental information updating the information set forth in the representations and warranties in Article IV of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. At least ten (10) Business Days of having Knowledge of the same, but in no event later than (3) Business Days before the Closing Date, the Seller shall advise Buyer of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained in this Agreement. For the avoidance of doubt, no such supplemental information or facts provided pursuant to this Section 9.03 shall be deemed to alter any Schedules without the prior written consent of Buyer (such consent not to be unreasonably withheld, conditioned or delayed).

Section 9.04. **Governmental Approvals**

Promptly after the execution of this Agreement, or as required by Law, except as provided in Section 7.06 or otherwise expressly provided herein, the Seller and the Authority, as applicable, shall file all applications and reports that are required to be filed by Seller or the Authority with any Governmental Authority as provided on Schedule 4.05 to the Buyer. The Seller and the Authority shall also promptly provide all information that any Governmental Authority may require in connection with any such application or report. The Seller and the Authority shall use commercially reasonable efforts to obtain all required material consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person in connection with the transactions contemplated by this Agreement, including as required under any Assigned Contract. All authorizations of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement shall be in form and content reasonably satisfactory to Buyer and the Seller before Closing and must be final and non-appealable. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and the Seller may agree to proceed to consummate the transaction.

ARTICLE X.
PRE-CLOSING COVENANTS OF BUYER

Section 10.01. **Actions Before the Closing Date**

Buyer shall not take any action that will cause it to be in breach of any representation, warranty, covenant or agreement contained in this Agreement or cause it to be unable to perform in any material respect its obligations hereunder, and Buyer shall use commercially reasonable efforts (subject to any conditions set forth in this Agreement) to perform and satisfy all conditions to Closing to be performed or satisfied by Buyer under this Agreement, including action necessary to obtain all consents and approvals of third parties required to be obtained by Buyer to effect the transactions contemplated by this Agreement.

Section 10.02. **Governmental Approvals**

Promptly after the execution of this Agreement, or as required by Law, except as otherwise expressly provided herein, Buyer shall file all applications and reports which are required to be filed by Buyer with any Governmental Authority as provided on Schedule 5.04. Buyer shall also promptly provide all information that any Governmental Authority may reasonably require in connection with any such application or report. Buyer shall use commercially reasonable efforts to obtain all consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person necessary to consummate the transactions contemplated by this Agreement.

Section 10.03. **Cooperation**

Buyer shall reasonably cooperate with the Seller and the Authority and their employees, attorneys, accountants and other agents and, generally, do such other acts and things in good faith as may be reasonable to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated in accordance with the provisions of this Agreement.

Section 10.04. **Supplements and Updates**

Buyer shall promptly deliver to the Seller any supplemental information updating the information set forth in the representations and warranties in Article V of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. Within ten (10) Business Days of having Knowledge of the same, and at least three (3) Business Days before the Closing Date, Buyer shall advise the Seller of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein.

ARTICLE XI.
CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER

The obligation of the Seller to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by the Seller in its sole discretion:

Section 11.01. **Consents and Approvals**

Receipt of all required consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person and any other approvals necessary to consummate the transactions contemplated by this Agreement set forth on Schedule 5.04, including without limitation all required EPA and PaDEP approvals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired). Seller shall obtain the consent of any Governmental Authority as required by the PaPUC.

Section 11.02. **Representations and Warranties of Buyer**

The representations and warranties made by Buyer in Article V which are (a) not qualified by materiality shall be true and correct in all material respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all material respects as of such specified date) and (b) qualified by materiality shall be true and correct in all respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all respects as of such specified date), and the Seller shall have received a certificate to the effect of the foregoing from a duly authorized officer of Buyer dated as of the Closing Date.

Section 11.03. **PaPUC Approval**

PaPUC must have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and Buyer. If a party to the PaPUC proceeding appeals or files a petition for reconsideration of the PaPUC authorization of the transaction, the Buyer and Seller may mutually agree to proceed to consummate the transaction.

Section 11.04. **No Injunctions**

Neither Seller nor Buyer shall be subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 11.05. **Performance of the Obligations of Buyer**

Buyer shall have performed and been in compliance in all material respects with all obligations and covenants required under this Agreement to be performed by Buyer on or before the Closing

Date, and the Seller shall have received a certificate to that effect from Buyer dated the Closing Date.

Section 11.06. **Deliveries by Buyer**

Buyer shall have made delivery to the Seller of the documents and items specified in Section 13.03.

Section 11.07. **No Material Adverse Effect**

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

ARTICLE XII.
CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligation of Buyer to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by Buyer in its sole discretion:

Section 12.01. **Consents and Approvals**

(a) Receipt of all required material, non-governmental third party consents and any other approvals necessary or advisable to consummate the transactions contemplated by this Agreement set forth on Schedule 4.05 and all consents, waivers, authorizations and approvals of any Governmental Authority required pursuant to Section 5.04, including without limitation all required EPA and PaDEP approvals/renewals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired); and

(b) Approval by the Municipal Board and the Authority Board for: (i) defeasance and redemption of any outstanding bonds issued by the Seller or the Authority on the System included in the Outstanding Indebtedness, and (ii) discharge of any other outstanding debt issued to the Seller or the Authority and payable to any current lender secured by the lease payments under the Lease.

(c) Delivery of evidence that Seller shall have taken all actions to acquire title to the System and the Acquired Assets required to permit Seller to convey the System and the Acquired Assets to Buyer as pursuant to this Agreement; and

(d) Delivery of evidence of: (1) the termination of the Authority or transfer of all leasehold and operating rights in the assets of the System to the Township and the assumption of the Authority's rights and obligations thereunder, and (2) the transfer of the ownership to the Township of the laterals from the collection system main to the edge-of-road or curb-line when the main is located within a public right-of-way or the edge of easement where the main is located within private property.

Section 12.02. **Representations and Warranties of Seller**

The representations and warranties made by the Seller and the Authority in Article IV of this Agreement (disregarding all “materiality” and “Material Adverse Effect” or similar qualifications contained therein) shall be true and correct on and as of the Closing Date (except for representations and warranties expressly stated to relate to a specific date, in which case each such representation and warranty shall be true and correct as of such earlier date), with only such exceptions as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and the Buyer shall have received a certificate to that effect from the Seller dated as of the Closing Date.

Section 12.03. **PaPUC Approval**

PaPUC must have issued a Final Order authorizing the Buyer to operate as a public utility in the Commonwealth of Pennsylvania and Final Order(s) approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller and Buyer. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer and Seller may agree to proceed to consummate the transaction.

Section 12.04. **No Injunctions**

The Seller, the Authority and the Buyer are not subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

Section 12.05. **No Material Adverse Effect**

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

Section 12.06. **Deliveries by Seller**

Seller shall have made delivery to Buyer of the documents and items specified in Section 13.02.

Section 12.07. **Performance of the Obligations of Seller**

Seller shall have performed and been in compliance in all material respects with all obligations and covenants required under this Agreement to be performed by Seller on or before the Closing Date, and Buyer shall have received a certificate to that effect from Seller dated the Closing Date.

Section 12.08. **Phase 1 Environmental Site Assessment**

If applicable under Section 7.15 hereof, a Phase 1 environmental site assessment shall have been properly completed in respect of the System and the Real Property.

ARTICLE XIII.
CLOSING

Section 13.01. Closing Date

The Closing shall take place at a place in Pennsylvania that is mutually agreed upon by the Parties, at 10:00 a.m. eastern standard time on the earliest agreed upon date or within twenty (20) Business Days after the date upon which all the conditions precedent to Closing described in this Agreement have been fulfilled or waived and Buyer and the Seller receive the last of the required consents, waivers, authorizations and approvals from the Governmental Authorities, in each case, for the transactions contemplated by this Agreement, or at such other place and time, by such other method, or on such other date, as may be mutually agreed to by the Parties (the "Closing Date"). The Closing will be effective at 12:01 a.m., Township of Towamencin, PA time, on the Closing Date (the "Closing Effective Time").

Section 13.02. Deliveries by the Seller

At the Closing, Seller, shall have delivered or cause to be delivered to Buyer executed copies of the following agreements, documents and other items:

(a) A Bill of Sale transferring all of the Acquired Assets comprising personal property, in the form attached hereto as Exhibit A;

(b) Possession of the Acquired Assets, including without limitation, the Real Property, the Easements and an interest in the Missing Easements, including a license from Seller to Buyer;

(c) A duly executed counterpart to an Assignment and Assumption Agreement with respect to the Assumed Liabilities (the "Assignment and Assumption Agreement"), in the form attached hereto as Exhibit B;

(d) The consents to transfer all of the Assigned Contracts and Authorizations and Permits (including environmental Authorizations and Permits), to the extent required hereunder;

(e) One or more special warranty or other deeds in recordable form reasonably acceptable to Buyer transferring fee simple title of Real Property, and one or more assignments in recordable form reasonably acceptable to Buyer with respect to the Easements (exclusive of any Missing Easements);

(f) Copies or originals of all Files and Records, materials, documents and records in possession of the Seller relating to the Real Property or the Assigned Contracts;

(g) Certificate of Seller pursuant to Section 12.02 of this Agreement;

(h) Certificate of Seller pursuant to Section 12.07 of this Agreement;

(i) Any documents duly executed by Seller required by the Title Company to issue final owner's title policies in accordance with the procedures set forth in Article VI;

(j) A duly executed counterpart to the Escrow Agreement;

(k) Pursuant to Section 12.01(d), documents and certificates, as applicable, evidencing that the System is reclaimed from the Authority and the Authority conveyed the System to Seller, in accordance with the Pennsylvania Municipal Authorities Act;

(k) All such other instruments of conveyance or other documents as shall, in the reasonable opinion of Buyer and its counsel, be necessary to transfer to Buyer the Acquired Assets in accordance with this Agreement or to carry out the terms of this Agreement, duly executed and acknowledged by Seller, if necessary, and in a recordable form;

(l) A form W-9 properly completed by the Seller;

(m) Simultaneously with Closing, evidence of UCC-3 termination statements filed with the Secretary of State of the Commonwealth of Pennsylvania releasing all liens held in the Acquired Assets by or on behalf of the Lender;

(n) An executed release, in form and substance acceptable to the Buyer, from the Lender confirming the discharge of the Outstanding Indebtedness and release of any and all security interests in any of the Acquired Assets which are not Permitted Liens, subject only to the receipt by the Lender of the Payoff Amount at Closing; and

(o) Copies of the duly adopted ordinance(s) and resolution(s) of the Seller and the Authority authorizing the transactions contemplated by this Agreement.

Section 13.03. **Deliveries by Buyer**

At the Closing, Buyer shall have delivered or caused to be delivered to the Seller the following agreements, documents and other items:

(a) Payment in full of the Purchase Price;

(b) A duly executed counterpart to the Assignment and Assumption Agreement;

(c) Certificate of Buyer pursuant to Section 11.02 of this Agreement;

(d) Certificate of Buyer pursuant to Section 11.05 of this Agreement;

(e) Evidence of PaPUC approval as provided in Section 12.03;

(f) A duly executed counterpart to the Escrow Agreement; and

(g) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement.

ARTICLE XIV.
TERMINATION

Section 14.01. **Events of Termination**

This Agreement may, by notice given in the manner provided in this Agreement, be terminated and abandoned at any time before completion of the Closing:

- (a) By the consent of both of the Seller and the Buyer;
- (b) By any of the Seller or the Buyer if:

- (i) the Closing shall not have occurred on or before the Outside Date; except that the Buyer shall have the one-time right to extend the Outside Date for up to ninety (90) days if, in the Buyer's sole discretion, any such amount of time up to ninety (90) days is necessary to obtain a required Governmental Approval; or

- (ii) any Governmental Authority shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the material transactions contemplated by this Agreement and such order, decree, ruling or other action will have become final and non-appealable, provided however, that the Party seeking termination pursuant to this clause (b) of this Section 14.01 is not in breach in any material respect of any of its representations, warranties, covenants or agreements contained in this Agreement;

- (c) By the Seller (if Seller is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Buyer pursuant to the terms of this Agreement or of any representation or warranty of the Buyer contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Seller to the Buyer or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XI of this Agreement not being satisfied (which condition has not been waived by the Seller in writing); or

- (d) By the Buyer (if Buyer is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Seller or the Authority pursuant to the terms of this Agreement or of any representation or warranty of the Seller or the Authority contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Buyer to the Seller or the Authority or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XII of this Agreement not being satisfied (which condition has not been waived by the Buyer in writing).

This Agreement may not be terminated after completion of the Closing.

Section 14.02. **Effect of Termination**

If this Agreement is terminated by the Seller or the Buyer pursuant to Section 14.01, written notice thereof will forthwith be given to the other and all further obligations of the Parties under this Agreement will terminate without further action by any Party and without liability or other obligation of any Party to any other Party hereunder; except that no Party will be released from liability hereunder if this Agreement is terminated and the transactions abandoned because of any willful breach of this Agreement. For the avoidance of doubt, the Parties agree that in the event that this Agreement is terminated for any reason, the Additional Deposit shall be refunded to the Buyer as specified in Section 3.01(b)(iii) of this Agreement.

ARTICLE XV.
MISCELLANEOUS

Section 15.01. **Confidentiality**

Except as and to the extent required by applicable Law (including but not limited to the Pennsylvania Right-To-Know Act at 65 Pa § 67.101) or pursuant to an order of a court of competent jurisdiction and as required hereunder to obtain any and all required Governmental Approvals, no Party hereto shall, directly or indirectly, disclose or use (and no Party shall permit its representatives to disclose or use) any Confidential Information with respect to any other Party furnished, or to be furnished, by such other Party hereto or its shareholders, directors, officers, agents, or representatives to the other Party hereto or its employees, directors, officers, agents or representatives in connection herewith at any time or in any manner other than in connection with the completion of the transactions contemplated by this Agreement and related transactions.

Section 15.02. **Public Announcements** Subject to applicable Law or listing rules of an exchange on which Buyer's parent corporation's stock is listed, and except as otherwise set forth in this Agreement, the initial public announcement relating to the transactions contemplated herein will be mutually agreed upon and jointly made by the Parties. Subsequent public announcements by one Party are subject to review and approval by the other Parties before issuance, such approval not to be unreasonably withheld, conditioned or delayed.

Section 15.03. **Notices**

The Parties shall make all notices, other communications and approvals required or permitted by this Agreement in writing, stating specifically that they are being given pursuant to this Agreement and shall be addressed as follows:

in the case of the Seller and the Authority:

Attention:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Township Manager
Fax: 215-368-7650

with a copy to:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Solicitor
Fax: 215-368-7650

in the case of the Buyer:

NextEra Water Pennsylvania, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Eric Mooney
E-mail: eric.mooney@nexteraenergy.com

with a copy to:

NextEra Water Pennsylvania, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Vice President & General Counsel
E-mail: Neer-General-Counsel@nexteraenergy.com

or such other persons or addresses as a Party may from time to time designate by notice to the other Party. A notice, other communication or approval is deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval is deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by United States registered or certified mail.

Section 15.04. **Headings**

The article, section and paragraph headings in this Agreement are for reference purposes only and have no affect the meaning or interpretation of this Agreement.

Section 15.05. **Severability**

If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement remain in full force and effect and in no way be affected, impaired or invalidated.

Section 15.06. **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party because of such provision of this Agreement having been drafted on behalf of one Party rather than the other Party.

Section 15.07. **Amendments; Waivers**

This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.

Section 15.08. **Parties in Interest; Third Party Beneficiary**

Except as provided in this Agreement, this Agreement is not intended to and shall not be construed to create upon any Person other than the Parties any rights or remedies hereunder.

Section 15.09. **Successors and Assigns**

None of the Parties to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other Parties, and any purported assignment or purported delegation without prior written consent is void. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective permitted successors and assigns.

Section 15.10. **Governing Law; Jurisdiction**

The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising and relating to this Agreement, including torts. The Parties irrevocably agree and consent to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Agreement. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's

address set forth in this Agreement shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 15.11. **Specific Performance**

The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties is entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 15.12. **Interpretation.**

For purposes of this Agreement: (a) the words “include,” “includes”, and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein”, “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. The definition given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined.

Section 15.13. **Counterparts; Electronic Mail; Facsimile Execution**

This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to each Party. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Parties by electronic mail or facsimile transmission. Such Party is deemed to have executed and delivered this Agreement on the date it sent such electronic mail or facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

Section 15.14. **Future Sale**

If at any time before the third (3rd) anniversary of the Closing Date the Buyer determines to sell the System, Buyer shall promptly notify the Seller and provide Seller with a reasonable opportunity to discuss a potential repurchase of the System by the Seller.

[THIS SPACE INTENTIONALLY LEFT BLANK;

SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.

TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY

NEXTERA WATER PENNSYLVANIA, LLC

By: _____
Name:
Its:

By:  _____
Name: Bruce Hauk
Its: President

ATTEST:

ATTEST:

By: _____
Name:
Its:

By:  _____
Name: Eric C. Mooney
Its: Assistant Vice President

TOWAMENCIN MUNICIPAL AUTHORITY

By: _____
Name:
Its:

ATTEST:

By: _____
Name:
Its:

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.


TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY

NEXTERA WATER PENNSYLVANIA, LLC

By: 
Name: H. Charles Wilson III
Its: Chairman

By: _____
Name: _____
Its: _____

ATTEST:

By: 
Name: Laura C. Smith
Its: Secretary

ATTEST:

By: _____
Name: _____
Its: _____

TOWAMENCIN MUNICIPAL AUTHORITY

By: _____
Name: _____
Its: _____

ATTEST:

By: _____
Name: _____
Its: _____

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.

TOWNSHIP OF TOWAMENCIN,
MONTGOMERY COUNTY

NEXTERA WATER PENNSYLVANIA, LLC

By: _____
Name:
Its:

By: _____
Name:
Its:

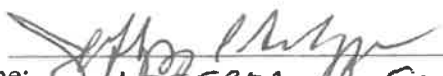
ATTEST:

ATTEST:

By: _____
Name:
Its:

By: _____
Name:
Its:

TOWAMENCIN MUNICIPAL AUTHORITY

By: 
Name: JEFFREY A. SCHOPPE
Its: CHAIRMAN

ATTEST:


By: 
Name: Elizabeth Smith
Its: Secretary

EXHIBIT A
BILL OF SALE
[see attached]

BILL OF SALE

This BILL OF SALE (this “**Bill of Sale**”) is dated as of _____, 202_ by and between **TOWAMENCIN TOWNSHIP, MONTGOMERY COUNTY**, a body corporate and politic, duly organized under the laws of the Commonwealth of Pennsylvania (“**Seller**”) and NextEra Water Pennsylvania, LLC (formerly known as NextEra Towamencin Wastewater, LLC), a limited liability company organized and existing under the laws of Delaware (“**Buyer**”).

RECITALS:

WHEREAS, pursuant to that certain Asset Purchase Agreement by and among Seller, the Towamencin Municipal Authority, a body corporate and politic created under the Pennsylvania Municipal Authorities Act (the “**Authority**”) and Buyer dated _____, 2022 (the “**APA**”), Seller has agreed to sell and Buyer has agreed to purchase, certain assets of Seller as more particularly described in Section 2.01 of the APA (the “**Acquired Assets**”) owned and used in connection with that certain sanitary wastewater collection and treatment system (the “**System**”) that provides sanitary wastewater service to various customers in Towamencin Township and portions of Lower Salford, and Worcester, Montgomery County, Pennsylvania (the “**Service Area**”); and

WHEREAS, the use, maintenance and right of access to the Acquired Assets constituting interests in real property are being transferred on the date hereof by Seller to Buyer by deeds, assignments and/or a license; and

WHEREAS, Seller intends to convey the Acquired Assets not constituting interests in real property as more particularly described in **Exhibit “A”** attached hereto as of the date hereof.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Buyer agree as follows:

1. **Recitals; Capitalized Terms.** The Recitals of this Bill of Sale are incorporated herein as if set forth in full. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the APA.

2. **Transfer of Acquired Assets.** Seller hereby sells, assigns, conveys, transfers, grants and deliver to Buyer all of Seller’s right, title and interest in and to the Acquired Assets, free and clear of all Liens except for Permitted Liens, and Buyer hereby purchases and accepts from Seller, as of the date hereof, all right, title and interest of Seller in and to the Acquired Assets, free and clear of all Liens except for Permitted Liens.

3. **Further Assurances.** Promptly upon request of the other party, Buyer and Seller shall each execute and deliver to the other party such further assurances and take such further actions as may be reasonably required or appropriate to perfect the transfer of the Acquired Assets and otherwise carry out the intent and purpose of this Bill of Sale.

4. **Relationship to APA.** This Bill of Sale is being delivered pursuant to the APA and will be construed consistently therewith. This Bill of Sale is not intended to, and does not, in

any manner enhance, diminish, or otherwise modify the rights and obligations of the parties under the APA. To the extent that any provision of this Bill of Sale conflicts or is inconsistent with the terms of the APA, the terms of the APA will govern.

5. **As Is.** THIS BILL OF SALE IS MADE ON AN “AS-IS, WHERE-IS, WITH ALL FAULTS” BASIS, WITHOUT RECOURSE AND WITHOUT ANY REPRESENTATION OR WARRANTY (EXPRESS OR IMPLIED) WHATSOEVER EXCEPT AS MAY EXPRESSLY BE SET FORTH IN THE APA.

6. **Binding Effect.** All of the terms and provisions of this Bill of Sale shall be binding upon, inure to the benefit of and be enforceable by the legal representatives, successors and assigns of Seller and Buyer.

7. **Law to Govern.** This Bill of Sale shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to any conflicts of law’s provisions.

8. **Headings, Gender, etc.** All section headings contained in this Bill of Sale are for convenience of reference only, do not form a part of this Bill of Sale and shall not affect in any way the meaning or interpretation of this Bill of Sale. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

9. **Exhibits.** All Exhibits referred to herein are intended to be and hereby are specifically made a part of this Bill of Sale.

10. **Counterparts.** This Bill of Sale may be executed by facsimile, electronically or by exchange of documents in PDF format, and in several counterparts, each of which shall be deemed an original instrument and all of which together shall constitute a single agreement. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

(Signatures appear on following page)

IN WITNESS WHEREOF, the parties have executed this Bill of Sale under seal as of the date first above written.

SELLER:

ATTEST:

TOWAMENCIN TOWNSHIP

By: _____
Name:
Its:

By: _____
Name:
Its:

ATTEST:

BUYER:

NEXTERA WATER PENNSYLVANIA, LLC

By: _____
Name:
Its:

By: _____
Name:
Its:

[Signature Page to the Bill of Sale]

EXHIBIT "A"
ACQUIRED ASSETS

EXHIBIT B
ASSIGNMENT AND ASSUMPTION AGREEMENT

[see attached]

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “Agreement”) is made and entered into to be effective as of the ___ day of _____, 20__, by and between **TOWAMENCIN TOWNSHIP**, a body corporate and politic, duly organized under the laws of the Commonwealth of Pennsylvania (“Assignor”), and **NEXTERA WATER PENNSYLVANIA, LLC** (formerly known as NextEra Towamencin Wastewater, LLC), a limited liability company organized and existing under the laws of Delaware (“Assignee”).

BACKGROUND

This Agreement is made pursuant to the Asset Purchase Agreement (the “Asset Purchase Agreement”) dated _____ by and between Assignor, the Towamencin Municipal Authority (the “Authority”) and Assignee, in which Assignor is selling, transferring, conveying, assigning and delivering to Assignee the Acquired Assets, as defined in the Asset Purchase Agreement. Capitalized terms used and not defined herein shall have the meanings given to them in the Asset Purchase Agreement.

Pursuant to the Asset Purchase Agreement, as part of the consideration for the Acquired Assets, Assignee is required to assume and agree to perform, pay or discharge, when due, certain Assumed Liabilities, as defined in the Asset Purchase Agreement.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereby covenant and agree as follows:

1. Assignor hereby assigns, and Assignee hereby assumes and agrees to pay, perform and discharge, in accordance with their terms, the Assumed Liabilities.

2. Notwithstanding the foregoing or any other provision of this Agreement, Assignee will not assume or be bound by and shall be deemed not to have assumed, agreed to pay, perform, fulfill or discharge any of the Excluded Liabilities.

3. Assignor hereby assigns, transfers, sets over and grants to Assignee all of its rights and obligations under the Assigned Contracts subject to any required consents of other parties to the Assigned Contracts. Assignee hereby accepts such assignment and transfer and hereby assumes and agrees to perform all obligations and duties of and to make all payments and perform all required actions under the Assigned Contracts. Assignor is hereby released and discharged from all obligations and duties arising from this day forward under, or in respect of, the Assigned Contracts.

4. The assumption by Assignee of the Assumed Liabilities shall not be construed to defeat, impair or limit in any way the rights, claims or remedies of Assignee under the Asset Purchase Agreement.

5. Nothing contained herein shall change, amend, extend or alter (nor shall it be deemed or construed as changing, amending, extending or altering) the terms or conditions of the Asset

Purchase Agreement in any manner whatsoever. This Agreement does not create or establish liabilities or obligations not otherwise created or existing under or pursuant to the Asset Purchase Agreement. In the event of any conflict or other difference between the Asset Purchase Agreement and this Agreement, the provisions of the Asset Purchase Agreement shall control.

6. Nothing contained herein shall confer any rights on any third party or in any way enhance or expand the rights of any third party with respect to any of the Assumed Liabilities, and Assignee reserves any and all defenses, rights of offset, claims and counterclaims that either the Assignor or Assignee may have with respect to any of the Assumed Liabilities.

7. The law of the Commonwealth of Pennsylvania shall govern all questions concerning the construction, validity, interpretation and enforceability of this Agreement, without giving effect to any choice of law or conflict of law rules or provisions (whether of the Commonwealth of Pennsylvania or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Commonwealth of Pennsylvania.

8. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns; provided, however, that no party may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party hereto.

9. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

10. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Assignment and Assumption Agreement as of the day and year first above written.

ASSIGNOR:

TOWAMENCIN TOWNSHIP

By: _____
Name:
Title:

ASSIGNEE:

NEXTERA WATER PENNSYLVANIA, LLC

By: _____
Name:
Title:

EXHIBIT C
[RESERVED]

EXHIBIT D
ADDITIONAL ESCROW AGREEMENT

[see attached]

Execution Version

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated effective as of June 14, 2022 (“Agreement”), is by and among NextEra Water Pennsylvania, LLC (fka NextEra Towamencin Wastewater, LLC, a Delaware limited liability company (“Purchaser”), Township of Towamencin, Montgomery County, a body corporate and politic organized under the Pennsylvania Law (“Seller”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as escrow agent hereunder (“Escrow Agent”).

BACKGROUND

A. Purchaser, Seller and Towamencin Municipal Authority have entered into an Asset Purchase Agreement (the “Purchase Agreement”), dated as of June 13, 2022, pursuant to which Purchaser is purchasing the Acquired Assets described therein. The Purchase Agreement provides that a portion of the Purchase Price shall be deposited by Purchaser into escrow to be held and distributed by the Escrow Agent to Seller at Closing in accordance with the terms of this Agreement.

B. Escrow Agent has agreed to accept, hold, and disburse the funds deposited with it and any earnings thereon in accordance with the terms of this Agreement.

C. Purchaser and Seller have appointed the Representatives (as defined below) to represent them for all purposes in connection with the funds to be deposited with Escrow Agent and this Agreement.

D. Purchaser and Seller acknowledge that (i) Escrow Agent is not a party to and has no duties or obligations under the Purchase Agreement, (ii) all references in this Agreement to the Purchase Agreement are solely for the convenience of Purchaser and Seller and (iii) Escrow Agent shall have no implied duties beyond the express duties set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Definitions. The following terms shall have the following meanings when used herein:

“Business Day” means any day, other than a Saturday, Sunday or legal holiday, on which Escrow Agent at its location identified in Section 15 is open to the public for general banking purposes.

“Escrow Funds” means the funds deposited with Escrow Agent pursuant to Section 3 of this Agreement, together with any interest and other income thereon.

“Escrow Period” means the period commencing on the date hereof and ending at the close of Escrow Agent’s Business Day when Escrow Agent is notified in writing by Seller or Purchaser that the Purchase Agreement has been terminated.

“Joint Written Direction” means a written direction executed by a Purchaser Representative and a Seller Representative, delivered to Escrow Agent in accordance with Section 15 and directing Escrow Agent to disburse all or a portion of the Escrow Funds or to take or refrain from taking any other action pursuant to this Agreement.

“Purchaser Representative” means the person(s) so designated on Schedule C hereto or any other person designated in a writing signed by Purchaser and delivered to Escrow Agent and a Seller Representative in accordance with the notice provisions of this Agreement, to act as its representative under this Agreement.

“Representatives” means a Purchaser Representative and a Seller Representative.

“Seller Representative” means the person(s) so designated on Schedule C hereto or any other person designated in a writing signed by Seller and delivered to Escrow Agent and a Purchaser Representative in accordance with the notice provisions of this Agreement, to act as its representative under this Agreement.

All capitalized terms used in this Agreement but not otherwise defined herein are given the meanings set forth in the Purchase Agreement.

2. Appointment of and Acceptance by Escrow Agent. Purchaser and Seller hereby appoint Escrow Agent to serve as escrow agent hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 3, shall hold, invest and disburse the Escrow Funds in accordance with this Agreement.

3. Deposit of Escrow Funds. Within three (3) Business Days after the execution and delivery of this Agreement, Purchaser will transfer the Escrow Funds in the amount of TEN MILLION U.S. DOLLARS (\$10,000,000), by wire transfer of immediately available funds, to an account designated by Escrow Agent (the “Escrow Account”). Escrow Funds will remain uninvested except as provided in Section 7.

4. Disbursements of Escrow Funds.

(a) Escrow Agent shall disburse Escrow Funds at any time and from time to time, upon receipt of, and in accordance with, a Joint Written Direction substantially in the form of Attachment 1 hereto and received by Escrow Agent as set forth in Section 15. Such Joint Written Direction must contain complete payment instructions, including funds transfer instructions or an address to which a check should be sent.

(b) Upon the expiration of the Escrow Period, Escrow Agent shall distribute to Purchaser pursuant to the funds transfer instruction set forth in this Section 4(b), as promptly as practicable, the Escrow Funds. Purchaser and Seller each acknowledges that the Escrow Agent is authorized to use the following funds transfer instructions to disburse any funds due to Purchaser in the event the Escrow Period has expired:

Bank Name: Bank of America
Bank Address: 100 West 33rd Street, New York NY 10001
ABA No. (for wires): 029009593
Account name: NextEra Energy Capital Holdings, Inc.
Account no: 3750658123

(c) Prior to any disbursement, Escrow Agent must receive reasonable identifying information regarding the recipient so that Escrow Agent is able to comply with its regulatory obligations and reasonable business practices, including without limitation a completed United States Internal Revenue Service (“IRS”) Form W-9 or Form W-8, as applicable. All disbursements of Escrow Funds will be subject to the fees and claims of Escrow Agent and the Indemnified Parties pursuant to Section 11 and Section 12.

(d) Purchaser and Seller may each deliver written notice to Escrow Agent in accordance with Section 15 changing their respective funds transfer instructions, which notice will be effective only upon receipt by Escrow Agent and after Escrow Agent has had reasonable time to act upon such notice.

5. Suspension of Performance; Disbursement into Court. If, at any time, (a) a dispute exists with respect to any obligation of Escrow Agent under this Agreement, (b) Escrow Agent is unable to determine, to Escrow Agent’s sole satisfaction, Escrow Agent’s proper actions with respect to its obligations hereunder, or (c) the Representatives have not, within 10 days of receipt of a notice of resignation, appointed a successor escrow agent to act under this Agreement, then Escrow Agent may, in its sole discretion, take either or both of the following actions:

(i) suspend the performance of any of its obligations (including without limitation any disbursement obligations) under this Agreement until such dispute or uncertainty is resolved to the sole satisfaction of Escrow Agent or until a successor escrow agent is appointed.

(ii) petition (by means of an interpleader action or any other appropriate method) any court of competent jurisdiction, in any venue convenient to Escrow Agent, for instructions with respect to such dispute or uncertainty and, to the extent required or permitted by law, pay into such court, for holding and disposition by such court, all Escrow Funds, after deduction and payment to Escrow Agent of all fees and expenses (including court costs and attorneys’ fees) payable to, incurred by, or expected to be incurred by Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

Escrow Agent will have no liability to Purchaser or Seller for any such suspension of performance or disbursement into court, specifically including any liability or claimed liability that may arise due to any delay in any other action required or requested of Escrow Agent.

6. RESERVED.

7. Investment of Funds. Based upon Purchaser’s and Seller’s prior review of investment alternatives, in the absence of further specific written direction to the contrary at any time that an investment decision must be made, Escrow Agent is directed to invest and reinvest the Escrow Funds in the investment identified in Schedule A. If applicable, Purchaser and Seller acknowledge receipt from Escrow Agent of a current copy of the prospectus for the investment identified in Schedule A. Purchaser and Seller may deliver to Escrow Agent a Joint Written Direction changing the investment of the Escrow Funds, upon which direction Escrow Agent may conclusively rely without inquiry or investigation; provided, however, that Purchaser and Seller warrant that no investment or reinvestment direction will be given except in the following:

(a) direct obligations of the United States of America or obligations the principal of and the interest on which are unconditionally guaranteed by the United States of America; (b) U.S. dollar denominated deposit accounts and certificates of deposit issued by any bank, bank and trust company, or national banking association (including Escrow Agent and its affiliates), which are either (i) insured by the Federal Deposit Insurance Corporation (“FDIC”) up to FDIC limits, or (ii) with domestic commercial banks which have a rating on their short-term certificates of deposit on the date of purchase of at least “A-1” by S&P or “P-1” by Moody’s (ratings on holding companies are not considered as the rating of the bank); or (c) money market funds, including funds managed by Escrow Agent or any of its affiliates; provided further, however, that Escrow Agent will not be directed to invest in investments that Escrow Agent determines are not consistent with Escrow Agent’s policies or practices. Purchaser and Seller recognize and agree that Escrow Agent will not provide supervision, recommendations or advice relating to either the investment of Escrow Funds or the purchase or disposition of any investment and the Escrow Agent will not have any liability for any loss in an investment made pursuant to the terms of this Agreement. Escrow Agent has no responsibility whatsoever to determine the market or other value of any investment and makes no representation or warranty as to the accuracy of any such valuations. To the extent applicable regulations grant rights to receive brokerage confirmations for certain security transactions, Purchaser and Seller waive receipt of such confirmations.

All investments will be made in the name of Escrow Agent. Escrow Agent may, without notice to Purchaser and Seller sell or liquidate any of the foregoing investments at any time for any disbursement of Escrow Funds permitted or required hereunder and will not be liable for any loss, cost or penalty resulting from any sale or liquidation of any such investment. All investment earnings will become part of the Escrow Funds and investment losses will be charged against the Escrow Funds. With respect to any Escrow Funds or investment instruction received by Escrow Agent after 11:00 a.m., U.S. Central Time, Escrow Agent will not be required to invest applicable funds until the next Business Day. Receipt of the Escrow Funds and investment and reinvestment of the Escrow Funds will be confirmed by Escrow Agent by an account statement. Failure to inform Escrow Agent in writing of any error or omission in any such account statement within 90 days after receipt will conclusively be deemed confirmation and approval by Purchaser and Seller of such account statement.

8. Tax Reporting. (a) Escrow Agent has no responsibility for the tax consequences of this Agreement and Purchaser and Seller shall consult with independent counsel concerning any and all tax matters. Purchaser and Seller jointly and severally agree to (i) assume all obligations imposed now or hereafter by any applicable tax law or regulation with respect to payments or performance under this Agreement and (ii) request and direct the Escrow Agent in writing with respect to withholding and other taxes, assessments or other governmental charges, and advise the Escrow Agent in writing with respect to any certifications and governmental reporting that may be required under any applicable laws or regulations. Except as otherwise agreed by Escrow Agent in writing, Escrow Agent has no tax reporting or withholding obligation except to the Internal Revenue Service with respect to Form 1099-B reporting on payments of gross proceeds under Internal Revenue Code Section 6045 and Form 1099 and Form 1042-S reporting with respect to investment income earned on the Escrow Funds, if any. Escrow Agent shall have no responsibility for Form 1099-MISC reporting with respect to disbursements that Escrow Agent makes in an administrative or ministerial function to vendors or other service providers and shall have no tax reporting or withholding duties with respect to the Foreign Investment in Real Property Tax Act (FIRPTA).

(b) To the extent that U.S. federal imputed interest regulations apply, Purchaser and Seller shall so inform the Escrow Agent, provide the Escrow Agent with all imputed interest calculations and direct the Escrow Agent to disburse imputed interest amounts as Purchaser and Seller deem appropriate. The Escrow Agent will rely solely on such provided calculations and information and will have no responsibility for the accuracy or completeness of any such calculations or information. Purchaser and Seller shall provide Escrow Agent a properly completed IRS Form W-9 or Form W-8, as applicable, for each payee. If requested tax documentation is not so provided, Escrow Agent is authorized to withhold taxes as required by the United States Internal Revenue Code and related regulations.

(c) Except as otherwise directed by Purchaser and Seller in writing, Escrow Agent will report, on an accrual basis, all interest or income on the Escrow Funds as being owned by Seller for federal income tax purposes. If any accrued interest income attributed to Seller is subsequently disbursed by Escrow Agent to Purchaser, Purchaser and Seller shall jointly direct Escrow Agent in writing with respect to the appropriate tax treatment and reporting of such disbursements.

9. Resignation or Removal of Escrow Agent. Escrow Agent may resign and be discharged from the performance of its duties hereunder at any time by giving ten (10) Business Days' prior written notice to Purchaser and Seller specifying a date when such resignation will take effect and, after the date of such resignation notice, notwithstanding any other provision of this Agreement, Escrow Agent's sole obligation will be to hold the Escrow Funds pending appointment of a successor Escrow Agent. Similarly, Escrow Agent may be removed at any time by Purchaser and Seller giving at least thirty (30) days' prior written notice to Escrow Agent specifying the date when such removal will take effect. If Purchaser and Seller fail to jointly appoint a successor Escrow Agent prior to the effective date of such resignation or removal, Escrow Agent may petition a court of competent jurisdiction to appoint a successor escrow agent, and all costs and expenses related to such petition shall be paid jointly and severally by Purchaser and Seller. The retiring Escrow Agent shall transmit all records pertaining to the Escrow Funds and shall pay all Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction and payment to the retiring Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder. After any retiring Escrow Agent's resignation or removal, the provisions of this Agreement will inure to its benefit as to any actions taken or omitted to be taken by it while it was Escrow Agent under this Agreement.

10. Duties and Liability of Escrow Agent.

(a) Escrow Agent undertakes to perform only such duties as are expressly set forth herein and no duties will be implied. Escrow Agent has no fiduciary or discretionary duties of any kind. Escrow Agent's permissive rights will not be construed as duties. Escrow Agent has no liability under and no duty to inquire as to the provisions of any document other than this Agreement, including without limitation any other agreement between any or all of the parties hereto or any other persons even though reference thereto may be made herein and whether or not a copy of such document has been provided to Escrow Agent. Escrow Agent's sole responsibility is to hold the Escrow Funds in accordance with Escrow Agent's customary practices and disbursement thereof in accordance with the terms of this Agreement. Escrow Agent shall not be responsible for or have any duty to make any calculations under this

Agreement, or to determine when any calculation required under the provisions of this Agreement should be made, how it should be made or what it should be, or to confirm or verify any such calculation. Escrow Agent will not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein. This Agreement will terminate upon the distribution of all the Escrow Funds pursuant to any applicable provision of this Agreement, and Escrow Agent will thereafter have no further obligation or liability whatsoever with respect to this Agreement or the Escrow Funds.

(b) Escrow Agent will not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines, which determination is not subject to appeal, that Escrow Agent's gross negligence or willful misconduct in connection with its material breach of this Agreement was the sole cause of any loss to Purchaser or Seller. Escrow Agent may retain and act hereunder through agents, and will not be responsible for or have any liability with respect to the acts of any such agent retained by Escrow Agent in good faith.

(c) Escrow Agent may conclusively rely upon any notice, instruction, request or other instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Escrow Agent believes to be genuine and to have been signed or presented by the person purporting to sign it and shall have no responsibility or duty to make inquiry as to or to determine the truth, accuracy or validity thereof (or any signature appearing thereon). In no event will Escrow Agent be liable for (i) acting in accordance with or conclusively relying upon any instruction, notice, demand, certificate or document believed by Escrow Agent to have been created by or on behalf of Purchaser or Seller, (ii) incidental, indirect, special, consequential or punitive damages or penalties of any kind (including, but not limited to lost profits), even if Escrow Agent has been advised of the likelihood of such damages or penalty and regardless of the form of action or (iii) any amount greater than the value of the Escrow Funds as valued upon deposit with Escrow Agent.

(d) Escrow Agent will not be responsible for delays or failures in performance resulting from acts of God, strikes, lockouts, riots, acts of war or terror, epidemics, governmental regulations, fire, communication line failures, computer viruses, attacks or intrusions, power failures, earthquakes or any other circumstance beyond its control. Escrow Agent will not be obligated to take any legal action in connection with the Escrow Funds, this Agreement or the Purchase Agreement or to appear in, prosecute or defend any such legal action or to take any other action that in Escrow Agent's sole judgment may expose it to potential expense or liability. Purchaser and Seller are aware that under applicable state law, property which is presumed abandoned may under certain circumstances escheat to the applicable state. Escrow Agent will have no liability to Purchaser or Seller, their respective heirs, legal representatives, successors and assigns, or any other party, should any or all of the Escrow Funds escheat by operation of law.

(e) Escrow Agent may consult, at Purchaser's and Seller's cost, legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions hereof or of any other agreement or of its duties hereunder, or relating to any dispute involving this Agreement, and will incur no liability and must be fully indemnified from any liability whatsoever in acting in accordance with the advice of such counsel. Purchaser and Seller agree to perform or procure the performance of all further acts and things, and execute and deliver such further documents, as may be required by law or as Escrow Agent may reasonably

request in connection with its duties hereunder. When any action is provided for herein to be done on or by a specified date that falls on a day other than a Business Day, such action may be performed on the following Business Day.

(f) If any portion of the Escrow Funds is at any time attached, garnished or levied upon, or otherwise subject to any writ, order, decree or process of any court, or in case disbursement of Escrow Funds is stayed or enjoined by any court order, Escrow Agent is authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders, decrees or process so entered or issued, including but not limited to those which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction; and if Escrow Agent relies upon or complies with any such writ, order, decree or process, it will not be liable to any of the parties hereto or to any other person or entity by reason of such compliance even if such order is reversed, modified, annulled, set aside or vacated.

(g) Escrow Agent and any stockholder, director, officer or employee of Escrow Agent may buy, sell and deal in any of the securities of any other party hereto and contract and lend money to any other party hereto and otherwise act as fully and freely as though it were not Escrow Agent under this Agreement. Nothing herein will preclude Escrow Agent from acting in any other capacity for any other party hereto or for any other person or entity.

(h) In the event instructions, including funds transfer instructions, address change or change in contact information are given to Escrow Agent (other than in writing at the time of execution of this Agreement), whether in writing, by facsimile or otherwise, Escrow Agent is authorized, but not required, to seek confirmation of such instructions by telephone call-back to any person designated by the instructing party on Schedule C hereto, and Escrow Agent may rely upon the confirmation of anyone purporting to be the person so designated. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by Escrow Agent and will be effective only after Escrow Agent has a reasonable opportunity to act on such changes. If Escrow Agent is unable to contact any of the designated representatives identified in Schedule C, Escrow Agent is hereby authorized but will be under no duty to seek confirmation of such instructions by telephone call-back to any one or more of Purchaser's or Seller's executive officers ("Executive Officers"), as the case may be, which will include the titles of Chief Executive Officer, President and Vice President, as Escrow Agent may select. Such Executive Officer must deliver to Escrow Agent a fully executed incumbency certificate, and Escrow Agent may rely upon the confirmation of anyone purporting to be any such officer. Purchaser and Seller agree that Escrow Agent may at its option record any telephone calls made pursuant to this Section. Escrow Agent in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by Purchaser or Seller to identify (i) the beneficiary, (ii) the beneficiary's bank, or (iii) an intermediary bank, even when its use may result in a transfer of funds to a person other than the intended beneficiary or to a bank other than the intended beneficiary's bank or intermediary bank. Purchaser and Seller acknowledge that these optional security procedures are commercially reasonable.

11. Indemnification of Escrow Agent. Purchaser and Seller, jointly and severally, shall indemnify and hold harmless Escrow Agent and each director, officer, employee and affiliate of Escrow Agent (each, an "Indemnified Party") upon demand against any and all claims, actions and proceedings (whether asserted or commenced by Purchaser and Seller or any other person or entity and whether or not valid), losses, damages, liabilities, penalties, costs and expenses of any kind or nature (including without limitation reasonable attorneys' fees, costs and expenses) (collectively, "Losses") arising from this Agreement or Escrow Agent's actions

hereunder, except to the extent such Losses are finally determined by a court of competent jurisdiction, which determination is not subject to appeal, to have been directly caused solely by the gross negligence or willful misconduct of such Indemnified Party in connection with Escrow Agent's material breach of this Agreement. Purchaser and Seller further agree, jointly and severally, to indemnify each Indemnified Party for all costs, including without limitation reasonable attorneys' fees, incurred by such Indemnified Party in connection with the enforcement of Purchaser's and Seller's obligations to Escrow Agent under this Agreement. Each Indemnified Party shall, in its sole discretion, have the right to select and employ separate counsel with respect to any action or claim brought or asserted against it, and the reasonable fees of such counsel shall be paid upon demand by Purchaser and Seller jointly and severally. The obligations of Purchaser and Seller under this Section shall survive any termination of this Agreement and the resignation or removal of Escrow Agent.

12. Compensation of Escrow Agent.

(a) Fees and Expenses. Except for the One-Time Fee for which Purchaser shall be solely responsible, Purchaser and Seller agree, jointly and severally, to compensate Escrow Agent upon demand for its services hereunder in accordance with Schedule B attached hereto. The obligations of Purchaser and Seller under this Section shall survive any termination of this Agreement and the resignation or removal of Escrow Agent. As used herein, the "One-Time Fee" means the fee specified in Schedule B attached hereto.

(b) Disbursements from Escrow Funds to Pay Escrow Agent. Escrow Agent is authorized to, and may disburse to itself from the Escrow Funds, from time to time, the amount of any compensation and reimbursement of expenses due and payable hereunder (including any amount to which Escrow Agent or any other Indemnified Party is entitled to seek indemnification hereunder). Escrow Agent shall notify Purchaser and Seller of any such disbursement from the Escrow Funds to itself or any other Indemnified Party and shall furnish Purchaser and Seller copies of related invoices and other statements.

(c) Security and Offset. Purchaser and Seller hereby grant to Escrow Agent and the other Indemnified Parties a first priority security interest in, lien upon and right of sale and offset against the Escrow Funds with respect to any compensation or reimbursement due any of them hereunder (including any claim for indemnification hereunder). If for any reason the Escrow Funds are insufficient to cover such compensation and reimbursement, Purchaser and Seller shall promptly pay such amounts upon receipt of an itemized invoice.

13. Representations and Warranties. Purchaser and Seller each respectively make the following representations and warranties to Escrow Agent:

(a) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder; and this Agreement has been duly approved by all necessary action and constitutes its valid and binding agreement enforceable in accordance with its terms.

(b) each of the applicable persons designated on Schedule C attached hereto has been duly appointed to act as its authorized representative hereunder and individually has full power and authority on its behalf to execute and deliver any instruction or direction, to amend, modify or waive any provision of this Agreement and to take any and all other actions as its authorized representative under this Agreement and no change in designation of such authorized representatives will be effective until written notice of such change is delivered to each other

party to this Agreement pursuant to Section 15 and Escrow Agent has had reasonable time to act upon it.

(d) it will not claim any immunity from jurisdiction of any court, suit or legal process, whether from service of notice, injunction, attachment, execution or enforcement of any judgment or otherwise.

(e) there is no security interest in the Escrow Funds or any part thereof and no financing statement under the Uniform Commercial Code is on file in any jurisdiction claiming a security interest in or describing (whether specifically or generally) the Escrow Funds or any part thereof.

14. Identifying Information. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity, Escrow Agent requires documentation to verify its formation and existence as a legal entity. Escrow Agent may require financial statements, licenses or identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. Purchaser and Seller agree to provide all information requested by Escrow Agent in connection with any legislation or regulation to which Escrow Agent is subject, in a timely manner. Escrow Agent's appointment and acceptance of its duties under this Agreement is contingent upon verification of all regulatory requirements applicable to Purchaser and Seller and any of their permitted assigns, including successful completion of a final background check. These conditions include, without limitation, requirements under the USA PATRIOT Act, the USA FREEDOM Act, the Bank Secrecy Act, and the U.S. Department of the Treasury Office of Foreign Assets Control. If these conditions are not met, Escrow Agent may at its option promptly terminate this Agreement in whole or in part and refuse any otherwise permitted assignment by Purchaser or Seller, without any liability or incurring any additional costs.

15. Notices. All notices, approvals, consents, requests and other communications hereunder (each, a "Notice") must be in writing, in English, and may only be delivered (a) by personal delivery, or (b) by national overnight courier service, or (c) by certified or registered mail, return receipt requested, or (d) by facsimile transmission or (e) by email. Notice will be effective upon receipt except for notice via email, which will be effective only when the recipient, by return email or notice delivered by other method provided for in this Section, acknowledges having received that email (with an automatically generated receipt or similar notice not constituting an acknowledgement of an email receipt for purposes of this Section). Notices may only be sent to the applicable party or parties at the address specified below:

If to Purchaser or Purchaser Representative, at:

700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Eric Mooney
Telephone:
E-mail: eric.mooney@nexteraenergy.com

with a copy to: Vice President & General Counsel
E-mail: Neer-General-Counsel@nexteraenergy.com

If to Seller or Seller Representative, at:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Township Manager
Fax: 215-368-7650

with a copy to:

Township of Towamencin
1090 Troxel Road
Lansdale, PA 19446
Attention: Solicitor
Fax: 215-368-7650

If to Escrow Agent at:

U.S. Bank National Association, as Escrow Agent
ATTN: Global Corporate Trust / Jack Ellerin
Address: 2 Concourse Parkway, Suite 800
Atlanta, GA 30328-5588
Telephone: (404) 898-8830
Facsimile: (404) 898-2467
Email: jack.ellerin@usbank.com

with a copy to:

U.S. Bank National Association
TFM Corporate Escrow Shared
Address: 60 Livingston Avenue
St. Paul, MN 55107
Email: tfmcorporateescrowshared@usbank.com

or to such other address as each party may designate for itself by like notice and unless otherwise provided herein will be deemed to have been given on the date received. Escrow Agent shall not have any duty to confirm that the person sending any Notice by electronic transmission (including by e-mail, facsimile transmission, web portal or other electronic methods) is, in fact, a person authorized to do so. Electronic signatures believed by Escrow Agent to comply with the ESIGN Act of 2000 or other applicable law (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other digital signature provider acceptable to Escrow Agent) shall be deemed original signatures for all purposes. Notwithstanding the foregoing, Escrow Agent may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to Escrow Agent in lieu of, or in addition to, any such electronic Notice. Purchaser and Seller agree to assume all risks arising out of the use of electronic signatures and electronic methods to submit instructions and directions to Escrow Agent, including without limitation the risk of Escrow Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties.

16. Amendment and Assignment. None of the terms or conditions of this Agreement may be changed, waived, modified, terminated or varied in any manner whatsoever unless in writing duly signed by each party to this Agreement. No course of conduct will constitute a waiver of any of the terms and conditions of this Agreement, unless such waiver is specified in writing, and then only to the extent so specified. No party may assign this Agreement or any of its rights or obligations hereunder without the written consent of the other parties, provided that if Escrow Agent consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business (including the escrow contemplated by this Agreement) to another entity, the successor or transferee entity without any further act will be the successor Escrow Agent.

17. Governing Law, Jurisdiction and Venue. This Agreement must be construed and interpreted in accordance with the internal laws of the State of Pennsylvania without giving effect to the conflict of laws principles thereof that would require the application of any other laws. Each of the parties hereto irrevocably (a) consents to the exclusive jurisdiction and venue of the state and federal courts in the State of Pennsylvania in connection with any matter arising out of this Agreement, (b) waives any objection to such jurisdiction or venue (c) agrees not to commence any legal proceedings related hereto except in such courts (d) consents to and agrees to accept service of process to vest personal jurisdiction over it in any such courts made as set forth in Section 15 and (e) waives any right to trial by jury in any action in connection with this Agreement.

18. Entire Agreement, No Third-Party Beneficiaries. This Agreement constitutes the entire agreement between the signatory parties hereto relating to the holding, investment and disbursement of Escrow Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to Escrow Funds. This Agreement and any Joint Written Direction may be executed in two or more counterparts, which when so executed will constitute one and the same agreement or direction. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision will be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. The Section headings have been inserted for convenience only and will be given no substantive meaning or significance whatsoever in construing the terms and conditions of this Agreement. Nothing in this Agreement, express or implied, is intended to or will confer upon any person other than the signatory parties hereto and the Indemnified Parties any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

[signature page follows]

The parties hereto have caused this Agreement to be executed effective as of the date first above written.

**NEXTERA WATER PENNSYLVANIA, LLC
as Purchaser**

By: _____
Name: Bruce Hauk
Title: President

**TOWNSHIP OF TOWAMENCIN, MONTGOMERY COUNTY
as Seller**

By: _____
Name: H. Charles Wilson, III
Title: Chairman

**U.S. BANK NATIONAL ASSOCIATION
as Escrow Agent**

By: _____
Name: Jack Ellerin
Title: Vice President

SCHEDULE A

**U.S. BANK NATIONAL ASSOCIATION
Investment Authorization Form**

U.S. BANK MONEY MARKET DEPOSIT ACCOUNT

Description and Terms

The U.S. Bank Money Market Deposit Account is a U.S. Bank National Association (“U.S. Bank”) interest-bearing money market deposit account designed to meet the needs of U.S. Bank’s Corporate Trust Services Escrow Group and other corporate trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit and invest with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366). This method applies a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank’s discretion, and may be tiered by customer deposit amount.

The owner of the account is U.S. Bank as agent for its corporate trust customers. U.S. Bank’s Corporate Trust Services Escrow Group performs all account deposits and withdrawals. Deposit accounts are FDIC insured per depositor, as determined under FDIC Regulations, up to applicable FDIC limits.

U.S. BANK IS NOT REQUIRED TO REGISTER AS A MUNICIPAL ADVISOR WITH THE SECURITIES AND EXCHANGE COMMISSION FOR PURPOSES OF COMPLYING WITH THE DODD-FRANK WALL STREET REFORM & CONSUMER PROTECTION ACT. INVESTMENT ADVICE, IF NEEDED, SHOULD BE OBTAINED FROM YOUR FINANCIAL ADVISOR.

Automatic Authorization

In the absence of specific written direction to the contrary to the extent and as authorized in the applicable escrow agreement, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Deposit Account. The customer(s) confirm that the U.S. Bank Money Market Deposit Account is a permitted investment under the operative documents and this authorization is the permanent direction for investment of the moneys until notified in writing of permissible alternate instructions.

SCHEDULE B

Schedule of Fees for Services as Escrow Agent

Acceptance Fee Waived

One-Time Fee - \$3,000

Extraordinary Expenses/Other Services ... Billed at Cost

The above-mentioned fees are basic charges and do not include out-of-pocket expenses, which will be billed in addition to the regular charges as required. Out-of-pocket expenses shall include, but are not limited to: legal expenses, telephone tolls, stationery, travel and postage expenses.

Charges for performing extraordinary or other services not contemplated at the time of the execution of the transaction or not specifically covered elsewhere in this schedule will be determined by appraisal in amounts commensurate with the service to be provided.

To help the government fight the funding of terrorism and money laundering activities, Federal Law requires all financial institutions to obtain, verify and record information that identifies each client who opens an account. For a non-individual person such as a business entity, a charity, a Trust or other legal entity we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

Our proposal is subject in all aspects to our review and acceptance of the final documents, which set forth our duties and responsibilities.

ATTACHMENT 1

FORM OF JOINT WRITTEN DIRECTION

[To be completed on closing]

U.S. Bank National Association, as Escrow Agent
ATTN: Global Corporate Trust Services
Address: _____

RE: ESCROW AGREEMENT made and entered into as of [] by and among []
("Purchaser"), [] ("Seller") and U.S. Bank National Association, in its capacity as escrow
agent (the "Escrow Agent").

Pursuant to Section 4(a) of the above-referenced Escrow Agreement, Purchaser and Seller
hereby instruct Escrow Agent to disburse the amount of [\$] from the Escrow Account to
Purchaser, as provided below:

Purchaser

Bank Name: _____
Bank Address: _____
ABA No.: _____
Account Name: _____
Account No.: _____

Purchaser

By: _____
Name: _____
Date: _____

Seller

By: _____
Name: _____
Date: _____

AMENDED PURCHASE AGREEMENT

FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT (“First Amendment”) is made as of the 23rd day of March, 2023 (the “Effective Date”), by and between the Township of Towamencin, Montgomery County, a body corporate and politic, organized under the Pennsylvania law, (the “Seller” or the “Township”), the Towamencin Municipal Authority, a body corporate and politic created under the Pennsylvania Municipal Authorities Act (the “Authority”) and NextEra Water Pennsylvania, LLC (formerly known as NextEra Towamencin Wastewater, LLC) (the “Buyer”), a Delaware limited liability company.

RECITALS:

WHEREAS, Seller, the Authority and Buyer entered into that certain Asset Purchase Agreement dated June 14, 2022 (the “Agreement”); and

WHEREAS, the Seller, the Authority and Buyer desire to amend a certain provision of the Agreement to become effective upon the Effective Date of this First Amendment; and

WHEREAS, the Seller and Buyer desire to reaffirm all other provisions of the Agreement not specifically amended by this First Amendment; and

WHEREAS, capitalized terms not otherwise defined in this First Amendment have the meaning ascribed to such terms in the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties to this First Amendment, intending to be legally bound, agree as follows:

1. The amount of Purchase Price in Section 3.01 of the Agreement is hereby amended as set forth below:

“Purchase Price. The purchase price for the Acquired Assets is One Hundred Four Million (\$104,000,000) (the “Purchase Price”) which Buyer shall pay as follows at Closing:”

2. The language regarding the Additional Deposit and the Additional Deposit Escrow Agreement in Article I, Section 3.01(b), Section 3.01(e) and Section 14.02 of the Agreement are hereby deleted and promptly after the Effective Date of this First Amendment, the Parties shall direct the escrow agent party to the Additional Deposit Escrow Agreement to release the Additional Deposit to the Buyer in accordance with Section 4(a) of the Additional Deposit Escrow Agreement.

3. The definition of the term “Outside Date” is hereby amended as set forth below:

“Outside Date” means 365 days after the later to occur of (i) the date the application to the PaPUC is accepted as complete by the PaPUC, and (ii) the date the statutory 6-

month consideration period is initiated, provided that if there is litigation pending or threatened on such date in which a party thereto seeks to prevent the consummation of the transaction described in this Agreement, or to frustrate a material term contained in this Agreement (specifically including, without limitation, litigation involving the proceedings before the PaPUC as contemplated by this Agreement,) the Outside Date will be extended to the date that is sixty (60) days following the unappealable resolution of any such litigation.

4. Section 7.04(a) is hereby amended as set forth below:

“(a) Rates. After Closing, Buyer shall implement the Seller’s sanitary wastewater rates then in effect at Closing, as set forth on Schedule 7.04 (“Base Rates”), provided that the rates reflected on Schedule 7.04 at Closing shall not be lower than those in effect on the date of the Effective Date. The Buyer may apply PaPUC permitted or required surcharges or pass-through costs (e.g. Distribution System Improvement Charge and/or State Tax Adjustment Surcharge). After the Closing the Buyer shall institute its grant or discount program for low-income customers currently served by the Authority to the Base Rates. Buyer intends to bill on a monthly basis.”

5. In Section 14.01(b)(ii) add the words “with jurisdiction and authority over the material transaction contemplated by the Agreement” immediately after “(ii) any Governmental Authority”

6. Section 3.01(a)(iii) is hereby amended as set forth below:

“(iii) The Deposit shall be non-refundable to Buyer.”

7. Except for certain conforming changes to effect the amendments set forth above, all other provisions, terms, and conditions of the Agreement not specifically amended by this First Amendment remain in full force and effect. Seller and Buyer reaffirm the Agreement as amended by this First Amendment.

8. Neither Party to this First Amendment may assign any right or delegate any performance under this First Amendment without the prior written consent of the other Party. A purported assignment or purported delegation without prior written consent is void.

9. The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising and relating to this First Amendment, including torts. The Parties irrevocably agree and consent to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, for the adjudication of any matters arising under or in connection with this First Amendment. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Eastern District of Pennsylvania or the Court of Common Pleas of Montgomery County, Pennsylvania, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process,

summons, notice or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS FIRST AMENDMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS FIRST AMENDMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS FIRST AMENDMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10. This First Amendment may be executed in any number of counterparts which, taken together, is one and the same agreement. To evidence the fact that it has executed this First Amendment, a Party may send a copy of its executed counterpart to the other Party by facsimile transmission or e-mail in accordance with Section 15.03 of the Agreement.

[Remainder of Page Intentionally Blank; Signature Page Immediately Follows]

IN WITNESS WHEREOF, the Parties have duly executed this First Amendment on the date first written above.

TOWAMENCIN TOWNSHIP,
MONTGOMERY COUNTY

NEXTERA WATER PENNSYLVANIA,
LLC

By: _____

By: _____

Printed: _____

Printed: _____

Its: _____

Its: _____

ATTEST:

ATTEST:

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

TOWAMENCIN MUNICIPAL
AUTHORITY

By: _____

Printed: _____

Its: _____

ATTEST:

By: _____

Printed: _____

Title: _____