

(g) Municipal Ordinances. To the extent that the System is located within municipalities that have ordinances or laws that require properties to connect to and remain connected to the System, (i) the Township shall maintain such ordinances or laws so long as the Assets, or modifications, renewals, replacements, expansions or extension thereto, exist within the municipal boundaries of the Township and (ii) the Seller shall use reasonable commercial efforts to cause any other municipalities, if applicable, to maintain such ordinances or laws so long as the Assets, or modifications, renewals, replacements thereto, exist within the municipal boundaries of such municipalities.

(h) Access. Seller shall provide PAWC and its representatives reasonable access to and right to inspect, during normal business hours and upon prior written notice, all of the premises, properties, assets, records, Permits, contracts and other documents relating to the Assets and shall permit PAWC to consult with its officers, employees and other representatives for purposes of making such investigation of the Assets as PAWC shall desire to make, provided that no investigation shall unreasonably interfere with the Seller's operation of the System.

(i) Customer List. Within thirty (30) days of execution of this Agreement, Seller shall provide PAWC an accurate and complete listing of all customers of the System. This customer list shall provide the customer names, service addresses, billing addresses, and meter sizes and serial numbers in meter reading route sequence and shall denote those customers from which Seller has received notice to cancel or intend to cancel their account with Seller (or PAWC after Closing). This customer list shall be true and correct as of the date such list is provided to PAWC and shall be updated at Closing and provided to PAWC at Closing so as to be true and correct as of the Closing Date.

(j) Customer Advances. Prior to the Closing Date, Seller shall complete the construction of any mains and facilities for which Seller has received customer advances and return any unexpended customer advances to the appropriate depositor. Provided, however, that for projects acceptable to and approved in writing by PAWC, Seller may pay over to PAWC the unexpended, customer advances, and PAWC shall assume all of the responsibility of Seller as to those unexpired customer advances and shall be bound by the terms and conditions contained in any related agreements. PAWC shall not assume any responsibility for any unexpired customer advances received by Seller, or for any agreements to which Seller becomes a party, except as specifically agreed to in writing.

(k) Updating of Information. Between the date of this Agreement and the Closing Date, Seller will deliver revised or supplementary Schedules to this Agreement, containing accurate information as of the Closing Date, in order to enable PAWC to confirm the accuracy of Seller's representations and warranties and otherwise effectuate the provisions of this Agreement. The receipt by PAWC of any revised or supplementary Schedules to this Agreement shall in no way prejudice PAWC's right to terminate this Agreement based upon the failure of any condition to be satisfied under **Section 8.1** hereof or seek indemnification under **Section 9.1**. Seller will promptly inform PAWC, in writing, of the occurrence or failure of any action or event that would violate Seller's representations and warranties under this Agreement or render them inaccurate as of the date hereof or the Closing Date or that would constitute a breach of any covenant of Seller under this Agreement or a failure of any condition to the obligations of either Seller or PAWC under this Agreement.

(l) Retention of Records. Seller shall preserve any books and records relating to the System and the business that are not delivered to PAWC hereunder for a period of six (6) months after the Closing Date, and Seller shall make available such books and records for review and copying to PAWC and its authorized representatives following the Closing at PAWC's expense upon reasonable notice during normal business hours. During such period, Seller shall permit, to the extent permitted by applicable Law and upon reasonable

request of PAWC, PAWC and any of its agents, representatives, advisors or consultants reasonable access to all properties, books, contracts and records of Seller related to the System.

6.2 Title Information.

(a) Within thirty (30) days following the execution of this Agreement, Seller shall deliver to PAWC true, correct and complete copies of all existing title policies, surveys, leases, deeds, instruments and agreements in Seller's possession relating to title to the real estate and easements constituting part of the Assets, as well as any amendments thereto through to Closing. PAWC shall, at its sole cost and expense, conduct an abstract of such title information to determine whether Seller has sufficient real estate rights and continuous rights-of-way to permit PAWC, upon Closing, to operate a continuous wastewater system, including lines, facilities fittings and appurtenances necessary to operate such wastewater system, and that such rights are represented by legal instruments in appropriate form, duly recorded. Upon notification by PAWC that there is a Missing Easement, Seller shall use its commercially reasonable efforts (including, if requested by PAWC, 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 PAWC at the Closing pursuant to the terms and conditions of this Agreement. Prior to Closing, 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) shall be paid by Seller. If Seller has not obtained all Missing Easements by the date that is ninety (90) days from PAWC's notice to Seller of such Missing Easements, then Seller shall, as soon as reasonably practicable after a request from PAWC, commence and file in the Court of Common Pleas, Lancaster County, a condemnation or eminent domain proceeding to obtain any and all such Missing Easements it can prior to Closing. 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 Seller shall be considered an Easement. After the Closing Date, PAWC shall obtain all remaining Missing Easements as contemplated in the Closing Escrow Agreement.

(b) For all of the Missing Easements listed on attached **Schedule 6.2(b)** as of the Closing Date, Seller will fund the Escrow Fund in the amount of Two Thousand Dollars (\$2,000) per Missing Easement listed on attached **Schedule 6.2(b)** as of the Closing Date, which shall be held in accordance with the Closing Escrow Agreement.

6.3 MS4 System. Subject to Law, the Township shall at all times maintain ownership of its MS4 System and Stormwater System Assets.

6.4 Further Assurances. Each party to this Agreement shall cooperate and deliver such instruments and take such action as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby. After the Closing, each party shall take such other actions and execute such other documents, instruments certifications, and further assurances as Seller or PAWC, as the case may be, may reasonably require in order to make effective the transactions contemplated hereby (including to transfer to PAWC or to put PAWC more fully in possession of any of the Assets).

6.5 Cooperation. Subject to the terms and conditions of this Agreement, the parties shall cooperate fully with each other and their respective counsel and accountants in connection with, and take or cause to be taken and do or cause to be done, any actions required to be taken under applicable law to make effective the contemplated transactions as promptly as practicable. Prior to the Closing, the parties shall proceed

expeditiously and in good faith to make such filings and take such other actions as may be reasonably necessary to satisfy the conditions to Closing set forth herein. Any and all filing fees in respect of such filings shall be paid by Seller, with the exception of those fees implemented by the PUC, which shall be paid by PAWC. On or after the Closing Date, the parties shall, on request, cooperate with one another by furnishing any additional information, executing and delivering any additional documents and instruments, including contract assignments not obtained prior to Closing, and doing any and all such other things as may be reasonably required by the parties or their counsel to consummate or otherwise implement the transactions contemplated by this Agreement. Seller hereby agrees to cooperate with PAWC to ensure a proper transition of all customers with respect to billing and customer service activities, including assisting PAWC to place all customer information in a format reasonably requested by PAWC.

6.6 Rates. PAWC shall implement Seller's wastewater rates then in effect at Closing as PAWC's effective wastewater rates, provided such rates shall not be lower than those in effect on the date of this Agreement is executed. These rates are reflected in Schedule 6.6.

6.7 Act 537 Plan.

(a) PAWC acknowledges that the Township previously drafted and committed to an Act 537 Plan under the Pennsylvania Sewage Facilities Act (the original plan established in December 1989, together with all subsequent supplements or amendments, the "Plan"), which has been made available to PAWC and which may be amended pursuant to **Section 8.1(f)** and **8.2(e)** hereunder. PAWC understands that the Plan does not currently contain any obligations and commitments to complete any improvements and upgrades to the System.

(b) PAWC acknowledges the Township has jurisdiction over sewage facilities planning and sewer service through the Plan and its Act 537 planning program, zoning, subdivision and land development ordinances and comprehensive land use planning policies. PAWC and the Township shall cooperate with respect to current and future sewage facilities planning and sewer service consistent with the provisions of this **Section 6.7**.

(c) Subject to PaPUC approval, PAWC shall extend sewer lines and provide sewage collection and treatment services to properties within the Township in a manner consistent with the Plan and PAWC's Tariff. Pursuant to **Section 8.1(f)** and **8.2(e)**, the Township will confer with PAWC concerning any amendment to the Plan that would affect the provision of sewage collection and treatment services within the Service Area and elsewhere in the Township. The Township will not propose or adopt any amendment to the Plan that would reduce the Service Area or divert wastewater flows generated from properties located within the Township from being served by the System without the approval of PAWC.

(d) PAWC will not request, pursue, or implement expansions of the System within the Township's border beyond the current Service Area (that would trigger a Plan amendment) without the prior written approval of the Township and the PaDEP. The Township shall promptly notify and confer with PAWC, and consider PAWC's comments, concerning any proposed Plan amendment (including any sewage facilities planning module) that would involve the provision of sewage collection and treatment services by the System to areas or properties outside of the Service Area. With respect to any such potential Plan amendment, the Township and PAWC 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 PAWC's Tariff.

(e) If the Township and PAWC 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 Township shall amend the Plan to include such identified areas and properties in the Service Area. If the Township amends the Plan pursuant to this subsection and such amendment is approved by PaDEP, (i) PAWC 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, PAWC shall extend sewer lines and provide sewage collection services to properties within such Service Area in a manner consistent with the Plan and PAWC's Tariff.

## ARTICLE 7

### PENNSYLVANIA PUBLIC UTILITY COMMISSION APPROVAL

7.1 Pennsylvania PUC Approval. The obligation of PAWC to consummate the transactions contemplated by this Agreement are conditioned upon PAWC receiving the approvals of the PUC. PAWC covenants and agrees to initiate, and use commercially reasonable efforts to prosecute the necessary proceedings to obtain the approval of the PUC for: (a) this Agreement and the transactions contemplated hereby which require approval by the PUC, including the transfer by sale of the Assets to PAWC and the Assignment of Contracts Agreement; (b) the right of PAWC to provide wastewater service to the public primarily in the Service Area presently being served by Seller's System; (c) the right of PAWC to apply after Closing PAWC's existing rules and regulations for service as set forth in PAWC's Tariff for the Service Area presently being served by Seller's System and the right of PAWC to adopt Seller's rates as PAWC's rates in the area to be served at the time of Closing; and (d) any other approval as may be appropriate to consummate the transactions contemplated by this Agreement. Seller, by this Agreement, covenants and agrees to provide such information, documents and assistance as may be reasonably requested by PAWC in connection with any such proceedings and to otherwise cooperate in the initiation and prosecution of any such proceeding.

## ARTICLE 8

### CONDITIONS TO CLOSING

8.1 Conditions to PAWC's Obligation to Close. The obligation of PAWC to consummate the transactions contemplated hereby are subject to the satisfaction, on or prior to the Closing, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by PAWC in its sole discretion):

(a) Representations and Warranties. Seller's representations and warranties set forth in this Agreement or in any Schedule, list, certificate or document delivered pursuant to this Agreement shall be true, correct and accurate as of the date made and at and as of the time of the Closing with the same force and effect as though such representations and warranties were made at and as of the Closing Date (without giving effect to any supplement to the Schedules), and PAWC shall have received from a proper representative of Seller a certificate to such effect, in form and substance reasonably satisfactory to PAWC.

(b) Performance of Covenants and Agreements. Seller shall have performed and complied with in all material respects all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing, and PAWC shall have received from a proper representative of Seller a certificate to such effect, in form and substance reasonably satisfactory to PAWC.

(c) Adverse Change. There shall not have been a material adverse change, occurrence or casualty, financial or otherwise, to the System or the Assets (including a material loss of customers or Contracts), whether covered by insurance or not.

(d) Closing Deliveries. Seller shall have delivered all documents required to be delivered by it pursuant to **Section 3.2(a)**.

(f) Act 537 Plans. Any and all Act 537 Plans that DEP requires to be updated as a result of PAWC's purchase shall be revised and approved prior to Closing unless otherwise agreed to in writing by the parties to this Agreement. Notwithstanding the previous sentence, PAWC shall be responsible for the costs of preparing and submitting any necessary revisions to the Act 537 Plan required to allow acquisition of the System by PAWC. The Township and PAWC shall cooperate regarding the Act 537 Plan submission and PaDEP approval process.

(g) Proceedings. No provision of any law or order shall be in effect, and no proceeding by any Person shall be threatened or pending before any Governmental Authority, or before any arbitrator, that would: (i) prevent consummation of the contemplated transactions; (ii) have a likelihood of causing the contemplated transactions to be rescinded following consummation; (iii) adversely affect the right of PAWC to own any of the Assets or operate the System; or (iv) adversely affect the value or condition of any of the Assets or the System.

(h) PUC Approval. The PUC shall have entered an order (or orders) providing the approvals set forth in **Section 7.1**, and such order(s) shall not be subject to appeal, challenge, supersedeas or injunction.

8.2 Conditions Precedent to Seller's Obligation to Close. The obligation of Seller to consummate the transactions contemplated hereby are subject to the satisfaction, on or prior to the Closing, of each of the following conditions (any one or more of which may be waived in writing in whole or in part by Seller in its sole discretion):

(a) Representations and Warranties. PAWC's representations and warranties contained in this Agreement or in any Schedule, list, certificate or document delivered pursuant this Agreement shall be true, correct and accurate as of the date made and at and as of the time of the Closing, with the same force and effect as though such representations and warranties were made at and as of the Closing Date (without giving effect to any supplement to the Schedules), and Seller shall have received from an officer of PAWC a certificate to such effect, in form and substance reasonably satisfactory to Seller.

(b) Performance of Agreements. PAWC shall have performed and complied, in all material respects, with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing, and Seller shall have received from an officer of PAWC a certificate to such effect, in form and substance reasonably satisfactory to Seller.

(c) Adverse Change. There shall not have been a material adverse change, occurrence or casualty, financial or otherwise, to the System or the Assets (including a material loss of customers or contracts), whether covered by insurance or not.

(d) Closing Deliveries. PAWC shall have delivered the Purchase Price and all documents required to be delivered by it pursuant to **Section 3.2(b)**.

(e) Act 537 Plans. Any and all Act 537 Plans that DEP requires to be updated as a result of PAWC's purchase shall be revised and approved prior to Closing unless otherwise agreed to in writing by the parties to this Agreement.

(f) Consents and Approvals. Receipt of all required material, 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 5.1(d)**, including without limitation all required EPA and PaDEP approvals (all such authorizations and permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired)).

(g) Other Regulatory Consents. PAWC shall have obtained the written, final and unappealable approvals, authorizations and consents of any Governmental Authority or Person required in connection with the execution and delivery of this Agreement by PAWC or the performance by PAWC of its obligations under this Agreement.

(h) Proceedings. No provision of any law or order shall be in effect, and no proceeding by any Person shall be threatened or pending before any Governmental Authority, or before any arbitrator, that would: (i) prevent consummation of the contemplated transactions; (ii) have a likelihood of causing the contemplated transactions to be rescinded following consummation; (iii) adversely affect the right of PAWC to own any of the Assets or operate the System; or (iv) adversely affect the value or condition of any of the Assets or the System.

(i) PUC Approval. The PUC shall have entered an order (or orders) providing the approvals set forth in Article 7, and such order(s) shall not be subject to appeal, challenge, supersedeas or injunction.

## ARTICLE 9

### INDEMNIFICATION

9.1 Indemnification By Seller. Subject to **Section 9.5** hereof, Seller shall fully pay, protect, defend, indemnify and release PAWC and its affiliates and their respective officers, directors and agents and representatives ("**PAWC Indemnified Parties**") from any and all Damages arising out of, resulting from, relating to or caused by: (i) a material misrepresentation, a material inaccuracy in or material breach of (or any claim by any third party alleging or constituting a material misrepresentation, material inaccuracy in, or material breach of) any representation or warranty of, or any material failure to perform or material nonfulfillment of any provision or covenant contained in this Agreement or any other transaction document, by Seller; (ii) any and all liabilities of Seller of any nature (including the retained liabilities in **Section 1.3(a)**), whether due or to become due, whether accrued, absolute, contingent or otherwise, whether accruing prior to or after the Closing Date, or arising out of any transaction entered into, any state of facts existing or any event occurring on or

prior to such date, and any Encumbrance affecting the Assets or the System; (iii) assessments, charges and other similar claims due or owing, directly or indirectly, by Seller or otherwise as a result of or on account of the Assets or the System at any time on or prior to the Closing Date; (iv) the ownership and/or operation of any of the Assets or the System on or prior to the Closing Date; (v) any proceeding now existing or hereafter arising and relating to the Assets or the System and arising from events or matters occurring on or prior to the Closing Date, regardless of when realized; (vi) all assets, properties and rights of Seller excluded from the Assets; (vii) any and all liabilities relating to the employees, agents and independent contractors of Seller who performed services for Seller or related to the System or the Assets, regardless of whether such liabilities arose from events occurring prior to or after the Closing; (viii) the failure to comply with the provisions of any so-called bulk transfer or bulk sale law of any jurisdiction in connection with the sale of the System and the Assets to PAWC, and (ix) transaction costs and expenses incurred by or on behalf of Seller in connection with this Agreement or the contemplated transactions.

As used in this Agreement, the term “**Damages**” means all losses, damages, assessments, judgments, awards, fines, penalties, taxes, interest, costs and expenses (including actual, reasonable out-of-pocket third party costs, fees and expenses of legal counsel and reasonable out-of-pocket third party costs, fees and expenses of investigation).

9.2 Indemnification By PAWC. PAWC agrees to indemnify, defend and release Seller and its affiliates and their respective officers, directors and agents and representatives (“**Seller Indemnified Parties**”) at all times after the date of this Agreement, from, against and in respect of any and all Damages resulting from (i) a material misrepresentation, a material inaccuracy in or material breach of (or any claim by any third party alleging or constituting a material misrepresentation, a material inaccuracy in, or material breach of) any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other transaction document, by PAWC, (ii) any Assumed Liabilities, and (iii) any and all liabilities of PAWC of any nature related to PAWC’s operation of the System and the Assets and occurring on or after the Closing Date.

9.3 Notice of Claim. If either party seeks indemnification on behalf of an indemnified person, such party seeking indemnification (the “**Indemnified Party**”) shall give reasonably prompt written notice to the indemnifying party (the “**Indemnifying Party**”) specifying the facts constituting the basis for such claim and the amount, to the extent known, of the claim asserted; provided, however, that the right of a person or entity to be indemnified hereunder shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Subject to the terms hereof, the Indemnifying Party shall pay the amount of any valid claim not more than ten (10) days after the Indemnified Party provides notice to the Indemnifying Party of such amount.

9.4 Survival. All representations, warranties made by the parties in this Agreement or in any agreement, document, statement or certificate furnished hereunder or in connection with the execution and performance of this Agreement shall survive the Closing until the Escrow Release Date or until the latest date permitted by applicable law. All covenants and agreements made by the parties in this Agreement or in any agreement, document, statement or certificate furnished hereunder or in connection with the execution and performance of this Agreement shall survive the Closing indefinitely or for the shorter period explicitly stated therein. Notwithstanding any investigation or audit conducted before or after the Closing Date, or the decision of any party to complete the Closing, each party shall be entitled to rely upon the representations, warranties, covenants and agreements set forth herein and therein. Notwithstanding anything contained herein or elsewhere to the contrary, all “material” and “material adverse effect” or similar materiality type qualifications contained in the representations and warranties set forth in this Agreement shall be ignored and

not given any effect for purposes of the indemnification provisions hereof, including for purposes of determining the amount of any Damages.

#### 9.5 Limitations on Indemnification Obligations

a. Subject to the other limitations contained in this **Section 9.5**, neither PAWC nor PAWC Indemnified Parties is entitled to indemnification pursuant to **Section 9.1** (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Damages incurred by PAWC and PAWC Indemnified Parties under this Agreement exceeds 1% of the Purchase Price (the “**Threshold Amount**”), in which case Seller shall then be liable for Damages in excess of the Threshold Amount; *provided, however*, that the foregoing limitations contained in this **Section 9.5(a)** shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct.

b. Subject to the other limitations contained in this **Section 9.5** neither Seller nor the Seller Indemnified Parties is entitled to indemnification pursuant to **Section 9.2** (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Damages incurred by Seller and Seller Indemnified Parties under this Agreement exceeds the Threshold Amount, in which case PAWC shall then be liable for Damages in excess of the Threshold Amount; *provided, however*, that the foregoing limitations contained in this **Section 9.5(b)** shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct.

c. Except in the case of fraud, intentional misrepresentation or willful misconduct (for which all applicable legal and equitable remedies will be available to PAWC), the PAWC Indemnified Parties are only entitled to assert claims under **Section 9.1** up to the aggregate amount of 5% of the Purchase Price (the “**Liability Cap**”), which shall represent the sole and exclusive remedy of PAWC and the other PAWC Indemnified Parties for any such claims under **Section 9.1** (other than in the case of fraud, intentional misrepresentation or willful misconduct which shall not be subject to the Liability Cap, but shall be capped at the Purchase Price). In the case of Damages to which a PAWC Indemnified Party is entitled (i) pursuant to **Section 9.1** or (ii) in the event of fraud, intentional misrepresentation or willful misconduct, PAWC shall first seek recourse for such Damages from the Escrow Funds.

d. Payments by an Indemnifying Party pursuant to **Section 9.1** or **Section 9.2** in respect of any Damages shall be 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 Damages prior to seeking indemnification under this Agreement.

e. Payments by an Indemnifying Party pursuant to **Section 9.1** or **Section 9.2** in respect of any Damages shall be reduced by an amount equal to any tax benefit realized or reasonably expected to be realized as a result of such Damages by the Indemnified Party.

f. Each Indemnified Party shall take, and cause its affiliates to take, all reasonable steps to mitigate any Damages 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 Damages.



g. Subject to the provisions of **Section 11.14** 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 of this Agreement or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article 9. In furtherance of the foregoing, each party hereby 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 in this Agreement 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 9. Nothing in this **Section 9.5(g)** limits any person's right to seek and obtain any equitable relief and/or specific performance to which any person is entitled pursuant to this Agreement.

9.6 **Knowledge of Breach.** Seller shall not be liable under this Article 9 for any Damages 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 PAWC had actual knowledge of such inaccuracy or breach prior to the Closing.

## ARTICLE 10

### TERMINATION

10.1 **Termination.** This Agreement may be terminated at any time prior to the Closing only (a) by mutual written consent of Seller and PAWC; (b) by Seller or PAWC upon written notice to the other, if the Closing shall not have occurred on or prior to June 30, 2024; provided, however, that the right to terminate this Agreement under this **Section 10.1** shall not be available to any party whose breach under this Agreement has caused or resulted in the failure of the Closing to occur on or before such date; (c) by PAWC, if PAWC is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a breach of a representation, warranty, covenant or agreement contained in this Agreement on the part of Seller and Seller has not cured such breach within five (5) business days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured); (d) by Seller, if Seller is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of PAWC and PAWC has not cured such breach within five (5) business days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured); (e) by Seller or PAWC upon written notice to the other, if any court of competent jurisdiction or other competent governmental entity shall have issued a statute, rule, regulation, order, decree or injunction or taken any other action permanently restraining, enjoining or otherwise prohibiting the contemplated transactions, and such statute, rule, regulation, order, decree or injunction or other action shall have become final and non-appealable; or (f) by Seller or PAWC, if all necessary regulatory approvals contemplated hereby or otherwise necessary to close the contemplated transactions have not been obtained within two hundred seventy (270) days of the date hereof.

10.2 **Effect of Termination.** The right of each party to terminate this Agreement under **Section 10.1** is in addition to any other rights such party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to **Section 10.1**, all further obligations of the parties under this Agreement will terminate, except that the obligations set forth in this **Section 10.1** ("**Effect of Termination**") and **Article 11** ("**Miscellaneous**") will survive; provided, however, that if this Agreement is terminated by a party because of the breach of the Agreement by another

party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

## ARTICLE 11

### MISCELLANEOUS

11.1 Contents of Agreement. This Agreement sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended or modified except by written instrument duly executed by each of the parties hereto. Any and all previous agreements and understandings between or among any or all of the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.

#### 11.2 Successors and Assigns.

(a) Except as otherwise set forth herein and subject to **Sections 11.2(b)** and **(c)**, neither party hereto shall assign or delegate this Agreement or any rights or obligations hereunder without the prior written consent of the other parties hereto, and any attempted assignment or delegation without prior written consent shall be void and of no force or effect. Subject to **Section 11.2(b)**, this Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the parties hereto.

(b) With respect to any assignment or delegation permitted pursuant to **Section 11.2(a)** or in connection with any proposed sale, lease, liquidation or transfer of all or substantially all of the System or the Assets by PAWC, PAWC shall cause such assignee or successor to acknowledge and agree in writing for the benefit of PAWC and the Seller, to fully perform and be liable for all of PAWC's obligations hereunder, which obligations shall continue to be subject to the Seller's rights and remedies hereunder. In the event of any assignment or delegation by PAWC of its rights and obligations under this Agreement to any Person, PAWC shall be fully liable to the Seller to the extent provided under this Agreement, and such assignment or delegation by PAWC to such Person shall in no event relieve PAWC of its obligations pursuant to this **Section 11.2(b)**.

(c) The Parties hereto acknowledge and agree that the limitation on assignment or delegation contained in **Section 11.2(a)** in no way limits the rights or obligations of the Township, as the municipality creating the Seller, under the Municipality Authorities Act. In the event of the termination of the Seller in accordance with the Municipality Authorities Act and other applicable Law following the Closing:

(i) the Township shall (x) obtain all property of the Seller and succeed to all of the Seller's rights under this Agreement, and (y) assume and be liable for all of the Seller's obligations under this Agreement (including with respect to the System), as if the Township was originally a direct party hereto;

(ii) the Township, or such other Governmental Authority as may be designated by the Township (the Township or such other Governmental Authority, being the "Seller Successor"), is hereby appointed to act as agent for and on behalf of the Seller in connection with, and to facilitate, any and all transactions arising from, in connection with and incident to this Agreement;

(iii) a decision, act, consent or instruction of the Seller Successor shall constitute a decision of the Seller and shall be final, binding and conclusive upon each of the Township and PAWC and

the Escrow Agent may rely upon any decision, act, consent or instruction of the Seller Successor as being the decision, act, consent or instruction of the Seller and the Township;

(iv) PAWC and the Escrow Agent are hereby irrevocably relieved from any liability to any Person for any acts done by them in accordance with such decision, act, consent or instruction of the Seller Successor; and

(v) the Seller or the Seller Successor, as the case may be, shall constitute the sole point of contact for purposes of any notices to be given, consents to be obtained or other communications, by PAWC or PAWC's Affiliates pursuant to or in connection with this Agreement or any matters arising out of or relating hereto, and in no event shall PAWC be required or obligated in any way to give notice to, obtain the consent of or otherwise communicate with any Person other than the Seller or the Seller Successor.

11.3 Waiver. Any term or provision of this Agreement may be waived at any time by the party or parties entitled to the benefit thereof by a written instrument executed by such party or parties.

11.4 Transfer Taxes. Any transfer taxes imposed on the conveyance or transfer of any Real Property pursuant to this Agreement shall be split equally by PAWC and Seller (i.e., each pay 50% of such taxes).

11.5 Notices. Any notice, request, demand, waiver, consent, approval or other communication that is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally, by facsimile (if followed by overnight courier on the same date) or sent by nationally recognized overnight courier, as follows:

If to PAWC:

Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055  
Attention: Andrew L. Swope, General Counsel

With a required copy to:

Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055  
Attention: E. Christopher Abruzzo, Senior Director Business Development

If to Seller:

Township of Sadsbury  
Municipal Building  
7182 White Oak Road  
Christiana, PA 17509 Attn: Township Manager

With a required copy to:

Obermayer Rebmann Maxwell & Hoppel LLP  
Centre Square West  
1500 Market Street  
Suite 3400  
Philadelphia, PA 19102-2101  
Attention: Thomas S. Wyatt, Esq.

or to such other address as the addressee may have specified in a written notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered.

11.6 Law to Govern. This Agreement 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.

11.7 No Benefit to Others. The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto, and their legal representatives, successors and assigns, and they shall not be construed as conferring any rights on any other persons.

11.8 Interpretation. All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement, and shall not affect in any way the meaning or interpretation of this Agreement. 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. Unless otherwise indicated, the words "including", "includes", "included" and "include", when used, are deemed to be followed by the words "without limitation."

11.9 Schedules. All Schedules referred to herein are intended to be and hereby are specifically made a part of this Agreement.

11.10 Severability. Any provision of this Agreement that is invalid or unenforceable in any jurisdiction or under any circumstance shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction or under any circumstance shall not invalidate or render unenforceable such provision in any other jurisdiction or under any other circumstance, unless, in either event, the involved or unenforceable provision causes this Agreement to fail of its essential purpose.

11.11 Counterparts. This Agreement 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.

11.12 Risk of Loss. Seller assumes risk of loss in connection with the Assets prior to Closing, including risk of loss from fire and other casualty. In the event of any loss or damage to any of the Assets, PAWC at its option, prior to or at Closing shall have the right to (i) request that the damaged asset be replaced

or restored to substantially the same condition of the asset as of the date of this Agreement; (ii) request an adjustment to the Purchase Price as can be agreed upon by the parties, or (iii) request the insurance proceeds of the Seller and/or other moneys to enable PAWC to make a proper restoration of the damaged asset.

11.13 Specific Performance and Injunctive Relief; Remedies. The parties hereto recognize that if either of them fails to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at law may not provide adequate relief to the other party. Therefore, in addition to any other remedy provided for in this Agreement or under applicable law, a party hereto may demand specific performance of this Agreement, and such party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time if the other party fails to comply with any of the provisions of this Agreement applicable to such party. To the extent permitted by applicable law, the parties hereby irrevocably waive any defense based on the adequacy of a remedy at law that might be asserted as a bar to such party's remedy of specific performance or injunctive relief. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies under law. Nothing contained herein shall be construed as limiting the parties' rights to redress for fraud.

11.14 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 set forth in this **Section 11.15**:

**"Escrow Agent"** shall have the meaning set forth in the Closing Escrow Agreement.

**"Escrow Release Date"** means the date that is twelve (12) months following the Closing Date.

**"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 Municipality 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 and Seller.

**"Knowledge"** or **"knowledge"** when used to qualify or limit a party's representations or warranties means the knowledge of such party's representatives who are engaged in a material way in performing the functions of such party with respect to which the representation made, after conducting reasonable investigation and inquiry with respect to the subject matter of the representation.

**"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.

**"Missing Easements"** means, as of any particular date, each easement that is for or used in connection with the operation of the System or to provide continuous and unimpeded rights of way for the

Assets (including access thereto) that either (a) has not been obtained by Seller and is for or used in connection with the operation of the System or (b) if such easement has been obtained by Seller, such easement is unrecorded or such Easement is not sufficient to operate the System as currently conducted.

“**MS4 System**” means the current and future assets and facilities built, owned, operated or maintained by Seller and used for purposes of capturing, conveying and discharging stormwater separate from the System, including Stormwater System Assets.

“**Permitted Encumbrances**” 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 the Real Property as disclosed on **Schedule 4.1(m)(ii)**; and (c) any encumbrances identified in the title commitment, not objected to by PAWC. “**Stormwater System Assets**” means all assets owned or leased by Seller used exclusively by Seller in the operation and maintenance of the MS4 System, including (i) drains, pipes and collection basins and all other stormwater drainage assets used exclusively for stormwater collection, conveyance and discharge; (ii) impoundment dams, catch basins, inlets, pipes and all other stormwater lateral facilities that connect surface water drains to storm conveyances which discharge to surface waters; (iii) interest in real estate directly associated with (i) and (ii) and (iv) any related permits.

**[SIGNATURES TO FOLLOW]**

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have duly executed this Agreement on the date first written.

**SADSBURY TOWNSHIP MUNICIPAL  
AUTHORITY**

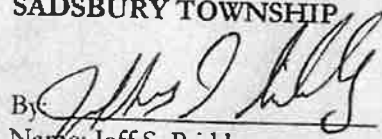
By:   
Name: John Marbach  
Its: Chairman

**PENNSYLVANIA-AMERICAN WATER  
COMPANY**

By: \_\_\_\_\_  
Name:  
Its:

**FOR PURPOSES OF SECTIONS 6.1(g), 6.7,  
8.1(f) and 8.2(e) and 11.2 ONLY:**

**SADSBURY TOWNSHIP**

By:   
Name: Jeff S. Priddy  
Its: Chairman

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have duly executed this Agreement on the date first written.

**SADSBURY TOWNSHIP MUNICIPAL  
AUTHORITY**

By: \_\_\_\_\_  
Name: John Marbach  
Its: Chairman

**PENNSYLVANIA-AMERICAN WATER  
COMPANY**

By: Justin Ladner  
Name: Justin Ladner  
Its: President

**FOR PURPOSES OF SECTIONS 6.1(g), 6.7,  
8.1(f) and 8.2(e) and 11.2 ONLY:**

**SADSBURY TOWNSHIP**

By: \_\_\_\_\_  
Name: Jeff S. Priddy  
Its: Chairman