

WATER SYSTEM PURCHASE AGREEMENT

BETWEEN

NORTH WALES WATER AUTHORITY

AND

WARRINGTON TOWNSHIP

This Agreement (“Agreement”) is made this _____ day of July, 2019 (the “Effective Date”), by and among NORTH WALES WATER AUTHORITY, (hereinafter referred to as “AUTHORITY”), a Pennsylvania municipal authority located at 200 West Walnut Street, North Wales, Montgomery County, Pennsylvania 19454 and WARRINGTON TOWNSHIP, a Pennsylvania municipality with offices located at 852 Easton Road, Warrington, Bucks County, Pennsylvania, 18976, (hereinafter referred to as “TOWNSHIP”). The AUTHORITY and TOWNSHIP are hereinafter sometimes individually referred to as a “Party” or collectively referred to as the “Parties”.

BACKGROUND

A. The AUTHORITY is a duly formed municipal authority under the Pennsylvania Municipality Authorities Act, 53 Pa.C.S. Ch. 56, as amended.

B. The AUTHORITY, being a not-for-profit corporation registered to do business in the Commonwealth of Pennsylvania, now operates a public water supply system servicing several municipalities located within Bucks and Montgomery Counties, Pennsylvania (the “AUTHORITY Water System”).

C. The AUTHORITY Water System, includes but is not limited to, infrastructure, inclusive of treatment plants, wells, water storage tanks, control systems, generators, water mains, fire hydrants, and other appurtenances, to provide public water throughout the AUTHORITY Water System.

D. The TOWNSHIP acting by and through the Board of Supervisors of Warrington Township, Bucks County owns and operates a public water supply system (the “System”) that provides water services to various customers in Warrington Township, Pennsylvania and to four surrounding municipalities pursuant to service agreements (the “Service Area”) as depicted upon **EXHIBIT A**.

E. The AUTHORITY in reliance upon the representations, warranties and covenants of the TOWNSHIP herein, desires to purchase and acquire from the TOWNSHIP, and TOWNSHIP, in reliance upon the representations, warranties and covenants of the AUTHORITY herein, desires to sell, transfer and convey to the AUTHORITY all of the assets of the System (other than the Excluded Assets), and in connection therewith, the AUTHORITY has

agreed to assume certain ongoing obligations and liabilities of the TOWNSHIP related to the Acquired Assets (defined below), all on the terms and conditions set forth in this Agreement.

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

1. **Transfer of Ownership and Operation**. Subject to the terms and conditions set forth in this Agreement, at Settlement, the AUTHORITY shall purchase from the TOWNSHIP and the TOWNSHIP shall sell, transfer, assign and deliver to the AUTHORITY, free and clear of all liens except for Permitted Liens (defined below), all of the TOWNSHIP’s right, title and interest in and to all assets, facilities, business, goodwill, properties and rights of the TOWNSHIP 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 TOWNSHIP), but in all cases other than the Excluded Assets (collectively referred to as the “Acquired Assets”), including:

- (a) the water wells, as depicted upon **EXHIBIT B**; the properties and structures as depicted upon **EXHIBIT C**; and various Fee Simple Property, Rights of Way, Easements and other property rights and facilities as described and depicted upon **EXHIBIT D** (such system and facilities hereinafter referred to as the “Real Property”)
- (b) all contracts, licenses, and leases to which the TOWNSHIP is a party, including, without limitation, all construction contracts, surety bonds, operation and maintenance agreements, management agreements, Cellular Leases (defined below), municipal services agreements, cooperative agreements, architect agreements and consultant agreements, and agreements relating to vehicles and other items of personal property as set forth on **EXHIBIT E** (the “Assigned Contracts”);
- (c) all supplies related to the System;
- (d) all personal property and fixed assets, including all equipment and machinery, vehicles, auxiliary equipment and plant equipment, including, without limitation those items listed on **EXHIBIT F**;
- (e) all expenses prepaid by the TOWNSHIP and security deposits paid by the TOWNSHIP;
- (f) all keys, locks, files and records related to the System;
- (g) all authorizations and permits of or held by the TOWNSHIP (to the extent transferrable to the AUTHORITY under applicable Law), including all authorizations and permits which are environmental permits, and those items listed or described on **EXHIBIT G**; and
- (h) all goodwill of the System.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, TOWNSHIP MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, INCLUDING ANY REPRESENTATION AS TO THE PHYSICAL CONDITION OR VALUE OF ANY OF THE ACQUIRED ASSETS OR THE SYSTEM, OR THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED.

“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 as disclosed on **EXHIBIT D**; (c) other than with respect to Real Property owned by the TOWNSHIP, liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; and (d) other imperfections of title or liens, if any, that have not had, and would not have, a material adverse effect.

2. **Excluded Assets**. Notwithstanding anything herein to the contrary, the Acquired Assets shall 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 the TOWNSHIP;
- (c) cash and cash equivalents, including (i) accounts receivable and amounts earned by the TOWNSHIP but not yet billed attributable to services rendered by the TOWNSHIP as of or before the Settlement Date, except with respect to amounts not yet billed, TOWNSHIP and AUTHORITY shall cause staff, on the Settlement Date or within seven (7) days following the Settlement Date, to conduct meter readings for TOWNSHIP customers in order to issue final bills by TOWNSHIP, to be followed by subsequent initial bills to be issued by the AUTHORITY on a staggered basis, thirty (30), sixty (60) and ninety (90) days following Settlement, with AUTHORITY bills to be issued thereafter on a quarterly basis, that is, ninety days after issuance of the initial bills to each of the three billing groups and continuing on a quarterly basis. The AUTHORITY shall make appropriate adjustments to the bills in order to effectuate the rate reduction consistent with the terms of this Agreement.;
- (d) all insurance policies of the TOWNSHIP and all rights to applicable claims and proceeds thereunder;
- (e) all rights to any outstanding lien related to non-payment by a System customer existing at or before the Settlement Date and all actions, suits or claims of any nature available to or being pursued by the TOWNSHIP, whether arising by way of counterclaim or otherwise;

(f) all assets, properties and rights used by the TOWNSHIP other than those which primarily relate to the operations of the System, including sanitary sewer and stormwater assets and related real property;

(g) the assets, properties and rights that are not related to the operation of the System; and

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

3. **Sale Free of Liens.** After the AUTHORITY fulfills its obligations pursuant to Section 7, on the Settlement Date, the Acquired Assets will be free and clear of all liens other than Permitted Liens. The TOWNSHIP shall convey the Acquired Assets by appropriate special warranty or other deed, bills of sale, endorsements, assignments and other instruments of transfer or conveyance described herein, and if not expressly described herein, then by transfer documents satisfactory in form and substance reasonably acceptable to the AUTHORITY and the TOWNSHIP and their counsel in their reasonable, good faith discretion. At Settlement, title to the Real Property shall be good and marketable and insured by the Title Company, at the Title Company's filed rates, as a good and marketable title, free and clear of all liens and exceptions to coverage, except for the Permitted Liens, pursuant to an owner's policy of title insurance on the American Land Title Association's Owner's Form 2006.

4. **Assumption of Liabilities.** On the terms and conditions set forth in this Agreement, the AUTHORITY shall assume and pay, perform and discharge when due any and all liabilities and obligations of the TOWNSHIP both (1) arising under any permits (arising from, related to, or based on events or circumstances occurring on or after the Settlement Date), and (2) arising out of or relating to the System or the Acquired Assets on or after the Settlement, including the following:

(a) 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 Settlement;

(b) any litigation initiated against the TOWNSHIP related to the System or the Acquired Assets resulting from events that occur on or after Settlement or conditions that arise on or after the Settlement;

(c) all liabilities and obligations for taxes relating to the System, its operation, the Acquired Assets and the Assumed Liabilities attributable to the period after the Settlement Date; and

(d) all other liabilities and obligations arising out of or relating to the AUTHORITY's ownership or operation of the System and the Acquired Assets on or after the Settlement (all of the aforementioned liabilities in this Section 4 are referred to as the "Assumed Liabilities").

(e) At the Settlement, to the extent the TOWNSHIP is not released therefrom, the AUTHORITY shall indemnify the TOWNSHIP against any loss relating to the Assumed Liabilities in accordance with this Agreement.

(f) The AUTHORITY shall not assume or be liable to pay any liabilities or obligations relating to any liabilities or obligations that are not Assumed Liabilities.

5. **Further Assurances.** At any time and from time to time after the Settlement Date, the TOWNSHIP shall, upon the request of the AUTHORITY, and the AUTHORITY shall, upon the request of the TOWNSHIP, 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 the AUTHORITY, (b) the assumption by the AUTHORITY 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 the AUTHORITY 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.

6. **Base Purchase Price and Additional Purchase Price.**

(a) The purchase price for the Acquired Assets is Fourteen Million Five Hundred Twenty-Five Thousand Dollars (\$14,525,000) (the “Base Purchase Price”) which the AUTHORITY shall pay at Settlement to the TOWNSHIP, net of any debt repayment or defeasance obligations, by wire transfer of immediately available funds to one or more accounts that the TOWNSHIP designates and provides to the AUTHORITY before the Settlement Date.

(b) Final Billing: The AUTHORITY is entitled to all customer billings with respect to water services for the period on or after the Settlement Date, and the TOWNSHIP is entitled to all such billings for the period before the Settlement Date. The Parties shall cooperate to calculate an agreed upon proration of billing amounts in accordance with the procedure set forth in Section 2(c) of this Agreement.

(c) In addition, the AUTHORITY shall pay at Settlement to the TOWNSHIP, by wire transfer of immediately available funds to one or more accounts that the TOWNSHIP designates and provides to the AUTHORITY before the Settlement Date the following amounts (collectively, the “Additional Purchase Price”):

(1) Cellular Lease Buyout: Two Million Dollars (\$2,000,000).

This one-time payment is a “buyout” of those cellular lease agreements disclosed on **EXHIBIT E** (“Cellular Leases”), the AUTHORITY shall pay the sum of Two Million Dollars (\$2,000,000).

(2) One Hundred Fifty Thousand Dollars (\$150,000).

[Warrington Township Draft for Board Review/Approval – 7/19/19]

This one-time payment of One Hundred Fifty Thousand Dollars (\$150,000) for a twenty-five (25)-year term for a rental fee or license fee paid to Township to allow AUTHORITY to establish a space of not less than fifty (50) square feet (but in no event shall the space exceed five hundred (500) square feet), such as a kiosk or display location at Lion's Pride Park, said location to be mutually agreed by the Parties, for the purpose of AUTHORITY'S display of water-related educational materials. In the event such space is not immediately available at TOWNSHIP'S Lions Pride Park, the TOWNSHIP shall permit AUTHORITY to establish such a space at another TOWNSHIP facility mutually agreeable to the Parties.

(3) Seventy Thousand Dollars (\$70,000).

This payment is to reimburse the TOWNSHIP for legal and engineering expenses incurred by the TOWNSHIP in connection with the preparation and execution of this Agreement.

(4) Three Hundred Fifty-Five Thousand Dollars (\$355,000).

This payment for the TOWNSHIP to maintain sufficient office staff for three (3) years after the Settlement Date, for the purposes of providing for the duplication and transition of customer records, financials, operational data, permits, easement transfers and approvals and other similar documents, to assist with the cross-training of staff, as well as to aid and direct system customers during the transition. This will also provide funds for the TOWNSHIP to ensure that it has adequate office coverage. The availability of TOWNSHIP staff shall be based on reasonable advance notice to the TOWNSHIP and mutually agreed upon by the TOWNSHIP and the AUTHORITY.

(5) Twenty Five Thousand Dollars (\$25,000). This payment is to secure permanent use and enjoyment of all TOWNSHIP Rights of Way and Easements needed for the AUTHORITY to properly operate the System.

(6) Eighty-Six Thousand Dollars (\$86,000).

This payment shall provide the TOWNSHIP with funds to compensate each TOWNSHIP employee being retained by the AUTHORITY with five (5) years of service under the TOWNSHIP's defined benefit plan with funds that shall be deposited in the TOWNSHIP's defined benefit pension plan and credited to each of the Transferred Personnel (as defined hereinafter).

(7) Fifty Thousand Dollars (\$50,000)

This payment shall compensate the TOWNSHIP for future land development in the TOWNSHIP.

(8) One Hundred Twenty-Thousand Dollars (\$120,000).

This payment shall provide the TOWNSHIP with funds to compensate each TOWNSHIP employee being retained by the AUTHORITY with an amount equal to five (5) years' worth of the difference between TOWNSHIP's health care costs and AUTHORITY'S health care costs.

7. **Easement Rights and License.**

(a) At Settlement, the TOWNSHIP shall give the AUTHORITY a permanent blanket easement to run in perpetuity in favor of the AUTHORITY, across all TOWNSHIP-owned roadways, cartways, rights of ways and utility easements.

(b) On the Settlement Date, the TOWNSHIP shall provide the AUTHORITY with all documentation related to the Real Property.

(c) On and after the Settlement Date, the AUTHORITY shall, at its sole cost and expense, cause an abstractor selected by the AUTHORITY and reasonably acceptable to the TOWNSHIP and the Title Company (“Abstractor”), to perform a search of the public land records of Bucks County, based on the TOWNSHIP’s records and plans of the System (and such other sources of information as are reasonably related thereto), by means of searching the grantee index in the names of the TOWNSHIP and such other searches as the Abstractor may reasonably make, to (i) identify and provide the AUTHORITY with title information on all recorded Easements, and (ii) together with the TOWNSHIP, identify all missing easements, if any. The TOWNSHIP shall cooperate with the AUTHORITY and Abstractor and use commercially reasonable efforts to assist the AUTHORITY in obtaining all missing easement, if any, in a commercially reasonable manner.

(d) **Special Easement Terms for Shetland Drive Property:**

The AUTHORITY shall have access to the entire tract and Easement Area, by virtue of a permanent blanket easement in, over, under and through the Shetland Drive Property, being Bucks County Tax Map Parcel No. 50-025-028, for maintenance, repairs, ingress, egress, modifications, installations, interconnections and any other water system related activities, including, but not limited to, undertakings such as the installation of water system extensions or upgrades and/or interconnections with systems in proximity and/or service extensions, including, but not limited to, extending System from the TOWNSHIP water storage tank to an adjacent parcel or parcels. The AUTHORITY shall take reasonable care not to interfere with the commercial uses on the tract being made by TOWNSHIP, or TOWNSHIP Tenants.

(1) Except as may be provided herein, TOWNSHIP agrees to not to place permanent structures or the like within any Easement Area which would interfere with the AUTHORITY’s ability to access the System and agrees to ensure that tenants or unit owners of the Shetland Drive Property, existing and future, are bound by the same restrictions.

(2) Additionally, in the event that the AUTHORITY shall undertake any such construction, maintenance or repairs within the Easement Area, the AUTHORITY shall promptly restore the Shetland Drive Property to the condition existing immediately prior to the commencement of any such activities. Permanent structures may be located within the Easement Area provided they do not interfere with the AUTHORITY’s ability to access the System, upon written consent of the AUTHORITY, which shall not be unreasonably withheld.

(3) The permanent blanket easement referenced in this paragraph shall be drafted and recorded at the sole expense of the AUTHORITY, in order to memorialize and provide public notice of the rights granted herein. TOWNSHIP and AUTHORITY agree to

execute the said permanent blanket easement in a timely manner and to cooperate fully in order to accomplish the conveyance of the said easement to the AUTHORITY.

(4) In the event TOWNSHIP elects at any time to sell the Shetland Drive Property, TOWNSHIP shall, prior to offering to sell the property to any other party, give written notice to AUTHORITY (“Intention to Sell Notice”) of TOWNSHIP’s desire to sell the property and allowing the AUTHORITY the opportunity to purchase the property. The Intention to Sell Notice shall set forth the terms upon which TOWNSHIP is willing to sell the property. AUTHORITY shall have ten (10) days to elect, at AUTHORITY’S option, to purchase the property on the terms set forth in the Intention to Sell Notice. if AUTHORITY fails to timely exercise said option, TOWNSHIP may offer to sell the property to any third party, subject to the following paragraph, on the terms set forth in the Intention to Sell Notice.

(e) If requested by the AUTHORITY, on the Settlement Date the TOWNSHIP shall provide the AUTHORITY with a license agreement granting the AUTHORITY a license in all of the TOWNSHIP’s rights to access any Real Property in order to allow the AUTHORITY to operate and maintain the System until such time as the AUTHORITY is provided title or easement to such Real Property as provided for in this Agreement. For the avoidance of doubt, the TOWNSHIP shall provide such title as soon as reasonably after the Settlement Date. The AUTHORITY may obtain an appraisal of the Shetland Drive Property within one (1) year of the Settlement Date and shall offer to purchase the Shetland Drive Property at fair market value prior to the expiration of the one-year anniversary of the Settlement Date. If TOWNSHIP agrees to sell the Shetland Drive Property to AUTHORITY at the proposed purchase price, the Parties shall complete said transaction and share equally the gross rent and late fees from rental of the units being leased to tenants by TOWNSHIP as of the Settlement Date, until expiration of the existing lease agreement(s).

8. **Responsibilities of the AUTHORITY Upon Settlement.** On and after Settlement, the AUTHORITY will be solely responsible for the repairs, maintenance, modifications and other like obligations for the System and the Acquired Assets with the specific exception of Excluded Liabilities. On and after Settlement, the AUTHORITY own and operate the System and the Acquired Assets in accordance with Prudent Industry Practices. “Prudent Industry Practices” means those methods, techniques, standards, and practices which, at the time they are employed and in light of the circumstances known or believed to exist at the time, are generally accepted as showing skill and good judgment in the water and wastewater industry as practiced in the Eastern United States for facilities of a similar nature and in a similar location as the System and Acquired Assets. Prudent Industry Practices is not necessarily defined as optimal methods, techniques, standards and practices to the exclusion of others, but rather refer to a range of methods, techniques, standards and practices that are reasonable under the circumstances. At a minimum, Prudent Industry Practices shall include those requirements set forth in this Agreement, the rules and regulations promulgated by the AUTHORITY, the water ordinances, practices and procedures of the TOWNSHIP and applicable law (including the rules and regulations of the US Environmental Protection Agency (“EPA”) and/or by the Pennsylvania Department of Environmental Protection (“DEP”)). Provided, however, that to the extent any ordinance, practice or procedure of the TOWNSHIP existing as of the Settlement Date conflicts with the rules and regulations promulgated by the AUTHORITY, the AUTHORITY’s rules and regulations will control and TOWNSHIP agrees to amend any conflicting ordinance to eliminate

the conflict. The TOWNSHIP shall not enact any ordinance after the Settlement Date that conflicts with the AUTHORITY's rules and regulations without prior notice to, and consent by, the AUTHORITY, which consent will not be unreasonably withheld.

9. **AUTHORITY Covenants:**

The AUTHORITY covenants as follows:

(a) Water Rate Protections.

The AUTHORITY guarantees that all AUTHORITY Customers within Warrington Township shall be protected against unreasonable and inequitable future rate increases as AUTHORITY agrees that the aforesaid customers will not be billed at a water rate higher than the water rates charged to other similarly situated retail customers of the AUTHORITY at any time. The current AUTHORITY retail water rate is \$3.60 per thousand gallons. This rate will not be increased for at least three (3) years from the Settlement Date.

(b) Additional Three-Year Water Rate Protection.

In addition to the above, AUTHORITY further agrees that the water rate charged to AUTHORITY water customers within Warrington Township shall at all times remain equal to other retail customers of the AUTHORITY, and will not exceed \$3.96 per thousand gallons for a minimum term of six (6) years from the Settlement. Although the rates may not increase at all, the additional \$3.96 per thousand rate cap is intended to provide AUTHORITY customers within Warrington Township an even greater level of protection against future rate increases.

(c) Water Fee Protections.

In furtherance of the water rate protections in Section 9(a) and 9(b), AUTHORITY shall not bill water meter charges, water meter testing charges, water tapping fees, and water distribution fees at a rate higher than the rates charged TOWNSHIP customers on **Exhibit H** attached hereto and incorporated herein by reference for a period of three (3) years from the Settlement Date.

(d) Protection against Special Assessments or Fees and Billing.

Excluding only customary front footage assessments, water tapping fees and charges as permitted pursuant to the Pennsylvania Municipality Authorities Act typical of any new or increased water services, unless required by a court of law or agency having jurisdiction, the AUTHORITY shall not make any special assessment to AUTHORITY customers within Warrington Township for future water system improvements. All such improvements shall be included within the standard water rates, and shall not be back charged to the individual customers. This additional protection excludes any improvements or assessments mandated by a court having jurisdiction, by lawful order of the EPA and/or by the DEP. The AUTHORITY shall not charge any assessment or tapping fee on the TOWNSHIP or any existing customer. Only new customers or connections shall be assessed such fees by the AUTHORITY. For at least three (3) years after the Settlement Date, the AUTHORITY shall continue to bill all

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residential customers for their metered water usage, including any tenants, on a quarterly basis in accordance with the AUTHORITY's current and standard billing practices.

(e) Emergency Response and Special Services.

The AUTHORITY shall provide twenty-four (24) hour per day emergency services, including all weekends and holidays, at no additional cost or surcharge to the TOWNSHIP or water customers in the TOWNSHIP. These services will include all AUTHORITY personnel, equipment, contractors, and subcontractors as deemed necessary by the AUTHORITY to maintain water service in accordance with Prudent Industry Practices.

(f) Local Office Facilities.

Within thirty (30) days after the Settlement Date, the AUTHORITY shall acquire by lease or purchase, adequate office facilities for providing general administrative customer services and bill payment, to be located within Warrington Township if reasonably possible, but in no case outside of a five (5) mile radius of the TOWNSHIP borders, and to maintain these facilities in operation for a minimum of three (3) years from the date of Settlement. The AUTHORITY shall continue to operate and maintain the bill collection mailbox at the TOWNSHIP's municipal building located at 852 Easton Road, Warrington, Bucks County, Pennsylvania for a period of one (1) year following Settlement Date.

(g) Licenses, Insurance, Electricity, Chemicals, and System Repairs.

On and after the Settlement Date, the AUTHORITY shall obtain and maintain adequate liability and property damage insurance coverage for the Property, including, but not limited to, the water mains, pumps, monitoring equipment, well houses, and to include all AUTHORITY owned water mains and appurtenances throughout the system, at all times.

(h) Coordination of Paving and Road Repairs.

Although difficult to quantify in terms of dollars per annum, it is the policy and practice of the AUTHORITY to provide a minimum of a "half-width" road repaving when completing major projects, such as an AUTHORITY water main replacement. Other than incidental repairs, the AUTHORITY will not complete only trench repairs, but even in the case of a main break, the AUTHORITY will typically re-pave up to one hundred foot (100') sections of roadway to avoid leaving an uneven repair in the finished road surface. The AUTHORITY shall meet with the TOWNSHIP (and any successor owner of the TOWNSHIP's sanitary sewer system) at least on an annual basis to coordinate planned water main work with the municipal paving schedule. The parties shall discuss having the AUTHORITY complete its work first, including completing trench and binder replacements, after which the parties shall share equally (fifty percent each) the final road paving costs.

(i) Non-Invoiced Water/Fire Protection.

(i) The AUTHORITY will provide the TOWNSHIP with up to 1,000,000 gallons of water per annum at no cost to the TOWNSHIP (or any customers in the

TOWNSHIP), which the TOWNSHIP may allocate among its own facilities, at the sole discretion of the TOWNSHIP.

(ii) The AUTHORITY shall not impose any additional charge on the TOWNSHIP (or any customers in the TOWNSHIP) for water consumed from fire hydrants when used for the purpose of public fire service training, flushing or firefighting.

(iii) The AUTHORITY may, in its sole judgment, install meters for the purpose of metering TOWNSHIP water usage. If the AUTHORITY installs such meters, it shall pay for all expenses and costs associated with acquiring, installing, testing and maintaining the meters. If easements or rights of way are necessary to install such meters, the TOWNSHIP shall reasonably cooperate to obtain them, but all expenses and costs associated with obtaining such easements or rights of way shall be paid by the AUTHORITY.

(j) Special Provisions During Initial Operations.

The AUTHORITY understands that there may be specific equipment and personnel required to be retained at the TOWNSHIP administrative office during the initial twelve (12) month period of operations of the System by AUTHORITY. These circumstances may include telephonic equipment to automatically transfer customer service calls to the AUTHORITY, an administrative staff member to answer customer questions and to assist in the initial operational transition, and facilities and space for storing and distributing AUTHORITY information and literature.

(k) Right of First Refusal Regarding System Sale.

The AUTHORITY grants the TOWNSHIP a perpetual right of first refusal with respect to a Sale Transaction. Upon receipt of a proposal, the AUTHORITY shall promptly provide the proposal to TOWNSHIP for its review. Once the TOWNSHIP receives the notice, it shall have the irrevocable and exclusive option, at its sole discretion, to become, or to have any of its affiliates or other designee become the purchaser with respect to the Sale Transaction at a purchase price that equals the depreciated original cost of the assets of the System that were the subject of the proposal. If the TOWNSHIP elects to become, or to have any of its affiliates or designee become, the purchaser, the TOWNSHIP shall deliver a written notice to the AUTHORITY of such election within 180 days of its receipt of the proposal notice. After delivery of the proposal notice, the TOWNSHIP and the AUTHORITY shall act in good faith to negotiate and close a sale of the System to the TOWNSHIP in accordance with this Agreement. “Sale Transaction” means any proposed sale, lease, liquidation or transfer of all or substantially all of the System by the AUTHORITY to a regulated utility (e.g., a water provider regulated by the PA Public Utility Commission), and including such other assets of the AUTHORITY or its affiliates included in such proposed transaction, and which are integrated into or with the System at the time of such proposed transaction.

(l) Well Capacity Most Favored Nation Status.

The AUTHORITY shall not export, transport, interconnect, consume or use water provided for use or consumption within the TOWNSHIP with or to any other water system

operated by the AUTHORITY outside of the TOWNSHIP without first satisfying the water supply needs of Warrington Township.

(m) Employment of TOWNSHIP Staff by AUTHORITY.

(i) The AUTHORITY shall offer employment effective on the Settlement Date, to the personnel set forth **EXHIBIT I**, subject to the AUTHORITY's existing standard hiring policies and procedures applicable to new employees. The personnel who accept employment with the AUTHORITY and commence employment on the Settlement Date, are "Transferred Personnel." The AUTHORITY shall recognize the Transferred Personnel's length of service with the Township as if such service were with the AUTHORITY for eligibility and vesting under the AUTHORITY's then existing employee benefit plans and programs. The AUTHORITY shall provide each of the Transferred Personnel compensation and benefits which are at least substantially comparable to, in the aggregate, to TOWNSHIP's compensation and benefits as of the Settlement (including paid vacation and sick time benefits).

(ii) Should any employee set forth **EXHIBIT I** decline an offer of employment, the AUTHORITY will provide that employee with a severance package including the AUTHORITY'S agreement not to contest any unemployment petition filed by such employee. The severance package shall provide one week's pay (40 hours) at the 2019 TOWNSHIP pay rate, for each year of Water Department tenure with TOWNSHIP. In addition, the AUTHORITY will reimburse TOWNSHIP in an amount equal to the cost of having the TOWNSHIP continue payment of the employee's health insurance premiums for up to six (6) months, if COBRA benefits are provided. Any payments made by the AUTHORITY pursuant to this section is deemed Additional Purchase Price.

(n) Benefits.

In addition to the wage provisions as stated above, all TOWNSHIP employees transferred to the AUTHORITY shall be provided with employee benefits in a manner consistent with their years served at the TOWNSHIP and in accordance with the AUTHORITY'S personnel policies. For example, an employee who has been with the TOWNSHIP for ten (10) years shall be granted the same benefits (e.g., vacation time) as an AUTHORITY employee who has been with the AUTHORITY for ten (10) years.

(o) Capital Program.

The AUTHORITY shall complete the capital projects set forth on **EXHIBIT J** prior to the dates set forth on EXHIBIT J for each project. The AUTHORITY shall inform TOWNSHIP of the status of each project at least annually.

(p) Easements.

To the extent the TOWNSHIP holds any permanent easements upon public or private property deemed necessary to properly operate and provide access to and from all portions of the System, TOWNSHIP shall convey to AUTHORITY such easements. These easements are intended to allow the AUTHORITY to maintain the System, and shall also permit construction of future water main connections, extensions, and operation of all related appurtenances. The

easements may be specific, or blanket, as circumstances dictate, and as mutually agreed. All easements shall be appropriately documented and executed, at Settlement, and may be recorded as a public record by AUTHORITY. Easements shall be further described within exhibits to this Agreement.

(q) **Advisory Committee.**

In order to facilitate continued effective communications between the Parties hereto as the transfer of the System is implemented, and to provide a meaningful process to address any TOWNSHIP concerns related to water system operations, rates, customer services, or other water related issues of the TOWNSHIP, AUTHORITY agrees that within sixty (60) days of Settlement, it will establish a committee to address any issues of concern (the “Committee”). The Committee, at a minimum, shall be comprised of the AUTHORITY Executive Director, Director of Engineering and Operations, and the Operations Manager. The TOWNSHIP membership on the Committee shall include the Township Manager, the Assistant Manager, or other party as determined by the TOWNSHIP. The Committee shall meet monthly, or more frequently on an “as needed” basis, to address any planning issues and all issues of concern to the TOWNSHIP. Should any concern not be resolved at the initial Committee level, the matter shall be presented to one (1) Board member from the TOWNSHIP and one (1) Board member from the AUTHORITY, who shall then meet along with the Committee members to further discuss any issue(s) presented. Should the matter remain unresolved, the TOWNSHIP shall be entitled to attend and discuss any outstanding issues at any regular business meeting of the AUTHORITY. The TOWNSHIP shall receive the schedule of AUTHORITY meetings at least annually.

10. **Additional and/or Modified Infrastructure.** The AUTHORITY shall have the unilateral right to repair, replace, and/or modify the existing infrastructure, including but not limited to, the existing water storage tanks, except that within twenty-four (24) months after the Settlement Date, the AUTHORITY shall cause the water storage tank at 2210 Shetland Drive (“Tank”) to be painted in accordance with Prudent Industry Practices. In addition, the AUTHORITY shall cause “Warrington Township” to be painted on the Tank in the place, size, color, style and design as specified on **EXHIBIT K**.

11. **Cooperation and Interim Covenant.**

(a) The Parties agree that each shall use its best efforts and shall fully cooperate with each other to fulfill the above-stated conditions including, but not limited to, filing all necessary applications, providing necessary information for submission to regulatory and/or governmental agencies, and compliance with any and all requirements of regulatory or governmental agencies. No Party shall interfere or take any action or fail to take any action that would interfere with the fulfillment of the terms and intent of this Agreement or the rights contained herein. Both Parties shall take all actions necessary to effectuate the terms of this Agreement.

(b) Except as otherwise expressly permitted by this Agreement, as required by Law or with the prior written consent of the AUTHORITY (which consent shall not be unreasonably withheld, delayed or conditioned), from the Effective Date until the Settlement

Date, the TOWNSHIP 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 Laws and authorizations and permits, and (iii) use its 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 TOWNSHIP and the System and its customers, lenders, suppliers, regulators, and others having business relationships with the TOWNSHIP and the System.

12. **Release and Indemnification.**

(a) Effective as of Settlement, the AUTHORITY does hereby remise, release and forever discharge TOWNSHIP, its representatives, successors, administrators, assigns, heirs, executors, insurers, and reinsurers, from any and all liabilities whatsoever, whether at law or in equity (including any right of contribution) whether arising under any contract or agreement, by operation of law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur in connection with the ownership or operation of any of the System and indemnifies and holds them harmless from and against any and all liabilities that any third party seeks to impose upon them, including legal fees, in connection with the ownership or operation of the System by the AUTHORITY.

(b) Effective as of Settlement, TOWNSHIP does hereby remise, release and forever discharge the AUTHORITY, its representatives successors, administrators, assigns, heirs, executors, insurers, and reinsurers (“AUTHORITY Indemnified Persons”), from any and all liabilities whatsoever, whether at law or in equity (including any right of contribution) whether arising under any contract or agreement, by operation of law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur in connection with the ownership or operation of the System prior to Settlement, and indemnifies and holds the AUTHORITY harmless from and against any and all liabilities that any third party seeks to impose upon it, including legal fees, in connection with the ownership or operation of the System by TOWNSHIP.

(c) From and after Settlement, TOWNSHIP will reimburse, indemnify and hold harmless the AUTHORITY, its agents, officials and employees from and against any and all liabilities, obligations, damages, losses, actions, deficiencies, claims, fines, costs and expenses, including reasonable attorney’s fees, resulting from, relating to, or arising out of any claims asserting that TOWNSHIP does not have good and marketable title to the Property.

(d) neither AUTHORITY nor AUTHORITY Indemnified Persons shall seek indemnification pursuant to Section 14(b) unless the aggregate amount of losses incurred by AUTHORITY and AUTHORITY Indemnified Persons under this Agreement exceeds \$400,000 in the aggregate (the “Threshold Amount”), in which case the TOWNSHIP will then be liable only for losses in excess of the Threshold Amount.

13. **Integration.** This Agreement constitutes the entire agreement of the Parties and supersedes any negotiations or prior agreement or understanding of the parties with respect to the terms of this Agreement. This Agreement may not be modified or amended by any oral statement or alleged course of conduct, but only by a written agreement signed by all Parties.

There are no representations, promises, agreements, warranties, covenants or undertakings of the Parties other than those contained herein or in the Exhibits expressly referenced herein.

14. **Construction, Jurisdiction and Enforcement**. This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania. This document contains the entire agreement made as among the Parties on the matters covered by this Agreement. The Parties hereby consent to the exclusive jurisdiction of the Bucks County Court of Common Pleas, Commonwealth of Pennsylvania, with respect to any dispute arising in connection with this Agreement or the enforcement thereof.

15. **Modification**. The Parties may amend this Agreement only by the Parties' written agreement that identifies itself as an amendment 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 will preclude any other or further exercise of such right or the exercise of any other right.

16. **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 shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

17. **Successors and Assigns**. Neither Party to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other Party. A purported assignment or purported delegation without prior written consent is void.

18. **Notices**. All notices, other communications and approvals required or permitted by this Agreement shall be in writing, shall state specifically that they are being given pursuant to this Agreement and shall be addressed as follows:

If to AUTHORITY:

North Wales Water Authority
West Walnut Street
Box 1339
North Wales, PA 19454
Attention: Executive Director

With a Copy to:

Michael P. Clarke, Esquire
Rudolph Clarke, LLC
Solicitor for North Wales Water Authority
Neshaminy Interplex
Suite 200

Trevoze, PA 19053

If to TOWNSHIP:

Warrington Township
852 Easton Road
Warrington Township, PA 18976
Attention: Township Manager

With a Copy to:

Warrington Township
852 Easton Road
Warrington Township, PA 18976
Attention: Township Solicitor

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 or 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.

19. **Headings.** The headings preceding each paragraph in this Agreement have been included for the ease of the Parties and shall not affect the meaning or construction of the text of any portion of this Agreement. Likewise, the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

20. **Inference.** All Parties have had the opportunity to review this Agreement prior to execution, and no adverse inference shall be made against the party drafting this Agreement in any dispute over the interpretation of any provision herein.

21. **Legal Authority.** The Parties hereto represent and warrant, each to the other, that they have the legal authority to enter into this Agreement, that they have taken all necessary actions to approve this Agreement and the undersigned officers have been authorized to execute same, binding the respective Parties. Furthermore, the Parties hereto represent and warrant that there are no terms or provisions contained in this Agreement that conflict, in whole or in part with the terms of any other agreement to which any of them are a Party.

(1) **Settlement.** The Settlement shall take place on the earliest agreed upon date prior to the Outside Date (the “Settlement Date”), at the Forest Park Water Treatment Plant located at 144 Park Ave, Chalfont, PA 18914 or such other location mutually agreed upon by the Parties, conditioned upon the AUTHORITY obtaining financing on commercially reasonable terms sufficient to pay the Base Purchase Price and the Additional Purchase Price. At Settlement, (i) the AUTHORITY shall deliver payment in full of the Base Purchase Price and the Additional

Purchase Price in accordance with Section 6, (ii) the TOWNSHIP shall deliver the Acquired Assets and (iii) the Parties may agree to deliver all such other instruments of conveyance or assumption as shall, in the reasonable opinion of the requesting Party and its counsel, be necessary for Settlement.

“Settlement” 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.

“Outside Date” means October 15, 2019.

22. **Termination**. This Agreement may be terminated and abandoned at any time before the Closing:

- (a) By the mutual consent of the Parties; or
- (b) By either Party, upon notice, if the Settlement does not occur on or before the Outside Date.

This Agreement may not be terminated after the Settlement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have caused this Agreement to be executed by their duly authorized officials on the Effective Date.

WARRINGTON TOWNSHIP

NORTH WALES WATER AUTHORITY

By: _____

By: _____

Printed: _____

Printed: _____

Its: _____

Its: _____

ATTEST:

ATTEST:

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____