
ASSET PURCHASE AGREEMENT

by and between

TEXAS MUNICIPAL POWER AGENCY,

as Seller,

and

GIBBONS CREEK ENVIRONMENTAL REDEVELOPMENT GROUP, LLC,

as Purchaser

dated as of [●], 2021

TABLE OF CONTENTS

	Page
ARTICLE I. DEFINITIONS AND CONSTRUCTION.....	1
Section 1.01 Definitions	1
Section 1.02 Construction.....	11
ARTICLE II. PURCHASE AND SALE; CLOSING.....	12
Section 2.01 Purchase and Sale	12
Section 2.02 Acquisition Consideration	12
Section 2.03 Closing.....	12
Section 2.04 Deliveries by Seller.....	12
Section 2.05 Deliveries by Purchaser	13
Section 2.06 Prorations.....	13
Section 2.07 Assumed Liabilities	13
Section 2.08 Excluded Liabilities.....	13
ARTICLE III. REPRESENTATIONS AND WARRANTIES OF SELLER.....	14
Section 3.01 Organization and Qualification.....	14
Section 3.02 Authority.....	14
Section 3.03 No Conflicts; Consents and Approvals.....	14
Section 3.04 Litigation.....	14
Section 3.05 Compliance with Laws; Permits.....	15
Section 3.06 Real Property	15
Section 3.07 Insurance.....	16
Section 3.08 Taxes.....	16
Section 3.09 Brokers.....	16
Section 3.10 Title to Purchased Assets.....	16
ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF PURCHASER.....	17
Section 4.01 Organization and Qualification.....	17
Section 4.02 Authority.....	17
Section 4.03 No Conflicts; Consents and Approvals.....	17
Section 4.04 Litigation.....	17
Section 4.05 Compliance with Laws	18
Section 4.06 Brokers.....	18
Section 4.07 Anti-Boycott Verification.....	18
Section 4.08 Prohibition on Contracts with Certain Companies	18
Section 4.09 Contracting Information	18
Section 4.10 Purchaser’s Due Diligence Procedures.....	18
ARTICLE V. COVENANTS	19
Section 5.01 Access of Purchaser.....	19
Section 5.02 Conduct of Business Pending the Closing.....	19
Section 5.03 Press Releases	20
Section 5.04 Expenses and Fees	20
Section 5.05 Agreement to Cooperate; Governmental Approvals	20

Section 5.06	Further Assurances	20
Section 5.07	Regulatory Filings	21
Section 5.08	Insurance.....	21
Section 5.09	Escrow Agreement.....	21
Section 5.10	Environmental Compliance	21
Section 5.11	Closing Cash Payment.....	21
ARTICLE VI. CONDITIONS TO PERFORMANCE.....		22
Section 6.01	Conditions to the Obligation of Purchaser to Closing.....	22
Section 6.02	Conditions to the Obligation of Seller to Closing	22
ARTICLE VII. TERMINATION		23
Section 7.01	Termination.....	23
Section 7.02	Effect of Termination	24
ARTICLE VIII. INDEMNIFICATION; LIABILITY.....		24
Section 8.01	Survival.....	24
Section 8.02	Indemnification.....	24
Section 8.03	Right to Specific Performance; Certain Limitations	25
Section 8.04	No Other Representations.....	25
ARTICLE IX. ENVIRONMENTAL.....		26
Section 9.01	No Environmental Representations or Warranties; Disclaimer.....	26
Section 9.02	Assumption and Covenant; Release; Indemnity.....	27
Section 9.03	Purchaser Environmental Covenant	29
Section 9.04	Warranty Deed.....	29
Section 9.05	Transferee Obligations.....	29
Section 9.06	Performance Bond	30
Section 9.07	Permits	33
Section 9.08	Reimbursement of Site F Landfill Costs	34
Section 9.09	Survival.....	34
ARTICLE X. MISCELLANEOUS		34
Section 10.01	Confidential Information	34
Section 10.02	Notices	34
Section 10.03	Headings	35
Section 10.04	Assignment	35
Section 10.05	Disputes	35
Section 10.06	Governing Law; Jurisdiction	35
Section 10.07	WAIVER OF RIGHT TO TRIAL BY JURY	36
Section 10.08	Counterparts.....	36
Section 10.09	Amendments.....	36
Section 10.10	Entire Agreement.....	36
Section 10.11	Severability	36
Section 10.12	Third Party Beneficiaries.....	36

EXHIBITS

Exhibit A	Form of Bill of Sale
Exhibit B	Form of Assignment and Assumption Agreement - Purchaser
Exhibit C-1	Form of Warranty Deed for Parcels with Recognized Environmental Conditions
Exhibit C-2	Form of Warranty Deed for Parcels with no Recognized Environmental Conditions
Exhibit D	Form of Escrow Agreement
Exhibit E	Project Schedule
Exhibit F	Regulatory Closure Bond
Exhibit G	Form of Assignment and Assumption Agreement - Transferees

SCHEDULES

Schedule 1.01(a)	Purchased Personal Property
Schedule 1.01(b)	Excluded Assets
Schedule 1.01(c)	Closing Permitted Encumbrances
Schedule 1.01(d)	Seller's Knowledge
Schedule 1.01(e)	Real Property
Schedule 2.07	Assumed Liabilities
Schedule 3.02	Seller Internal Approvals
Schedule 3.03(b)	Seller Approvals
Schedule 3.04	Litigation
Schedule 3.05(a)	Compliance with Laws
Schedule 3.05(b)	Permits
Schedule 3.07(a)	Insurance
Schedule 3.07(b)	Insurance Claims
Schedule 4.03(c)	Purchaser Approvals
Schedule 5.02(a)	Conduct of Business Pending Closing
Schedule 9.06(a)	Estimated Remediation Costs per Project

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “Agreement”) dated as of [●], 2021, is made and entered into by and between TEXAS MUNICIPAL POWER AGENCY, a municipal corporation and municipal power agency created under the laws of the State of Texas (“Seller”), and GIBBONS CREEK ENVIRONMENTAL REDEVELOPMENT GROUP, LLC, a limited liability company organized under the laws of the State of Texas (“Purchaser”).

RECITALS

WHEREAS, Seller is the owner of 6,170 acres of land located in Grimes County, State of Texas, which includes the Gibbons Creek Reservoir and associated water rights and the Gibbons Creek Steam Electric Station, and a coal-fired electric generating facility (as hereinafter more particularly defined, the “Purchased Assets”); and

WHEREAS, Purchaser and Seller desire to enter into this Agreement under which Seller has agreed to sell to Purchaser, and Purchaser has agreed to purchase from Seller, the Purchased Assets (as defined herein).

NOW, THEREFORE, in consideration of the foregoing and the mutual promises made in this Agreement and of the mutual benefits to be derived from such promises, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties to this Agreement, intending to be legally bound, agree as follows:

ARTICLE I. DEFINITIONS AND CONSTRUCTION

Section 1.01 Definitions. For purposes of this Agreement, the following terms shall have the respective meanings set forth below:

“Affiliate” means any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the Person specified. For purposes of this definition, control of a Person means the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether through ownership of voting securities or ownership interests, by contract or otherwise, and specifically with respect to a corporation, partnership, trust or limited liability company, means direct or indirect ownership of more than fifty percent (50%) of the voting securities in such corporation or of the voting interest in a partnership or limited liability company or of the beneficial interests in a trust.

“Agency Action” means any notice of violation, complaint, order, consent order, consent agreement, assessment of a fine or penalty or other similar demand for action brought by a Governmental Authority having the requisite authority and jurisdiction to bring such action.

“Agreement” has the meaning set forth in the introductory paragraph to this Agreement, including all Exhibits and Schedules attached hereto and any amendments or supplements executed and delivered in accordance with the terms hereof.

“Annual Estimate” has the meaning set forth in Section 9.06(d).

“Assigned Permits” means any Permits that Purchaser desires to assume at Closing (i) that are freely assignable by Seller to Purchaser at Closing or (ii) with respect to which Purchaser has made all applications or filings, paid all fees or other amounts, and obtained all consents or approvals necessary for Purchaser to assume such Permits at Closing.

“Assignment Agreement” has the meaning set forth in Section 2.04(b).

“Assumed Liabilities” has the meaning set forth in Section 2.07.

“Bill of Sale” has the meaning set forth in Section 2.04(a).

“Books and Records” means all files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, ledgers, journals, title policies, supplier lists, regulatory filings, data and plans, technical documentation (as-built drawings, design specifications or diagrams, functional requirements, operating instructions, logic manuals, flow charts, etc.), user documentation (installation guides, original equipment manufacturer maintenance documents and technical information letters, user manuals, training materials, release notes, working papers, etc.), operating records and reports, internal and external correspondence and other documents relating to the Purchased Assets, and other similar materials.

“Business Day” means a day other than Saturday, Sunday or any day that is declared to be an official holiday in the State of Texas.

“CERCLA” means the federal Comprehensive Environmental Response, Compensation and Liability Act.

“Claim” means any demand, claim, action, legal proceeding (whether at law or in equity) or arbitration.

“Closing” has the meaning set forth in Section 2.03.

“Closing Date” means the date on which the Closing occurs.

“Closing Permitted Encumbrances” means any Existing Encumbrances other than Liens relating to any Indebtedness or which otherwise secure any Liability under any Contract on the Purchased Assets.

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

“Confidentiality Agreement” means (i) that certain Confidentiality Agreement dated April 10, 2019, between Melt Solutions, LLC (an Affiliate of Purchaser) and Seller, and (ii) any confidentiality agreement between Seller and Purchaser (or any of Purchaser’s Affiliates), or their respective successors or assigns.

“Contract” means any enforceable written or oral agreement, understanding, lease, license, option, guaranty, warranty, evidence of indebtedness, mortgage, indenture, security agreement, purchase order, binding bid, letter of credit, loan agreement or other enforceable contract, commitment or undertaking of any kind.

“Dispute” has the meaning set forth in Section 10.05(a).

“Dispute Notice” has the meaning set forth in Section 10.05(a).

“Environment” means soil, land, surface and subsurface strata, surface waters (including navigable and non-navigable inland and ocean waters), groundwaters, drinking water supply, stream sediments, indoor or outdoor air, plant and animal life, and any other environmental medium or natural resource.

“Environmental Compliance” means any permitting, registering, closure, remediation, mitigation, investigation, monitoring, posting of financial assurance, reporting, filing, maintaining, inspecting, recording or other actions, obligations or requirements under Environmental Laws in connection with the Purchased Assets, irrespective of whether the Liability, Release, acts, omissions, Claims or violations giving rise to such requirements are alleged to have occurred, or the facts and conditions giving rise or related to such Liability, obligations or requirements existed prior to or subsequent to Closing or were known or unknown as of Closing.

“Environmental Conditions” means the presence of Hazardous Substances which have been Released into the Environment or the presence of Hazardous Substances that would reasonably be expected to pose a threat of Release of Hazardous Substances into the Environment in violation of Environmental Laws.

“Environmental Designee” means an individual or consulting firm selected by Seller to perform the environmental review and audit activities set forth in Section 9.01(b).

“Environmental Insurance Policy” means a pollution legal liability insurance policy covering the Real Property, in form and substance acceptable to Seller, for the benefit of the Seller Indemnitees and issued by an insurer rated no less than A- or equivalent by Moody’s, S&P or A.M. Best, with: (i) a 100% earned premium on the Closing Date, (ii) \$25,000,000 coverage limits for all on-site and off-site Response Actions, third-party bodily injury and property claims, unknown environmental conditions at, on, under or migrating from the Real Property, diminution in value, off-site disposal and transportation, and Purchaser's Indemnification Obligations, (iii) a minimum 10-year primary term commencing on the Closing Date, and (iv) the option for Seller Indemnitees, at their own expense, to renew the policy at the conclusion of the primary term.

“Environmental Laws” means any and all Laws or permits relating to pollution or occupational health or safety or protection of human health or the Environment, including those relating to emissions, Release or threatened Release into or impacting the Environment, or otherwise relating to the management, generation, manufacture, processing, distribution, use, treatment, storage, disposal, emission, discharge, transport or handling of Hazardous Substances. “Environmental Laws” includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Emergency Planning and Community Right-to-Know Act, as amended, the Resource Conservation and Recovery Act, as amended, the Occupational Safety and Health Act, as amended, the Clean Air Act, as amended, the Clean Water Act, as amended, the Oil Pollution Act, as amended, the Safe Drinking Water Act, as amended, the Toxic Substances Control Act, as amended, and any other federal, state and local Laws related

to same, and their implementing regulations, policies and agency guidance, whether any of the foregoing are in effect or otherwise applicable prior to, as of, or subsequent to Closing.

“Environmental Liabilities” mean any and all Losses, Liabilities, costs (including investigative, monitoring, containment, disposal and remediation costs and court costs and other costs of administrative or judicial proceedings), asset retirement obligations, fines and penalties, judgments, awards or damages (including personal injury and property damages based on or arising out of exposure to Hazardous Substances), natural resource damage and assessments, third party Claims, injunctive relief and fees (including reasonable attorney, expert, engineering and consultant fees) related to, caused by, or resulting from (i) the presence, creation, storage, impoundment, handling, or Release of any Hazardous Substances on the Real Property or arising under or with respect to any Environmental Laws, irrespective of whether the Release, act, omissions, Claims or violations are alleged to have occurred or the facts and conditions giving rise or related to the Losses, Liabilities or costs existed prior to or subsequent to Closing or were known or unknown as of Closing, (ii) Plant Shutdown and Decommissioning and Regulatory Closure of the Purchased Assets, including any Environmental Compliance and Response Actions, and (iii) Environmental Post-Closure Requirements.

“Environmental Post-Closure Requirements” means any monitoring, investigation, maintenance, inspection, corrective action or other Response Actions required to be performed as a condition of Regulatory Closure by the EPA, the TCEQ, and each other environmental regulatory agency having jurisdiction over the Real Property, including all obligations to obtain, maintain, renew and reissue any Post-Closure Bond and other Performance Bonds through Regulatory Closure of the Purchased Assets as required by this Agreement.

“EPA” means the United States Environmental Protection Agency.

“ERCOT” means The Electric Reliability Council of Texas and any successor.

“Escrow Agent” means any independent, commercial escrow agent acceptable to both of the Parties.

“Escrow Agreement” has the meaning set forth in Section 2.04(d).

“Escrowed Amount” means Twenty-Eight Million Five Hundred Forty-Six Thousand (\$28,546,000).

“Excluded Assets” means, notwithstanding any other provision of this Agreement, all assets of Seller other than the Purchased Assets, including the following:

- (a) cash, certificates of deposit and other bank deposits, treasury bills and other cash equivalents or other investments, on hand or in bank accounts, and all of Seller’s bank accounts, intercompany accounts, accounts receivable, and notes receivable;
- (b) all refunds or credits, if any, of Taxes due to or from Seller and (i) accrued prior to the Closing or that are otherwise applicable to a Pre-Closing Tax Period or (ii) which otherwise cannot be assigned by Law;

- Seller;
- (c) all Books and Records and other corporate, financial and Tax records of
 - (d) Seller's insurance policies; and
 - (e) the assets identified as "Excluded Assets" in Schedule 1.01(b).

"Excluded Liabilities" has the meaning set forth in Section 2.08.

"Execution Date" means the date of this Agreement.

"Existing Encumbrances" means (a) mechanic's, materialmen's, workmen's, repairmen's and similar Liens arising in the Ordinary Course with respect to any amounts not yet due and payable or which (i) are being contested in good faith through appropriate proceedings or (ii) have been bonded; provided, that in either case, none of the Purchased Assets are reasonably likely to become subject to forfeiture or sale during the pendency of any such proceeding; (b) Liens for Taxes not yet due and payable or which are being contested in good faith through appropriate proceedings; provided, that no portion of the Purchased Assets is reasonably likely to result in sale or forfeiture during the pendency of such proceedings; (c) in the case of Real Property, all such items and matters as are disclosed on the Existing Survey; (d) Liens, encumbrances, easements, retained rights and other matters disclosed on Schedule 1.01(b) or Schedule 1.01(c) hereto; (e) zoning, entitlement, conservation restriction and other land use and environmental regulations by any Governmental Authority; (f) Liens caused by, created by, or existing as a result of, or pursuant to, this Agreement, or otherwise approved or consented to by Purchaser in writing; (g) Liens relating to any Indebtedness; and (h) any other Lien or encumbrance of record.

"Existing Survey" means the Survey Plat of Texas Municipal Power Agency (TMPA Power Plant & Gibbons Creek Reservoir) dated November 21, 2016, last revised August 8, 2018, prepared by S.M. Kling, R.P.L.S. No. 2003, of Civil Engineering Consultants, a copy of which has been delivered to Purchaser.

"Fixtures and Improvements" means the improvements located on the Real Property and the fixtures attached to such improvements, including the coal-fired boiler, steam turbine, air handling equipment, circulating water pumps, transformers, storage tanks, generator interconnection facilities, air conditioning, ventilation and heating equipment, control stations, and cranes owned by Seller.

"GAAP" means generally accepted accounting principles in the United States of America.

"Governmental Authority" means any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States or any state, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental body administering, regulating or having general oversight over water, gas, electricity, power or other markets, including NERC, PUCT and ERCOT, but excluding Seller and any of its Member Cities.

"Guaranteed Obligations" has the meaning set forth in Section 9.06(c)(ii).

“Hazardous Substance” means any chemical, element, substance, compound, mixture, material or waste presently listed, defined or classified as a pollutant, toxic pollutant, contaminant, hazardous substance, toxic substance, solid waste, hazardous waste, hazardous material, hazardous air pollutant, extremely hazardous waste, extremely hazardous substance, restricted hazardous waste, toxic waste under any applicable Environmental Laws, including asbestos, presumed asbestos-containing material, asbestos-containing material, petroleum, petroleum products, natural gas or synthetic gas usable for fuel, polychlorinated biphenyls, lead and lead-based paint, radon, radioactive materials, flammables and explosives.

“Indebtedness” means any of the following: (a) any indebtedness for borrowed money; (b) any obligations evidenced by bonds, debentures, notes or other similar instruments; (c) any obligations to pay the deferred purchase price of property or services, except trade accounts payable and other liabilities arising in the Ordinary Course; (d) any obligations as lessee under capitalized leases; (e) any obligations, contingent or otherwise, under acceptance, letters of credit or similar facilities; and (f) any guaranty of any of the foregoing.

“Indemnification Obligations” means all of Purchaser’s indemnification obligations arising under this Agreement, including those set forth in Sections 8.02 and 9.02.

“Insufficiency” means the amount, at any given time, by which (i) the estimate of the cost required to complete the Guaranteed Obligations covered by a Performance Bond exceeds (ii) the penal sum of such Performance Bond plus the portion, if any, of the Escrowed Amount that is allocated specifically to the completion of such Guaranteed Obligations.

“Insufficiency Notice” has the meaning set forth in Section 9.06(d).

“Interim Period” means the period of time from the Execution Date until the earlier to occur of (x) the Closing Date and (y) termination of this Agreement.

“Joint Operating Agreement” means the Joint Operating Agreement, dated September 1, 2016, among Seller and Member Cities, as amended to date.

“Knowledge” means, in the case of Seller, the actual, present recollection (as opposed to any constructive or imputed knowledge) of the individuals listed on Schedule 1.01(d); provided that lack of Knowledge by an individual listed in Schedule 1.01(d) shall only be claimed to the extent such individual has reviewed the provisions contained in this Agreement to which Seller’s Knowledge is applicable and the corresponding Schedules hereto.

“Laws” means all laws, statutes, rules, regulations, ordinances, Orders, and other pronouncements having the effect of law of any Governmental Authority.

“Liabilities” or “Liability” means any and all direct or indirect liability, obligation, commitment, expense, Claims, loss, damage, indebtedness, principal, interest, penalty, guaranty or endorsement of any type, absolute or contingent, known or unknown, accrued or unaccrued, due or to become due, liquidated or unliquidated.

“Lien” means any security interest, pledge, mortgage, lien, charge, encumbrance, conditional sale agreement, title retention contract, right of first refusal, option to purchase, proxy, voting trust or voting agreement or any similar interest.

“Loss” or “Losses” means any and all judgments, Liabilities, amounts paid in settlement, awards, damages, fines, penalties, deficiencies, losses, Claims, demands, assessments, costs, and expenses (including interest, court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or of any Claim, default, assessment, Order, decree, action, cause of action, litigation, suit, investigation, notice of violations, or other proceedings).

“Material Adverse Effect” means any results, occurrences, facts, changes, events or effects occurring on or after the Execution Date and prior to Closing that, individually or in the aggregate, could reasonably be expected to have, or has had a material adverse effect on (a) the Purchased Assets or the Assumed Liabilities, or (b) the ability of Seller to consummate the transaction hereunder or perform its obligations hereunder, each on a timely basis.

“Member Cities” means the City of Bryan, Texas, City of Denton, Texas, City of Garland, Texas, and City of Greenville, Texas. “Member City” shall refer to any of the Member Cities individually.

“Moody’s” means Moody’s Investor Services, Inc., and its successors.

“NERC” means North American Electric Reliability Corporation and any successor.

“Notifying Party” has the meaning set forth in Section 10.05(a).

“Order” means any final, non-appealable award, decree, decision, injunction, judgment, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Authority, or by any arbitrator.

“Ordinary Course” means the ordinary course of business, consistent with Seller’s prior operations, except as may be affected by the performance of Seller’s obligations under this Agreement.

“Parcel” or “Parcels” means one or more, as applicable, of the ten (10) parcels of the Real Property described on Schedule 1.01(e).

“Parcels with Recognized Environmental Conditions” means all Parcels other than Parcels with No Recognized Environmental Conditions.

“Parcels with No Recognized Environmental Conditions” means any Parcel or Parcels for which Seller has received from Purchaser or any Transferee written evidence, acceptable to Seller or the Environmental Designee, that any of the following conditions has been met with respect to such Parcel or Parcels:

- (i) An ASTM Phase I Environmental Site Assessment (ESA) and, if necessary, an ASTM Phase 2 ESA, performed by a third party “Environmental

Professional” (as defined in 40 CFR § 312.10) determines such Parcel is free from “Recognized Environmental Conditions” (as defined in ASTM International *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process* (ASTM Standard E 1527-05, as may be revised or updated from time to time)); or

(ii) Purchaser obtains a Certificate under the Innocent Owner/Operator Program (IOP) for any Recognized Environmental Condition on such Parcel which is contaminated as a result of a release or migration of contaminants from a source or sources not located on such Parcel and neither Purchaser nor Seller caused or contributed to the source or sources of the contamination on such Parcel; or

(iii) Purchaser enrolls such Parcel in the TCEQ's Voluntary Cleanup Program (VCP) and obtains a Certificate of Completion and Final Certificate from the TCEQ meeting the requirements as established by the Texas Health and Safety Code, Title 5, Subtitle B, Chapter 361, Subchapter S, Voluntary Cleanup Program §361.601.

“Party” or “Parties” means Purchaser, on the one hand, and Seller, on the other hand.

“Performance Bond” or “Performance Bonds” mean one or more, as applicable, of the Regulatory Closure Bond, the Post-Closure Bond(s), and all other payment and performance bonds or other forms of financial assurance issued for the benefit of Seller or TCEQ pursuant to this Agreement.

“Permits” means all permits, licenses, franchises, concessions, consents, authorizations, approvals, registrations, filings or similar acts of, with, or by any Governmental Authority that are currently held by Seller in connection with the Purchased Assets.

“Person” means any natural person, corporation, general partnership, limited partnership, limited liability company, proprietorship, other business organization, trust, union, association or Governmental Authority, Seller, and the Member Cities.

“Plant Shutdown and Decommissioning” means, without limitation, removal of residual coal and ash from handling systems, emptying chemical storage tanks and associated piping, emptying oil and fuel-containing equipment and associated piping, removing excess chemical and waste containers, venting and purging compressed gas tanks and lines, closing and draining water intake and discharge structures and systems, removal of excess above grade coal, removal of Hazardous Substances from buildings and structures.

“Post-Closing Tax Period” means any Tax period ending on or after the Closing Date.

“Post-Closure Bond” means one or more payment and performance bonds, or other forms of financial assurance, to guarantee the performance of the Environmental Post-Closure Requirements through Regulatory Closure of the Purchased Assets, either (i) in the penal sum and form prescribed by TCEQ or (ii) in a penal sum sufficient to guarantee the Parties' mutually-agreeable estimated costs of completing the guaranteed Environmental Post-Closure Requirements and in a form reasonably acceptable to Seller.

“Pre-Closing Tax Period” means any Tax period ending before the Closing Date.

“Preliminary Regulatory Closure” means written confirmation from the EPA, the TCEQ, and each other environmental regulatory agency having jurisdiction over the Real Property, as applicable under Environmental Laws, that (i) all Required Remediation Actions have been performed and completed in compliance with all applicable Environmental Laws or other applicable governmental regulations, including a closure plan or response action plan approved by an applicable Governmental Authority, and no further action is required for the Required Remediation Actions other than the performance of any Environmental Post-Closure Requirements and (ii) Plant Shutdown and Decommissioning and all other Response Actions or Environmental Compliance required pursuant to applicable Environmental Law have been performed and completed in compliance with all applicable Environmental Laws or other applicable governmental regulations and no further action is required for the Purchased Assets other than the performance of any Environmental Post-Closure Requirements.

“Project Schedule” means the 34-month remediation project schedule attached hereto as Exhibit E.

“PUCT” means Public Utility Commission of Texas and any successor.

“Purchased Assets” means the Real Property (excluding any mineral interests related thereto), Fixtures and Improvements, Warranties, Assigned Permits, and the personal property listed on Schedule 1.01(a), in each instance excluding the Excluded Assets.

“Purchaser” has the meaning set forth in the introductory paragraph to this Agreement.

“Purchaser Approvals” has the meaning set forth in Section 4.03(c).

“Purchaser’s Determination” has the meaning set forth in Section 2.06(c).

“Real Property” means all of the real property interests described on Schedule 1.01(e).

“Recipient Party” has the meaning set forth in Section 10.05(a).

“Regulatory Closure” means written confirmation from the EPA, the TCEQ, and each other environmental regulatory agency having jurisdiction over the Real Property, as applicable under Environmental Laws, that (i) all Required Remediation Actions have been performed and completed in compliance with all applicable Environmental Laws or other applicable governmental regulations and no further action is required for the Required Remediation Actions, and (ii) Plant Shutdown and Decommissioning and all other Response Actions or Environmental Compliance required pursuant to applicable Environmental Law have been performed and completed in compliance with all applicable Environmental Laws or other applicable governmental regulations and no further action is required for the Purchased Assets.

“Regulatory Closure Bond” means a payment and performance bond, or other form of financial assurance, in the penal sum of Thirty Six Million Five Hundred Thousand Dollars (\$36,500,000.00) to guarantee all Guaranteed Obligations with the exception of Environmental Post-Closure Requirements, in the form attached hereto as Exhibit F.

“Reimbursement Agreement” means that certain Air Permit Cost Reimbursement Agreement dated February 21, 2020, among Seller, Charah, LLC, and Melt Solutions, LLC.

“Release” or “Released” means any release, spill, emission, overflow, leaking, pumping, pouring, dumping, emptying, discharge, disposing, deposit, injection, escaping, leaching, seepage, infiltration, introduction, or migration, whether intentional or accidental, authorized or unauthorized, of any substance into the Environment, into or out of any property, into or out of any building or other improvements, or the threat of any of the foregoing.

“Required Remediation Actions” means all actions necessary to (i) remove coal combustion residuals from, and decontaminate or otherwise close, the scrubber sludge pond and all ash ponds located on the Real Property in accordance with 40 CFR §257.102(c) of EPA’s rules, as may be amended, and all associated TCEQ rules, as may be amended, (ii) close in place the Site F landfill located on the Real Property in accordance with 40 CFR §257.102(d) of EPA’s rules, as may be amended, and associated TCEQ rules, as may be amended, (iii) close the Site A landfill and the plant collection pond located on the Real Property in accordance with the TCEQ’s rules, as may be amended, and (iv) diligently pursue all of the foregoing actions to Regulatory Closure in accordance with the Project Schedule.

“Response Actions” means any investigation, assessment, sampling, analysis, data or information collection, document drafting, agency submittals and correspondence, monitoring, abatement, removal, decontamination, remediation, cleanup, mitigation, management, treatment, storage, transportation or disposal related to the presence or Release of Hazardous Substances required under Environmental Laws relating to the Purchased Assets or any property contaminated or impacted by such Release and required in order to obtain Regulatory Closure.

“Representatives” means the officers, directors, managers, employees, limited liability company members, limited and general partners, counsel, accountants, financial advisers or consultants and other agents of a Person and its Affiliates.

“S&P” means Standard & Poor’s Ratings Service, a division of The McGraw-Hill Companies, Inc., and its successors.

“Schedule” or “Schedules” means one or more of the disclosure schedules attached hereto.

“Seller” has the meaning set forth in the introductory paragraph to this Agreement.

“Seller Approvals” has the meaning set forth in Section 3.03(b).

“Seller Indemnitees” has the meaning set forth in Section 8.02(a).

“Seller Internal Approvals” has the meaning set forth in Section 3.02.

“Tax” or “Taxes” means any foreign, United States federal, state or local net income, alternative or add-on minimum tax, gross income, gross receipts, sales, use, ad valorem, personal property (tangible and intangible), real property (including general and special assessments), value added, transfer, franchise, profits, license, withholding, payroll, employment, excise, severance, stamp, occupation, premium, environmental or windfall profit tax, custom, duty or other tax, or

other governmental fee, assessment or charge of any kind whatsoever, together with any interest, penalty or addition thereto.

“Tax Returns” means any return, report or similar statement required to be filed with respect to any Taxes, including any information return, claim for refund, amended return and declaration of estimated Tax.

“TCEQ” means the Texas Commission on Environmental Quality.

“Termination Date” has the meaning set forth in Section 7.01(b)(i).

“Transferee” means any transferee, grantee, assignee or owner of all or any portion of the Real Property as a result of any transfer, sale, grant, assignment or other disposition of all or any portion of the Real Property by Purchaser after, or contemporaneously with, Closing, including the successors and assigns of each of such transferees, grantees, assignees or owners.

“Warranties” means all transferable rights of Seller under or pursuant to all third-party warranties, representations and guarantees made by manufacturers and suppliers in connection with the Purchased Assets or services furnished to Seller pertaining to the Purchased Assets.

“Warranty Deeds” has the meaning set forth in Section 2.04(c).

Section 1.02 Construction.

(a) All Article, Section, Subsection, Schedule and Exhibit references used in this Agreement are to Articles, Sections, Subsections, Schedules and Exhibits to this Agreement unless otherwise specified. The Exhibits and Schedules attached to this Agreement constitute a part of this Agreement and are incorporated herein for all purposes.

(b) If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb). Unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa. The words “includes” or “including” shall mean “includes without limitation,” “including without limitation,” or “including, but not limited to” and the words “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Section or Article in which such words appear. The words “shall” and “will” shall have the same meaning and be of equal force and effect. Any reference to a Law shall include any amendment thereof or any successor thereto and any rules and regulations promulgated thereunder. Currency amounts referenced herein are in U.S. Dollars.

(c) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. Whenever any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day.

(d) Each Party acknowledges that it and its attorneys have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that in the event an

ambiguity of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption shall arise favoring either Party by virtue of the authorship of any provisions of this Agreement.

ARTICLE II. PURCHASE AND SALE; CLOSING

Section 2.01 Purchase and Sale. On the terms and subject to the conditions set forth in this Agreement, at Closing (i) Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, the Purchased Assets, (ii) Seller shall assign to Purchaser, and Purchaser shall assume, the Assumed Liabilities, and (iii) Purchaser shall incur the Indemnification Obligations for the benefit of the Seller Indemnitees, all pursuant to the terms of this Agreement. Notwithstanding anything to the contrary, Purchaser will not acquire any of the Excluded Assets or assume any of the Excluded Liabilities.

Section 2.02 Acquisition Consideration. The aggregate acquisition consideration for the Purchased Assets is comprised of (i) Ten Dollars (\$10.00); (ii) the assumption by Purchaser of the Assumed Liabilities; (iii) the Performance Bonds; and (iv) Purchaser's Environmental Insurance Policy and Indemnification Obligations in favor of the Seller Indemnitees as set forth in this Agreement.

Section 2.03 Closing. Unless this Agreement has been terminated pursuant to Article VII, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place through the electronic exchange of documents, immediately following the satisfaction or waiver by the applicable Party of all of the conditions to the Closing set forth in Sections 6.01 and 6.02. At Closing, the Parties shall (i) record the Warranty Deeds, (ii) circulate to the Parties fully-executed copies of all documents listed in Sections 2.04 and 2.05, (iii) deliver to Seller the issued Regulatory Closure Bond and the issued Environmental Insurance Policy, and (iv) Seller shall make the payments set forth in Section 2.04. Each Party shall notify the other Party in writing promptly after all of the requirements set forth in Sections 6.01 and 6.02 within such Party's control have been satisfied or are susceptible of being satisfied upon the delivery of the certificates set forth in such sections.

Section 2.04 Deliveries by Seller. On or before the Closing Date, Seller shall deliver, or cause to be delivered, the following items to Purchaser:

(a) an executed original of a Bill of Sale substantially in the form attached hereto as Exhibit A (the "Bill of Sale");

(b) an executed original of an Assignment and Assumption Agreement substantially in the form attached hereto as Exhibit B (the "Assignment Agreement");

(c) executed originals of the Special Warranty Deeds for Parcels with Recognized Environmental Conditions substantially in the form attached hereto as Exhibit C-1 and for Parcels with No Recognized Environmental Conditions substantially in the form attached hereto as Exhibit C-2 (collectively, the "Warranty Deeds");

(d) an executed original of the Escrow Agreement substantially in the form attached hereto as Exhibit D (the “Escrow Agreement”);

(e) delivery of the Escrowed Amount to the Escrow Agent;

(f) delivery of Six Million Three Hundred Fifty-Four Thousand Dollars (\$6,354,000) to Purchaser;

(g) delivery of fifty (50%) of the premium for the Regulatory Closure Bond to Purchaser; and

(h) an affidavit dated as of the Closing Date, in the form required by Treasury Regulations Section 1.1445-2(b)(2) and signed under penalties of perjury, stating that Seller (or, in the case of a Seller that is a disregarded entity, its owner for federal income Tax purposes) is not a foreign person (within the meaning of Section 1445 of the Code).

Section 2.05 Deliveries by Purchaser. On or before the Closing Date, Purchaser shall deliver, or cause to be delivered, the following items to Seller:

(a) an executed original of the Assignment Agreement;

(b) an executed original of the Escrow Agreement;

(c) an issued original of the Regulatory Closure Bond;

(d) evidence that the Environmental Insurance Policy will be bound at Closing as required by this Agreement; and

(e) executed originals of the Warranty Deeds.

Section 2.06 Prorations. No amounts receivable or payable under any Contracts will be prorated between Seller and Purchaser as of the Closing Date. No Taxes will be prorated since Seller is not subject to any sales, ad valorem, or income taxes.

Section 2.07 Assumed Liabilities. At the Closing, Purchaser shall assume the Liabilities and obligations relating to the Purchased Assets set forth in Schedule 2.07 (collectively, the “Assumed Liabilities”) and the pre-Closing Liabilities included in the Indemnification Obligations.

Section 2.08 Excluded Liabilities. Except for the Assumed Liabilities and the pre-Closing Liabilities included in the Indemnification Obligations, Purchaser shall not assume, and shall not be deemed to have assumed, any Liabilities or obligations related to the Purchased Assets for the period prior to the Closing (such pre-Closing Liabilities of Seller, other than the Assumed Liabilities and the pre-Closing Liabilities included in the Indemnification Obligations, collectively, the “Excluded Liabilities”). For the avoidance of doubt, “Excluded Liabilities” specifically includes: (i) Seller’s labor, employment, benefits and ERISA liabilities; (ii) liabilities and obligations (other than Environmental Liabilities) under Permits, Warranties or Contracts not assigned to Purchaser; (iii) liabilities (other than Environmental Liabilities) related to the Excluded

Assets; (iv) Seller's Indebtedness; (v) Seller's Tax liabilities, and (vi) Seller's transaction expenses.

ARTICLE III. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Purchaser as of the Execution Date and as of the Closing Date that:

Section 3.01 Organization and Qualification. Seller is a municipal corporation and municipal power agency created under the laws of the State of Texas, and is duly formed, validly existing and in good standing under the laws of the state of Texas. Seller is duly qualified or licensed to do business in each other jurisdiction where the actions required to be performed by it under this Agreement makes such qualification or licensing necessary.

Section 3.02 Authority. Seller has all corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby. The execution and delivery by Seller of this Agreement, and the performance by Seller of its obligations hereunder, have been duly and validly authorized by all necessary corporate action on the part of Seller except as set forth on Schedule 3.02 (collectively, "Seller Internal Approvals"). This Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as the same may be limited by governmental immunity, bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar Laws relating to or affecting the rights of creditors generally, or by general equitable principles, regardless of whether considered in a proceeding at law or in equity.

Section 3.03 No Conflicts; Consents and Approvals. The execution and delivery by Seller of this Agreement does not, and the performance by Seller of its obligations under this Agreement and the consummation of the transactions contemplated hereby will not:

(a) subject to obtaining Seller Internal Approvals, conflict with or result in a violation or breach of any of the terms, conditions or provisions of the Joint Operating Agreement or any other organizational, governing, formation, or charter documents of Seller;

(b) subject to obtaining all required filings, approvals, consents, authorizations and notices set forth on Schedule 3.03(b) (collectively, with the Seller Internal Approvals, "Seller Approvals"), result in the imposition of any Lien (other than a Closing Permitted Encumbrance) upon any of the Purchased Assets; or

(c) subject to obtaining the Seller Approvals, (i) materially violate or materially breach any Law or writ, judgment, Order or decree applicable to Seller, (ii) require any consent or approval of any Governmental Authority under any Law applicable to Seller, or (iii) require the consent or approval of any other third party.

Section 3.04 Litigation. Except as disclosed on Schedule 3.04, there are no material Claims pending or, to the Knowledge of Seller, threatened in writing against Seller before any Governmental Authority or any arbitrator. Seller is not subject to any judgment, decree,

injunction, rule or Order of any Governmental Authority or any arbitrator that prohibits the consummation of the transactions contemplated by this Agreement or that would, if determined adversely to Seller, encumber the Purchased Assets or all or any portion thereof. Seller has not filed, nor is subject to, any bankruptcy, receivership, or insolvency proceedings as a debtor.

Section 3.05 Compliance with Laws; Permits.

(a) Except (i) as disclosed on Schedule 3.05(a) and (ii) with respect to Environmental Laws and laws relating to Taxes (as to which no representations or warranties are made by Seller), the Purchased Assets materially comply with applicable Laws.

(b) Schedule 3.05(b) sets forth a list of the Permits. To the extent requested by Purchaser, Seller has delivered to Purchaser true and complete copies of each requested Permit, together with all amendments thereto.

Section 3.06 Real Property.

(a) Except for Existing Encumbrances set forth on Schedule 1.01(c), Seller has good and indefeasible title to the Real Property and, subject to the Existing Encumbrances, to Seller's Knowledge there is no unrecorded Lien, easement, right-of-way agreement, license, lease (including leases of minerals, geothermal resources, and/or oil and gas), sublease, occupancy agreement, or like instrument burdening the Real Property. Seller has not received any written condemnation notice from any Governmental Agency or entity with the private right of eminent domain with respect to the Real Property that remains unresolved as to which Seller has not given notice to Purchaser and there is no pending or, to the Knowledge of Seller, threatened condemnation of any portion of the Real Property. Seller is in compliance in all material respects with all applicable easements, covenants and similar restrictions affecting the Real Property.

(b) No offer has been made by Seller to any Person that is binding on Seller or the Real Property to dedicate any of the Real Property.

(c) To Seller's Knowledge, there are no tenants or other occupants in possession of the Real Property except pursuant to the Closing Permitted Encumbrances.

(d) Since Seller's acquisition of the Real Property, no Person has initiated any lawsuit or filed any legal action challenging Seller's ownership of, or right of possession to, the Real Property.

(e) Except for this Agreement and the Closing Permitted Encumbrances, Seller is not a party to any executory agreement to sell or lease the Real Property and has not granted any options or rights with respect to the sale or lease of the Real Property in the future.

(f) To Seller's Knowledge, no Person has filed or intends to file a mechanic's, materialmen's, workmen's, repairmen's or similar lien on the Real Property.

(g) Seller has not been notified by any Person that money is past due and owing for construction, alteration or repair work on the Real Property.

(h) Except for this Agreement and the Closing Permitted Encumbrances, Seller has not granted any enforceable legal rights that affect the ownership or use of the Real Property.

(i) Except for this Agreement and the Closing Permitted Encumbrances, to Seller's Knowledge, no Person has any enforceable legal rights to own or possess the Real Property.

(j) Seller has no Knowledge of any unresolved boundary line disputes affecting the Real Property.

Section 3.07 Insurance.

(a) Seller has delivered to Purchaser a true and complete list of the primary or excess policies of insurance covering the Purchased Assets and their ownership, use and operations as of the date hereof, all of which are set forth on Schedule 3.07(a).

(b) From March 9, 2020, through the date hereof, other than as set forth in Schedule 3.07(b), no Claim under any of the insurance policies listed in Schedule 3.07(a) has been made, nor have any Losses been suffered, including first-party property damage Claims or Claims "incurred but not reported," that have not been filed or settled under Seller's property insurance policies. Neither Seller, nor to Seller's Knowledge, any Affiliate or agent of Seller, has failed to give, in a timely manner, any notice required under any of the insurance policies listed in Schedule 3.07(a) to preserve its rights thereunder with respect to the Purchased Assets following any Claims occurring on or following March 9, 2020.

Section 3.08 Taxes.

(a) Seller is a municipal corporation and, as such, is exempt from property taxes, sales taxes, and income taxes. Seller has not received any notice from any Governmental Authority of any outstanding Claims or assessments with respect to any Tax relating to the Purchased Assets and no such Claim is pending or is presently being asserted in writing against the Seller or with respect to any of the Purchased Assets. Seller knows of no Tax assessment against the Purchased Assets.

(b) Seller has not received written notice of any Claim by any Governmental Authority that it is or may be subject to any Tax.

Section 3.09 Brokers. None of Seller or any of its Affiliates has incurred any liability or obligation to pay fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Purchaser or any of its Affiliates could become liable or obligated.

Section 3.10 Title to Purchased Assets. Seller has good title to the Purchased Assets, free and clear of all Liens, except for Existing Encumbrances.

**ARTICLE IV.
REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser hereby represents and warrants to Seller as of the Execution Date and as of the Closing Date that:

Section 4.01 Organization and Qualification. Purchaser is a limited liability company, and is duly formed, validly existing and in good standing under the laws of the state of Texas. Purchaser is duly qualified or licensed to do business in Texas and in each other jurisdiction where the actions required to be performed by it under this Agreement makes such qualification or licensing necessary.

Section 4.02 Authority. Purchaser has all requisite limited liability company power and authority to enter into this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby. The execution and delivery by Purchaser of this Agreement and the performance by Purchaser of its obligations hereunder have been duly and validly authorized by all necessary limited liability company action on the part of Purchaser. This Agreement has been duly and validly executed and delivered by Purchaser and constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar Laws relating to or affecting the rights of creditors generally, or by general equitable principles, regardless of whether considered in a proceeding at law or in equity.

Section 4.03 No Conflicts; Consents and Approvals. The execution and delivery by Purchaser of this Agreement does not, and the performance by Purchaser of its obligations under this Agreement and the consummation by Purchaser of the transactions contemplated hereby will not:

(a) conflict with or result in a violation or breach of any of the terms, conditions or provisions of any organizational, governing, formation, or charter documents of Purchaser;

(b) violate or result in a default (or give rise to any right of termination, cancellation or acceleration) under any Contract to which Purchaser is a party, or require any notice be given (which has not been given) under any Contract to which Purchaser is a party or by which it is bound; or

(c) subject to obtaining the filings, approvals, consents, authorizations and notices set forth on Schedule 4.03(c) (the "Purchaser Approvals"), will not (i) violate or breach any Law or writ, judgment, Order or decree applicable to Purchaser, (ii) require the consent or approval of any other Governmental Authority under any applicable Law, or (iii) require the consent or approval of any third party.

Section 4.04 Litigation. There are no Claims pending or, to Purchaser's knowledge, threatened in writing against Purchaser. Purchaser is not subject to any judgment, decree, injunction, rule or Order of any Governmental Authority or any arbitrator that prohibits the consummation of the transactions contemplated by this Agreement or would, in the aggregate,

reasonably be expected to have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereunder.

Section 4.05 Compliance with Laws. Purchaser is not in violation of any Law, except for violations that would not, in the aggregate, have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereunder.

Section 4.06 Brokers. None of Purchaser or any of its Affiliates has incurred any liability or obligation to pay fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Seller or any of its Affiliates could become liable or obligated.

Section 4.07 Anti-Boycott Verification. Pursuant to Section 2271.002, Texas Government Code, to the extent this Agreement is a contract for goods or services, Purchaser hereby represents that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not Boycott Israel and, subject to or as otherwise required by applicable Federal law, Purchaser agrees not to Boycott Israel during the term of this Agreement. For purposes of this Section, "Boycott Israel" shall have the meaning given such term in Section 808.001, Texas Government Code. Purchaser understands "affiliate" for this Section 4.07 to mean an entity that controls, is controlled by, or is under common control with Purchaser and exists to make a profit.

Section 4.08 Prohibition on Contracts with Certain Companies. Purchaser and the person or persons executing this Agreement on behalf of Purchaser, or representing themselves as executing this Agreement on behalf of Purchaser (collectively, the "Signing Entities"), hereby acknowledge that (a) the Signing Entities do not engage in business with Iran, Sudan or any foreign terrorist organization and (b) the Signing Entities are not named on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf> or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>

Section 4.09 Contracting Information. If this Agreement is executed on or after January 1, 2020, and the Agreement is a contract within the scope of Section 552.371, Government Code, then the following shall apply: (a) the requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and Purchaser agrees that this Agreement may be terminated if Purchaser knowingly or intentionally fails to comply with a requirement of that subchapter and (b) without limiting the foregoing, Purchaser agrees to comply with the requirements of Section 552.372, Government Code, including Section 552.372(a)(3)(B), Government Code.

Section 4.10 Purchaser's Due Diligence Procedures. Purchaser acknowledges and agrees that (i) Purchaser and its Representatives have had ample opportunity to conduct Purchaser's own due diligence with respect to the Purchased Assets, have been given adequate access to the Real Property to inspect the Purchased Assets and their physical and operational

condition, and have been given adequate opportunity to ask questions of, and have received satisfactory responses from, Seller and its Representatives, (ii) Purchaser and its Representatives have had adequate opportunity to, but Purchaser has voluntarily elected not to, obtain a title report or examine title with respect to the Real Property or obtain an owner's policy of title insurance covering its ownership interest in the Real Property, (iii) Seller has not obtained a title report or examined title to the Real Property with respect to any of Seller's representations set forth in Article III of this Agreement, and (iv) Purchaser and its Representatives have created Purchaser's own economic projections for the Purchased Assets and Purchaser has not relied on any financial or economic projections, forecasts, conditions, assumptions or information received from Seller or its Representatives.

ARTICLE V. COVENANTS

Section 5.01 Access of Purchaser. During the Interim Period, Seller shall provide Purchaser and its Representatives with reasonable access to the Purchased Assets and the officers and management employees of Seller in such a manner so as not to unreasonably interfere with the business or operations of Seller, provided that Seller shall have the right to (i) have a Representative present for any communication with employees or officers or its contractors and (ii) impose reasonable restrictions and requirements for safety or operational purposes.

Section 5.02 Conduct of Business Pending the Closing.

(a) During the Interim Period, Seller shall maintain the Purchased Assets in the Ordinary Course. Without limiting the foregoing, except as otherwise contemplated by this Agreement or set forth in Schedule 5.02(a) or as consented to by Purchaser (not to be unreasonably withheld, conditioned or delayed), Seller will not, and will not permit any Person to, during the Interim Period:

(i) sell, transfer, convey, encumber or otherwise dispose of any portion of, or interest in, any of the Purchased Assets, or grant any easement, right-of-way agreement, license, lease, sublease, occupancy agreement, or like instrument burdening any portion of, or interest in, the Real Property that will survive the Closing, other than Existing Encumbrances;

(ii) fail to maintain its existence;

(iii) liquidate, dissolve, reorganize or otherwise wind up its business;

(iv) enter into, modify or terminate (partially or completely), grant any waiver under, or give any consent with respect to, any Assigned Permit, except in the Ordinary Course, which action shall be promptly disclosed in writing to Purchaser by Seller;

(v) enter into any agreement or settlement with any Governmental Authority that would affect Purchaser after the Closing;

(vi) terminate any material policy of insurance, unless such policy is replaced with a policy of insurance from financially responsible insurers covering substantially the same risks, including substantially the same coverage amounts, and including substantially the same or lower deductibles; or

(vii) agree or commit to do any of the foregoing.

(b) Seller may take commercially reasonable actions with respect to emergency situations or to comply with applicable Laws.

Section 5.03 Press Releases. For the period between the signing of this Agreement and the Closing Date, Seller and Purchaser will consult with each other before issuing, and provide each other a reasonable opportunity to review and make reasonable comment upon any press release relating to this Agreement; provided, however, the Parties acknowledge that this Agreement will become a public record on the earlier of the date when it is posted for consideration of approval by Seller or by a Member City and that all correspondence with Seller and/or the Member Cities may be subject to the Texas Public Information Act (Texas Government Code Chapter 552).

Section 5.04 Expenses and Fees. Except as expressly provided otherwise in this Agreement or in the Reimbursement Agreement, all costs and expenses incurred by a Party in performing its express obligations under this Agreement shall be paid by the Party incurring such costs and expenses; provided, however, that, to the extent that either Party requests the other Party (pursuant to Section 5.05, Section 5.06, or otherwise) to take any action, do any thing, cooperate in any manner, execute any documents, or provide any material or information, in each case that is not an express obligation of the other Party under this Agreement and the resulting costs are expected to be in excess of \$1,000, then the Parties must mutually agree in advance in writing as to which Party will bear the resulting costs and expenses prior to the other Party having any obligation with respect to such request, which agreement will be in each Party's sole discretion. Seller shall be responsible for all compensation to be paid to the Environmental Designee.

Section 5.05 Agreement to Cooperate; Governmental Approvals. Subject to the terms and conditions of this Agreement and applicable Law, each Party shall use its commercially reasonable efforts to take, or cause to be taken, all action and do, or cause to be done, all things necessary, proper or advisable to obtain as promptly as reasonably practicable all necessary or appropriate waivers, consents, approvals or authorizations of Governmental Authorities, and to satisfy all other conditions required in order to consummate the transactions contemplated by this Agreement (and, in such case, to proceed with the consummation of the transactions contemplated by this Agreement as expeditiously as possible).

Section 5.06 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, at either Party's request and without further consideration, the other Party shall execute and deliver to such Party such other instruments of sale, transfer, conveyance, assignment and confirmation, provide such materials and information and take such other actions and execute and deliver such other documents as such Party may reasonably request in order to consummate the transactions contemplated by this Agreement.

Section 5.07 Regulatory Filings. Each Party agrees to make all filings or notices required to be made by such Party pursuant to Section 2252.908, Texas Government Code, and Chapter 46 of the Texas Ethics Commission's Rules.

Section 5.08 Insurance. Purchaser shall be solely responsible for providing insurance for the Purchased Assets as of the Closing. Purchaser acknowledges that no insurance coverage or policy maintained for Seller or the Purchased Assets will extend beyond the Closing for the benefit of Purchaser.

Section 5.09 Escrow Agreement. Seller and Purchaser shall enter into the Escrow Agreement with Escrow Agent at Closing to secure Purchaser's performance of all Guaranteed Obligations with the exception of Environmental Post-Closure Requirements. Purchaser shall use the Escrowed Amount solely for such Guaranteed Obligations. Monthly releases to Purchaser under the Escrow Agreement are tied to Purchaser's performance of such Guaranteed Obligations in accordance with the Project Schedule, as set forth in the Escrow Agreement. If progress completing such Guaranteed Obligations is slower or faster than the timing set forth in the Project Schedule, then monthly payments from the Escrowed Amount may be suspended or accelerated in accordance with the terms of the Escrow Agreement. Seller and Purchaser shall promptly on request prior to Closing provide or deliver to Escrow Agent all documentation and other written information required under applicable "know your customer" and anti-money laundering rules, regulations and requirements.

Section 5.10 Environmental Closure and Compliance. After Closing, Purchaser covenants that it will (i) immediately begin and diligently pursue, in a commercially-reasonable manner and in accordance with the Project Schedule, until completion the preparation of closure or response action plans for the Required Remediation Actions, the approval of such plans by the TCEQ, and the implementation of such plans in compliance with all applicable Laws, regardless of whether any of such actions or the Required Remediation Actions are then required to be performed under any applicable laws, (ii) diligently pursue, in a commercially-reasonable manner and in accordance with the Project Schedule, until completion all Required Remediation Actions in accordance with such closure or response action plans regardless of whether any of the Required Remediation Actions are then required to be performed under any applicable laws, (iii) begin and diligently pursue in a commercially-reasonable manner until completion the Plant Shutdown and Decommissioning of the Purchased Assets in compliance with all applicable Laws regardless of whether any such Plant Shutdown and Decommissioning of the Purchased Assets is then required to be performed under any applicable Laws, and (iv) conduct all operations and other activities on the Real Property according to all Environmental Compliance requirements and the regulatory compliance requirements of local, state and federal governments, including Environmental Post-Closure Requirements and the maintenance of associated financial assurance requirements. Purchaser will use standard industry practice in managing environmental risks and liabilities associated with these environmental requirements, subject to review and audit by Seller per Section 9.01(b) herein. "Standard industry practice" shall not be used as a defense to Purchaser's obligation to operate in compliance with Environmental Laws.

Section 5.11 Closing Cash Payment. Purchaser shall use the cash paid to Purchaser pursuant to Section 2.04(f) solely to fund Purchaser's obligations arising under this Agreement with respect to the Required Remediation Actions, Plant Shutdown and Decommissioning, and

other actions necessary to achieve Regulatory Closure of the Purchased Assets, including any Environmental Compliance and Response Actions.

ARTICLE VI. CONDITIONS TO PERFORMANCE

Section 6.01 Conditions to the Obligation of Purchaser to Closing. The obligation of Purchaser to proceed with the Closing is subject to the satisfaction upon the Closing Date of the following conditions, any one or more of which may be waived in writing, in whole or in part by Purchaser:

(a) the representations and warranties made by Seller in this Agreement and qualified by materiality shall be true and correct as so qualified on and as of the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case as of such earlier date). Each of the representations and warranties made by Seller in this Agreement and not qualified by materiality shall be true and correct in all material respects on and as of the Closing Date as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case as of such earlier date);

(b) no permanent judgment, injunction, order or decree of a court or other Governmental Authority of competent jurisdiction shall be in effect which has the effect of making the transactions contemplated by this Agreement illegal or otherwise restraining or prohibiting the consummation of the transactions contemplated by this Agreement (each Party agreeing to use its reasonable commercial efforts, including appeals to higher courts, to have any judgment, injunction, order or decree lifted);

(c) Seller has delivered a certificate of an authorized representative of Seller dated as of the Closing Date that each of the items in Section 6.01(a), (b), (d), and (e) are true and correct;

(d) No Material Adverse Effect has occurred and is continuing; and

(e) The filings required to be made by Seller pursuant to Section 5.07 have been completed.

Section 6.02 Conditions to the Obligation of Seller to Closing. The obligation of Seller to proceed with the Closing is subject to the satisfaction upon the Closing Date of the following conditions, any one or more of which may be waived in writing, in whole or in part by Seller:

(a) the representations and warranties made by Purchaser in this Agreement and qualified by materiality shall be true and correct as so qualified on and as of the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case as of such earlier date). Each of the representations and warranties made by Purchaser in this Agreement and not qualified by materiality shall be true and correct in all material respects on and as of the Closing Date as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case as of such earlier date);

(b) no permanent judgment, injunction, order or decree of a court or other Governmental Authority of competent jurisdiction shall be in effect which has the effect of making the transactions contemplated by this Agreement illegal or otherwise restraining or prohibiting the consummation of the transactions contemplated by this Agreement (each Party agreeing to use its reasonable commercial efforts, including appeals to higher courts, to have any judgment, injunction, order or decree lifted);

(c) receipt of Seller Internal Approvals;

(d) Purchaser has delivered a certificate of an authorized representative of Purchaser dated as of the Closing Date that each of the items in Section 6.02(a), (b), (c), and (e) are true and correct;

(e) All filings required to be made by Purchaser pursuant to Section 5.07 have been completed; and

(f) Any Member City has defeased or refunded all Indebtedness assumed by the Member City related to the Purchased Assets if determined by the Member City to be necessary or advisable in connection with the sale of the Purchased Assets to Purchaser pursuant to this Agreement.

Section 6.03 Removal of Excluded Personal Property. At any time or from time to time after Closing, any and all of the personal property included in the Excluded Assets may be removed from the Real Property by Seller (at no expense to Purchaser, but without charge by Purchaser for temporary storage), provided that Seller shall do so (i) in a manner that does not unduly or unnecessarily disrupt normal business and/or remediation activities at the Real Property, (ii) after coordinating reasonably in advance the dates and times of removal with Purchaser, and (iii) after providing an insurance certificate from the party removing the Excluded Assets naming Purchaser as an additional insured under such policy.

ARTICLE VII. TERMINATION

Section 7.01 Termination. This Agreement may be terminated and the consummation of the transactions contemplated hereby may be abandoned at any time prior to the Closing:

(a) by mutual written consent of Purchaser and Seller;

(b) by either Purchaser or Seller,

(i) if the Closing has not occurred on or before March 1, 2021 (such date, the "Termination Date"), provided that the right to terminate this Agreement pursuant to this Section 7.01(b)(i) shall not be available to any Party whose breach of any provision of this Agreement has been the cause of, or resulted in, the failure of the Closing to occur by the Termination Date; or

(ii) if any court of competent jurisdiction in the United States or other Governmental Authority shall have issued an Order or taken any other final action

restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement, and such Order or other action is or shall have become final and nonappealable, provided that any Party seeking to terminate this Agreement pursuant to this Section 7.01(b)(ii) shall have used all reasonable commercial efforts to prevent the entry of and to remove such Order;

(c) by Purchaser if there has been a breach by Seller of any representation, warranty, covenant or agreement contained in this Agreement which would result in a failure of, or inability of Seller to satisfy, any condition set forth in Section 6.01 and such breach has not been cured within thirty (30) days following written notification thereof; or

(d) by Seller if there has been a breach by Purchaser of any representation, warranty, covenant or agreement contained in this Agreement which would result in a failure of, or inability of Purchaser to satisfy, any condition set forth in Section 6.02 and such breach has not been cured within thirty (30) days following written notification thereof.

Section 7.02 Effect of Termination. In the event of termination of this Agreement by Seller or by Purchaser prior to a Closing pursuant to the provisions of Section 7.01, there shall be no contractual liability or obligation on the part of Purchaser or Seller or their respective officers, commissioners, members, managers or directors under this Agreement except as set forth in this Section 7.02, Section 5.03 (Press Releases), 5.04 (Expenses and Fees), and Article X (Miscellaneous), all of which shall survive the termination hereof, provided that nothing in this Section 7.02 shall relieve either Party from any breach of this Agreement and the other Party shall be entitled to pursue, to the fullest extent available at law or in equity, recovery of such other Party's Losses and other damages caused by or resulting from such Party's breach of this Agreement. If this Agreement is terminated pursuant to the provisions of Section 7.01 prior to Closing, then Purchaser shall return to Seller all information delivered by or on behalf of Seller, and the Escrow Agent shall be directed to return any deliverables provided under this Agreement to the Party that provided such deliverables, as applicable.

ARTICLE VIII. INDEMNIFICATION; LIABILITY

Section 8.01 Survival. All representations, warranties, covenants and other obligations in this Agreement or in any other agreement, instrument or other document delivered in connection herewith, and the right to commence any Claim with respect thereto (including with respect to all Environmental Liabilities), shall survive the Closing Date.

Section 8.02 Indemnification.

(a) Purchaser, from and after the Closing Date, shall indemnify, defend and hold harmless Seller, the Member Cities, and their respective council members, directors, commissioners, officers, agents, employees, advisors, Representatives, successors, and assigns (collectively, the "Seller Indemnitees") from and against any Losses that arise out of or result from any and all (i) Environmental Liabilities, (ii) Assumed Liabilities, and (iii) Taxes (or the nonpayment thereof) of Purchaser or for which Purchaser is responsible under this Agreement. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS

AGREEMENT, IT IS THE EXPLICIT INTENTION OF THE PARTIES TO THIS AGREEMENT THAT (I) THE INDEMNIFICATION OBLIGATIONS OF PURCHASER SET FORTH IN THIS AGREEMENT ARE INTENDED TO INDEMNIFY EACH SELLER INDEMNITEE AGAINST HIS, HER, OR ITS OWN SOLE, CONCURRENT, CONTRIBUTORY OR COMPARATIVE NEGLIGENCE OR TORTIOUS ACTS AND (II) THE INDEMNIFICATION PROVISIONS SET FORTH IN THIS AGREEMENT WILL BE ENFORCED TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF THE SELLER INDEMNITEES, REGARDLESS OF ANY EXTRAORDINARY SHIFTING OF RISK, AND EVEN IF THE CLAIM IS CAUSED BY THE ACTIVE OR PASSIVE, SOLE, JOINT, CONCURRENT, OR COMPARATIVE NEGLIGENCE OR TORT OF ANY SELLER INDEMNITEE, OR LIABILITY WITHOUT FAULT OR STRICT LIABILITY IS IMPOSED ON, OR ALLEGED AGAINST, ANY SELLER INDEMNITEE.

(b) For the avoidance of doubt, it is the express intention of the Parties that the indemnification provided for in this Section 8.02 shall apply to direct Claims between the Parties for a breach of this Agreement (whether or not involving a third party).

Section 8.03 Right to Specific Performance; Certain Limitations. Notwithstanding anything in this Agreement to the contrary:

(a) Without limiting or waiving in any respect any rights or remedies of a Party under this Agreement or now or hereafter existing at law in equity or by statute, each Party shall be entitled to specific performance of the obligations to be performed by the other Party in accordance with the provisions of this Agreement; and

(b) No Member City and no Representative, Affiliate of, or direct or indirect equity owner in, Seller or any Member City shall have any personal liability to Purchaser or any other Person relating to, or arising from this Agreement; and

(c) Other than with respect to (i) Environmental Liabilities and (ii) the Indemnification Obligations with respect to any third party Claims, neither Party shall be liable for special, punitive, exemplary, incidental, or indirect damages, or lost profits or losses calculated by reference to any multiple of earnings before interest, tax, depreciation or amortization (or any other valuation methodology) whether based on contract, tort, strict liability, other Law or otherwise and whether or not arising from the other Party's sole, joint or concurrent negligence, strict liability or other fault for any matter relating to this Agreement and the transactions contemplated hereby.

Section 8.04 No Other Representations. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE III OR IN ANY CERTIFICATE OR INSTRUMENT DELIVERED HEREUNDER, THE PURCHASED ASSETS ARE "AS IS, WHERE IS," AND SELLER EXPRESSLY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION REPRESENTATIONS OR WARRANTIES AS TO LIABILITIES, OPERATIONS OF THE PURCHASED ASSETS, CONDITION, VALUE OR QUALITY OF THE PURCHASED ASSETS OR THE PROSPECTS THEREOF), AND SELLER SPECIFICALLY DISCLAIMS ANY IMPLIED REPRESENTATIONS OR WARRANTIES OF

MERCHANTABILITY, USAGE OF TRADE, OR FITNESS FOR ANY PARTICULAR PURPOSE. NO MATERIALS OR INFORMATION PROVIDED BY, OR COMMUNICATIONS MADE BY OR ON BEHALF OF SELLER, OR BY ANY REPRESENTATIVE OF SELLER, INCLUDING BUT NOT LIMITED TO INFORMATION MADE AVAILABLE TO PURCHASER, OR ANY ORAL, WRITTEN OR ELECTRONIC RESPONSE TO ANY INFORMATION REQUEST PROVIDED BY SELLER TO PURCHASER, WILL CAUSE OR CREATE ANY ADDITIONAL WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESSLY SET FORTH HEREIN.

**ARTICLE IX.
ENVIRONMENTAL**

Section 9.01 No Environmental Representations or Warranties; Disclaimer.

(a) AS IS, WHERE IS. EXCEPT AS EXPRESSLY PROVIDED HEREIN, PURCHASER IS EXPRESSLY PURCHASING THE PURCHASED ASSETS IN THEIR EXISTING CONDITION "AS IS, WHERE IS, AND WITH ALL FAULTS" WITH RESPECT TO ALL FACTS, CIRCUMSTANCES, CONDITIONS AND DEFECTS, AND SELLER HAS NO OBLIGATION TO DETERMINE OR CORRECT ANY SUCH FACTS, CIRCUMSTANCES, CONDITIONS OR DEFECTS OR TO COMPENSATE PURCHASER FOR SAME. EXCEPT AS EXPRESSLY PROVIDED HEREIN, SELLER HAS SPECIFICALLY BARGAINED FOR THE ASSUMPTION BY PURCHASER OF ALL RESPONSIBILITY TO INVESTIGATE THE PURCHASED ASSETS, LAWS, ENVIRONMENTAL LAWS, ENVIRONMENTAL LIABILITIES, ENVIRONMENTAL COMPLIANCE, FACTS, CONDITIONS, VIOLATIONS, AND OF ANY AND ALL RISK OF ADVERSE CONDITIONS, AND HAS STRUCTURED THE PURCHASE PRICE AND OTHER TERMS OF THIS AGREEMENT IN CONSIDERATION THEREOF. PURCHASER HAS UNDERTAKEN ALL SUCH INVESTIGATIONS OF THE PURCHASED ASSETS, LAWS, ENVIRONMENTAL LAWS, ENVIRONMENTAL LIABILITIES, ENVIRONMENTAL COMPLIANCE, FACTS, CONDITIONS AND VIOLATIONS AS PURCHASER DEEMS NECESSARY OR APPROPRIATE UNDER THE CIRCUMSTANCES AS TO THE STATUS OF THE PURCHASED ASSETS AND ANY FUTURE OBLIGATIONS ARISING IN CONNECTION WITH THE PURCHASED ASSETS AND BASED UPON SAME, PURCHASER IS AND WILL BE RELYING STRICTLY AND SOLELY UPON SUCH INSPECTIONS AND EXAMINATIONS AND THE ADVICE AND COUNSEL OF ITS OWN CONSULTANTS, AGENTS, LEGAL COUNSEL AND OFFICERS. PURCHASER IS AND WILL BE FULLY SATISFIED THAT THE PURCHASE PRICE IS FAIR AND ADEQUATE CONSIDERATION FOR THE REAL PROPERTY AND, BY REASON OF ALL THE FOREGOING, PURCHASER ASSUMES, WITHOUT LIMITATION, THE FULL RISK OF ANY AND ALL ENVIRONMENTAL LIABILITIES AND ENVIRONMENTAL COMPLIANCE AS SET FORTH HEREIN. THE TERMS AND CONDITIONS OF THIS PARAGRAPH SHALL EXPRESSLY SURVIVE THE CLOSING, NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS AND SHALL BE INCORPORATED INTO THE WARRANTY DEEDS FOR PARCELS WITH RECOGNIZED ENVIRONMENTAL CONDITIONS.

(b) Seller Environmental Review. Beginning at Closing and continuing until Regulatory Closure is achieved and all applicable care periods for Environmental Post-Closure Requirements have been completed or expired without additional action required, Seller shall have the right, but not the obligation, to review and audit all environmental activities, conditions, operations and records, waste management units, pollution control equipment and monitoring devices at the Purchased Assets and directly related facilities, including all activities and operations described in Sections 5.09 and 5.10. The Environmental Designee will be allowed to review and audit the Purchased Assets and directly related facilities as set out above, including documentation and correspondence with environmental regulatory agencies, at any reasonable time. The Environmental Designee will simultaneously provide Purchaser with any written reports that the Environmental Designee provides to Seller. To the extent that the Parties cannot reach mutual agreement on the penal sum of any Performance Bond required by this Agreement within thirty (30) days after the matter is first submitted to the other Party for approval, both Parties will submit their proposal to the Environmental Designee, which will make a final, binding determination with respect to the amount of such penal sum. All information received from, and/or provided to, the Environmental Designee will be considered confidential by the Parties per the Confidentiality Agreement, subject to the requirements of the Texas Public Information Act, to the same extent as if such information had been received from, and/or provided to, Seller. If the Environmental Designee's report identifies any violation of Environmental Laws or any failure to expeditiously accomplish any of the Required Remediation Actions in accordance with the Project Schedule, Purchaser shall perform, at its cost, any corrective actions required by Law to address such violation or failure. Purchaser shall conduct all corrective actions with due diligence and complete such actions within a reasonable period of time. In the event that Seller is dissolved or ceases to exist, then, prior to such event, Seller shall assign to an individual or other legal entity or entities the obligations to perform Seller's responsibilities and exercise Seller's rights with regard to this Section 9.01(b). Seller shall provide notice to Purchaser of such assignment.

Section 9.02 Assumption and Covenant; Release; Indemnity. Notwithstanding anything contained herein, and without limiting the scope of any assumption of responsibility, or liability, release or indemnity by Purchaser in favor of any Seller Indemnitee set forth herein:

(a) Assumption and Covenant. At Closing, Purchaser shall be liable for and expressly fully assumes any and all Environmental Liabilities and Environmental Compliance, as well as, without limitation, any remediation, investigation, management, mitigation, closure, maintenance, reporting, removal, disposal of and any other actions with respect to any Hazardous Substances at, on, in, under, or emanating from the Purchased Assets. Without limiting the foregoing, Purchaser shall be liable for any costs and expenses in connection with developing, redeveloping, repurposing or otherwise operating the Purchased Assets, notwithstanding that such costs and expenses may arise from the presence or suspected presence of Hazardous Substances at, on, in or under or emanating from the Purchased Assets, any Environmental Liability or any Environmental Compliance. Purchaser covenants to comply with all Environmental Laws.

(b) Release. Except as expressly provided in this Agreement, Purchaser and anyone claiming by, through or under Purchaser, hereby FULLY AND IRREVOCABLY RELEASE AND DISCHARGE the Seller Indemnitees from and waive any and all Claims that it may now have or hereafter acquire against any Seller Indemnitee for any Losses, cost, response costs, Liabilities, damage, expense, problem, condition, demand, Order, notice, action or cause of

action, foreseen or unforeseen, known or unknown, whether arising or accruing before, on or after the Closing Date and whether attributable to events or circumstances which have occurred prior to the Closing Date or may occur hereafter, including without limitation those arising from or related to: (i) any structural, engineering or Environmental Condition at the Real Property, including without limitation, the presence, suspected presence, absence, Release, threat of Release, discovery, location or scope of any Hazardous Substances at, on, in, under, or emanating from the Real Property (whether patent, latent or otherwise); (ii) **Environmental Laws, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601, et seq.), as amended, and the Texas Solid Waste Disposal Act (Texas Health and Safety Code § 361.001, et seq.), as amended, including the right to seek contribution, indemnity or recovery of costs for environmental cleanup of the Real Property,** (iii) any and all statements or opinions heretofore or hereafter made or information furnished by any Seller Indemnitee or any representative or agent of any of them; (iv) any and all tort Claims made or brought with respect to any of the Purchased Assets or the use or operation thereof; and (v) **ANY IMPLIED OR STATUTORY WARRANTIES OR GUARANTIES OF FITNESS, MERCHANTABILITY** or any other statutory or implied warranty or guaranty of any kind or nature regarding or relating to any portion of any of the Purchased Assets. Purchaser further acknowledges and agrees that this release shall be given full force and effect according to each of its expressed terms and provisions, including but not limited to those relating to unknown and suspected Claims, damages and causes of action. Purchaser expressly understands and acknowledges that it is possible that unknown conditions may exist with respect to the Purchased Assets and that Purchaser explicitly considered such possibility in determining and agreeing to the acquisition consideration for the Purchased Assets set forth in this Agreement, and that a portion of such acquisition consideration, having been bargained for between Parties with the knowledge of the possibility of such unknown conditions, has been given in exchange for a full accord and satisfaction and discharge of all such conditions. Purchaser further hereby assumes the risk of changes in applicable Laws and regulations relating to past, present and future Environmental Conditions on the Real Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Substances, may not have been revealed by its investigation. As a material covenant and condition of this Agreement, Purchaser agrees that in the event of any Environmental Liability or Liability arising from or related to Environmental Compliance, or any structural, engineering or environmental defects, errors or omissions, including without limitation the presence or absence, location or scope of any Hazardous Substances at, on, in, under, or emanating from the Purchased Assets, or any other conditions affecting the Purchased Assets, whether known or unknown or existing before or as of the Closing Date, Purchaser shall not look to any Seller Indemnitee for any redress or relief. The Closing hereunder shall be deemed to constitute an express waiver of Purchaser's right to cause any Seller Indemnitee to be joined in any action brought under any Environmental Laws. **THE FOREGOING RELEASE SHALL APPLY NOTWITHSTANDING THE NEGLIGENCE OR STRICT LIABILITY OF A SELLER INDEMNITEE.**

(c) ENVIRONMENTAL INDEMNIFICATION. PURCHASER SHALL INDEMNIFY, DEFEND AND HOLD THE SELLER INDEMNITEES HARMLESS FROM ANY LOSSES, CLAIMS, EXPENSES, DEMANDS, ORDERS, CAUSES OF ACTION OR LIABILITIES OF ANY NATURE, KNOWN OR UNKNOWN, INCLUDING WITHOUT LIMITATION NATURAL RESOURCE DAMAGES OR RESPONSE COSTS (AS THOSE TERMS ARE DEFINED UNDER ANY ENVIRONMENTAL LAWS) AND THIRD PARTY

CLAIMS FOR BODILY INJURY OR PROPERTY DAMAGE ARISING FROM, ALLEGEDLY ARISING FROM OR RELATED TO ENVIRONMENTAL CONDITIONS, ENVIRONMENTAL LIABILITIES, ENVIRONMENTAL COMPLIANCE, OR HAZARDOUS SUBSTANCES ON, AT, IN, UNDER OR EMANATING FROM THE PURCHASED ASSETS, IRRESPECTIVE OF WHETHER ARISING OR ACCRUING BEFORE, ON OR AFTER THE CLOSING DATE OR WHETHER ATTRIBUTABLE TO EVENTS OR CIRCUMSTANCES WHICH OCCURRED PRIOR TO THE CLOSING DATE OR MAY OCCUR HEREAFTER. PURCHASER WAIVES ANY RIGHT TO SEEK DAMAGES OR RESPONSE COSTS FROM THE SELLER INDEMNITEES RESULTING FROM EITHER THE PRESENCE OR SUSPECTED PRESENCE OF HAZARDOUS SUBSTANCES IN, ON, AT OR UNDER OR EMANATING FROM THE PURCHASED ASSETS, INCLUDING, WITHOUT LIMITATION, FOR LOST PROFITS, SPECIAL DAMAGES, MEDICAL MONITORING, CONSEQUENTIAL DAMAGES, RESPONSE COSTS, DIMINUTION OF VALUE OR STIGMA OR ANY LOSS OR EXPENSE DUE TO INTERFERENCE WITH OPERATIONS AT, OR DEVELOPMENT OF, THE PURCHASED ASSETS AND PURCHASER SHALL INDEMNIFY, DEFEND AND HOLD THE SELLER INDEMNITEES HARMLESS AGAINST ALL SUCH LIABILITY. **THE FOREGOING INDEMNITY SHALL APPLY NOTWITHSTANDING THE NEGLIGENCE OR STRICT LIABILITY OF A SELLER INDEMNITEE.**

Section 9.03 Purchaser Environmental Covenant. Purchaser covenants and agrees to Seller that it will conduct its operation of the Purchased Assets in compliance with all applicable Environmental Laws and regulations using standard industry practice beginning immediately following Closing. This covenant will survive indefinitely. "Standard industry practice" shall not be used as a defense to Purchaser's obligation to operate in compliance with Environmental Laws.

Section 9.04 Warranty Deeds. The assumption, release and indemnity and all other representations, warranties, covenants or other obligations of Purchaser under this Article IX shall be incorporated into the Warranty Deeds for Parcels with Recognized Environmental Conditions as set forth on Exhibit C-1 and into the Warranty Deeds for Parcels with No Recognized Environmental Conditions as set forth on Exhibit C-2 and shall expressly run with the land to bind future owners and operators of the Purchased Assets. Purchaser shall not assert that the indemnity or any other post-closing obligations under this Article IX do not run with the land to bind future owners or operators of the Purchased Assets in any litigation or other proceeding of any nature.

Section 9.05 Transferee Obligations.

(a) Purchaser reserves the right to sell any portion of the Real Property, provided that (i) no sale or transfer of all or any portion of the Real Property, or any assumption of Purchaser's obligations under this Agreement, the Escrow Agreement, or the other documents delivered by the Parties at Closing, will relieve or release Purchaser from its obligations under this Agreement, the Escrow Agreement, or the other documents delivered by the Parties at Closing, unless Seller expressly consents in writing to the release of such obligations, (ii) each portion of the Real Property that is transferred by Purchaser shall be transferred subject to Purchaser's obligations under this Agreement, the Warranty Deeds, and the other documents delivered by the Parties at Closing to the extent affecting such transferred Real Property, (iii) the Transferee of such portion of the Real Property will expressly assume in writing, for the benefit of Seller Indemnitees and substantially in the form attached hereto as Exhibit G or in another form reasonably acceptable

to Seller, all of Purchaser's obligations under this Agreement, the Warranty Deeds, and the other documents delivered by the Parties at Closing with respect to that portion of the Real Property transferred to such Transferee, including any obligations to obtain or maintain any pollution legal liability insurance policy or Performance Bonds with respect to such portion of the Real Property, and (iv) in connection with such sale or transfer, Purchaser and its Transferee of the Real Property must fully comply with the provisions of this Section 9.05.

(b) Purchaser must include in any instrument conveying an interest in Parcels with Recognized Environmental Conditions an agreement on the part of such Transferee to be bound by Purchaser's indemnities, representations, warranties, covenants, releases, and other obligations under this Article IX with respect to such portion of the Real Property being conveyed as if such indemnities, representations, warranties, covenants, releases, and other obligations were given, made or agreed to by such future owner or operator directly for Seller Indemnitees' benefit, including the obligations of this Section 9.05 to so bind future Transferees of any interest in Parcels with Recognized Environmental Conditions or any related Purchased Assets. Ten (10) days prior to executing any agreement to convey an interest in Parcels with Recognized Environmental Conditions, Purchaser shall provide Seller with a copy of such agreement. Purchaser shall not execute any agreement to convey an interest in Parcels with Recognized Environmental Conditions if Seller reasonably determines and provides written notice to Purchaser within ten (10) days after delivery to Seller that such sale agreement does not comply with the terms of this Article IX. Notwithstanding anything to the contrary in this Section 9.05(b), if any Parcel with Recognized Environmental Conditions has satisfied the conditions set forth in the definition of "Parcels with No Recognized Environmental Conditions" in Section 1.01, then (x) such Parcel shall be reclassified as a Parcel with No Recognized Environmental Conditions and will no longer be subject to this Section 9.05(b), (y) Purchaser and any Transferee may thereafter transfer all or any part of such Parcel free of any obligation to provide Seller with any transfer documents for review, and (z) Seller shall have no right to object to any such transfer. No such transfer or release in favor of a Transferee shall release Purchaser from any of its obligations under this Agreement. For the avoidance of doubt, Parcels with No Recognized Environmental Conditions are not subject to this Section 9.05(b), and Purchaser may transfer all or part of Parcels with No Recognized Environmental Conditions to any Transferee and have no obligation to provide Seller with any agreement with the Transferee and Seller shall have no right to object to any such transfer.

Section 9.06 Performance Bonds.

(a) Regulatory Closure Bonds. Purchaser will obtain and deliver to Seller in connection with the Closing the original of the Regulatory Closure Bond and will maintain the Regulatory Closure Bond, as potentially modified or adjusted in accordance with this Section 9.06, until released by Seller. If all of Purchaser's obligations under this Agreement with respect to Required Remediation Actions, Plant Shutdown and Decommissioning, and Preliminary Regulatory Closure of the Purchased Assets, including all Environmental Compliance and Response Actions, and all payment obligations related to the foregoing items or resulting from Purchaser's default in the performance of such items, including reimbursement of Seller's costs, if any, to cure Purchaser's default or non-performance of any of the foregoing obligations, have been performed and completed in accordance with the terms of this Agreement and in compliance with all applicable Environmental Laws or other applicable governmental regulations, and all costs and expenses related thereto have been paid in full, and no further action is required for the

completion of all of the Guaranteed Obligations covered by the Regulatory Closure Bond, then Seller shall consent to such Regulatory Closure Bond being released. The penal sum of the Regulatory Closure Bond may be adjusted periodically as the remediation projects set forth on Schedule 9.06(a) are completed (as determined in writing by the Environmental Designee), provided that (i) an updated estimate of the costs to perform the remaining Guaranteed Obligations covered by the Regulatory Closure Bond (using the same methodology as set forth in Section 9.06(d) with respect to an Annual Estimate) shall be provided to Seller and the Environmental Designee, (ii) no such adjustment may be made that would reasonably be expected to result in an Insufficiency, and (iii) the amount of any adjustment reducing the amount of the Regulatory Closure Bond with respect to any completed remediation project may not exceed ninety percent (90%) of the "Allocation to Bond Amount" set forth on Schedule 9.06(a) with respect to such remediation project.

(b) Post-Closure Bonds. Purchaser or a Transferee, as applicable, will obtain and deliver to Seller the original Post-Closure Bond, with respect to each portion of the Real Property subject to Environmental Post-Closure Requirements prior to any release or partial release of the Regulatory Closure Bond with respect to such portion of the Real Property and at least thirty (30) days prior to the start of such Environmental Post-Closure Requirements, and will maintain the Post-Closure Bond until all of such Environmental Post-Closure Requirements have been completed and approved in writing by the TCEQ or the Environmental Designee, as applicable, and Regulatory Closure of all applicable portions of the Purchased Assets has been obtained. Seller, or its successors and assigns, may renew any Post-Closure Bond or obtain a replacement thereof, at the sole expense of Purchaser or such Transferee, or make a claim under a Post-Closure Bond in the event that (i) Seller does not receive confirmation, at least ten (10) Business Days in advance of any expiration of such Post-Closure Bond, from the issuing insurance company or corporate surety company that such Post-Closure Bond will be renewed, or (ii) Purchaser or such Transferee fails to replace such Post-Closure Bond within ten (10) Business Days of the issuing insurance company's or corporate surety company's credit rating being lowered below the required rating. Purchaser or such Transferee shall not, and each Post-Closure Bond shall provide that Purchaser or such Transferee may not, terminate, void, or cancel such Post-Closure Bond or any obligation of Purchaser or such Transferee or the surety thereunder without express written authorization from Seller, or its successors and assigns, and any attempt by Purchaser or such Transferee to do so shall be of no force or effect unless and until Seller, or its successors and assigns, issues express written approval for such attempt.

(c) All Performance Bonds.

(i) Notwithstanding anything in this Agreement to the contrary, to the extent that any rule, regulation or requirement of the TCEQ or other applicable Law governs the form, amount, renewal, replacement and other aspect of a Performance Bond to be obtained by Purchaser or any Transferee pursuant to this Agreement, then such rule, regulation, requirement or other Law shall govern and control over any contradictory term of this Agreement and the terms of this Agreement shall govern every other aspect of such Performance Bond.

(ii) The Performance Bonds, together with the Escrowed Amount and cash payment under Section 2.04(f), are intended to guarantee the performance of

Purchaser's obligations under this Agreement with respect to Required Remediation Actions, Plant Shutdown and Decommissioning, and Regulatory Closure of the Purchased Assets, including all Environmental Compliance, Response Actions and Environmental Post-Closure Requirements, and all payment obligations related to the foregoing items or resulting from Purchaser's default in the performance of such items, including reimbursement of Seller's costs, if any, to cure Purchaser's default or non-performance of any of the foregoing obligations (collectively, the "Guaranteed Obligations"). All Performance Bonds shall name Seller, and its successors and assigns, as obligee.

(iii) Seller, or its successors or assigns, may make a claim under any Performance Bond in the event Purchaser or any Transferee (A) fails to faithfully perform the Guaranteed Obligations covered by such Performance Bond, whenever required to do so, in accordance with the requirements of this Agreement, (B) fails to provide an alternative financial assurance mechanism, when required, or (C) fails to provide continuous coverage by such Performance Bond.

(iv) Each Performance Bond will be issued in form and substance reasonably acceptable to Seller and will be issued by a licensed insurance company or corporate surety company authorized to issue payment and performance bonds in the State of Texas with at least an "A" rating by Standard & Poor's Ratings Services, a division of The McGraw Hill Corporation, or at least an "A-III" rating by Moody's Investors Services, Inc.

(v) Each Transferee of any portion of the Real Property that is subject to any unperformed Guaranteed Obligations shall (as a condition precedent to, and prior to the effectiveness of, any such sale, assignment or transfer) obtain and deliver to Purchaser and Seller and maintain through Regulatory Closure of such Real Property, as determined in writing by the Environmental Designee, one or more payment and performance bonds on substantially similar terms as the Performance Bond(s) maintained by the transferor or grantor of such Real Property prior to such sale, assignment or transfer, or other form of financial assurance, in a penal sum sufficient to guarantee the Parties' mutually-agreeable estimated costs of completing such unperformed Guaranteed Obligations applicable to any such Real Property.

(vi) If a Transferee of any portion of the Real Property has obtained a Performance Bond (in compliance with the requirements of this Agreement) to cover a portion or portions of the Guaranteed Obligations covered by any Performance Bond required to be maintained by Purchaser, then Seller shall consent to a modification and an adjustment to the penal sum of Purchaser's Performance Bond to the extent that the Transferee's Performance Bond covers the same Guaranteed Obligations and provides the same financial assurances for the benefit of Seller and the Member Cities as the Performance Bond to be modified; provided, however, that, Seller shall not be obligated to consent to any modification of any Performance Bond if such modification would reasonably be expected to result in an Insufficiency nor shall Seller's consent to any modification relieve

Purchaser from its obligations to increase the penal sum of such modified Performance Bond in the future if the such Transferee's replacement Performance Bond is not renewed and maintained as required by this Agreement.

(vii) The penal sum of a Performance Bond may not be decreased without advance written authorization from Seller.

(d) Annual Estimates for Performance Bonds. Sixty (60) calendar days prior to each anniversary of the original effective date of each Performance Bond (or at such other date as required by the TCEQ), Purchaser shall provide Seller and the Environmental Designee an updated estimate of the costs to perform the remaining Guaranteed Obligations covered by such Performance Bond, including annual inflation adjustments to the cost estimates, together with documentation providing justification for the estimate as may be reasonably required by Seller (each, an "Annual Estimate"). The Environmental Designee shall review Purchaser's Annual Estimates and may conduct any and all other investigation(s) or review(s) to verify the accuracy of each Annual Estimate. Purchaser and Seller will cooperate with the Environmental Designee in any such other investigation(s) or review(s). If the Annual Estimate with respect to any unperformed Environmental Post-Closure Requirements guaranteed by a Post-Closure Bond, as verified or adjusted by the Environmental Designee, is less than 90.9% of the penal sum of such Post-Closure Bond, then Seller shall consent to the issuance of a rider to such Post-Closure Bond decreasing the penal sum of such Post-Closure Bond to equal 110% of the amount of such Annual Estimate; it being understood by the Parties that the sole mechanism for reducing the Regulatory Closure Bond is set forth in the final sentence of Section 9.06(a). If, as a result of any Annual Estimate or at any other time, Purchaser, Seller, or the Environmental Designee becomes aware that the penal sums of a Performance Bond could reasonably be expected to result in an Insufficiency, Purchaser, Seller, or the Environmental Designee shall promptly, and in no event later than thirty (30) days after it becomes aware of such Insufficiency, notify the other parties and provide documentation demonstrating such Insufficiency as the parties may reasonably require (each, an "Insufficiency Notice"). Upon receipt of each Annual Estimate and Insufficiency Notice, Seller shall determine whether the penal sum of the applicable Performance Bond should be adjusted and, within thirty (30) days of Purchaser's receipt of written notice from Seller, Purchaser shall revise the penal sum of any Performance Bond as requested by Seller; provided, however, that the Seller shall not require the penal sum of a Performance Bond required by the TCEQ to be increased above the penal sum approved by the TCEQ.

(e) Successors. In the event that Seller is dissolved or ceases to exist, then, prior to such event, either (i) Seller shall assign to an individual or other legal entity or entities the obligations to perform Seller's responsibilities and exercise Seller's rights with regard to this Section 9.06 or (ii) the Member Cities shall appoint a designated representative to act as Seller's successor with respect to the exercise of any of Seller's rights under this Section 9.06, including making, prosecuting, or settling any claim under any Performance Bond. Seller or the Member Cities shall provide notice to Purchaser of such assignment or appointment, as applicable.

Section 9.07 Permits. Without limiting the generality of the assumption, release and indemnity and all other representations, warranties, covenants or other obligations of Purchaser under this Article IX, Purchaser acknowledges that it has conducted independent investigation and diligence with respect to the Permits associated with the Purchased Assets and any Permits that

may be required in connection with Purchaser's future ownership or operation of the Purchased Assets, including, without limitation the assignability or transferability of any such Permits in connection with the transaction contemplated herein, and that, except as set forth in Section 3.05(b) of this Agreement, Seller hereby disclaims all representations and warranties of any kind or nature whatsoever, whether expressed or implied, with respect to the Permits associated with the Purchased Assets and any Permits that may be required in connection with Purchaser's future ownership or operation of the Purchased Assets. While Seller has an obligation to support Purchaser's efforts to transfer and/or obtain Assigned Permits, Purchaser assumes all risk associated with obtaining, transferring, assigning or amending any Permit for Purchaser's ownership or operation of the Purchased Assets and shall be solely responsible for any and all costs and expenses associated therewith. Under no circumstance shall Purchaser terminate this Agreement because of Purchaser's inability to obtain, transfer, assign or amend any Permit.

Section 9.08 Reimbursement of Site F Landfill Costs. Seller and Purchaser agree that \$13,600,000 is the mutually-agreed estimated cost to obtain Preliminary Regulatory Closure of the Site F landfill. If, upon Preliminary Regulatory Closure of the Site F landfill, the aggregate costs actually incurred by Purchaser to obtain Preliminary Regulatory Closure of the Site F landfill is less than \$13,600,000, Purchaser shall pay such difference to Seller within thirty (30) days of Seller's written request for such amount, which amount may, at Seller's election, be paid in whole or in part to Seller as a distribution from the Escrowed Amount in accordance with the terms of the Escrow Agreement.

Section 9.09 Survival. The provisions of this Article IX shall survive the Closing and shall not be deemed to have merged into any of the documents executed or delivered at the Closing.

ARTICLE X. MISCELLANEOUS

Section 10.01 Confidential Information. Purchaser acknowledges that Seller, as a public entity organized under the laws of the State of Texas, and this Agreement is subject to disclosure as required by the Texas Public Information Act (Texas Government Code Chapter 552).

Section 10.02 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally to, or by nationally recognized overnight courier service, or mailed by registered or certified mail (return receipt requested) if and when received by, or sent via electronic mail if and when received by, the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

(a) If to Seller, to:

Texas Municipal Power Agency
2751 Nash Street, Suite 130
Bryan, Texas 77802
Attn: General Manager
E-Mail: BKahn@texasmpa.org

(b) If to Purchaser, to:

Gibbons Creek Environmental Redevelopment Group, LLC
435 S. Tryon Street, Suite 180
Charlotte, NC 28202
Attention: Mr. Scott Reschly
E-Mail: sreschly@charah.com

Section 10.03 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 10.04 Assignment. This Agreement shall not be assigned without the prior written consent of all Parties, which consent may be withheld in the sole and absolute discretion of any Party. No assignment of this Agreement by Purchaser (even with the consent of Seller) will relieve or release Purchaser from its obligations under this Agreement, and Purchaser will continue to be responsible to Seller for all of its obligations under this Agreement from and after any such assignment.

Section 10.05 Disputes.

(a) In the event of any controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (a “Dispute”), either Party (the “Notifying Party”) may deliver to the other Party (the “Recipient Party”) notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a “Dispute Notice”). The Dispute Notice shall include a schedule of the availability of the Notifying Party’s senior officers duly authorized to settle, or to recommend settlement of, the Dispute during the twenty (20) day period following the delivery of the Dispute Notice.

(b) The Recipient Party shall within three (3) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a parallel schedule of availability of the Recipient Party’s senior officers duly authorized to settle, or to recommend settlement of, the Dispute. Following delivery of the respective senior officers’ schedules of availability, the senior officers of the Parties shall meet and confer as often as they deem reasonably necessary during the remainder of the twenty (20) day period in good faith negotiations to resolve the Dispute to the satisfaction of each Party. If the Dispute is not resolved pursuant to the procedures set forth in this Section 10.05 by the expiration of the twenty (20) day period set forth herein, then either Party may pursue any legal remedy available to it in accordance with the provisions of Section 10.06 of this Agreement.

Section 10.06 Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas applicable to agreements made and to be performed entirely within such State, without regard to the conflict of laws principles thereof. Subject to Section 10.05, any Disputes or Claims arising out of or in connection with this Agreement and the transactions contemplated or documents required hereby shall be filed in any court of competent jurisdiction in Travis County, Texas, or the federal courts of the United States of America located in the Western District of Texas, Austin Division. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may

now or hereafter have to the laying of venue of any Dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby brought in such court or any defense of inconvenient forum for the maintenance of such Dispute. Each Party agrees that a judgment in any such Dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. This consent to venue is being given solely for purposes of this Agreement and the transactions contemplated hereunder, and is not intended to, and shall not, confer consent to venue with respect to any other Dispute in which a Party to this Agreement may become involved.

Section 10.07 WAIVER OF RIGHT TO TRIAL BY JURY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES OR EITHER OF THEM WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 10.08 Counterparts. This Agreement may be executed in counterparts and delivered by facsimile or electronic (.pdf) format, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

Section 10.09 Amendments. This Agreement may not be amended, waived or modified except by an instrument in writing signed by Purchaser and Seller.

Section 10.10 Entire Agreement. This Agreement, the Confidentiality Agreement, and the Reimbursement Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior agreements, understandings and negotiations, both written and oral, between the Parties with respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein has been made or relied upon by either Party. Neither this Agreement nor any provision hereof is intended to confer upon any Person other than the Parties any rights or remedies hereunder except as expressly provided otherwise in this Agreement.

Section 10.11 Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of applicable Law, or public policy, then such term or provision shall be severed from the remaining terms and provisions of this Agreement, and such remaining terms and provisions shall nevertheless remain in full force and effect.

Section 10.12 Third Party Beneficiaries. The Parties hereby agree that each Member City is an intended and express third party beneficiary of all of Purchaser's representations, warranties,

covenants, agreements, indemnities, insurance, bonds, and other obligations under this Agreement and each of the rights or benefits granted to Seller or the Seller Indemnitees under this Agreement. Purchaser shall have the same obligations to each Member City as if such Member City was a “Party” under this Agreement. Each Member City shall have the individual right (on its own behalf, in its own name, separate from Seller or any other Member City, and exercisable in its sole discretion) as an express third-party beneficiary of this Agreement to directly (i) enforce the terms and conditions of this Agreement against Purchaser and its successors and assigns, (ii) prevent any breach thereof, or (iii) exercise any other right, or seek any remedy, that may be available to Seller or any Seller Indemnitees pursuant to this Agreement or pursuant to any other agreement, instrument or document executed in connection with the consummation of the transactions contemplated by this Agreement or otherwise related to the subject matter of this Agreement, in each instance to the same extent that such Member City would if it were a direct party to this Agreement or such other agreement, instrument or document. No waiver, inaction, incapacity, dissolution, winding down, termination, forfeiture, receivership, bankruptcy or other event or prohibition affecting Seller or any Member City shall affect any other Member City’s rights as an express third-party beneficiary of this Agreement. In addition, no Party may agree to any changes, modifications or amendments to this Agreement without the prior written consent of each Member City, which consent may be given, conditioned, delayed or withheld by any Member City in its sole and absolute discretion. The Parties acknowledge and agree that each Member City is expressly relying on the rights set forth in this section in favor of such Member City, that the approval of each Member City is required for the sale of the Purchased Assets by Seller to Purchaser, and that the Member Cities would not have approved of the sale of the Purchased Assets to Purchaser pursuant to this Agreement without obtaining the express third party beneficiary rights in favor of the Member Cities set forth in this section.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

SELLER:

TEXAS MUNICIPAL POWER AGENCY

By: _____
Name:
Title:

PURCHASER:

GIBBONS CREEK ENVIRONMENTAL
REDEVELOPMENT GROUP, LLC

By: Charah, LLC, its Manager

By: _____
Name:
Title: