

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of report (Date of earliest event reported): April 17, 2019

AQUA AMERICA, INC.
(Exact name of registrant as specified in its charter)

Pennsylvania
(State or Other Jurisdiction of Incorporation)

001-06659
(Commission
File Number)

23-1702594
(I.R.S. Employer
Identification No.)

**762 West Lancaster Avenue
Bryn Mawr, Pennsylvania**
(Address of Principal Executive Offices)

19010-3489
(Zip Code)

Registrant's telephone number, including area code (610) 527-8000

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01 Entry into a Material Definitive Agreement.

On April 17, 2019, Aqua America, Inc. (the “Company”) entered into an underwriting agreement (the “Common Stock Underwriting Agreement”), dated April 17, 2019, among the Company and Goldman Sachs & Co. LLC and RBC Capital Markets, LLC, as representatives (the “Common Stock Representatives”) of the several underwriters named in Schedule I thereto (the “Common Stock Underwriters”), pursuant to which the Company agreed to sell 32,495,667 shares of its common stock, par value \$0.50 per share (“Common Stock”) at a public offering price of \$34.62 per share (the “Common Stock Offering”). In connection with the Common Stock Offering, the Company granted the Common Stock Underwriters a 30-day option to purchase up to an additional 4,874,350 shares of its Common Stock, which option the Common Stock Underwriters exercised in full on April 18, 2018. In addition, on April 17, 2019, the Company entered into an underwriting agreement (the “Units Underwriting Agreement” and, together with the Common Stock Underwriting Agreement, the “Underwriting Agreements”), dated April 17, 2019, among the Company and RBC Capital Markets, LLC and Goldman Sachs & Co. LLC, as representatives (the “Units Representatives”) of the several underwriters named in Schedule I thereto (the “Units Underwriters” and, together with the Common Stock Underwriters, the “Underwriters”), pursuant to which the Company agreed to sell 12,000,000 6.00% tangible equity units (the “Units”) at a public offering price of \$50.00 per Unit (the “Units Offering”). In connection with the Units Offering, the Company granted the Units Underwriters an option to purchase, within 13 days beginning on, and including, the date of the initial issuance of the Units, up to an additional 1,800,000 Units, solely to cover over-allotments, if any, which option the Units Underwriters exercised in full on April 18, 2018. The Underwriting Agreements include customary representations, warranties and covenants by the Company. Under the terms of the Underwriting Agreements, the Company has agreed to indemnify the Underwriters against certain liabilities.

The Common Stock Offering and the Units Offering closed on April 23, 2019 and the Company issued and sold a total of 37,370,017 shares of its Common Stock and 13,800,000 Units. The offering and sale of Common Stock and Units were made pursuant to the Company’s Registration Statement on Form S-3 (Registration No. 333-223306), including prospectus supplements, each dated April 17, 2019, to the prospectus contained therein, dated February 28, 2018, filed by the Company with the Securities and Exchange Commission, pursuant to Rule 424(b)(5) under the Securities Act of 1933, as amended.

The Company intends to use the net proceeds from these offerings, together with proceeds from additional debt financing and proceeds from its previously announced private placement, to (1) fund the acquisition by the Company of LDC Funding LLC (the “Acquisition”), (2) complete the redemption of approximately \$314 million aggregate principal amount of the Company’s privately placed notes (the “Company Debt Refinancing”) and (3) pay related costs and expenses. If the Acquisition is not consummated, the Company intends to use the net proceeds from these offerings, after payment of any cash redemption amount and/or repurchase price (if applicable), for general corporate purposes, which may include the Company Debt Refinancing, the redemption of securities issued in connection with the other financing transactions, repurchases of the Company’s common stock, debt repayment, capital expenditures and investments.

Units

The Company issued the Units and Purchase Contracts (as defined below) under a purchase contract agreement (the “Purchase Contract Agreement”), dated as of April 23, 2019, between the Company and U.S. Bank N.A., as purchase contract agent, as attorney-in-fact for holders of Purchase Contracts (as defined below) and as trustee under the indenture referred to below. The Company issued the Amortizing Notes (as defined below) under an indenture dated as of April 23, 2019 (the “Base Indenture”), as supplemented by the First Supplemental Indenture dated as of April 23, 2019 (the “First Supplemental Indenture”) and the Second Supplemental Indenture dated as of April 23, 2019 (the “Second Supplemental Indenture” and, together with the First Supplemental Indenture and the Base Indenture, the “Indenture”), each between the Company and U.S. Bank N.A., as trustee.

Each Unit offered is comprised of (i) a prepaid stock purchase contract issued by the Company (each, a “Purchase Contract”) pursuant to which the Company will deliver to the holder, not later than April 30, 2022 (subject to postponement in certain limited circumstances, the “mandatory settlement date”), unless earlier redeemed or settled at the holder’s or the Company’s option, a number of shares of Common Stock per Purchase Contract equal to the settlement rate described below, and (ii) a senior amortizing note issued by the Company (each, an “Amortizing Note”) with an initial principal amount of \$8.62909 that pays equal quarterly installments of \$0.75000 per Amortizing Note (except for the July 30, 2019 installment payment, which will be \$0.80833 per Amortizing Note), which cash payment in the aggregate will be equivalent to 6.00% per year with respect to the \$50.00 stated amount per Unit.

Purchase Contracts

Unless earlier redeemed or settled at the holder's or the Company's option, for each Purchase Contract the Company will deliver to holders on the mandatory settlement date a number of shares of Common Stock. The number of shares of Common Stock issuable upon settlement of each Purchase Contract (the "mandatory settlement rate") will be determined as follows:

- if the Applicable Market Value (as defined below) of the Common Stock is greater than the threshold appreciation price (initially approximately \$42.41), then the holder will receive 1.1790 shares of Common Stock for each Purchase Contract (the "minimum settlement rate");
- if the Applicable Market Value of the Common Stock is less than or equal to the threshold appreciation price but greater than or equal to the reference price (initially approximately \$34.62), then the holder will receive a number of shares of Common Stock for each Purchase Contract having a value, based on the Applicable Market Value, equal to \$50.00; and
- if the Applicable Market Value of the Common Stock is less than the reference price, then the holder will receive 1.4442 shares of Common Stock for each Purchase Contract (the "maximum settlement rate").

The "Applicable Market Value" means the arithmetic average of the VWAPs (as defined in the Purchase Contract Agreement) per share of the Company's Common Stock on each of the 20 consecutive trading days beginning on, and including, the 21st scheduled trading day immediately preceding April 30, 2022. The minimum settlement rate and the maximum settlement rate are each subject to adjustment as set forth in the Purchase Contract Agreement.

At any time prior to 5:00 p.m., New York City time, on the second scheduled trading day immediately preceding April 30, 2022, a holder of Purchase Contracts may settle any or all of its Purchase Contracts early, in which case the Company will deliver a number of shares of Common Stock per Purchase Contract equal to the minimum settlement rate. In addition, at any time prior to the second scheduled trading day immediately preceding April 30, 2022, if a "Fundamental Change" (as defined in the Purchase Contract Agreement) occurs, holders may settle any or all of their Purchase Contracts early. If a holder elects to settle its Purchase Contracts early in connection with such Fundamental Change, it will receive a number of shares of Common Stock (and any cash payable for fractional shares) per Purchase Contract based on the "Fundamental Change Early Settlement Rate" as defined in, and in accordance with, the Purchase Contract Agreement. In either case, upon early settlement at a holder's election of a Purchase Contract that is a component of a Unit, the corresponding Amortizing Note will remain outstanding and be beneficially owned by or registered in the name of, as the case may be, the holder who elected to settle the related Purchase Contract early.

On or after January 30, 2020, the Company may elect to settle all, but not less than all, outstanding Purchase Contracts at the "early mandatory settlement rate" on a date fixed by the Company upon not less than five business days' notice. The "early mandatory settlement rate" will be the maximum settlement rate as of the relevant notice date, unless the closing price per share of the Common Stock for at least 20 trading days (whether or not consecutive), including the trading day immediately preceding the notice date in a period of 30 consecutive trading days ending on, and including, the trading day immediately preceding the notice date exceeds 130% of the threshold appreciation price in effect on each such trading day, in which case the "early mandatory settlement rate" will be the minimum settlement rate as of the notice date. If the Company elects to settle all the Purchase Contracts early, holders will have the right to require the Company to repurchase their Amortizing Notes on the terms set forth in the Second Supplemental Indenture.

If the closing of the Acquisition has not occurred on or prior to April 22, 2020, or if, prior to such date, the purchase agreement for the Acquisition is terminated, the Company may elect to redeem all, but not less than all, of the outstanding Purchase Contracts for the applicable redemption amount, as set forth in the Purchase Contract Agreement. In that case, holders will have the right to require the Company to repurchase their Amortizing Notes on the terms set forth in the Second Supplemental Indenture.

Amortizing Notes

Each Amortizing Note will have an initial principal amount of \$8.62909, will bear interest at a rate of 3.00% per annum and will have a final installment payment date of April 30, 2022. On each January 30, April 30, July 30 and October 30, commencing on July 30, 2019, the Company will pay equal quarterly cash installments of \$0.75000 per Amortizing Note (except for the July 30, 2019 installment payment, which will be \$0.80833 per Amortizing Note), which will constitute a payment of interest and a partial repayment of principal, and which cash payment in the aggregate per year will be equivalent to 6.00% per year with respect to the \$50.00 stated amount per Unit. The Amortizing Notes will be the direct, unsecured and unsubordinated obligations of the Company and will rank equally with all of the existing and future other unsecured and unsubordinated indebtedness of the Company.

If the Company elects to settle the Purchase Contracts early or in the event of an acquisition termination redemption as described above, holders of Amortizing Notes will have the right to require the Company to repurchase their Amortizing Notes for cash at the repurchase price set forth in the Second Supplemental Indenture.

The Indenture contains customary terms and covenants, including that upon certain events of default occurring and continuing, either the trustee or the holders of not less than 25% in aggregate principal amount of the Amortizing Notes then outstanding may declare the unpaid principal of the Amortizing Notes and any accrued and unpaid interest thereon immediately due and payable. In the case of certain events of bankruptcy, insolvency or reorganization relating to the Company, the principal amount of the Amortizing Notes together with any accrued and unpaid interest thereon will become due and payable.

General

Each Unit may be separated into its constituent Purchase Contract and Amortizing Note after the initial issuance date of the Units, and the separate components may be combined to create a Unit, in each case in accordance with the terms of the Purchase Contract Agreement.

The Company has applied to list the Units on the New York Stock Exchange under the symbol “WTRU,” subject to satisfaction of its minimum listing standards with respect to the Units. If approved for listing, the Company expects trading on the New York Stock Exchange to begin within 30 calendar days. However, the Company will not initially apply to list the separate Purchase Contracts or the separate Amortizing Notes on any securities exchange or automated inter-dealer quotation system.

The foregoing descriptions of the Units, the Purchase Contracts and the Amortizing Notes are summaries and are not meant to be complete descriptions of the Units, the Purchase Contracts and the Amortizing Notes. Each summary is qualified in its entirety by the Purchase Contract Agreement (including the forms of Unit and Purchase Contract), the Base Indenture, the First Supplemental Indenture and the Second Supplemental Indenture (including the form of Amortizing Note), as applicable, which are filed as Exhibits 4.1, 4.4, 4.5 and 4.6, respectively, to this Current Report and are incorporated herein by reference as though each were fully set forth herein.

Forward-Looking Statements

This Current Report on Form 8-K and its exhibits contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, including, among others: the terms and timing of additional offerings or borrowings to be made by the Company to fund the Acquisition and the anticipated use of proceeds from these offerings. These statements involve risks and uncertainties that could cause actual results to differ materially, including, but not limited to, the ability to price and to satisfy customary closing conditions with respect to the offerings, prevailing market conditions, and the impact of general economic, industry or political conditions in the United States or internationally. There are important factors that could cause actual results to differ materially from those expressed or implied by such forward-looking statements including: general economic business conditions; changes in regulations or regulatory treatment, including a change in federal tax policy; availability and access to capital; the cost of capital; disruptions in the credit markets; the ability of the Company to successfully close and integrate the Acquisition; and other factors discussed in the Company’s Annual Report on Form 10-K, which was filed with the SEC on February 26, 2019 and the Company’s Current Report on Form 8-K/A, which was filed with the SEC on April 15, 2019. For more information regarding risks and uncertainties associated with the Company’s business, please refer to the Company’s annual, quarterly and other SEC filings. The Company is not under any obligation - and expressly disclaims any such obligation - to update or alter its forward-looking statements whether as a result of new information, future events or otherwise.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 is incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

- 1.1 [Common Stock Underwriting Agreement, dated April 17, 2019, among Aqua America, Inc. and Goldman Sachs & Co. LLC and RBC Capital Markets, LLC, as representatives of the several underwriters named in Schedule I thereto.](#)
- 1.2 [Units Underwriting Agreement, dated April 17, 2019, among Aqua America, Inc. and RBC Capital Markets LLC and Goldman Sachs & Co. LLC, as representatives of the several underwriters named in Schedule I thereto.](#)
- 4.1 [Purchase Contract Agreement, dated April 23, 2019, between Aqua America, Inc. and U.S. Bank N.A., as purchase contract agent, as attorney-in-fact for the Holders from time to time as provided therein and as trustee under the indenture referred to therein.](#)
- 4.2 [Form of Unit \(included in Exhibit 4.1\).](#)
- 4.3 [Form of Purchase Contract \(included in Exhibit 4.1\).](#)
- 4.4 [Indenture, dated as of April 23, 2019, between Aqua America, Inc. and U.S. Bank N.A., as trustee.](#)
- 4.5 [First Supplemental Indenture, dated as of April 23, 2019, between Aqua America, Inc. and U.S. Bank N.A., as trustee.](#)
- 4.6 [Second Supplemental Indenture, dated as of April 23, 2019, between Aqua America, Inc. and U.S. Bank N.A., as trustee.](#)
- 4.7 [Form of Amortizing Note \(included in Exhibit 4.6\).](#)
- 5.1 [Opinion of Simpson Thacher & Bartlett LLP relating to the Units, Purchase Contracts and Amortizing Notes.](#)
- 5.2 [Opinion of Ballard Spahr LLP relating to the Units, Purchase Contracts and Amortizing Notes.](#)
- 5.3 [Opinion of Ballard Spahr LLP relating to the Common Stock.](#)
- 23.1 [Consent of Simpson Thacher & Bartlett \(included in Exhibit 5.1\).](#)
- 23.2 [Consent of Ballard Spahr LLP \(included in Exhibit 5.2\).](#)
- 23.3 [Consent of Ballard Spahr LLP \(included in Exhibit 5.3\).](#)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

AQUA AMERICA, INC.

Date: April 23, 2019

By: /s/ Christopher P. Luning
Name: Christopher P. Luning
Title: Executive Vice President, General Counsel, and Secretary

Aqua America, Inc.

32,495,667 Shares

Common Stock, Par Value \$0.50 Per Share

Underwriting Agreement

April 17, 2019

Goldman Sachs & Co. LLC,
RBC Capital Markets, LLC,

As representatives (the "Representatives" or "you") of the several Underwriters
named in Schedule I hereto,

c/o Goldman Sachs & Co. LLC,
200 West Street,
New York, New York 10282.

c/o RBC Capital Markets, LLC,
200 Vesey Street,
New York, New York 10281.

Ladies and Gentlemen:

Aqua America, Inc., a Pennsylvania corporation (the "Company"), proposes, subject to the terms and conditions stated in this agreement (this "Agreement"), to issue and sell to the Underwriters named in Schedule I hereto (the "Underwriters") an aggregate of 32,495,667 shares (the "Firm Securities") and, at the election of the Underwriters, up to 4,874,350 additional shares (the "Optional Securities") of common stock, par value \$0.50 per share, of the Company ("Stock") (the Firm Securities and the Optional Securities that the Underwriters elect to purchase pursuant to Section 2 hereof being collectively called the "Securities", and the offer and sale of the Securities hereunder being called the "Equity Offering").

On October 22, 2018, the Company entered into a Purchase Agreement (the "Acquisition Agreement") with LDC Parent LLC, a Delaware limited liability company ("Seller"). Pursuant to the Acquisition Agreement, on the terms and subject to the conditions set forth therein, the Company will acquire (the "Acquisition") from Seller all of the issued and outstanding limited liability company membership interests of LDC Funding LLC, a Delaware limited liability company (the "Acquired Company"), the parent of a group of natural gas public utility companies including Peoples Natural Gas Company, Peoples Gas Company, and Delta Natural Gas Co., Inc., as well as other operating subsidiaries. The Equity Offering is being conducted in connection with the Acquisition.

Also in connection with the Acquisition, the Company (a) is, concurrent with the Equity Offering, offering in a separate public offering tangible equity units, comprised of prepaid stock purchase contracts and senior amortizing notes (such units, the “TEUs” and, such offering, the “Units Offering”), (b) intends to publicly offer certain debt securities of the Company in another transaction after the date hereof (the “Debt Offering”), (c) entered into an agreement, dated as of March 29, 2019 (the “PIPE Agreement”), to issue and sell to Canada Pension Plan Investment Board 21,661,095 shares of Stock, on the terms and subject to the conditions set forth in the PIPE Agreement (the “PIPE”), (d) entered into the Credit Agreement, dated as of December 5, 2018, among the Company, the lenders from time to time party thereto and PNC Bank, National Association, as administrative agent (the “Company Credit Agreement”), and will borrow under the Company Credit Agreement (the “Revolver Financing”) to fund a portion of the Acquisition purchase price that will be used by Seller and/or its subsidiaries to repay in full any borrowings outstanding under, and to terminate, the Second Amended and Restated Credit Agreement, dated as of June 8, 2017, among PNG Companies LLC, a Delaware limited liability company, the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent, effective as of the closing of the Acquisition (such repayment and termination, the “Acquired Company Refinancing”), (e) intends to redeem up to \$313.5 million aggregate principal amount of certain of the Company’s privately placed notes (the “Company Refinancing”) and (f) may, in lieu of certain of the financings described above, enter into a senior unsecured 364-day bridge loan facility, among the Company, the lenders from time to time party thereto and Goldman Sachs Bank USA, as administrative agent (the “Bridge Loan Facility”), and may borrow under the Bridge Loan Facility (the “Bridge Loan Financing”). The Equity Offering, the Units Offering, the PIPE, the Debt Offering, the Revolver Financing, the Company Refinancing, the Acquired Company Refinancing, the Bridge Loan Financing and the Acquisition are collectively referred to herein as the “Transactions”. The Acquisition Agreement, the PIPE Agreement, the Company Credit Agreement and the Bridge Loan Facility are collectively referred to herein as the “Other Transaction Documents”.

1. The Company represents and warrants to, and agrees with, each of the Underwriters that:

(a) An “automatic shelf registration statement” as defined under Rule 405 under the Securities Act of 1933, as amended (the “Act”) on Form S-3 (File No. 333-223306) in respect of the Securities and other securities has been filed with the Securities and Exchange Commission (the “Commission”) not earlier than three years prior to the date hereof; such registration statement, and any post-effective amendment thereto, became effective on filing; and no stop order suspending the effectiveness of such registration statement or any part thereof has been issued and no proceeding for that purpose or pursuant to Section 8A of the Act has been initiated or, to the knowledge of the Company, threatened by the Commission, and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act has been received by the Company (the base prospectus filed as part of such registration statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is hereinafter called the “Basic Prospectus”; any preliminary prospectus (including any preliminary prospectus supplement) relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act is hereinafter called a “Preliminary Prospectus”; the various parts of such registration statement, including all exhibits thereto but excluding Form T-1 and including any prospectus supplement relating to the Securities that is filed with the Commission and deemed by virtue of Rule 430B to be part of such registration statement, each as amended at the time such part of the registration statement became effective, are hereinafter collectively called the “Registration Statement”; the Basic Prospectus, as amended and supplemented immediately prior to the Applicable Time (as defined in Section 1(c) hereof), is hereinafter called the “Pricing Prospectus”; the form of the final prospectus relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof is hereinafter called the “Prospectus”; any reference herein to the Basic Prospectus, the Pricing Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Act, as of the date of such prospectus; any reference to any amendment or supplement to the Basic Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any post-effective amendment to the Registration Statement, any prospectus supplement relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act and any documents filed under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and incorporated therein, in each case after the date of the Basic Prospectus, such Preliminary Prospectus, or the Prospectus, as the case may be; any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement; and any “issuer free writing prospectus” as defined in Rule 433 under the Act relating to the Securities is hereinafter called an “Issuer Free Writing Prospectus”);

(b) (A) No order preventing or suspending the use of any Preliminary Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission, and (B) each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information (as defined in Section 9(b));

(c) For the purposes of this Agreement, the "Applicable Time" is 6:41 p.m. (Eastern time) on the date of this Agreement. The Pricing Prospectus, as supplemented by the Issuer Free Writing Prospectus listed on Schedule II(c) hereto, taken together (collectively, the "Pricing Disclosure Package"), as of the Applicable Time did not, and as of each Time of Delivery (as defined in Section 4(a) of this Agreement) will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus does not conflict with the information contained in the Registration Statement, the Pricing Prospectus or the Prospectus; and each Issuer Free Writing Prospectus, as supplemented by and taken together with the Pricing Disclosure Package as of the Applicable Time, did not, and as of each Time of Delivery will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in the Pricing Disclosure Package or in an Issuer Free Writing Prospectus in reliance upon and in conformity with the Underwriter Information;

(d) The documents incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder, and none of such documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; any further documents so filed and incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information; and no such documents were filed with the Commission since the Commission's close of business on the business day immediately prior to the date of this Agreement and prior to the execution of this Agreement;

(e) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects to the requirements of the Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to each part of the Registration Statement, as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, and as of each Time of Delivery, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(f) Since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus, (i) none of the Company or any of its subsidiaries has sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, (ii) there has been no adverse change in the condition, financial or otherwise, or in the earnings, business affairs or prospects of the Company or any of its subsidiaries, and (iii) none of the Company or any of its subsidiaries has entered into any transaction or agreement (whether or not in the ordinary course of business), or incurred any liability or obligation (direct or contingent), that, in the case of clause (i), (ii) and (iii), is material to the Company and its subsidiaries, taken as a whole, otherwise than as set forth or contemplated in the Pricing Prospectus. Since the respective dates as of which information is given in the Registration Statement and the Pricing Prospectus, there has not been (i) any change in the capital stock (other than as a result of (A) the exercise, if any, of stock options or the award, if any, of stock options or restricted stock in the ordinary course of business pursuant to the Company's equity plans that are described in the Pricing Prospectus and the Prospectus, (B) the issuance, if any, of Stock upon conversion of Company securities as described in the Pricing Prospectus and the Prospectus or (C) the issuance, if any, of Stock in the PIPE or of TEUs in the TEU Offering) or long term debt of the Company or any of its subsidiaries or (ii) any Material Adverse Effect (as defined below). As used in this Agreement, "Material Adverse Effect" shall mean any material adverse effect on the financial condition, prospects, business or results of operations of the Company and its subsidiaries, taken as a whole except as set forth or contemplated in the Pricing Prospectus. Except as disclosed in the Pricing Prospectus, to the knowledge of the Company, there are no pending actions, suits or proceedings against or affecting the Acquired Company or any of its subsidiaries or any of their respective properties that, if determined adversely to the Acquired Company or any of its subsidiaries, would individually or in the aggregate have a material adverse effect on the financial condition, prospects, business or results of operations of the Acquired Company and its subsidiaries, taken as a whole; and, to the knowledge of the Company, no such actions, suits or proceedings are threatened by governmental authorities or by others;

(g) Except as, individually or in the aggregate, would not have, and would not reasonably be expected to have, a Material Adverse Effect, the Company and its subsidiaries have good and marketable title to all real property or have good and valid leasehold title to or hold valid rights to lease or otherwise occupy, use, operate or access all real property and have good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects except such as are described in the Pricing Prospectus or such as do not interfere with the use made and proposed to be made of such property by the Company and its subsidiaries;

(h) Each of the Company and each of its “significant subsidiaries” (as defined in Rule 1-02 of Regulation S-X under the Exchange Act) (“Significant Subsidiaries”) has been (i) duly organized and is validly existing and in good standing under the laws of its jurisdiction of organization, with power and authority (corporate and other) to own its properties and conduct its business as described in the Pricing Prospectus, and (ii) duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except where the failure to be so qualified in any such jurisdiction would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(i) The Company has an authorized capitalization as set forth in the Pricing Prospectus and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and conform to the description of the Stock contained in the Pricing Disclosure Package and the Prospectus; and all of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except for directors’ qualifying shares) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, except for such liens or encumbrances described in the Pricing Prospectus and the Prospectus; and the Securities have been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued and fully paid and non-assessable and will conform in all material respects to the description of the Stock contained in the Pricing Disclosure Package and the Prospectus; and the issuance of the Securities is not subject to any preemptive or similar rights;

(j) The issue and sale of the Securities and the compliance by the Company with this Agreement, the consummation of the transactions contemplated herein and in the Pricing Prospectus will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, (A) any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (B) the certificate of incorporation or by-laws (or other applicable organizational document) of the Company or any of its subsidiaries, or (C) any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties except, in the case of (A), for such defaults, breaches, or violations that would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Securities by the Company contemplated by this Agreement, except (y) such as have been obtained under the Act and (z) for such consents, approvals, authorizations, orders, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters;

(k) (i) Neither the Company nor any of its Significant Subsidiaries is in violation of its certificate of incorporation or by-laws (or other applicable organization document), and (ii) neither the Company nor any of its subsidiaries is (A) in violation of any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties or (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, except, in the case of the foregoing clause (ii), for such defaults as would not, individually or in the aggregate, have a Material Adverse Effect;

(l) The statements set forth in (i) the Pricing Prospectus and Prospectus under the caption "Description of Capital Stock", insofar as they purport to constitute a summary of the terms of the Stock, and (ii) (A) the Pricing Prospectus and the Prospectus under the caption "Certain United States Federal Income and Estate Tax Considerations to Non-U.S. Holders" and under the caption "Underwriting", and (B) Parts I and II of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2018 under the caption "Economic Regulation" (in each place that it appears) and under the caption "Environmental, Health and Safety Regulation", insofar as they purport to describe the provisions of laws and documents, are accurate, complete and fair in all material respects;

(m) Other than as set forth in the Pricing Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject, which, if determined adversely to the Company or any of its respective subsidiaries, would individually or in the aggregate have a Material Adverse Effect or have a material adverse effect on the ability of the Company to perform its obligations under this Agreement, including the issuance and sale of the Securities; and, to the knowledge of the Company, no such proceedings are threatened by governmental authorities or by others;

(n) The Company is not and, after giving effect to the offering and sale of the Securities and the application of the proceeds thereof, will not be an “investment company”, as such term is defined in the Investment Company Act of 1940, as amended (the “Investment Company Act”);

(o) (i) (A) At the time of filing the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Act) made any offer relating to the Securities in reliance on the exemption of Rule 163 under the Act, the Company was a “well-known seasoned issuer” as defined in Rule 405 under the Act; and (ii) at the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or any offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Act) of the Securities, and at the date hereof, the Company was not and is not an “ineligible issuer,” as defined in Rule 405 under the Act;

(p) (i) PricewaterhouseCoopers LLP, who have certified certain financial statements of the Company and its subsidiaries, and have audited the Company’s internal control over financial reporting and management’s assessment thereof and (ii) to the knowledge of the Company, Deloitte & Touche LLP, who have certified certain financial statements of the Acquired Company and its subsidiaries are each independent public accountants as required by the Act and the rules and regulations of the Commission thereunder;

(q) The Company maintains a system of internal control and maintains disclosure controls and procedures, in each case that complies with the requirements of the Exchange Act and is otherwise in compliance in all material respects with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith. The Company’s internal control over financial reporting and disclosure controls and procedures are each effective, and the Company is not aware of any material weaknesses in its internal control over financial reporting. The interactive data in eXtensible Business Reporting Language (“XBRL”) included or incorporated by reference in the Registration Statement, the Pricing Prospectus or the Prospectus presents fairly the information called for in all material respects and has been prepared in accordance with the Commission’s rules and guidelines applicable thereto.

(r) Except as disclosed in the Pricing Prospectus, since the date of the latest audited financial statements of the Company, included or incorporated by reference in the Pricing Prospectus, there has been no change in the Company’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting;

(s) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person associated with or acting on behalf of the Company or any of its subsidiaries has (A) made, offered, promised or authorized any contribution, gift, entertainment or other expense (or taken any act in furtherance thereof) in violation of an applicable anti-bribery or anti-corruption law; (B) made, offered, promised or authorized any direct or indirect payment in violation of an applicable anti-bribery or anti-corruption law; or (C) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, the Bribery Act 2010 of the United Kingdom or any other applicable anti-bribery or anti-corruption law;

(t) The operations of the Company and its subsidiaries have been conducted at all times in compliance in all material respects with the requirements of applicable anti-money laundering laws, including, but not limited to, the Bank Secrecy Act of 1970, as amended by the USA PATRIOT ACT of 2001, and the rules and regulations promulgated thereunder, and the anti-money laundering laws of the various jurisdictions in which the Company and its subsidiaries conduct business (collectively, the “Money Laundering Laws”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened;

(u) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries, is currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”), or the U.S. Department of State and including, without limitation, the designation as a “specially designated national” or “blocked person,” the European Union, Her Majesty’s Treasury, or the United Nations Security Council (collectively, “Sanctions”), nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject or target of Sanctions (including Crimea, Cuba, Iran, North Korea, and Syria), and the Company will not directly or knowingly indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (A) for the purpose of funding or facilitating any unlawful activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject or the target of Sanctions or (B) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions;

(v) This Agreement has been duly authorized, executed and delivered by the Company;

(w) Each of the Acquisition Agreement and the PIPE Agreement has been duly authorized, executed and delivered by the Company and is a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, and, to the knowledge of the Company, has been duly authorized, executed and delivered by each other party thereto, in each case except as the enforceability thereof may be limited by considerations of public policy, bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles;

(x) Each of this Agreement and the Other Transaction Documents (collectively, the “Transaction Documents”) conforms or, when and if duly executed and delivered in accordance with its terms, will conform in all material respects to the description thereof (if any) contained in the Pricing Prospectus and the Prospectus;

(y) The financial statements of the Company included in the Registration Statement, the Pricing Prospectus and the Prospectus present fairly, in all material respects, the financial position of the Company and its subsidiaries at the dates indicated and the statement of operations, stockholders’ equity and cash flows of the Company and its subsidiaries for the periods specified; and said financial statements have been prepared in conformity with U.S. generally accepted accounting principles (“GAAP”) applied on a consistent basis throughout the periods involved. The pro forma financial information of the Company, and the related notes thereto, incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus fairly represent in all material respects the information therein, has been prepared in accordance with Regulation S-X under the Exchange Act and provide a reasonable basis for presenting the significant effects of the transactions and circumstances referred to therein, and the assumptions used in preparation thereof, in the reasonable judgment of the Company’s management and subject to the qualifications therein, are reasonable; the related pro forma adjustments are directly attributable to the transactions or events described therein and give appropriate effect to those assumptions in all material respects; and the pro forma columns therein reflect the proper application of those adjustments to the corresponding historical financial statement in all material respects;

(z) To the knowledge of the Company, the financial statements of the Acquired Company included in the Registration Statement, the Pricing Prospectus and the Prospectus, together with the related schedules and notes, present fairly, in all material respects, the financial position of the Acquired Company and its subsidiaries at the dates indicated and the statement of operations, stockholders’ equity and cash flows of the Acquired Company and its subsidiaries for the periods specified; and said financial statements have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved. To the knowledge of the Company, the supporting schedules of the Acquired Company, if any, present fairly, in all material respects, in accordance with GAAP the information required to be stated therein;

(aa) Except with respect to taxes that are being contested in good faith or as otherwise disclosed in the Pricing Prospectus, (i) each of the Company and its subsidiaries have paid all federal, state, local and foreign taxes required to be paid and filed all tax returns required to be filed, in each case, through the date hereof, except for such failures to pay or file as would not individually or in the aggregate have a Material Adverse Effect, and (ii) there is no tax deficiency that has been asserted against the Company, any of its subsidiaries or any of their respective properties or assets that would, individually or in the aggregate, have a Material Adverse Effect;

(bb) The Company and its subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the Registration Statement, Pricing Prospectus and the Prospectus, except where the failure to possess or make the same would not, individually or in the aggregate, have a Material Adverse Effect; and, except as described in the Registration Statement, the Pricing Prospectus and the Prospectus, neither the Company nor any of its subsidiaries has received notice of any revocation or modification of any material license, certificate, permit or authorization or has any reason to believe that any material license, certificate, permit or authorization will not be renewed in the ordinary course;

(cc) Except as otherwise disclosed in the Pricing Prospectus, (i) the Company and its subsidiaries (A) are, and at all prior times were, in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, legally binding requirements or judicial or administrative decisions and orders relating to the protection of the environment or natural resources, or human health or safety, to the extent relating to exposure to hazardous or toxic substances or wastes, pollutants or contaminants (collectively, "Environmental Laws"), including with respect to any real property currently or formerly owned or operated by the Company or any of its subsidiaries that is known or reasonably anticipated to be contaminated with any hazardous or toxic substances or wastes, pollutants or contaminants, (B) have received and are in compliance with all permits, licenses, or other legal authorizations or approvals required of them under applicable Environmental Laws to conduct their respective businesses as currently conducted and (C) have not received written notice of any liability, violation or claim under or relating to any Environmental Laws, including for human exposure to, or the investigation or remediation of any disposal or release of, hazardous or toxic substances or wastes, pollutants or contaminants, and have no knowledge of any event or condition that would reasonably be expected to result in any such notice, and (ii) to the knowledge of the Company, there are no costs or liabilities associated with Environmental Laws of or relating to the Company or any of its subsidiaries, except in the case of each of (i) and (ii) above, as would not, individually or in the aggregate, have a Material Adverse Effect; and (iii) except as otherwise disclosed in the Pricing Prospectus, (A) there are no judicial or administrative proceedings that are pending against the Company or any of its subsidiaries under any Environmental Laws in which a governmental entity is also a party, and, to the knowledge of the Company, no such proceedings are threatened, in each case other than such proceedings regarding which it is reasonably believed no monetary sanctions of \$100,000 or more will be imposed, and (B) the Company and its subsidiaries are not aware of any issues regarding compliance with Environmental Laws, or liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminants, that would reasonably be expected to have a Material Adverse Effect;

(dd) Except as disclosed in the Registration Statement, the Pricing Prospectus and the Prospectus, (i) the Company, its subsidiaries and any "employee benefit plan" (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, "ERISA")) established or maintained by the Company, its subsidiaries or their ERISA Affiliates (as defined below) are in compliance with ERISA, and (ii) no "reportable event" (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any "employee benefit plan" established or maintained by the Company, any of its subsidiaries or any of their ERISA Affiliates, in either case, other than as would not, individually or in the aggregate, have a Material Adverse Effect. "ERISA Affiliate" means, with respect to the Company and its subsidiaries, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), of which the Company or such subsidiary is a member;

(ee) Except as described in the Pricing Prospectus and except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) no material labor dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is contemplated or threatened and (ii) the Company is not aware of any existing or imminent labor disturbance by the employees of any of principal suppliers or contractors;

(ff) The Company and its subsidiaries have insurance covering their properties, operations, personnel and businesses, including business interruption insurance, which insurance is in amounts and insures against such losses and risks as the Company believes are adequate to protect the Company and its subsidiaries; and neither the Company nor any of its subsidiaries has (i) received notice from any insurer under a material insurance policy or agent of such insurer that material capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) any reason to believe that it will not be able to renew its existing material insurance coverage as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business;

(gg) Except as would not, individually or in the aggregate, have a Material Adverse Effect, the Company and each of its subsidiaries owns or possesses, or can acquire on reasonable terms, adequate patents, patent licenses, trademarks, service marks and trade names necessary to carry on its business as presently conducted, and neither the Company nor any of its subsidiaries has received any notice of infringement of or conflict with asserted rights of others with respect to any patents, patent licenses, trademarks, service marks or trade names that in the aggregate, if the subject of an unfavorable decision, ruling or finding, is reasonably likely, individually or in the aggregate, to have a Material Adverse Effect;

(hh) The Company and its subsidiaries (i) have implemented and maintain commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") and data (including all personal, personally identifiable, sensitive, confidential or regulated data ("Personal Data")) used in connection with their respective businesses, and there have been no breaches, violations, outages or unauthorized uses of or accesses to the same, except for those that have been remedied without material cost or liability or the duty to notify any other person, except as would not, individually or in the aggregate, have a Material Adverse Effect and (ii) are in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification;

(ii) The Company has not taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities;

(jj) To the knowledge of the Company, since the date of the latest financial statements of the Acquired Company included or incorporated by reference in the Pricing Prospectus, and except as disclosed in the Pricing Prospectus, there has not been any material adverse change in the business, financial condition, prospects or results of operations of Acquired Company and its subsidiaries, taken as a whole; and

(kk) To the knowledge of the Company, (i) each party to the Acquisition Agreement is in compliance in all material respects with its respective covenants and agreements contained in the Acquisition Agreement and required to be performed or complied with by such party prior to the Acquisition and (ii) all representations and warranties made by the Seller in the Acquisition Agreement (x) were, as of the date of the Acquisition Agreement, true and correct (for the avoidance of doubt, giving effect to any limitation as to “materiality” or “Material Adverse Effect” (as defined in the Acquisition Agreement) or similar limitation as set forth in such representations and warranties) and (y) are, true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” (as defined in the Acquisition Agreement) or similar limitation as set forth therein), except, in the case of (y), where the failure to be so true and correct would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect assuming the consummation of the Acquisition.

2. Subject to the terms and conditions herein set forth, (a) the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at a purchase price per share of \$33.841, the number of Firm Securities set forth opposite the name of such Underwriter in Schedule I hereto and (b) in the event and to the extent that the Underwriters shall exercise the election to purchase Optional Securities as provided below, the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at the purchase price per share set forth in clause (a) of this Section 2 (provided that the purchase price per Optional Security shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Securities but not payable on the Optional Securities), that portion of the number of Optional Securities as to which such election shall have been exercised (to be adjusted by you so as to eliminate fractional shares) determined by multiplying such number of Optional Securities by a fraction, the numerator of which is the maximum number of Optional Securities which such Underwriter is entitled to purchase as set forth opposite the name of such Underwriter in Schedule I hereto and the denominator of which is the maximum number of Optional Securities that all of the Underwriters are entitled to purchase hereunder.

The Company hereby grants to the Underwriters the right to purchase at their election up to 4,874,350 Optional Securities, at the purchase price per share set forth in the paragraph above, provided that the purchase price per Optional Security shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Securities but not payable on the Optional Securities. Any such election to purchase Optional Securities may be exercised only by written notice from you to the Company, given within a period of 30 calendar days after the date of this Agreement, setting forth the aggregate number of Optional Securities to be purchased and the date on which such Optional Securities are to be delivered, as determined by you but in no event earlier than the First Time of Delivery (as defined in Section 4 hereof) or, unless you and the Company otherwise agree in writing, earlier than two or later than ten business days after the date of such notice.

3. Upon the authorization by you of the release of the Firm Securities, the several Underwriters propose to offer the Firm Securities for sale upon the terms and conditions set forth in the Pricing Prospectus and the Prospectus.

4. (a) The Securities to be purchased by each Underwriter hereunder, in definitive or book-entry form, and in such authorized denominations and registered in such names as the Representatives may request upon at least forty-eight hours' prior notice to the Company shall be delivered by or on behalf of the Company to the Representatives, through the facilities of the Depository Trust Company ("DTC"), for the account of such Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representatives at least forty-eight hours in advance. The Company will cause the certificates, if any, representing the Securities to be made available for checking and packaging at least twenty-four hours prior to the Time of Delivery (as defined below) with respect thereto at the office of DTC or its designated custodian (the "Designated Office"). The time and date of such delivery and payment shall be, with respect to the Firm Securities, 9:30 a.m., New York City time, on April 23, 2019, or such other time and date as the Representatives and the Company may agree upon in writing, and, with respect to the Optional Securities, 9:30 a.m., New York time, on the date specified by the Representatives in the written notice given by the Representatives of the Underwriters' election to purchase such Optional Securities, or such other time and date as the Representatives and the Company may agree upon in writing. Such time and date for delivery of the Firm Securities is herein called the "First Time of Delivery", such time and date for delivery of the Optional Securities, if not the First Time of Delivery, is herein called the "Second Time of Delivery", and each such time and date for delivery is herein called a "Time of Delivery".

(b) The documents to be delivered at each Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross-receipt for the Securities and any additional documents requested by the Underwriters pursuant to Section 8(l) hereof, will be delivered at the offices of Cravath, Swaine & Moore LLP, 825 Eighth Avenue, New York, New York, 10019 (the "Closing Location"), and the Securities will be delivered at the Designated Office, all at such Time of Delivery. A meeting will be held at the Closing Location at 5:00 p.m., New York City time, on the New York Business Day next preceding such Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto. For the purposes of this Agreement, "New York Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

5. The Company agrees with each of the Underwriters:

(a) To prepare the Prospectus in a form approved by you and to file such Prospectus pursuant to Rule 424(b) under the Act not later than the Commission's close of business on the second business day following the date of this Agreement; to make no further amendment or any supplement to the Registration Statement, the Basic Prospectus or the Prospectus prior to the last Time of Delivery which shall be reasonably disapproved by you promptly after reasonable notice thereof; to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with copies thereof; to prepare a final term sheet, containing a description of the Securities, in a form approved by you, and to file such final term sheet pursuant to and within the period required by Rule 433(d); to file promptly all other material required to be filed by the Company with the Commission pursuant to Rule 433(d) under the Act; to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required in connection with the offering or sale of the Securities; to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities, of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose or pursuant to Section 8A of the Act, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus or suspending any such qualification, to promptly use its best efforts to obtain the withdrawal of such order; and in the event of any such issuance of a notice of objection, promptly to take such steps including, without limitation, amending the Registration Statement or filing a new registration statement, at its own expense, as may be necessary to permit offers and sales of the Securities by the Underwriters (references herein to the Registration Statement shall include any such amendment or new registration statement);

(b) If required by Rule 430B(h) under the Act, to prepare a form of prospectus in a form approved by you and to file such form of prospectus pursuant to Rule 424(b) under the Act not later than may be required by Rule 424(b) under the Act; and to make no further amendment or supplement to such form of prospectus which shall be disapproved by you promptly after reasonable notice thereof;

(c) If by the third anniversary (the "Renewal Deadline") of the initial effective date of the Registration Statement, any of the Securities remain unsold by the Underwriters, the Company will file, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the Securities, in a form satisfactory to you. If at the Renewal Deadline the Company is no longer eligible to file an automatic shelf registration statement, the Company will, if it has not already done so, file a new shelf registration statement relating to the Securities, in a form satisfactory to you and will use its best efforts to cause such registration statement to be declared effective within 180 days after the Renewal Deadline. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the expired registration statement relating to the Securities. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be;

(d) Promptly from time to time to take such action as you may reasonably request to qualify the Securities for offering and sale under the securities laws of such jurisdictions as you may reasonably request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction;

(e) Prior to 10:00 a.m., New York City time, on the New York Business Day next succeeding the date of this Agreement and from time to time, to furnish the Underwriters with written and electronic copies of the Prospectus in New York City in such quantities as you may reasonably request, and, if the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is delivered, not misleading, or, if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Act or the Exchange Act, to notify you and upon your request to file such document and to prepare and furnish without charge to each Underwriter and to any dealer in securities as many written and electronic copies as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) in connection with sales of any of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many written and electronic copies as you may request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act;

(f) To the extent not otherwise provided in the Company's Exchange Act filings to make generally available to its securityholders as soon as practicable, but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);

(g) During the period beginning from the date hereof and continuing to and including the date 90 days after the date of the Prospectus, not to (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, directly or indirectly, or publicly file with the Commission a registration statement under the Act relating to, any Stock, any options, rights or warrants to purchase Stock or any securities convertible into or exchangeable for, or substantially similar to, Stock, (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Stock or such other securities, in cash or otherwise, or (iii) publicly disclose the intention to take any of the actions contemplated by clause (i) or (ii) above, in each case without the prior written consent of Goldman Sachs & Co. LLC and RBC Capital Markets, LLC; provided, however, that the foregoing restrictions shall not apply to (A) the Units Offering or the PIPE, (B) the issuance of shares of Stock, or any securities convertible into or exchangeable for Stock, pursuant to employee equity or equity-based incentive plans, employee stock purchase plans or dividend reinvestment plans existing on, or upon the conversion or exchange of convertible or exchangeable securities outstanding as of, the date of this Agreement and described in the Pricing Prospectus and the Prospectus, (C) the filing of a registration statement on Form S-8 in connection with the registration of shares of Stock issuable under any employee equity or equity-based plans or employee stock purchase plans existing on the date of this Agreement and described in the Pricing Prospectus and the Prospectus, (D) the Securities to be sold hereunder, (E) the issuance of shares of Stock in connection with the acquisition of the assets of, or a majority of controlling portion of the equity of, or a business combination or a joint venture with, another entity in connection with such business combination or a joint venture with, another entity in connection with such business combination or such acquisition by the Company or any of its subsidiaries of such entity and (F) the issuance of shares of Stock (including without limitation, restricted stock or restricted stock awards) in connection with joint ventures, commercial relationships or other strategic transactions, provided that the aggregate number of shares issued or issuable pursuant to clauses (E) and (F) does not exceed 10% of the number of shares of Stock outstanding immediately after the offering of the Securities pursuant to this Agreement and prior to such issuance, each recipient of any such securities shall execute and deliver to the Representatives an agreement substantially in the form of Annex III hereto;

(h) To pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) under the Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Act;

(i) To use the net proceeds received by it from the sale of the Securities pursuant to this Agreement in the manner specified in the Pricing Prospectus under the caption "Use of Proceeds";

(j) To use its best efforts to list, subject to notice of issuance, the Securities on the New York Stock Exchange (the "NYSE"); and

(k) Upon request of any Underwriter, to furnish, or cause to be furnished, to such Underwriter an electronic version of the Company's trademarks, servicemarks and corporate logo for use on the website, if any, operated by such Underwriter for the purpose of facilitating the on-line offering of the Securities (the "License"); provided, however, that the License shall be used solely for the purpose described above, is granted without any fee and may not be assigned or transferred.

6.

(a) (i) The Company represents and agrees that, other than the final term sheet prepared and filed pursuant to Section 5(a) hereof, without the prior consent of the Representatives, it has not made and will not make any offer relating to the Securities that would constitute a "free writing prospectus" as defined in Rule 405 under the Act; (ii) each Underwriter represents and agrees that, other than one or more term sheets relating to the Securities containing customary information (which, in their final form, will not be inconsistent with the final term sheet) and conveyed to purchasers of Securities, without the prior consent of the Company and the Representatives, it has not made and will not make any offer relating to the Securities that would constitute a free writing prospectus required to be filed with the Commission; (iii) any such free writing prospectus the use of which has been consented to by the Company and the Representatives is listed on Schedule II(a) or Schedule II(c) hereto;

(b) The Company has complied and will comply with the requirements of Rule 433 under the Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and

(c) The Company agrees that if at any time following issuance of an Issuer Free Writing Prospectus any event occurred or occurs as a result of which such Issuer Free Writing Prospectus would conflict with the information in the Registration Statement, the Pricing Prospectus or the Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, the Company will give prompt notice thereof to the Representatives and, if requested by the Representatives, will prepare and furnish without charge to each Underwriter an Issuer Free Writing Prospectus or other document which will correct such conflict, statement or omission; provided, however, that this representation and warranty shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with the Underwriter Information.

7. The Company covenants and agrees with the several Underwriters that the Company will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company's counsel and accountants and the Acquired Company's accountants in connection with the registration of the Securities under the Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers; (ii) the cost of printing or producing any Agreement among Underwriters, any of the Transaction Documents (including any compilations thereof), the Blue Sky Memorandum, and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) all expenses in connection with the qualification of the Securities for offering and sale under state securities laws as provided in Section 5(d) hereof, including the fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky survey; (iv) all fees and expenses in connection with listing the Securities on the NYSE; (v) the filing fees incident to, and the fees and disbursements of counsel for the Underwriters in connection with, any required review by the Financial Industry Regulatory Authority ("FINRA") of the terms of the sale of the Securities; (vi) the cost of preparing the Securities; (vii) the costs and expenses of the Company in connection with any "road show" presentation to potential investors; provided that the expenses related to the chartering of any airplanes shall be paid 50% by the Company and 50% by the Underwriters; (viii) the cost and charges of any transfer agent or registrar; and (ix) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section. It is understood, however, that, except as provided in this Section, and Sections 9 and 12 hereof, the Underwriters will pay all of their own costs and expenses, including the fees of their counsel, transfer taxes on resale of any of the Securities by them, and any advertising expenses connected with any offers they may make.

8. The obligations of the Underwriters hereunder, as to the Securities to be delivered at each Time of Delivery, shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of the Applicable Time and such Time of Delivery, true and correct, the condition that the Company shall have performed all of its obligations hereunder theretofore to be performed, and the following additional conditions:

(a) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; all material required to be filed by the Company pursuant to Rule 433(d) under the Act shall have been filed with the Commission within the applicable time period prescribed for such filings by Rule 433; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose or pursuant to Section 8A of the Act shall have been initiated or threatened by the Commission and no notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act shall have been received; no stop order suspending or preventing the use of the Preliminary Prospectus, Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Cravath, Swaine & Moore LLP, counsel for the Underwriters, shall have furnished to you their written opinion and negative assurance letter, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you, with respect to such matters as you may reasonably request, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters;

(c) Simpson Thacher & Bartlett LLP, counsel for the Company, shall have furnished to you their written opinion and negative assurance letter, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you;

(d) Ballard Spahr LLP, special Pennsylvania counsel for the Company, shall have furnished to you their written opinion, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you;

(e) Christopher P. Luning, Senior Vice President, General Counsel and Secretary for the Company (or his successor), shall have furnished to you his written opinion, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you;

(f) On the date of the Prospectus at a time prior to the execution of this Agreement, at 9:30 a.m., New York City time, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at each Time of Delivery, each of (i) PricewaterhouseCoopers LLP and (ii) Deloitte & Touche LLP shall have furnished to you their respective letter or letters, dated the respective dates of delivery thereof, in form and substance reasonably satisfactory to you, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to financial statements and certain financial information contained or incorporated by reference in each of the Registration Statement, the Pricing Prospectus and the Prospectus; provided, however, that the letters delivered at each Time of Delivery shall, in each case, use a "cut-off" date no more than three business days prior to such Time of Delivery;

(g) (i) Neither the Company nor any of its subsidiaries shall have sustained since the date of its latest audited financial statements included or incorporated by reference in the Pricing Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Pricing Prospectus, and (ii) since the respective dates as of which information is given in the Pricing Prospectus, there shall not have been any change in or affecting the business, financial position, prospects or results of operations of (A) the Company and its subsidiaries, taken as a whole, or (B) the Company and its subsidiaries assuming the consummation of the Acquisition, otherwise than as set forth or contemplated in the Pricing Prospectus and the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is in your judgment so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(h) On or after the Applicable Time (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by S&P Global Ratings, a division of S&P Global Inc., to lower than "BBB+" or Moody's Investors Services, Inc. to lower than "Baa2", and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities;

(i) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the NYSE; (ii) a suspension or material limitation in trading in the Company's securities on the NYSE; (iii) a general moratorium on commercial banking activities declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in your judgment makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(j) The Securities shall have been duly listed, subject to notice of issuance, on the NYSE;

(k) The executed agreements from each of the officers, director nominees and directors of the Company set forth in Annex II hereof, in each case to the effect set forth in Annex III hereof, were delivered to the Underwriters on the date hereof; and

(l) The Company shall have furnished or caused to be furnished to you at such Time of Delivery, certificates reasonably satisfactory to the Representatives of the President or any Vice President and a principal financial or accounting officer of the Company, in their capacity as such and not personally, to the effect that (A) the representations and warranties of the Company in this Agreement are, at and as of the Applicable Time and such Time of Delivery, true and correct in all respects, (B) the Company has complied in all respects with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to such Time of Delivery and (C) subsequent to the date of the most recent financial statements of the Company in the Pricing Disclosure Package and the Prospectus, there has been no material adverse change in the business, financial condition, prospects or results of operations of the Company and its subsidiaries taken as a whole except as set forth or contemplated by the Pricing Disclosure Package and the Prospectus.

9. (a) The Company will indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, any "roadshow" as defined in Rule 433(h) under the Act (a "roadshow") or any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Act, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, in reliance upon and in conformity with the Underwriter Information.

(b) Each Underwriter will, severally and not jointly, indemnify and hold harmless the Company against any losses, claims, damages or liabilities to which the Company may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow in reliance upon and in conformity with the Underwriter Information; and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred. As used in this Agreement with respect to an Underwriter and an applicable document, "Underwriter Information" shall mean the written information furnished to the Company by such Underwriter through the Representatives expressly for use therein; it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: the information contained in the third and eleventh paragraphs under the caption "Underwriting".

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; provided that the failure to notify the indemnifying party shall not relieve it from any liability that it may have under the preceding paragraphs of this Section 9 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under the preceding paragraphs of this Section 9. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (c) above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 9 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of each Underwriter, each person, if any, who controls any Underwriter within the meaning of the Act and each broker-dealer affiliate of any Underwriter; and the obligations of the Underwriters under this Section 9 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company and to each person, if any, who controls the Company within the meaning of the Act.

10. (a) If any Underwriter shall default in its obligation to purchase the Securities which it has agreed to purchase hereunder at a Time of Delivery, you may in your discretion arrange for you or another party or other parties to purchase such Securities on the terms contained herein. If within thirty six hours after such default by any Underwriter you do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of thirty six hours within which to procure another party or other parties satisfactory to you to purchase such Securities on such terms. In the event that, within the respective prescribed periods, you notify the Company that you have so arranged for the purchase of such Securities, or the Company notifies you that it has so arranged for the purchase of such Securities, you or the Company shall have the right to postpone such Time of Delivery for a period of not more than seven days, in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments or supplements to the Registration Statement or the Prospectus which in your opinion may thereby be made necessary. The term "Underwriter" as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Securities.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased does not exceed one eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of shares which such Underwriter agreed to purchase hereunder at such Time of Delivery and, in addition, to require each non-defaulting Underwriter to purchase its pro rata share (based on the number of Securities which such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased exceeds one eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, or if the Company shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Securities of a defaulting Underwriter or Underwriters, then this Agreement (or, with respect to the Second Time of Delivery, the obligations of the Underwriters to purchase and of the Company to sell the Optional Securities) shall thereupon terminate, without liability on the part of any non-defaulting Underwriter or the Company, except for the expenses to be borne by the Company and the Underwriters as provided in Section 7 hereof and the indemnity and contribution agreements in Section 9 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

11. The respective indemnities, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter, any officer or director or controlling person of any Underwriter, any broker-dealer affiliate of any Underwriter, or the Company, or any officer or director or controlling person of the Company, and shall survive delivery of and payment for the Securities.

12. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall not then be under any liability to any Underwriter except as provided in Sections 7 and 9 hereof; but, if for any other reason, any Securities are not delivered by or on behalf of the Company as provided herein, the Company will reimburse the Underwriters through you for all out of pocket expenses approved in writing by you, including fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Securities not so delivered, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 7 and 9 hereof.

13. In all dealings hereunder, you shall act on behalf of each of the Underwriters, and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by you.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail, telex or facsimile transmission to the Representatives in care of Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282-2198, Attention: Registration Department, and RBC Capital Markets, LLC, 200 Vesey Street, 8th Floor, New York, New York 10281, Fax: (212) 428-6260, Attention: Michael Goldberg, Syndicate Directors; and if to the Company shall be delivered or sent by mail, telex or facsimile transmission to the address of the Company set forth in the Registration Statement, Attention: Secretary; provided, however, that any notice to an Underwriter pursuant to Section 9(c) hereof shall be delivered or sent by mail, telex or facsimile transmission to such Underwriter at its address set forth in its Underwriters' Questionnaire, or telex constituting such Questionnaire, which address will be supplied to the Company by you upon request. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the underwriters to properly identify their respective clients.

14. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters, the Company and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Company or any Underwriter, each person who controls the Company or any Underwriter and any broker-dealer affiliate of any Underwriter, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

15. Time shall be of the essence of this Agreement. As used herein, the term “business day” shall mean any day when the Commission’s office in Washington, D.C. is open for business.

16. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement is an arm’s-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other, (ii) in connection therewith and with the process leading to such transaction each Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) no Underwriter has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriters, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

17. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Underwriters, or any of them, with respect to the subject matter hereof; provided, however, that the Engagement Letter shall remain in full force and effect to the extent provided in accordance with the terms thereof.

18. **This Agreement and any transaction contemplated by this Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Company agrees that any suit or proceeding arising in respect of this Agreement or any transaction contemplated by this Agreement will be tried exclusively in the U.S. District Court for the Southern District of New York or, if that court does not have subject matter jurisdiction, in any state court located in The City and County of New York and the Company agrees to submit to the jurisdiction of, and to venue in, such courts.**

19. The Company and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

20. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.

21. Notwithstanding anything herein to the contrary, the Company is authorized to disclose to any persons the U.S. federal and state income tax treatment and tax structure of the potential transaction and all materials of any kind (including tax opinions and other tax analyses) provided to the Company relating to that treatment and structure, without the Underwriters’ imposing any limitation of any kind. However, any information relating to the tax treatment and tax structure shall remain confidential (and the foregoing sentence shall not apply) to the extent necessary to enable any person to comply with securities laws. For this purpose, “tax structure” is limited to any facts that may be relevant to that treatment.

22. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(c) As used in this section:

“BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

“Covered Entity” means any of the following:

(i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

[Signature Page Follows]

If the foregoing is in accordance with your understanding, please sign and return to us six counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Underwriters, this letter and such acceptance hereof shall constitute a binding agreement between each of the Underwriters and the Company. It is understood that your acceptance of this letter on behalf of each of the Underwriters is pursuant to the authority set forth in a form of Agreement among Underwriters, the form of which shall be submitted to the Company for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

Aqua America, Inc.

By: /s/ Christopher P. Luning
Name: Christopher P. Luning
Title: Executive Vice President, General
Counsel and Secretary

Accepted as of the date hereof:

Goldman Sachs & Co. LLC

By: /s/ Daniel Young
Name: Daniel Young
Title: Managing Director

RBC Capital Markets, LLC

By: /s/ Michael Davis
Name: Michael Davis
Title: Managing Director

On behalf of each of the Underwriters

[Signature Page to Underwriting Agreement (Common Stock)]

SCHEDULE I

<u>Underwriter</u>	<u>Total Number of Firm Securities to be Purchased</u>	<u>Number of Optional Securities to be Purchased if Maximum Option Exercised</u>
Goldman Sachs & Co. LLC	9,829,939	1,474,491
RBC Capital Markets, LLC	9,829,939	1,474,491
Merrill Lynch, Pierce, Fenner & Smith Incorporated	2,296,103	344,415
Morgan Stanley & Co. LLC	2,296,103	344,415
Wells Fargo Securities, LLC	1,607,272	241,091
PNC Capital Markets LLC	1,974,648	296,197
Barclays Capital Inc.	1,607,272	241,091
Citizens Capital Markets, Inc.	551,065	82,660
The Huntington Investment Company	551,065	82,660
MUFG Securities Americas Inc.	551,065	82,660
J.P. Morgan Securities LLC	375,642	56,346
TD Securities (USA) LLC	375,642	56,346
Robert W. Baird & Co. Incorporated	162,478	24,372
Boenning & Scattergood, Inc.	162,478	24,372
HSBC Securities (USA) Inc.	162,478	24,372
Janney Montgomery Scott LLC	162,478	24,371
Total	<u>32,495,667</u>	<u>4,874,350</u>

SCHEDULE II

(a) Issuer Free Writing Prospectuses not included in the Pricing Disclosure Package:

1. Electronic roadshow dated April 15, 2019

(b) Additional Documents Incorporated by Reference: None.

(c) Issuer Free Writing Prospectus included in the Pricing Disclosure Package:

1. Final term sheet, dated as of the date hereof, prepared and filed pursuant to Section 5(a) of the Agreement, in the form attached hereto as Annex I.

FORM OF TERM SHEET

Annex I – 1

DIRECTORS, DIRECTOR NOMINEES AND OFFICERS SUBJECT TO LOCK-UPS

1. Christopher H. Franklin
2. Elizabeth B. Amato
3. Carolyn J. Burke
4. Nicholas DeBenedictis
5. William P. Hankowsky
6. Daniel J. Hilferty
7. Ellen T. Ruff
8. Lee C. Stewart
9. Christopher C. Womack
10. Richard S. Fox
11. Christopher P. Luning
12. Daniel J. Schuller
13. Matthew Rhodes
14. Robert Rubin

FORM OF LOCK-UP AGREEMENT

[●], 2019

Goldman Sachs & Co. LLC,
RBC Capital Markets, LLC,

As representatives of the several Underwriters
to be named in Schedule I to the Underwriting Agreement,

c/o Goldman Sachs & Co. LLC,
200 West Street,
New York, New York 10282.

c/o RBC Capital Markets, LLC,
200 Vesey Street,
New York, New York 10281.

Ladies and Gentlemen:

The undersigned understands that Goldman Sachs & Co. LLC and RBC Capital Markets, LLC, as representatives of the several Underwriters (as defined below) (the "Representatives"), propose to enter into an underwriting agreement (the "Underwriting Agreement") with Aqua America, Inc., a Pennsylvania corporation (the "Company"), providing for the public offering (the "Offering") by the several Underwriters to be named in Schedule I to the Underwriting Agreement, including the Representatives (the "Underwriters"), of shares (the "Securities") of common stock, par value \$0.50 per share, of the Company (the "Stock"). Capitalized terms used and not defined herein shall have the meanings set forth in the Underwriting Agreement.

To induce the potential underwriters that may participate in the Offering to continue their efforts in connection with the Offering, the undersigned agrees, during the period beginning from the date hereof and continuing to and including the date 90 days after the date of the final prospectus used to sell the Securities (the "Restricted Period"), not to (a) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, including by entry into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock, directly or indirectly, any securities of the Company that are substantially similar to the Securities, including but not limited to any options, rights or warrants to purchase shares of Stock or any securities that are convertible into or exchangeable for, or that represent the right to receive, Stock or any such other securities, whether any such transaction is to be settled by delivery of Stock, in cash or otherwise (collectively, "Restricted Securities"), whether now owned or hereinafter acquired and whether owned directly by the undersigned or with respect to which the undersigned otherwise has beneficial ownership (as such term is used in Rule 13d-3 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") or (b) publicly disclose the intention to take any of the actions contemplated by clause (a) above, in each case without the prior written consent of Goldman Sachs & Co. LLC and RBC Capital Markets, LLC. The foregoing sentence shall not apply to:

(i) receipt by the undersigned from the Company of Stock, or any securities convertible into or exchangeable for Stock, pursuant to employee equity or equity-based incentive plans, employee stock purchase plans or dividend reinvestment plans existing on, or upon the conversion or exchange of convertible or exchangeable securities outstanding as of, the date of this Agreement and described in the Pricing Prospectus and the Prospectus; provided that, for the avoidance of doubt, any such Stock or securities received by the undersigned shall be subject to all of the restrictions set forth in this agreement;

(ii) transfers of Stock, or any securities convertible into or exchangeable for Stock, as a bona fide gift to immediate family members of the undersigned or to a trust the beneficiaries of which are exclusively the undersigned or immediate family members of the undersigned;

(iii) transfers of Stock, or any securities convertible into or exchangeable for Stock, by will or intestacy or by operation of law pursuant to a qualified domestic order or in connection with a divorce settlement;

(iv) the establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of Stock, *provided* that such plan does not provide for the transfer of Stock during the Restricted Period;

(v) transfers (including following the exercise of Company stock options) made in accordance with the terms of a 10b5-1 Plan in existence as of the date hereof without any further amendment or modification, *provided* that no filing under Section 16(a) of the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with such transfers, other than a filing on Form 4 which shall indicate that the sale was made pursuant to such a 10b5-1 Plan;

(vi) transfers resulting from the sales of the undersigned's shares held as of the date hereof through the Company's 401(k) plan existing on the date of this Agreement and described in the Pricing Prospectus and the Prospectus pursuant to portfolio balancing opportunities provided by the terms of such 401(k) plan, *provided* that no filing under Section 16(a) of the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with such transfers, other than a filing on Form 4 that indicates that the transfer was of shares held through such 401(k) plan pursuant to such portfolio balancing opportunities;

(vii) transfers to the Company resulting from the forfeiture, cancellation, withholding, surrender or delivery of the undersigned's shares of Stock to satisfy any income, employment or social security tax withholding or remittance obligations in connection with the vesting during the period of the agreement above of any restricted stock unit, restricted shares, performance share unit or phantom shares, *provided* that no filing under Section 16(a) of the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with such forfeiture, cancellation, withholding, surrender or delivery, other than a filing on Form 4 that indicates that the transfer was made to satisfy such income, employment or social security tax withholding or remittance obligations;

(viii) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (ii) and (iii);

(ix) to the Company in connection with the repurchase of the undersigned's Stock upon termination of service of the undersigned;

(x) to the Company or its subsidiaries upon death, disability or termination of employment, in each case, of the undersigned;

(xi) to the Company or its subsidiaries (a) in the exercise of outstanding options, warrants, restricted stock units or other equity interests, including transfers deemed to occur upon the “net” or “cashless” exercise of options or (b) for the sole purpose of paying the exercise price of such options, warrants, restricted stock units or other equity interests or for paying taxes (including estimated taxes) due as a result of the exercise of such options, warrants, restricted stock units or other equity interests or as a result of the vesting of Stock under restricted stock awards pursuant to employee benefit plans disclosed in the Prospectus relating to this public offering, in each case on a “cashless” or “net exercise” basis, provided that any such Stock received upon such exercise shall be subject to the terms of this Lock-Up Agreement;

(xii) the repurchase of the undersigned’s Stock by the Company;

(xiii) pursuant to tenders, sales or other transfers pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction made to all holders of Stock involving a “change of control” of the Company (provided that if such transaction is not consummated, the undersigned’s Restricted Securities shall remain subject to the restrictions set forth herein);

(xiv) pursuant to the exercise for cash of options to purchase Stock disclosed as outstanding in the Registration Statement and the Prospectus, provided that any such Stock received upon such exercise shall be subject to the terms of this Lock-Up Agreement;

(xv) the disposition of Stock acquired by the undersigned in this public offering or in open market transactions after completion of this public offering; and/or

(xvi) transfers of Stock or other Company securities pursuant to an order of a court or regulatory agency (for purposes of this Lock-Up Agreement, a “court or regulatory agency” means any domestic or foreign, federal, state or local government, including any political subdivision thereof, any governmental or quasi-governmental authority, department, agency or official, any court or administrative body, and any national securities exchange or similar self-regulatory body or organization, in each case of competent jurisdiction) or to comply with any regulations related to ownership by the undersigned of the undersigned’s Stock;

provided that, (A) in the case of any transfer pursuant to clause (ii) or (iii), each donee or transferee shall sign and deliver a lock-up letter, substantially in the form of this letter, with respect to such Stock and securities and (B) in the case of any transfer pursuant to clause (ii) or any establishment pursuant to clause (iv), no public filing or other public announcement related thereto shall be required or shall be voluntarily made during the Restricted Period.

In addition, the undersigned agrees, during the Restricted Period, not to make any demand for or exercise any right with respect to, the registration of any Restricted Securities. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company’s transfer agent and registrar against the transfer of the undersigned’s Restricted Securities except in compliance with the foregoing restrictions.

The undersigned understands that the Company and the Underwriters are relying upon this agreement in proceeding toward consummation of the Offering. The undersigned further understands that this agreement is irrevocable and shall be binding upon the undersigned’s heirs, legal representatives, successors and assigns. The undersigned represents and warrants that it has the full power and authority to enter this agreement.

Whether or not the Offering actually occurs depends on a number of factors, including market conditions. Any Offering will only be made pursuant to an Underwriting Agreement, the terms of which are subject to negotiation between the Company and the Underwriters. The undersign understands that, if the Underwriting Agreement shall terminate or be terminated prior to payment for and delivery of the Firm Securities to be sold thereunder, the undersigned shall automatically be released from all obligations under this agreement.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Signature page follows]

Annex III – 4

Very truly yours,

(Name)

(Address)

Annex III – 5

Aqua America, Inc.

12,000,000 6.00% Tangible Equity Units

Underwriting Agreement

April 17, 2019

RBC Capital Markets, LLC,
Goldman Sachs & Co. LLC,

As representatives (the "Representatives" or "you") of the several Underwriters
named in Schedule I hereto,

c/o RBC Capital Markets, LLC,
200 Vesey Street,
New York, New York 10281.

c/o Goldman Sachs & Co. LLC,
200 West Street,
New York, New York 10282.

Ladies and Gentlemen:

Aqua America, Inc., a Pennsylvania corporation (the "Company"), proposes, subject to the terms and conditions stated in this agreement (this "Agreement"), to issue and sell to the Underwriters named in Schedule I hereto (the "Underwriters") an aggregate of 12,000,000 6.00% tangible equity units (the "Units") of the Company (said Units being hereinafter called (the "Firm Securities") and, at the election of the Underwriters, up to 1,800,000 additional 6.00% Units (the "Optional Securities") (the Firm Securities and the Optional Securities that the Underwriters elect to purchase pursuant to Section 2 hereof being collectively called the "Securities", and the offer and sale of the Securities hereunder being called the "Units Offering").

Each Security has a stated amount of \$50 (the "Stated Amount") and consists of (a) a prepaid stock purchase contract (each, a "Purchase Contract") under which the holder has purchased and the Company will agree to deliver on April 30, 2022, subject to postponement in certain circumstances and subject to any early settlement or redemption of such Purchase Contract pursuant to the provisions thereof and of the Purchase Contract Agreement (the "Purchase Contract Agreement"), to be dated as of the date of the First Time of Delivery (as defined below), among the Company, U.S. Bank National Association, as purchase contract agent ("Purchase Contract Agent") and attorney-in-fact for the holders of the Purchase Contracts from time to time, and the Trustee (as defined below), a number of shares of common stock, par value \$0.50 per share, of the Company ("Stock"), determined pursuant to the terms of the Purchase Contract and the Purchase Contract Agreement and (2) a senior amortizing note with a final installment payment date of April 30, 2022 (each, an "Amortizing Note") issued by the Company, which will have an initial principal amount of \$50 and will pay equal quarterly cash installments of \$0.75000 (or, in the case of the installment payment due on July 30, 2019, \$0.80833). All references herein to the Securities include references to the Purchase Contracts and the Amortizing Notes comprising the Units, unless the context requires otherwise. The Amortizing Notes will be issued pursuant to the base indenture (as amended, the "Base Indenture") and related supplemental indentures (the "Supplemental Indentures" and, together with the Base Indenture, the "Indenture"), each between the Company and U.S. Bank National Association, as Trustee (the "Trustee") and dated as of the date of the First Time of Delivery. The Units and Purchase Contracts will be issued pursuant to the Purchase Contract Agreement.

This Agreement, the Securities, the Purchase Contract Agreement, the Base Indenture and the Supplemental Indentures are collectively referred to herein as the “Units Transaction Documents”. The Units Offering, including the issuance of the Securities, the Purchase Contracts and the Amortizing Notes, and the performance by the Company of its obligations under the Units Transaction Documents, including the issuance of the Issuable Stock (as defined below) upon the settlement of the Purchase Contracts in accordance with the terms of the Purchase Contracts and the Purchase Contract Agreement, are referred to herein collectively as the “Units Transactions”.

On October 22, 2018, the Company entered into a Purchase Agreement (the “Acquisition Agreement”) with LDC Parent LLC, a Delaware limited liability company (“Seller”). Pursuant to the Acquisition Agreement, on the terms and subject to the conditions set forth therein, the Company will acquire (the “Acquisition”) from Seller all of the issued and outstanding limited liability company membership interests of LDC Funding LLC, a Delaware limited liability company (the “Acquired Company”), the parent of a group of natural gas public utility companies including Peoples Natural Gas Company, Peoples Gas Company, and Delta Natural Gas Co., Inc., as well as other operating subsidiaries. The Units Offering is being conducted in connection with the Acquisition.

Also in connection with the Acquisition, the Company (a) is, concurrent with the Units Offering, offering in a separate public offering up to 37,370,017 shares of Stock, including the Underwriters’ option to purchase additional shares of Stock (the “Equity Offering”), (b) intends to publicly offer certain debt securities of the Company in another transaction after the date hereof (the “Debt Offering”), (c) entered into an agreement, dated as of March 29, 2019 (the “PIPE Agreement”), to issue and sell to Canada Pension Plan Investment Board 21,661,095 shares of Stock, on the terms and subject to the conditions set forth in the PIPE Agreement (the “PIPE”), (d) entered into the Credit Agreement, dated as of December 5, 2018, among the Company, the lenders from time to time party thereto and PNC Bank, National Association, as administrative agent (the “Company Credit Agreement”), and will borrow under the Company Credit Agreement (the “Revolver Financing”) to fund a portion of the Acquisition purchase price that will be used by Seller and/or its subsidiaries to repay in full any borrowings outstanding under, and to terminate, the Second Amended and Restated Credit Agreement, dated as of June 8, 2017, among PNG Companies LLC, a Delaware limited liability company, the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent, effective as of the closing of the Acquisition (such repayment and termination, the “Acquired Company Refinancing”), (e) intends to redeem up to \$313.5 million aggregate principal amount of certain of the Company’s privately placed notes (the “Company Refinancing”) and (f) may, in lieu of certain of the financings described above, enter into a senior unsecured 364-day bridge loan facility, among the Company, the lenders from time to time party thereto and Goldman Sachs Bank USA, as administrative agent (the “Bridge Loan Facility”), and may borrow under the Bridge Loan Facility (the “Bridge Loan Financing”). The Equity Offering, the Units Offering, the PIPE, the Debt Offering, the Revolver Financing, the Company Refinancing, the Acquired Company Refinancing, the Bridge Loan Financing and the Acquisition are collectively referred to herein as the “Transactions”. The Acquisition Agreement, the PIPE Agreement, the Company Credit Agreement and the Bridge Loan Facility are collectively referred to herein as the “Other Transaction Documents”.

1. The Company represents and warrants to, and agrees with, each of the Underwriters that:

(a) An “automatic shelf registration statement” as defined under Rule 405 under the Securities Act of 1933, as amended (the “Act”) on Form S-3 (File No. 333-223306) in respect of the Securities, the Issuable Stock, the Purchase Contracts, the Amortizing Notes and other securities has been filed with the Securities and Exchange Commission (the “Commission”) not earlier than three years prior to the date hereof; such registration statement, and any post-effective amendment thereto, became effective on filing; and no stop order suspending the effectiveness of such registration statement or any part thereof has been issued and no proceeding for that purpose or pursuant to Section 8A of the Act has been initiated or, to the knowledge of the Company, threatened by the Commission, and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act has been received by the Company (the base prospectus filed as part of such registration statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is hereinafter called the “Basic Prospectus”; any preliminary prospectus (including any preliminary prospectus supplement) relating to the Securities, the Issuable Stock, the Purchase Contracts and the Amortizing Notes filed with the Commission pursuant to Rule 424(b) under the Act is hereinafter called a “Preliminary Prospectus”; the various parts of such registration statement, including all exhibits thereto but excluding Form T-1 and including any prospectus supplement relating to the Securities, the Issuable Stock, the Purchase Contracts and the Amortizing Notes that is filed with the Commission and deemed by virtue of Rule 430B to be part of such registration statement, each as amended at the time such part of the registration statement became effective, are hereinafter collectively called the “Registration Statement”; the Basic Prospectus, as amended and supplemented immediately prior to the Applicable Time (as defined in Section 1(c) hereof), is hereinafter called the “Pricing Prospectus”; the form of the final prospectus relating to the Securities, the Issuable Stock, the Purchase Contracts and the Amortizing Notes filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof is hereinafter called the “Prospectus”; any reference herein to the Basic Prospectus, the Pricing Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Act, as of the date of such prospectus; any reference to any amendment or supplement to the Basic Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any post-effective amendment to the Registration Statement, any prospectus supplement relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act and any documents filed under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and incorporated therein, in each case after the date of the Basic Prospectus, such Preliminary Prospectus, or the Prospectus, as the case may be; any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement; and any “issuer free writing prospectus” as defined in Rule 433 under the Act relating to the Securities, the Issuable Stock, the Purchase Contracts and the Amortizing Notes is hereinafter called an “Issuer Free Writing Prospectus”);

(b) (A) No order preventing or suspending the use of any Preliminary Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission, and (B) each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act and the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act") and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information (as defined in Section 9(b));

(c) For the purposes of this Agreement, the "Applicable Time" is 6:41 p.m. (Eastern time) on the date of this Agreement. The Pricing Prospectus, as supplemented by the Issuer Free Writing Prospectus listed on Schedule II(c) hereto, taken together (collectively, the "Pricing Disclosure Package"), as of the Applicable Time did not, and as of each Time of Delivery (as defined in Section 4(a) of this Agreement) will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus does not conflict with the information contained in the Registration Statement, the Pricing Prospectus or the Prospectus; and each Issuer Free Writing Prospectus, as supplemented by and taken together with the Pricing Disclosure Package as of the Applicable Time, did not, and as of each Time of Delivery will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in the Pricing Disclosure Package or in an Issuer Free Writing Prospectus in reliance upon and in conformity with the Underwriter Information;

(d) The documents incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder, and none of such documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; any further documents so filed and incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information; and no such documents were filed with the Commission since the Commission's close of business on the business day immediately prior to the date of this Agreement and prior to the execution of this Agreement;

(e) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects to the requirements of the Act, the Trust Indenture Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to each part of the Registration Statement, as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, and as of each Time of Delivery, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions with respect to (i) the Statement of Eligibility of the Trustee on Form T-1 or (ii) made in reliance upon and in conformity with the Underwriter Information;

(f) Since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus, (i) none of the Company or any of its subsidiaries has sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, (ii) there has been no adverse change in the condition, financial or otherwise, or in the earnings, business affairs or prospects of the Company or any of its subsidiaries, and (iii) none of the Company or any of its subsidiaries has entered into any transaction or agreement (whether or not in the ordinary course of business), or incurred any liability or obligation (direct or contingent), that, in the case of clause (i), (ii) and (iii), is material to the Company and its subsidiaries, taken as a whole, otherwise than as set forth or contemplated in the Pricing Prospectus. Since the respective dates as of which information is given in the Registration Statement and the Pricing Prospectus, there has not been (i) any change in the capital stock (other than as a result of (A) the exercise, if any, of stock options or the award, if any, of stock options or restricted stock in the ordinary course of business pursuant to the Company's equity plans that are described in the Pricing Prospectus and the Prospectus, (B) the issuance, if any, of Stock upon conversion of Company securities as described in the Pricing Prospectus and the Prospectus or (C) the issuance, if any, of Stock in the Equity Offering or the PIPE) or long term debt of the Company or any of its subsidiaries or (ii) any Material Adverse Effect (as defined below). As used in this Agreement, "Material Adverse Effect" shall mean any material adverse effect on the financial condition, prospects, business or results of operations of the Company and its subsidiaries, taken as a whole except as set forth or contemplated in the Pricing Prospectus. Except as disclosed in the Pricing Prospectus, to the knowledge of the Company, there are no pending actions, suits or proceedings against or affecting the Acquired Company or any of its subsidiaries or any of their respective properties that, if determined adversely to the Acquired Company or any of its subsidiaries, would individually or in the aggregate have a material adverse effect on the financial condition, prospects, business or results of operations of the Acquired Company and its subsidiaries, taken as a whole; and, to the knowledge of the Company, no such actions, suits or proceedings are threatened by governmental authorities or by others;

(g) Except as, individually or in the aggregate, would not have, and would not reasonably be expected to have, a Material Adverse Effect, the Company and its subsidiaries have good and marketable title to all real property or have good and valid leasehold title to or hold valid rights to lease or otherwise occupy, use, operate or access all real property and have good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects except such as are described in the Pricing Prospectus or such as do not interfere with the use made and proposed to be made of such property by the Company and its subsidiaries;

(h) Each of the Company and each of its “significant subsidiaries” (as defined in Rule 1-02 of Regulation S-X under the Exchange Act) (“Significant Subsidiaries”) has been (i) duly organized and is validly existing and in good standing under the laws of its jurisdiction of organization, with power and authority (corporate and other) to own its properties and conduct its business as described in the Pricing Prospectus, and (ii) duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except where the failure to be so qualified in any such jurisdiction would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(i) The Company has an authorized capitalization as set forth in the Pricing Prospectus and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and conform to the description of the Stock contained in the Pricing Disclosure Package and the Prospectus; and all of the issued shares of capital stock of each subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except for directors’ qualifying shares) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, except for such liens or encumbrances described in the Pricing Prospectus and the Prospectus;

(j) The Company has the requisite corporate power and authority to execute and deliver each of the Units Transaction Documents and to perform its obligations hereunder and thereunder including, without limitation, to issue, sell and deliver the Securities and the shares of Stock to be issued and delivered by the Company pursuant to the Purchase Contract Agreement and the Purchase Contracts (the “Issuable Stock”); and the Company has duly and validly taken all corporate action required to be taken by it for the due and proper authorization, execution and delivery by it of each of the Units Transaction Documents and the consummation of the Units Transactions;

(k) The Securities have been duly and validly authorized and, when issued, executed and authenticated in accordance with the provisions of the Purchase Contract Agreement and delivered to the Underwriters against payment therefor as provided herein, will (i) constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles (the “Enforceability Exceptions”), (ii) be entitled to the benefits of the Purchase Contract Agreement and (iii) conform in all material respects to the description thereof contained in the Pricing Disclosure Package and the Prospectus;

(l) The Amortizing Notes have been duly authorized and, when issued and executed in accordance with the provisions of the Indenture and delivered to the Underwriters against payment therefor as provided herein, will (i) constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, except as the enforceability thereof may be limited by the Enforceability Exceptions, (ii) be entitled to the benefits provided by the Indenture and (iii) conform in all material respects to the description thereof contained in the Pricing Disclosure Package and the Prospectus;

(m) The Purchase Contracts have been duly authorized and, when issued, executed and delivered in accordance with the provisions of the Purchase Contract Agreement against payment therefor as provided herein, will (i) constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, except as the enforceability thereof may be limited by the Enforceability Exceptions, (ii) be entitled to the benefits of the Purchase Contract Agreement and (iii) conform in all material respects to the description thereof contained in the Pricing Disclosure Package and the Prospectus;

(n) The maximum number of shares of Issuable Stock (calculated assuming settlement of the Purchase Contracts at the “maximum settlement rate,” as such term is defined in the Pricing Prospectus (such shares, the “Maximum Issuable Shares”) have been duly authorized and reserved for issuance by the Company and, when issued and delivered in accordance with the provisions of the Purchase Contracts and the Purchase Contract Agreement, will be duly and validly issued and fully paid and non-assessable and will conform in all material respects to the description of the Stock contained in the Pricing Disclosure Package and the Prospectus; and the issuance of the Issuable Stock will not be subject to any preemptive or similar rights;

(o) The issue and sale of the Securities and the compliance by the Company with all of the provisions of the Units Transaction Documents, the consummation of the Units Transactions and the transactions contemplated in the Pricing Prospectus will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, (A) any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (B) the certificate of incorporation or by-laws (or other applicable organizational document) of the Company or any of its subsidiaries, or (C) any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties except, in the case of (A), for such defaults, breaches, or violations that would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Securities by the Company contemplated by the Units Transaction Documents, except (y) such as have been obtained under the Act and the Trust Indenture Act and (z) for such consents, approvals, authorizations, orders, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters;

(p) (i) Neither the Company nor any of its Significant Subsidiaries is in violation of its certificate of incorporation or by-laws (or other applicable organization document) and (ii) neither the Company nor any of its subsidiaries is (A) in violation of any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties or (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, except, in the case of the foregoing clause (ii), for such defaults as would not, individually or in the aggregate, have a Material Adverse Effect;

(q) The statements set forth in (i) the Pricing Prospectus and Prospectus under the caption “Description of Capital Stock”, insofar as they purport to constitute a summary of the terms of the Stock, and (ii) (A) the Pricing Prospectus and the Prospectus under the caption “Certain United States Federal Income and Estate Tax Considerations” and under the caption “Underwriting” and (B) Parts I and II of the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2018 under the caption “Economic Regulation” (in each place that it appears) and under the caption “Environmental, Health and Safety Regulation”, insofar as they purport to describe the provisions of laws and documents, are accurate, complete and fair in all material respects;

(r) Other than as set forth in the Pricing Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject, which, if determined adversely to the Company or any of its respective subsidiaries, would individually or in the aggregate have a Material Adverse Effect or have a material adverse effect on the ability of the Company to perform its obligations under the Units Transaction Documents, including the issuance and sale of the Securities; and, to the knowledge of the Company, no such proceedings are threatened by governmental authorities or by others;

(s) The Company is not and, after giving effect to the offering and sale of the Securities and the application of the proceeds thereof, will not be an “investment company”, as such term is defined in the Investment Company Act of 1940, as amended (the “Investment Company Act”);

(t) (i) (A) At the time of filing the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Act) made any offer relating to the Securities in reliance on the exemption of Rule 163 under the Act, the Company was a “well-known seasoned issuer” as defined in Rule 405 under the Act; and (ii) at the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or any offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Act) of the Securities, and at the date hereof, the Company was not and is not an “ineligible issuer,” as defined in Rule 405 under the Act;

(u) (i) PricewaterhouseCoopers LLP, who have certified certain financial statements of the Company and its subsidiaries, and have audited the Company’s internal control over financial reporting and management’s assessment thereof and (ii) to the knowledge of the Company, Deloitte & Touche LLP, who have certified certain financial statements of the Acquired Company and its subsidiaries are each independent public accountants as required by the Act and the rules and regulations of the Commission thereunder;

(v) The Company maintains a system of internal control and maintains disclosure controls and procedures, in each case that complies with the requirements of the Exchange Act and is otherwise in compliance in all material respects with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith. The Company’s internal control over financial reporting and disclosure controls and procedures are each effective, and the Company is not aware of any material weaknesses in its internal control over financial reporting. The interactive data in eXtensible Business Reporting Language (“XBRL”) included or incorporated by reference in the Registration Statement, the Pricing Prospectus or the Prospectus presents fairly the information called for in all material respects and has been prepared in accordance with the Commission’s rules and guidelines applicable thereto.

(w) Except as disclosed in the Pricing Prospectus, since the date of the latest audited financial statements of the Company, included or incorporated by reference in the Pricing Prospectus, there has been no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting;

(x) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person associated with or acting on behalf of the Company or any of its subsidiaries has (A) made, offered, promised or authorized any contribution, gift, entertainment or other expense (or taken any act in furtherance thereof) in violation of an applicable anti-bribery or anti-corruption law; (B) made, offered, promised or authorized any direct or indirect payment in violation of an applicable anti-bribery or anti-corruption law; or (C) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, the Bribery Act 2010 of the United Kingdom or any other applicable anti-bribery or anti-corruption law;

(y) The operations of the Company and its subsidiaries have been conducted at all times in compliance in all material respects with the requirements of applicable anti-money laundering laws, including, but not limited to, the Bank Secrecy Act of 1970, as amended by the USA PATRIOT ACT of 2001, and the rules and regulations promulgated thereunder, and the anti-money laundering laws of the various jurisdictions in which the Company and its subsidiaries conduct business (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened;

(z) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries, is currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"), or the U.S. Department of State and including, without limitation, the designation as a "specially designated national" or "blocked person," the European Union, Her Majesty's Treasury, or the United Nations Security Council (collectively, "Sanctions"), nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject or target of Sanctions (including Crimea, Cuba, Iran, North Korea, and Syria), and the Company will not directly or knowingly indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (A) for the purpose of funding or facilitating any unlawful activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject or the target of Sanctions or (B) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions;

(aa) This Agreement has been duly authorized, executed and delivered by the Company;

(bb) The Indenture has been duly authorized by the Company and duly qualified under the Trust Indenture Act and, when duly executed and delivered by the Company (assuming that the Indenture is a valid and binding obligation of the Trustee), will constitute a valid and legally binding agreement, enforceable against the Company in accordance with its terms, except as the enforceability thereof may be limited by the Enforceability Exceptions;

(cc) The Purchase Contract Agreement, when duly executed and delivered by the Company (assuming the Purchase Contract Agreement is a valid and binding obligation of the Purchase Contract Agent, as attorney-in-fact for the holders thereof, and the Trustee) will constitute a valid and legally binding instrument, enforceable against the Company in accordance with its terms, except as the enforceability thereof may be limited by the Enforceability Exceptions;

(dd) Each of the Acquisition Agreement and the PIPE Agreement has been duly authorized, executed and delivered by the Company and is a valid and legally binding agreement of the Company enforceable against the Company in accordance with its terms, and, to the knowledge of the Company, has been duly authorized, executed and delivered by each other party thereto, in each case except as the enforceability thereof may be limited by the Enforceability Exceptions.

(ee) Each of this Agreement, the Indenture, the Purchase Contract Agreement and the Other Transaction Documents conforms or, when and if duly executed and delivered in accordance with its terms, will conform in all material respects to the description thereof (if any) contained in the Pricing Prospectus and the Prospectus;

(ff) The financial statements of the Company included in the Registration Statement, the Pricing Prospectus and the Prospectus present fairly, in all material respects, the financial position of the Company and its subsidiaries at the dates indicated and the statement of operations, stockholders' equity and cash flows of the Company and its subsidiaries for the periods specified; and said financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved. The pro forma financial information of the Company, and the related notes thereto, incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus fairly represent in all material respects the information therein, has been prepared in accordance with Regulation S-X under the Exchange Act and provide a reasonable basis for presenting the significant effects of the transactions and circumstances referred to therein, and the assumptions used in preparation thereof, in the reasonable judgment of the Company's management and subject to the qualifications therein, are reasonable; the related pro forma adjustments are directly attributable to the transactions or events described therein and give appropriate effect to those assumptions in all material respects; and the pro forma columns therein reflect the proper application of those adjustments to the corresponding historical financial statement in all material respects;

(gg) To the knowledge of the Company, the financial statements of the Acquired Company included in the Registration Statement, the Pricing Prospectus and the Prospectus, together with the related schedules and notes, present fairly, in all material respects, the financial position of the Acquired Company and its subsidiaries at the dates indicated and the statement of operations, stockholders' equity and cash flows of the Acquired Company and its subsidiaries for the periods specified; and said financial statements have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved. To the knowledge of the Company, the supporting schedules of the Acquired Company, if any, present fairly, in all material respects, in accordance with GAAP the information required to be stated therein;

(hh) Except with respect to taxes that are being contested in good faith or as otherwise disclosed in the Pricing Prospectus, (i) each of the Company and its subsidiaries have paid all federal, state, local and foreign taxes required to be paid and filed all tax returns required to be filed, in each case, through the date hereof, except for such failures to pay or file as would not individually or in the aggregate have a Material Adverse Effect, and (ii) there is no tax deficiency that has been asserted against the Company, any of its subsidiaries or any of their respective properties or assets that would, individually or in the aggregate, have a Material Adverse Effect;

(ii) The Company and its subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the Registration Statement, Pricing Prospectus and the Prospectus, except where the failure to possess or make the same would not, individually or in the aggregate, have a Material Adverse Effect; and, except as described in the Registration Statement, the Pricing Prospectus and the Prospectus, neither the Company nor any of its subsidiaries has received notice of any revocation or modification of any material license, certificate, permit or authorization or has any reason to believe that any material license, certificate, permit or authorization will not be renewed in the ordinary course;

(jj) Except as otherwise disclosed in the Pricing Prospectus, (i) the Company and its subsidiaries (A) are, and at all prior times were, in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, legally binding requirements or judicial or administrative decisions and orders relating to the protection of the environment or natural resources, or human health or safety, to the extent relating to exposure to hazardous or toxic substances or wastes, pollutants or contaminants (collectively, "Environmental Laws"), including with respect to any real property currently or formerly owned or operated by the Company or any of its subsidiaries that is known or reasonably anticipated to be contaminated with any hazardous or toxic substances or wastes, pollutants or contaminants, (B) have received and are in compliance with all permits, licenses, or other legal authorizations or approvals required of them under applicable Environmental Laws to conduct their respective businesses as currently conducted and (C) have not received written notice of any liability, violation or claim under or relating to any Environmental Laws, including for human exposure to, or the investigation or remediation of any disposal or release of, hazardous or toxic substances or wastes, pollutants or contaminants, and have no knowledge of any event or condition that would reasonably be expected to result in any such notice, and (ii) to the knowledge of the Company, there are no costs or liabilities associated with Environmental Laws of or relating to the Company or any of its subsidiaries, except in the case of each of (i) and (ii) above, as would not, individually or in the aggregate, have a Material Adverse Effect; and (iii) except as otherwise disclosed in the Pricing Prospectus, (A) there are no judicial or administrative proceedings that are pending against the Company or any of its subsidiaries under any Environmental Laws in which a governmental entity is also a party, and, to the knowledge of the Company, no such proceedings are threatened, in each case other than such proceedings regarding which it is reasonably believed no monetary sanctions of \$100,000 or more will be imposed, and (B) the Company and its subsidiaries are not aware of any issues regarding compliance with Environmental Laws, or liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminants, that would reasonably be expected to have a Material Adverse Effect;

(kk) Except as disclosed in the Registration Statement, the Pricing Prospectus and the Prospectus, (i) the Company, its subsidiaries and any “employee benefit plan” (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, “ERISA”)) established or maintained by the Company, its subsidiaries or their ERISA Affiliates (as defined below) are in compliance with ERISA, and (ii) no “reportable event” (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any “employee benefit plan” established or maintained by the Company, any of its subsidiaries or any of their ERISA Affiliates, in either case, other than as would not, individually or in the aggregate, have a Material Adverse Effect. “ERISA Affiliate” means, with respect to the Company and its subsidiaries, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”), of which the Company or such subsidiary is a member;

(ll) Except as described in the Pricing Prospectus and except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) no material labor dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is contemplated or threatened and (ii) the Company is not aware of any existing or imminent labor disturbance by the employees of any of principal suppliers or contractors;

(mm) The Company and its subsidiaries have insurance covering their properties, operations, personnel and businesses, including business interruption insurance, which insurance is in amounts and insures against such losses and risks as the Company believes are adequate to protect the Company and its subsidiaries; and neither the Company nor any of its subsidiaries has (i) received notice from any insurer under a material insurance policy or agent of such insurer that material capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) any reason to believe that it will not be able to renew its existing material insurance coverage as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business;

(nn) Except as would not, individually or in the aggregate, have a Material Adverse Effect, the Company and each of its subsidiaries owns or possesses, or can acquire on reasonable terms, adequate patents, patent licenses, trademarks, service marks and trade names necessary to carry on its business as presently conducted, and neither the Company nor any of its subsidiaries has received any notice of infringement of or conflict with asserted rights of others with respect to any patents, patent licenses, trademarks, service marks or trade names that in the aggregate, if the subject of an unfavorable decision, ruling or finding, is reasonably likely, individually or in the aggregate, to have a Material Adverse Effect;

(oo) The Company and its subsidiaries (i) have implemented and maintain commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") and data (including all personal, personally identifiable, sensitive, confidential or regulated data ("Personal Data")) used in connection with their respective businesses, and there have been no breaches, violations, outages or unauthorized uses of or accesses to the same, except for those that have been remedied without material cost or liability or the duty to notify any other person, except as would not, individually or in the aggregate, have a Material Adverse Effect and (ii) are in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification;

(pp) The Company has not taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities;

(qq) To the knowledge of the Company, since the date of the latest financial statements of the Acquired Company included or incorporated by reference in the Pricing Prospectus, and except as disclosed in the Pricing Prospectus, there has not been any material adverse change in the business, financial condition, prospects or results of operations of Acquired Company and its subsidiaries, taken as a whole; and

(rr) To the knowledge of the Company, (i) each party to the Acquisition Agreement is in compliance in all material respects with its respective covenants and agreements contained in the Acquisition Agreement and required to be performed or complied with by such party prior to the Acquisition and (ii) all representations and warranties made by the Seller in the Acquisition Agreement (x) were, as of the date of the Acquisition Agreement, true and correct (for the avoidance of doubt, giving effect to any limitation as to "materiality" or "Material Adverse Effect" (as defined in the Acquisition Agreement) or similar limitation as set forth in such representations and warranties) and (y) are, true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" (as defined in the Acquisition Agreement) or similar limitation as set forth therein), except, in the case of (y), where the failure to be so true and correct would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect assuming the consummation of the Acquisition.

2. Subject to the terms and conditions herein set forth, (a) the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at a purchase price per Unit of \$48.875, the number of Firm Securities set forth opposite the name of such Underwriter in Schedule I hereto and (b) in the event and to the extent that the Underwriters shall exercise the election to purchase Optional Securities as provided below, the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at the purchase price per Unit set forth in clause (a) of this Section 2, that portion of the number of Optional Securities as to which such election shall have been exercised (to be adjusted by you so as to eliminate fractional units) determined by multiplying such number of Optional Securities by a fraction, the numerator of which is the maximum number of Optional Securities which such Underwriter is entitled to purchase as set forth opposite the name of such Underwriter in Schedule I hereto and the denominator of which is the maximum number of Optional Securities that all of the Underwriters are entitled to purchase hereunder.

The Company hereby grants to the Underwriters the right to purchase at their election up to 1,800,000 Optional Securities, at the same purchase price per Unit set forth in the paragraph above, provided that the purchase price per Optional Security shall be reduced by an amount per share equal to any distributions payable on the Firm Securities but not payable on the Optional Securities. Any such election to purchase Optional Securities may be exercised only by written notice from you to the Company, given within a period not later than 13 days from, and including, the First Time of Delivery, setting forth the aggregate number of Optional Securities to be purchased and the date on which such Optional Securities are to be delivered, as determined by you but in no event earlier than the First Time of Delivery (as defined in Section 4 hereof) or, unless you and the Company otherwise agree in writing, earlier than two or later than ten business days after the date of such notice. Any additional Units may be purchased pursuant to this Section 2 solely for the purpose of covering over-allotment sales of Units in excess of the number of Firm Securities.

3. Upon the authorization by you of the release of the Firm Securities, the several Underwriters propose to offer the Firm Securities for sale upon the terms and conditions set forth in the Pricing Prospectus and the Prospectus.

4. (a) The Securities to be purchased by each Underwriter hereunder, in definitive or book-entry form, and in such authorized denominations and registered in such names as the Representatives may request upon at least forty-eight hours' prior notice to the Company shall be delivered by or on behalf of the Company to the Representatives, through the facilities of the Depository Trust Company ("DTC") or its designated custodian. The Company will deliver the Securities to the Representatives, for the account of such Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representatives at least forty-eight hours in advance, by causing DTC to credit the Securities to the account of RBC Capital Markets, LLC at DTC. The Company will cause the global securities representing the Securities to be made available for checking at least twenty-four hours prior to the Time of Delivery (as defined below) with respect thereto at the offices of Cravath, Swaine & Moore LLP, 825 Eighth Avenue, New York, New York, 10019 (the "Closing Location"). The time and date of such delivery and payment shall be, with respect to the Firm Securities, 9:30 a.m., New York City time, on April 23, 2019, or such other time and date as the Representatives and the Company may agree upon in writing, and, with respect to the Optional Securities, 9:30 a.m., New York time, on the date specified by the Representatives in the written notice given by the Representatives of the Underwriters' election to purchase such Optional Securities, or such other time and date as the Representatives and the Company may agree upon in writing. Such time and date for delivery of the Firm Securities is herein called the "First Time of Delivery", such time and date for delivery of the Optional Securities, if not the First Time of Delivery, is herein called the "Second Time of Delivery", and each such time and date for delivery is herein called a "Time of Delivery".

(b) The documents to be delivered at each Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross-receipt for the Securities and any additional documents requested by the Underwriters pursuant to Section 8(m) hereof, will be delivered at the Closing Location, and the Securities will be delivered at the office of DTC or its designated custodian, all at such Time of Delivery. A meeting will be held at the Closing Location at 5:00 p.m., New York City time, on the New York Business Day next preceding such Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto. For the purposes of this Agreement, "New York Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

5. The Company agrees with each of the Underwriters:

(a) To prepare the Prospectus in a form approved by you and to file such Prospectus pursuant to Rule 424(b) under the Act not later than the Commission's close of business on the second business day following the date of this Agreement; to make no further amendment or any supplement to the Registration Statement, the Basic Prospectus or the Prospectus prior to the last Time of Delivery which shall be reasonably disapproved by you promptly after reasonable notice thereof; to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with copies thereof; to prepare a final term sheet, containing a description of the Securities, in a form approved by you, and to file such final term sheet pursuant to and within the period required by Rule 433(d); to file promptly all other material required to be filed by the Company with the Commission pursuant to Rule 433(d) under the Act; to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required in connection with the offering or sale of the Securities; to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities, of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act, of the suspension of the qualification of the Securities or the Issuable Stock for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose or pursuant to Section 8A of the Act, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus or suspending any such qualification, to promptly use its best efforts to obtain the withdrawal of such order; and in the event of any such issuance of a notice of objection, promptly to take such steps including, without limitation, amending the Registration Statement or filing a new registration statement, at its own expense, as may be necessary to permit offers and sales of the Securities by the Underwriters (references herein to the Registration Statement shall include any such amendment or new registration statement);

(b) If required by Rule 430B(h) under the Act, to prepare a form of prospectus in a form approved by you and to file such form of prospectus pursuant to Rule 424(b) under the Act not later than may be required by Rule 424(b) under the Act; and to make no further amendment or supplement to such form of prospectus which shall be disapproved by you promptly after reasonable notice thereof;

(c) If by the third anniversary (the “Renewal Deadline”) of the initial effective date of the Registration Statement, any of the Securities remain unsold by the Underwriters, the Company will file, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the Securities, in a form satisfactory to you. If at the Renewal Deadline the Company is no longer eligible to file an automatic shelf registration statement, the Company will, if it has not already done so, file a new shelf registration statement relating to the Securities, in a form satisfactory to you and will use its best efforts to cause such registration statement to be declared effective within 180 days after the Renewal Deadline. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the expired registration statement relating to the Securities. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be;

(d) Promptly from time to time to take such action as you may reasonably request to qualify the Securities for offering and sale under the securities laws of such jurisdictions as you may reasonably request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction;

(e) Prior to 10:00 a.m., New York City time, on the New York Business Day next succeeding the date of this Agreement and from time to time, to furnish the Underwriters with written and electronic copies of the Prospectus in New York City in such quantities as you may reasonably request, and, if the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is delivered, not misleading, or, if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Act, the Exchange Act or the Trust Indenture Act, to notify you and upon your request to file such document and to prepare and furnish without charge to each Underwriter and to any dealer in securities as many written and electronic copies as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) in connection with sales of any of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many written and electronic copies as you may request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act;

(f) To the extent not otherwise provided in the Company's Exchange Act filings to make generally available to its securityholders as soon as practicable, but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);

(g) During the period beginning from the date hereof and continuing to and including the date 90 days after the date of the Prospectus, not to (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, directly or indirectly, or publicly file with the Commission a registration statement under the Act relating to, any Stock, any options, rights or warrants to purchase Stock or any securities convertible into or exchangeable for, or substantially similar to, Stock, (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Stock or such other securities, in cash or otherwise, or (iii) publicly disclose the intention to take any of the actions contemplated by clause (i) or (ii) above, in each case without the prior written consent of RBC Capital Markets, LLC and Goldman Sachs & Co. LLC; provided, however, that the foregoing restrictions shall not apply to (A) the Equity Offering or the PIPE, (B) the issuance of the Issuable Stock, (C) the issuance of shares of Stock, or any securities convertible into or exchangeable for Stock, pursuant to employee equity or equity-based incentive plans, employee stock purchase plans or dividend reinvestment plans existing on, or upon the conversion or exchange of convertible or exchangeable securities outstanding as of, the date of this Agreement and described in the Pricing Prospectus and the Prospectus, (D) the filing of a registration statement on Form S-8 in connection with the registration of shares of Stock issuable under any employee equity or equity-based plans or employee stock purchase plans existing on the date of this Agreement and described in the Pricing Prospectus and the Prospectus, (E) the Securities to be sold hereunder, (F) the issuance of shares of Stock in connection with the acquisition of the assets of, or a majority of controlling portion of the equity of, or a business combination or a joint venture with, another entity in connection with such business combination or a joint venture with, another entity in connection with such business combination or such acquisition by the Company or any of its subsidiaries of such entity and (G) the issuance of shares of Stock (including without limitation, restricted stock or restricted stock awards) in connection with joint ventures, commercial relationships or other strategic transactions, provided that the aggregate number of shares issued or issuable pursuant to clauses (F) and (G) does not exceed 10% of the number of shares of Stock outstanding immediately after the offering of shares in the Equity Offering and prior to such issuance, each recipient of any such securities shall execute and deliver to the Representatives an agreement substantially in the form of Annex III hereto;

(h) To pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) under the Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Act;

(i) To use the net proceeds received by it from the sale of the Securities pursuant to this Agreement in the manner specified in the Pricing Prospectus under the caption "Use of Proceeds";

(j) To use its reasonable best efforts to list, within 30 days of the First Time of Delivery, subject to notice of issuance, the Securities on the New York Stock Exchange (the "NYSE") and the Maximum Issuable Shares;

(k) To keep reserved and available at all times, free of preemptive rights, the Maximum Issuable Shares;

(l) Between the date hereof and the First Time of Delivery, not to do or authorize any act or thing that would result in an adjustment of the fixed settlement rates of the Purchase Contracts; and

(m) Upon request of any Underwriter, to furnish, or cause to be furnished, to such Underwriter an electronic version of the Company's trademarks, servicemarks and corporate logo for use on the website, if any, operated by such Underwriter for the purpose of facilitating the on-line offering of the Securities (the "License"); provided, however, that the License shall be used solely for the purpose described above, is granted without any fee and may not be assigned or transferred.

6.

(a) (i) The Company represents and agrees that, other than the final term sheet prepared and filed pursuant to Section 5(a) hereof, without the prior consent of the Representatives, it has not made and will not make any offer relating to the Securities that would constitute a "free writing prospectus" as defined in Rule 405 under the Act; (ii) each Underwriter represents and agrees that, other than one or more term sheets relating to the Securities containing customary information (which, in their final form, will not be inconsistent with the final term sheet) and conveyed to purchasers of Securities, without the prior consent of the Company and the Representatives, it has not made and will not make any offer relating to the Securities that would constitute a free writing prospectus required to be filed with the Commission; (iii) any such free writing prospectus the use of which has been consented to by the Company and the Representatives is listed on Schedule II(a) or Schedule II(c) hereto;

(b) The Company has complied and will comply with the requirements of Rule 433 under the Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and

(c) The Company agrees that if at any time following issuance of an Issuer Free Writing Prospectus any event occurred or occurs as a result of which such Issuer Free Writing Prospectus would conflict with the information in the Registration Statement, the Pricing Prospectus or the Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, the Company will give prompt notice thereof to the Representatives and, if requested by the Representatives, will prepare and furnish without charge to each Underwriter an Issuer Free Writing Prospectus or other document which will correct such conflict, statement or omission; provided, however, that this representation and warranty shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with the Underwriter Information.

7. The Company covenants and agrees with the several Underwriters that the Company will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company's counsel and accountants and the Acquired Company's accountants in connection with the registration of the Securities and the Issuable Stock under the Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers; (ii) the cost of printing or producing any Agreement among Underwriters, any of the Units Transaction Documents and any of the Other Transaction Documents (including any compilations thereof), the Blue Sky Memorandum, and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) all expenses in connection with the qualification of the Securities for offering and sale under state securities laws as provided in Section 5(d) hereof, including the fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky survey; (iv) any fees charged by securities rating services for rating the Securities; (v) all fees and expenses in connection with the preparation and filing of the registration statement on Form 8-A relating to the Securities and all fees and expenses in connection with listing the Securities and the Issuable Stock on the NYSE; (vi) the filing fees incident to, and the fees and disbursements of counsel for the Underwriters in connection with, any required review by the Financial Industry Regulatory Authority ("FINRA") of the terms of the sale of the Securities; (vii) the cost of preparing the Securities; (viii) the costs and expenses of the Company in connection with any "road show" presentation to potential investors; provided that the expenses related to the chartering of any airplanes shall be paid 50% by the Company and 50% by the Underwriters; (ix) the cost and charges of any transfer agent or registrar; (x) the fees and expenses of the Trustee and the fees and disbursements of counsel for the Trustee in connection with the Indenture and the Securities; (xi) the fees and expenses of the Purchase Contract Agent in connection with the Purchase Contract Agreement and the Securities; and (xii) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section. It is understood, however, that, except as provided in this Section, and Sections 9 and 12 hereof, the Underwriters will pay all of their own costs and expenses, including the fees of their counsel, transfer taxes on resale of any of the Securities by them, and any advertising expenses connected with any offers they may make.

8. The obligations of the Underwriters hereunder, as to the Securities to be delivered at each Time of Delivery, shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of the Applicable Time and such Time of Delivery, true and correct, the condition that the Company shall have performed all of its obligations hereunder theretofore to be performed, and the following additional conditions:

(a) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; all material required to be filed by the Company pursuant to Rule 433(d) under the Act shall have been filed with the Commission within the applicable time period prescribed for such filings by Rule 433; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose or pursuant to Section 8A of the Act shall have been initiated or threatened by the Commission and no notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act shall have been received; no stop order suspending or preventing the use of the Preliminary Prospectus, Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Cravath, Swaine & Moore LLP, counsel for the Underwriters, shall have furnished to you their written opinion and negative assurance letter, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you, with respect to such matters as you may reasonably request, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters;

(c) Simpson Thacher & Bartlett LLP, counsel for the Company, shall have furnished to you their written opinion and negative assurance letter, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you;

(d) Ballard Spahr LLP, special Pennsylvania counsel for the Company, shall have furnished to you their written opinion, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you;

(e) Christopher P. Luning, Senior Vice President, General Counsel and Secretary for the Company (or his successor), shall have furnished to you his written opinion, dated such Time of Delivery and addressed to the Underwriters, in form and substance reasonably satisfactory to you;

(f) On the date of the Prospectus at a time prior to the execution of this Agreement, at 9:30 a.m., New York City time, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at each Time of Delivery, each of (i) PricewaterhouseCoopers LLP and (ii) Deloitte & Touche LLP shall have furnished to you their respective letter or letters, dated the respective dates of delivery thereof, in form and substance reasonably satisfactory to you, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to financial statements and certain financial information contained or incorporated by reference in each of the Registration Statement, the Pricing Prospectus and the Prospectus; provided, however, that the letters delivered at each Time of Delivery shall, in each case, use a "cut-off" date no more than three business days prior to such Time of Delivery;

(g) (i) Neither the Company nor any of its subsidiaries shall have sustained since the date of its latest audited financial statements included or incorporated by reference in the Pricing Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Pricing Prospectus, and (ii) since the respective dates as of which information is given in the Pricing Prospectus, there shall not have been any change in or affecting the business, financial position, prospects or results of operations of (A) the Company and its subsidiaries, taken as a whole, or (B) the Company and its subsidiaries assuming the consummation of the Acquisition, otherwise than as set forth or contemplated in the Pricing Prospectus and the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is in your judgment so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(h) On or after the Applicable Time (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by S&P Global Ratings, a division of S&P Global Inc., to lower than "BBB+" or Moody's Investors Services, Inc. to lower than "Baa2", and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities;

(i) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the NYSE; (ii) a suspension or material limitation in trading in the Company's securities on the NYSE; (iii) a general moratorium on commercial banking activities declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in your judgment makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(j) An application for the listing of the Securities and the Issuable Stock shall have been submitted to the NYSE, and satisfactory evidence of such shall have been provided to the Representatives, and the Issuable Stock shall have been approved for listing, subject to notice of issuance, on the NYSE;

(k) The executed agreements from each of the officers, director nominees and directors of the Company set forth in Annex II hereof, in each case to the effect set forth in Annex III hereof, were delivered to the Underwriters on the date hereof; provided, for the avoidance of doubt, that the executed agreements delivered by such persons in connection with the Equity Offering satisfy the requirements of this Section 8(k);

(l) The Company shall have furnished or caused to be furnished to you at such Time of Delivery, certificates reasonably satisfactory to the Representatives of the President or any Vice President and a principal financial or accounting officer of the Company, in their capacity as such and not personally, to the effect that (A) the representations and warranties of the Company in this Agreement are, at and as of the Applicable Time and such Time of Delivery, true and correct in all respects, (B) the Company has complied in all respects with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to such Time of Delivery and (C) subsequent to the date of the most recent financial statements of the Company in the Pricing Disclosure Package and the Prospectus, there has been no material adverse change in the business, financial condition, prospects or results of operations of the Company and its subsidiaries taken as a whole except as set forth or contemplated by the Pricing Disclosure Package and the Prospectus; and

(m) At the First Time of Delivery, each of the Units Transaction Documents shall have been executed and delivered by each of the parties thereto, and the Representatives shall have received copies of such executed Units Transaction Documents.

9. (a) The Company will indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, any "roadshow" as defined in Rule 433(h) under the Act (a "roadshow") or any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Act, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, in reliance upon and in conformity with the Underwriter Information.

(b) Each Underwriter will, severally and not jointly, indemnify and hold harmless the Company against any losses, claims, damages or liabilities to which the Company may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow in reliance upon and in conformity with the Underwriter Information; and will reimburse the Company for any legal or other expenses reasonably incurred by the Company in connection with investigating or defending any such action or claim as such expenses are incurred. As used in this Agreement with respect to an Underwriter and an applicable document, "Underwriter Information" shall mean the written information furnished to the Company by such Underwriter through the Representatives expressly for use therein; it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: the information contained in the third and eleventh paragraphs under the caption "Underwriting".

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; provided that the failure to notify the indemnifying party shall not relieve it from any liability that it may have under the preceding paragraphs of this Section 9 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under the preceding paragraphs of this Section 9. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (c) above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 9 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of each Underwriter, each person, if any, who controls any Underwriter within the meaning of the Act and each broker-dealer affiliate of any Underwriter; and the obligations of the Underwriters under this Section 9 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company and to each person, if any, who controls the Company within the meaning of the Act.

10. (a) If any Underwriter shall default in its obligation to purchase the Securities which it has agreed to purchase hereunder at a Time of Delivery, you may in your discretion arrange for you or another party or other parties to purchase such Securities on the terms contained herein. If within thirty six hours after such default by any Underwriter you do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of thirty six hours within which to procure another party or other parties satisfactory to you to purchase such Securities on such terms. In the event that, within the respective prescribed periods, you notify the Company that you have so arranged for the purchase of such Securities, or the Company notifies you that it has so arranged for the purchase of such Securities, you or the Company shall have the right to postpone such Time of Delivery for a period of not more than seven days, in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments or supplements to the Registration Statement or the Prospectus which in your opinion may thereby be made necessary. The term "Underwriter" as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Securities.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased does not exceed one eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of Securities which such Underwriter agreed to purchase hereunder at such Time of Delivery and, in addition, to require each non-defaulting Underwriter to purchase its pro rata share (based on the number of Securities which such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by you and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased exceeds one eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, or if the Company shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Securities of a defaulting Underwriter or Underwriters, then this Agreement (or, with respect to the Second Time of Delivery, the obligations of the Underwriters to purchase and of the Company to sell the Optional Securities) shall thereupon terminate, without liability on the part of any non-defaulting Underwriter or the Company, except for the expenses to be borne by the Company and the Underwriters as provided in Section 7 hereof and the indemnity and contribution agreements in Section 9 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

11. The respective indemnities, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter, any officer or director or controlling person of any Underwriter, any broker-dealer affiliate of any Underwriter, or the Company, or any officer or director or controlling person of the Company, and shall survive delivery of and payment for the Securities.

12. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall not then be under any liability to any Underwriter except as provided in Sections 7 and 9 hereof; but, if for any other reason, any Securities are not delivered by or on behalf of the Company as provided herein, the Company will reimburse the Underwriters through you for all out of pocket expenses approved in writing by you, including fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Securities not so delivered, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 7 and 9 hereof.

13. In all dealings hereunder, you shall act on behalf of each of the Underwriters, and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by you.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail, telex or facsimile transmission to the Representatives in care of RBC Capital Markets, LLC, 200 Vesey Street, 8th Floor, New York, New York 10281, Fax: (212) 428-6260, Attention: Michael Goldberg, Syndicate Directors and Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282-2198, Attention: Registration Department; and if to the Company shall be delivered or sent by mail, telex or facsimile transmission to the address of the Company set forth in the Registration Statement, Attention: Secretary; provided, however, that any notice to an Underwriter pursuant to Section 9(c) hereof shall be delivered or sent by mail, telex or facsimile transmission to such Underwriter at its address set forth in its Underwriters' Questionnaire, or telex constituting such Questionnaire, which address will be supplied to the Company by you upon request. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the underwriters to properly identify their respective clients.

14. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters, the Company and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Company or any Underwriter, each person who controls the Company or any Underwriter and any broker-dealer affiliate of any Underwriter, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

15. Time shall be of the essence of this Agreement. As used herein, the term "business day" shall mean any day when the Commission's office in Washington, D.C. is open for business.

16. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other, (ii) in connection therewith and with the process leading to such transaction each Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) no Underwriter has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement and (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company agrees that it will not claim that the Underwriters, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

17. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Underwriters, or any of them, with respect to the subject matter hereof; provided, however, that the Engagement Letter shall remain in full force and effect to the extent provided in accordance with the terms thereof.

18. **This Agreement and any transaction contemplated by this Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Company agrees that any suit or proceeding arising in respect of this Agreement or any transaction contemplated by this Agreement will be tried exclusively in the U.S. District Court for the Southern District of New York or, if that court does not have subject matter jurisdiction, in any state court located in The City and County of New York and the Company agrees to submit to the jurisdiction of, and to venue in, such courts.**

19. The Company and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the Units Transactions.

20. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.

21. Notwithstanding anything herein to the contrary, the Company is authorized to disclose to any persons the U.S. federal and state income tax treatment and tax structure of the potential transaction and all materials of any kind (including tax opinions and other tax analyses) provided to the Company relating to that treatment and structure, without the Underwriters' imposing any limitation of any kind. However, any information relating to the tax treatment and tax structure shall remain confidential (and the foregoing sentence shall not apply) to the extent necessary to enable any person to comply with securities laws. For this purpose, "tax structure" is limited to any facts that may be relevant to that treatment.

22. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(c) As used in this section:

"BHC Act Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

“Covered Entity” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

[Signature Page Follows]

If the foregoing is in accordance with your understanding, please sign and return to us six counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Underwriters, this letter and such acceptance hereof shall constitute a binding agreement between each of the Underwriters and the Company. It is understood that your acceptance of this letter on behalf of each of the Underwriters is pursuant to the authority set forth in a form of Agreement among Underwriters, the form of which shall be submitted to the Company for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

Aqua America, Inc.

By: /s/ Christopher P. Luning

Name: Christopher P. Luning

Title: Executive Vice President, General
Counsel and Secretary

Accepted as of the date hereof:

RBC Capital Markets, LLC

By: /s/ Suvir Thadani

Name: Suvir Thadani

Title: Managing Director

Goldman Sachs & Co. LLC

By: /s/ Daniel Young

Name: Daniel Young

Title: Managing Director

On behalf of each of the Underwriters

[Signature Page to Underwriting Agreement (TEU)]

SCHEDULE I

<u>Underwriter</u>	<u>Total Number of Firm Securities to be Purchased</u>	<u>Number of Optional Securities to be Purchased if Maximum Option Exercised</u>
RBC Capital Markets, LLC	3,630,000	544,500
Goldman Sachs & Co. LLC	3,630,000	544,500
Merrill Lynch, Pierce, Fenner & Smith Incorporated	847,905	127,185
Morgan Stanley & Co. LLC	847,905	127,185
Wells Fargo Securities, LLC	593,533	89,030
PNC Capital Markets LLC	729,198	109,380
Barclays Capital Inc.	593,533	89,030
Citizens Capital Markets, Inc.	203,497	30,525
The Huntington Investment Company	203,497	30,525
MUFG Securities Americas Inc.	203,497	30,525
J.P. Morgan Securities LLC	138,717	20,808
TD Securities (USA) LLC	138,717	20,808
Robert W. Baird & Co. Incorporated	60,000	9,000
Boenning & Scattergood, Inc.	60,000	9,000
HSBC Securities (USA) Inc.	60,000	9,000
Janney Montgomery Scott LLC	60,001	8,999
Total	<u>12,000,000</u>	<u>1,800,000</u>

Schedule I – 1

SCHEDULE II

(a) Issuer Free Writing Prospectuses not included in the Pricing Disclosure Package:

1. Electronic roadshow dated April 15, 2019

(b) Additional Documents Incorporated by Reference: None.

(c) Issuer Free Writing Prospectus included in the Pricing Disclosure Package:

1. Final term sheet, dated as of the date hereof, prepared and filed pursuant to Section 5(a) of the Agreement, in the form attached hereto as Annex I.

FORM OF TERM SHEET

Annex I – 1

DIRECTORS, DIRECTOR NOMINEES AND OFFICERS SUBJECT TO LOCK-UPS

1. Christopher H. Franklin
2. Elizabeth B. Amato
3. Carolyn J. Burke
4. Nicholas DeBenedictis
5. William P. Hankowsky
6. Daniel J. Hilferty
7. Ellen T. Ruff
8. Lee C. Stewart
9. Christopher C. Womack
10. Richard S. Fox
11. Christopher P. Luning
12. Daniel J. Schuller
13. Matthew Rhodes
14. Robert Rubin

FORM OF LOCK-UP AGREEMENT

[●], 2019

RBC Capital Markets, LLC,
Goldman Sachs & Co. LLC,

As representatives of the several Underwriters
to be named in Schedule I to the Underwriting Agreement,

c/o RBC Capital Markets, LLC,
200 Vesey Street,
New York, New York 10281.

c/o Goldman Sachs & Co. LLC,
200 West Street,
New York, New York 10282.

Ladies and Gentlemen:

The undersigned understands that RBC Capital Markets, LLC and Goldman Sachs & Co. LLC,, as representatives of the several Underwriters (as defined below) (the "Representatives"), propose to enter into an underwriting agreement (the "Underwriting Agreement") with Aqua America, Inc., a Pennsylvania corporation (the "Company"), providing for the public offering (the "Offering") by the several Underwriters to be named in Schedule I to the Underwriting Agreement, including the Representatives (the "Underwriters"), of tangible equity units (the "Securities") of the Company. The common stock, par value \$0.50 per share, of the Company is referred to herein as the "Stock". Capitalized terms used and not defined herein shall have the meanings set forth in the Underwriting Agreement.

To induce the potential underwriters that may participate in the Offering to continue their efforts in connection with the Offering, the undersigned agrees, during the period beginning from the date hereof and continuing to and including the date 90 days after the date of the final prospectus used to sell the Securities (the "Restricted Period"), not to (a) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, including by entry into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock, directly or indirectly, any securities of the Company that are substantially similar to the Stock, including but not limited to any options, rights or warrants to purchase shares of Stock or any securities that are convertible into or exchangeable for, or that represent the right to receive, Stock or any such other securities, whether any such transaction is to be settled by delivery of Stock, in cash or otherwise (collectively, "Restricted Securities"), whether now owned or hereinafter acquired and whether owned directly by the undersigned or with respect to which the undersigned otherwise has beneficial ownership (as such term is used in Rule 13d-3 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") or (b) publicly disclose the intention to take any of the actions contemplated by clause (a) above, in each case without the prior written consent of RBC Capital Markets, LLC and Goldman Sachs & Co. LLC. The foregoing sentence shall not apply to:

(i) receipt by the undersigned from the Company of Stock, or any securities convertible into or exchangeable for Stock, pursuant to employee equity or equity-based incentive plans, employee stock purchase plans or dividend reinvestment plans existing on, or upon the conversion or exchange of convertible or exchangeable securities outstanding as of, the date of this Agreement and described in the Pricing Prospectus and the Prospectus; provided that, for the avoidance of doubt, any such Stock or securities received by the undersigned shall be subject to all of the restrictions set forth in this agreement;

(ii) transfers of Stock, or any securities convertible into or exchangeable for Stock, as a bona fide gift to immediate family members of the undersigned or to a trust the beneficiaries of which are exclusively the undersigned or immediate family members of the undersigned;

(iii) transfers of Stock, or any securities convertible into or exchangeable for Stock, by will or intestacy or by operation of law pursuant to a qualified domestic order or in connection with a divorce settlement;

(iv) the establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of Stock, *provided* that such plan does not provide for the transfer of Stock during the Restricted Period;

(v) transfers (including following the exercise of Company stock options) made in accordance with the terms of a 10b5-1 Plan in existence as of the date hereof without any further amendment or modification, *provided* that no filing under Section 16(a) of the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with such transfers, other than a filing on Form 4 which shall indicate that the sale was made pursuant to such a 10b5-1 Plan;

(vi) transfers resulting from the sales of the undersigned's shares held as of the date hereof through the Company's 401(k) plan existing on the date of this Agreement and described in the Pricing Prospectus and the Prospectus pursuant to portfolio balancing opportunities provided by the terms of such 401(k) plan, *provided* that no filing under Section 16(a) of the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with such transfers, other than a filing on Form 4 that indicates that the transfer was of shares held through such 401(k) plan pursuant to such portfolio balancing opportunities;

(vii) transfers to the Company resulting from the forfeiture, cancellation, withholding, surrender or delivery of the undersigned's shares of Stock to satisfy any income, employment or social security tax withholding or remittance obligations in connection with the vesting during the period of the agreement above of any restricted stock unit, restricted shares, performance share unit or phantom shares, *provided* that no filing under Section 16(a) of the Exchange Act or other public announcement shall be required or shall be made voluntarily in connection with such forfeiture, cancellation, withholding, surrender or delivery, other than a filing on Form 4 that indicates that the transfer was made to satisfy such income, employment or social security tax withholding or remittance obligations;

(viii) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (ii) and (iii);

(ix) to the Company in connection with the repurchase of the undersigned's Stock upon termination of service of the undersigned;

(x) to the Company or its subsidiaries upon death, disability or termination of employment, in each case, of the undersigned;

(xi) to the Company or its subsidiaries (a) in the exercise of outstanding options, warrants, restricted stock units or other equity interests, including transfers deemed to occur upon the "net" or "cashless" exercise of options or (b) for the sole purpose of paying the exercise price of such options, warrants, restricted stock units or other equity interests or for paying taxes (including estimated taxes) due as a result of the exercise of such options, warrants, restricted stock units or other equity interests or as a result of the vesting of Stock under restricted stock awards pursuant to employee benefit plans disclosed in the Prospectus relating to this public offering, in each case on a "cashless" or "net exercise" basis, provided that any such Stock received upon such exercise shall be subject to the terms of this Lock-Up Agreement;

(xii) the repurchase of the undersigned's Stock by the Company;

(xiii) pursuant to tenders, sales or other transfers pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction made to all holders of Stock involving a "change of control" of the Company (provided that if such transaction is not consummated, the undersigned's Restricted Securities shall remain subject to the restrictions set forth herein);

(xiv) pursuant to the exercise for cash of options to purchase Stock disclosed as outstanding in the Registration Statement and the Prospectus, provided that any such Stock received upon such exercise shall be subject to the terms of this Lock-Up Agreement;

(xv) the disposition of Stock acquired by the undersigned in this public offering or in open market transactions after completion of this public offering; and/or

(xvi) transfers of Stock or other Company securities pursuant to an order of a court or regulatory agency (for purposes of this Lock-Up Agreement, a "court or regulatory agency" means any domestic or foreign, federal, state or local government, including any political subdivision thereof, any governmental or quasi-governmental authority, department, agency or official, any court or administrative body, and any national securities exchange or similar self-regulatory body or organization, in each case of competent jurisdiction) or to comply with any regulations related to ownership by the undersigned of the undersigned's Stock;

provided that, (A) in the case of any transfer pursuant to clause (ii) or (iii), each donee or transferee shall sign and deliver a lock-up letter, substantially in the form of this letter, with respect to such Stock and securities and (B) in the case of any transfer pursuant to clause (ii) or any establishment pursuant to clause (iv), no public filing or other public announcement related thereto shall be required or shall be voluntarily made during the Restricted Period.

In addition, the undersigned agrees, during the Restricted Period, not to make any demand for or exercise any right with respect to, the registration of any Restricted Securities. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the undersigned's Restricted Securities except in compliance with the foregoing restrictions.

The undersigned understands that the Company and the Underwriters are relying upon this agreement in proceeding toward consummation of the Offering. The undersigned further understands that this agreement is irrevocable and shall be binding upon the undersigned's heirs, legal representatives, successors and assigns. The undersigned represents and warrants that it has the full power and authority to enter this agreement.

Whether or not the Offering actually occurs depends on a number of factors, including market conditions. Any Offering will only be made pursuant to an Underwriting Agreement, the terms of which are subject to negotiation between the Company and the Underwriters. The undersigned understands that, if the Underwriting Agreement shall terminate or be terminated prior to payment for and delivery of the Firm Securities to be sold thereunder, the undersigned shall automatically be released from all obligations under this agreement.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Signature page follows]

Very truly yours,

(Name)

(Address)

Annex III – 5

PURCHASE CONTRACT AGREEMENT

Dated as of April 23, 2019

between

AQUAAMERICA, INC.

and

**U.S. BANK N.A.,
as Purchase Contract Agent,
as Attorney-in-Fact for the Holders from time to time as provided herein
and as Trustee under the Indenture referred to herein**

TABLE OF CONTENTS

Page

ARTICLE I DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

<u>SECTION 1.01. Definitions</u>	1
<u>SECTION 1.02. Compliance Certificates and Opinions</u>	12
<u>SECTION 1.03. Notices</u>	13
<u>SECTION 1.04. Effect of Headings and Table of Contents</u>	13
<u>SECTION 1.05. Successors and Assigns</u>	14
<u>SECTION 1.06. Separability Clause</u>	14
<u>SECTION 1.07. Benefits of Agreement</u>	14
<u>SECTION 1.08. Governing Law</u>	14
<u>SECTION 1.09. Conflict with Indenture</u>	14
<u>SECTION 1.10. Legal Holidays</u>	14
<u>SECTION 1.11. Counterparts</u>	14
<u>SECTION 1.12. Inspection of Agreement</u>	14
<u>SECTION 1.13. Calculations</u>	14
<u>SECTION 1.14. UCC</u>	15
<u>SECTION 1.15. Waiver of Jury Trial</u>	15

ARTICLE II UNIT AND PURCHASE CONTRACT FORMS

<u>SECTION 2.01. Forms of Units and Purchase Contracts Generally</u>	15
<u>SECTION 2.02. Form of Certificate of Authentication</u>	16
<u>SECTION 2.03. Global Securities; Separation of Units</u>	16
<u>SECTION 2.04. Recreation of Units</u>	17

ARTICLE III THE UNITS AND PURCHASE CONTRACTS

<u>SECTION 3.01. Amount and Denominations</u>	17
<u>SECTION 3.02. Rights and Obligations Evidenced by the Equity-Linked Securities</u>	18
<u>SECTION 3.03. Execution, Authentication, Delivery and Dating</u>	18
<u>SECTION 3.04. Temporary Equity-Linked Securities</u>	18
<u>SECTION 3.05. Registration; Registration of Transfer and Exchange</u>	19
<u>SECTION 3.06. Book-Entry Interests</u>	20
<u>SECTION 3.07. Notices to Holders</u>	20
<u>SECTION 3.08. Appointment of Successor Depositary</u>	20
<u>SECTION 3.09. Definitive Securities</u>	21
<u>SECTION 3.10. Mutilated, Destroyed, Lost and Stolen Securities</u>	21
<u>SECTION 3.11. Persons Deemed Owners</u>	22
<u>SECTION 3.12. Cancellation</u>	23

ARTICLE IV SETTLEMENT OF THE PURCHASE CONTRACTS

<u>SECTION 4.01. Mandatory Settlement Rate</u>	24
--	----

<u>SECTION 4.02. Representations and Agreements of Holders</u>	24
<u>SECTION 4.03. Purchase Contract Settlement Fund</u>	25
<u>SECTION 4.04. Settlement Conditions</u>	25
<u>SECTION 4.05. Mandatory Settlement on the Mandatory Settlement Date</u>	25
<u>SECTION 4.06. Early Settlement</u>	26
<u>SECTION 4.07. Early Settlement Upon a Fundamental Change</u>	27
<u>SECTION 4.08. Early Mandatory Settlement at the Company's Election</u>	29
<u>SECTION 4.09. Acquisition Termination Redemption</u>	30
<u>SECTION 4.10. Acceleration of Mandatory Settlement Date</u>	32
<u>SECTION 4.11. Registration of Underlying Shares and Transfer Taxes</u>	33
<u>SECTION 4.12. Return of Purchase Contract Settlement Fund</u>	33
<u>SECTION 4.13. No Fractional Shares</u>	33

[ARTICLE V](#) [ADJUSTMENTS](#)

<u>SECTION 5.01. Adjustments to the Fixed Settlement Rates</u>	34
<u>SECTION 5.02. Reorganization Events</u>	42

[ARTICLE VI](#) [CONCERNING THE HOLDERS OF PURCHASE CONTRACTS](#)

<u>SECTION 6.01. Evidence of Action Taken by Holders</u>	44
<u>SECTION 6.02. Proof of Execution of Instruments and of Holding of Securities</u>	44
<u>SECTION 6.03. Purchase Contracts Deemed Not Outstanding</u>	45
<u>SECTION 6.04. Right of Revocation of Action Taken</u>	45
<u>SECTION 6.05. Record Date for Consents and Waivers</u>	45

[ARTICLE VII](#) [REMEDIES](#)

<u>SECTION 7.01. Unconditional Right of Holders to Receive Shares of Common Stock</u>	46
<u>SECTION 7.02. Notice To Purchase Contract Agent; Limitation On Proceedings</u>	46
<u>SECTION 7.03. Restoration of Rights and Remedies</u>	46
<u>SECTION 7.04. Rights and Remedies Cumulative</u>	46
<u>SECTION 7.05. Delay or Omission Not Waiver</u>	46
<u>SECTION 7.06. Undertaking for Costs</u>	47
<u>SECTION 7.07. Waiver of Stay or Execution Laws</u>	47
<u>SECTION 7.08. Control by Majority</u>	47

[ARTICLE VIII](#) [THE PURCHASE CONTRACT AGENT AND TRUSTEE](#)

<u>SECTION 8.01. Certain Duties and Responsibilities</u>	47
<u>SECTION 8.02. Notice of Default</u>	48
<u>SECTION 8.03. Certain Rights of Purchase Contract Agent</u>	48
<u>SECTION 8.04. Not Responsible for Recitals</u>	50
<u>SECTION 8.05. May Hold Units and Purchase Contracts</u>	50
<u>SECTION 8.06. Money Held in Custody</u>	50
<u>SECTION 8.07. Compensation, Reimbursement and Indemnification</u>	51
<u>SECTION 8.08. Corporate Purchase Contract Agent Required; Eligibility</u>	51

<u>SECTION 8.09. Resignation and Removal; Appointment of Successor</u>	51
<u>SECTION 8.10. Acceptance of Appointment by Successor</u>	52
<u>SECTION 8.11. Merger; Conversion; Consolidation or Succession to Business</u>	53
<u>SECTION 8.12. Preservation of Information; Communications to Holders</u>	53
<u>SECTION 8.13. No Other Obligations of Purchase Contract Agent or Trustee</u>	53
<u>SECTION 8.14. Tax Compliance</u>	53

ARTICLE IX SUPPLEMENTAL AGREEMENTS

<u>SECTION 9.01. Supplemental Agreements Without Consent of Holders</u>	54
<u>SECTION 9.02. Supplemental Agreements with Consent of Holders</u>	54
<u>SECTION 9.03. Execution of Supplemental Agreements</u>	55
<u>SECTION 9.04. Effect of Supplemental Agreements</u>	55
<u>SECTION 9.05. Reference to Supplemental Agreements</u>	55
<u>SECTION 9.06. Notice of Supplemental Agreements</u>	55

ARTICLE X CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

<u>SECTION 10.01. Covenant Not to Consolidate, Merge, Convey, Transfer or Lease Property Except Under Certain Conditions</u>	56
<u>SECTION 10.02. Rights and Duties of Successor Entity</u>	56
<u>SECTION 10.03. Officer's Certificate and Opinion of Counsel Given to Purchase Contract Agent</u>	56

ARTICLE XI COVENANTS OF THE COMPANY

<u>SECTION 11.01. Performance Under Purchase Contracts</u>	57
<u>SECTION 11.02. Maintenance of Office or Agency</u>	57
<u>SECTION 11.03. Statements of Officers of the Company as to Default; Notice of Default</u>	57
<u>SECTION 11.04. [Reserved]</u>	57
<u>SECTION 11.05. Company to Reserve Common Stock</u>	57
<u>SECTION 11.06. Covenants as to Common Stock</u>	57
<u>SECTION 11.07. Tax Treatment</u>	58
<u>SECTION 11.08. Patriot Act</u>	58

<u>Exhibit A – Form of Unit</u>	
<u>Exhibit B – Form of Purchase Contract</u>	

PURCHASE CONTRACT AGREEMENT, dated as of April 23, 2019 between AQUA AMERICA, INC., a Pennsylvania corporation (the “**Company**”) and U.S. BANK N.A., a national banking association acting as purchase contract agent and attorney-in-fact for the Holders of Purchase Contracts (as defined herein) from time to time (the “**Purchase Contract Agent**”) and as trustee under the Indenture (as defined herein).

RECITALS OF THE COMPANY

The Company has duly authorized the execution and delivery of this Agreement and the Units and Purchase Contracts issuable hereunder.

All things necessary to make the Units and the Purchase Contracts, when such are executed by the Company, and authenticated on behalf of the Holders and delivered by the Purchase Contract Agent, as provided in this Agreement, the valid obligations of the Company and to constitute this Agreement a valid agreement of the Company, in accordance with its terms, have been done. For and in consideration of the premises and the purchase of the Units (including the constituent parts thereof) by the Holders thereof, it is mutually agreed as follows:

ARTICLE I DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 1.01. Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular, and nouns and pronouns of the masculine gender include the feminine and neuter genders;

(b) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in the United States in effect as of the date hereof;

(c) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Exhibit or other subdivision; and

(d) the following terms have the meanings given to them in this Section 1.01(d):

“**Acceleration Date**” has the meaning set forth in Section 4.10.

“**Acquisition**” means the acquisition of all of the issued and outstanding limited liability company membership interests of LDC Funding LLC (“LDC”) by the Company, pursuant to the Acquisition Agreement.

“**Acquisition Agreement**” means the Purchase Agreement, dated as of October 22, 2018, between the Company and LDC Parent LLC, a limited liability company organized under the laws of the State of Delaware, as the same may be amended from time to time.

“**Acquisition Redemption Notice**” has the meaning set forth in Section 4.09(a).

“**Acquisition Redemption Rate**” has the meaning set forth in Section 4.09(c)(ii).

“Acquisition Redemption Settlement Date” means, with respect to any Acquisition Termination Redemption: (i) if (x) the Acquisition Termination Stock Price is greater than the Reference Price and (y) the Company elects to pay cash in lieu of delivering any or all shares of Common Stock that would otherwise be included in the Redemption Amount, the second Business Day following the last Trading Day of the 20 consecutive Trading Day period used to determine the Redemption Market Value; or (ii) otherwise, the Scheduled Acquisition Redemption Settlement Date specified in the Acquisition Redemption Notice.

“Acquisition Termination Redemption” has the meaning set forth in Section 4.09(a).

“Acquisition Termination Stock Price” means the arithmetic average of the VWAPs of the Common Stock over the five consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of the related Acquisition Redemption Notice.

“Affiliate” means, when used with reference to a specified Person, any Person directly or indirectly controlling, or controlled by or under direct or indirect common control with the Person specified.

“Agreement” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more agreements supplemental hereto entered into pursuant to the applicable provisions hereof.

“Applicable Market Value” (i) with respect to Common Stock, means the arithmetic average of the VWAPs of the Common Stock over the Mandatory Settlement Period, subject to adjustment as provided in Article V and (ii) with respect to any Exchange Property, has the meaning set forth in Section 5.02(a).

“Applicants” has the meaning set forth in Section 8.12(b).

“Averaging Period” has the meaning set forth in Section 5.01(a)(v).

“Bankruptcy Event” means the occurrence of one or more of the following events:

(a) a decree or order by a court having jurisdiction in the premises shall have been entered adjudging the Company a bankrupt or insolvent entity, or approving as properly filed a petition seeking reorganization of the Company under any Bankruptcy Law and if such decree or order shall have been entered more than 90 days prior to the last Trading Day of the 20 consecutive Trading Day period during which the Applicable Market Value is determined, such decree or order shall have continued undischarged and unstayed for a period of 90 days;

(b) a decree or order by a court having jurisdiction in the premises for the appointment of a receiver or liquidator or trustee or assignee (or other similar official) in bankruptcy or insolvency of the Company or of all or substantially all of its property, or for the winding up or liquidation of its affairs, shall have been entered and if such decree or order shall have been entered more than 90 days prior to the last Trading Day of the 20 consecutive Trading Day period during which the Applicable Market Value is determined, such decree or order shall have continued undischarged and unstayed for a period of 90 days; or

(c) the Company shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization under any Bankruptcy Law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or liquidator or trustee or assignee (or other similar official) in bankruptcy or insolvency of it or of its property, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due.

“Bankruptcy Law” means title 11 of the United States Code, as amended, or any similar federal or state law for the relief of debtors.

“Beneficial Holder” means, with respect to a Book-Entry Interest, a Person who is the beneficial owner of such Book-Entry Interest as reflected on the books of the Depositary or on the books of a Person maintaining an account with the Depositary (directly as a Depositary Participant or as an indirect participant, in each case in accordance with the rules of the Depositary).

“Board of Directors” means the board of directors of the Company or any duly authorized committee of that board or any director or directors and/or, with respect to the Notes, any officer or officers to whom that board or committee shall have duly delegated its authority.

“Board Resolution” means (a) one or more resolutions, certified by the secretary or an assistant secretary of the Company to have been duly adopted or consented to by the Board of Directors and to be in full force and effect, or (b), with respect to the Notes, a certificate signed by the director or directors and/or officer or officers to whom the Board of Directors or any duly authorized committee of that Board shall have duly delegated its authority, in each case, delivered to the Purchase Contract Agent.

“Book-Entry Interest” means a beneficial interest in a Global Security, registered in the name of a Depositary or a nominee thereof, ownership and transfers of which shall be maintained and made through book entries by such Depositary as described in Section 3.06.

“Business Day” means any day other than a Saturday, Sunday or any day on which banking institutions in New York, New York are authorized or obligated by applicable law or executive order to close or be closed.

“Capital Stock” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of or in such Person’s capital stock or other equity interests, and options, rights or warrants to purchase such capital stock or other equity interests, whether now outstanding or issued after the Issue Date.

“Clearing Agency” means an organization registered as a “Clearing Agency” pursuant to Section 17A of the Exchange Act.

“close of business” means 5:00 p.m. (New York City time).

“Closing Price” means, with respect to a share of Common Stock (or any other security) on any day, (i) the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the Relevant Stock Exchange; (ii) if the Common Stock (or any other security) is not listed for trading on a Relevant Stock Exchange on the relevant date, the last quoted bid price for the Common Stock (or such other security) in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization; or (iii) if the Common Stock (or any other security) is not so quoted, the average of the mid-point of the last bid and ask prices for the Common Stock (or such other security) on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

“**Code**” means the Internal Revenue Code of 1986 (title 26 of the United States Code), as amended from time to time.

“**Common Stock**” means the common stock, par value \$0.50 per share, of the Company as it existed on the date of this Agreement, subject to Section 5.02.

“**Company**” means the Person named as the “Company” in the first paragraph of this Agreement until a successor shall have become such pursuant to Article X, and thereafter “Company” shall mean such successor or the issuer of any Exchange Property, as the context may require.

“**Component Note**” means a Note, in global form and attached to a Global Unit, that (a) shall evidence the number of Notes specified therein that are components of the Units evidenced by such Global Unit, (b) shall be registered on the security register for the Notes in the name of the Purchase Contract Agent, as attorney-in-fact of holder(s) of the Units of which such Notes form a part, and (c) shall be held by the Purchase Contract Agent as attorney-in-fact of such holder(s), together with such Global Unit, as custodian of such Global Unit for the Depositary.

“**Component Purchase Contract**” means a Purchase Contract, in global form and attached to a Global Unit, that (a) shall evidence the number of Purchase Contracts specified therein that are components of the Units evidenced by such Global Unit, (b) shall be registered on the Security Register in the name of the Purchase Contract Agent, as attorney-in-fact of holder(s) of the Units of which such Purchase Contract forms a part, and (c) shall be held by the Purchase Contract Agent as attorney-in-fact of such holder(s), together with such Global Unit, as custodian of such Global Unit for the Depositary.

“**control**” when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “**controlling**” and “**controlled**” have meanings correlative to the foregoing.

“**Corporate Trust Office**” means the corporate trust office of the Purchase Contract Agent at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at 100 Wall Street, Suite 1600, New York, New York 10005.

“**Custodian**” means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

“**default**” means any failure to comply with terms of this Agreement or any covenant contained herein.

“**Definitive Equity-Linked Security**” means an Equity-Linked Security in definitive form.

“**Definitive Security**” means any Security in definitive form.

“**Depositary**” means a Clearing Agency that is acting as a depositary for the Equity-Linked Securities and in whose name, or in the name of a nominee of that organization, shall be registered one or more Global Securities and which shall undertake to effect book-entry transfers of the Equity-Linked Securities as contemplated by Section 3.06, Section 3.07, Section 3.08 and Section 3.09.

“**Depositary Participant**” means a broker, dealer, bank, other financial institution or other Person for whom from time to time the Depositary effects book-entry transfers of securities deposited with the Depositary.

“**Determination Date**” means each of (a) in the case of (x) a settlement of Purchase Contracts on the Mandatory Settlement Date or (y) an Acquisition Termination Redemption if the Acquisition Termination Stock Price is greater than the Reference Price and the Company elected to pay cash in lieu of any shares of Common Stock that would otherwise be included in the Redemption Amount, the last Trading Day of the 20 consecutive Trading Day period during which the Applicable Market Value or Redemption Market Value, as the case may be, is determined, (b) any Early Settlement Date, (c) any Early Mandatory Settlement Notice Date, (d) any Fundamental Change Early Settlement Date, (e) the date of any Acquisition Redemption Notice, if the Company elected (or is deemed to have elected) to settle the Redemption Amount solely by delivering shares of Common Stock, and (f) the day immediately preceding any Acceleration Date.

“**Dividend Threshold Amount**” has the meaning set forth in Section 5.01(a)(iv).

“**DTC**” means The Depository Trust Company.

“**Early Mandatory Settlement Date**” has the meaning set forth in Section 4.08(a).

“**Early Mandatory Settlement Notice**” has the meaning set forth in Section 4.08(b).

“**Early Mandatory Settlement Notice Date**” has the meaning set forth in Section 4.08(b)(ii).

“**Early Mandatory Settlement Rate**” shall be the Maximum Settlement Rate as of the Early Mandatory Settlement Notice Date, unless the Closing Price per share of the Common Stock for at least 20 Trading Days (whether or not consecutive), including the Trading Day immediately preceding the Early Mandatory Settlement Notice Date in a period of 30 consecutive Trading Days ending on, and including, the Trading Day immediately preceding the Early Mandatory Settlement Notice Date exceeds 130% of the Threshold Appreciation Price in effect on each such Trading Day, in which case the “**Early Mandatory Settlement Rate**” shall be the Minimum Settlement Rate as of the Early Mandatory Settlement Notice Date.

“**Early Mandatory Settlement Right**” has the meaning set forth in Section 4.08(a).

“**Early Settlement**” means, in respect of any Purchase Contract, that the Holder of such Purchase Contract has elected to settle such Purchase Contract early pursuant to Section 4.06 or Section 4.07, as the case may be.

“**Early Settlement Date**” has the meaning set forth in Section 4.06(c).

“**Early Settlement Notice**” has the meaning set forth in Section 4.06(b)(i).

“**Early Settlement Rate**” means, for any Purchase Contract in respect of which Early Settlement is applicable, the Minimum Settlement Rate in effect on the Early Settlement Date, unless the Holder of such Purchase Contract has elected to settle such Purchase Contract early in connection with a Fundamental Change pursuant to Section 4.07, in which case the “**Early Settlement Rate**” for such Purchase Contract means the Fundamental Change Early Settlement Rate.

“**Early Settlement Right**” has the meaning set forth in Section 4.06(a).

“**Effective Date**” has the meaning set forth in Section 4.07(d); provided, however, that for the purposes of Section 5.01, “Effective Date” means the first date on which the shares of the Common Stock trade on the Relevant Stock Exchange, regular way, reflecting the relevant share split or share combination, as applicable.

“**Equity-Linked Security**” means a Unit or a Purchase Contract, as applicable.

“**ERISA**” has the meaning set forth in Section 4.02(d)(i)(A).

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and any statute successor thereto, in each case as amended from time to time, together with the rules and regulations promulgated thereunder.

“**Exchange Property**” has the meaning set forth in Section 5.02(a).

“**Ex-Date**” when used with respect to any issuance or distribution, means the first date on which the shares of Common Stock (or other applicable security) trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution in question from the Company or, if applicable, from the seller of the Common Stock (or other applicable security) on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

“**Fair Market Value**” means, with respect to any asset, the price (after taking into account any liabilities relating to such assets) that would be negotiated in an arm’s-length transaction for cash between a willing seller and a willing and able buyer, neither of which is under any compulsion to complete the transaction, as such price is determined in good faith by the Board of Directors, as evidenced by a Board Resolution.

“**Fixed Settlement Rate**” has the meaning set forth in Section 4.01(c).

A “**Fundamental Change**” shall be deemed to have occurred upon the occurrence of any of the following:

(a) any “person” or “group” within the meaning of Section 13(d) of the Exchange Act, other than the Company, any of its Subsidiaries and any of the Company’s and its Subsidiaries’ employee benefit plans, files a Schedule TO or any other schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act) of the Common Stock representing more than 50% of the voting power of the Common Stock;

(b) the consummation of (A) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets; (B) any share exchange, consolidation or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or assets; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any person or persons other than one of the Company’s Wholly Owned Subsidiaries;

(c) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company; or

(d) the Common Stock (or other common stock receivable upon settlement of the Purchase Contracts, if applicable) ceases to be listed or quoted on any of the NYSE, the NASDAQ Global Select Market or the NASDAQ Global Market (or any of their respective successors).

A transaction or transactions described in clauses (a) or (b) above shall not constitute a Fundamental Change, however, if (i) at least 90% of the consideration received or to be received by the holders of the Common Stock (excluding cash payments for fractional shares and cash payments made in respect of dissenters' appraisal rights) in connection with such transaction or transactions consists of shares of common stock that are listed or quoted on any of the NYSE, the NASDAQ Global Select Market or the NASDAQ Global Market (or any of their respective successors), or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions, and (ii) as a result of such transaction or transactions such consideration becomes the consideration receivable upon settlement of the Purchase Contracts, if applicable, excluding cash payments for fractional shares.

If any transaction in which the Common Stock is replaced by the securities of another Person occurs, following completion of any related Fundamental Change Early Settlement Period (or, in the case of a transaction that would have been a Fundamental Change but for the immediately preceding paragraph, following the date such transaction becomes effective), references to the Company in the definition of "**Fundamental Change**" above shall instead be references to such other Person.

"**Fundamental Change Early Settlement Date**" has the meaning set forth in Section 4.07(b).

"**Fundamental Change Early Settlement Period**" has the meaning set forth in Section 4.07(a).

"**Fundamental Change Early Settlement Rate**" has the meaning set forth in Section 4.07(f).

"**Fundamental Change Early Settlement Right**" has the meaning set forth in Section 4.07(a).

"**Global Note**" means a Note, as defined in the Indenture, in global form that shall (a) evidence the number of Separate Notes specified therein, (b) be registered on the security register for the Notes in the name of the Depositary or its nominee, and (c) be held by the Trustee as custodian for the Depositary.

"**Global Purchase Contract**" means a Purchase Contract in global form that shall (a) evidence the number of Separate Purchase Contracts specified therein, (b) be registered on the Security Register in the name of the Depositary or its nominee, and (c) be held by the Purchase Contract Agent as custodian for the Depositary.

"**Global Security**" means a Global Unit, a Global Purchase Contract or a Global Note, as applicable.

"**Global Unit**" means a Unit in global form that shall (a) evidence the number of Units specified therein, (b) be registered on the Security Register in the name of the Depositary or its nominee, (c) include, as attachments thereto, a Component Note and a Component Purchase Contract, evidencing, respectively, a number of Notes and a number of Purchase Contracts, in each case, equal to the number of Units evidenced by such Unit in global form, and (d) be held by the Purchase Contract Agent as custodian for the Depositary.

"**Holder**" means, with respect to a Unit or Purchase Contract, the Person in whose name the Unit or Purchase Contract, as the case may be, is registered in the Security Register, and with respect to a Note, the Person in whose name the Note is registered as provided for in the Indenture.

“**Indenture**” means the Indenture, dated as of April 23, 2019, between the Company and the Trustee (including any provisions of the TIA that are deemed incorporated therein), as supplemented by the First Supplemental Indenture, dated as of April 23, 2019, and the Second Supplemental Indenture, to be dated as of the Issue Date, between the Company and the Trustee, pursuant to which the Notes will be issued.

“**Installment Payment Date**” has the meaning set forth in the Indenture.

“**Issue Date**” means April 23, 2019.

“**Issuer Order**” means a written statement, request or order of the Company, which is signed in its name by the chairman of the Board of Directors, the president or chief executive officer, the chief financial officer, any executive or senior vice president, any vice president or the treasurer of the Company, and delivered to the Purchase Contract Agent and/or the Trustee.

“**Mandatory Settlement Date**” means the Scheduled Mandatory Settlement Date, subject to acceleration pursuant to Section 4.10; *provided* that, if one or more of the 20 consecutive Scheduled Trading Days in the Mandatory Settlement Period is not a Trading Day, the “Mandatory Settlement Date” shall be postponed until the second Scheduled Trading Day immediately following the last Trading Day of the Mandatory Settlement Period.

“**Mandatory Settlement Period**” means the 20 consecutive Trading Day period beginning on, and including, the 21st Scheduled Trading Day immediately preceding April 30, 2022.

“**Mandatory Settlement Rate**” has the meaning set forth in Section 4.01(b).

“**Market Disruption Event**” means (i) a failure by the Relevant Stock Exchange to open for trading during its regular trading session or (ii) the occurrence or existence on the Relevant Stock Exchange prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Stock (or other security for which a VWAP or Closing Price must be determined) for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the Relevant Stock Exchange or otherwise) in the Common Stock (or such other security) or in any options contracts or futures contracts relating to the Common Stock (or such other security).

“**Maximum Settlement Rate**” has the meaning set forth under Section 4.01(b)(iii), subject to adjustment pursuant to the terms of Article V.

“**Merger Common Stock**” has the meaning set forth in Section 5.02(e)(i).

“**Merger Valuation Percentage**” for any Reorganization Event shall be equal to (x) the arithmetic average of the VWAPs of one share of such Merger Common Stock over the relevant Valuation Period (determined as if references to “Common Stock” in the definition of “VWAP” were references to the “Merger Common Stock” for such Reorganization Event), *divided by* (y) the arithmetic average of the VWAPs of one share of Common Stock over the relevant Merger Valuation Period.

“**Merger Valuation Period**” for any Reorganization Event means the five consecutive Trading Day period immediately preceding, but excluding, the effective date for such Reorganization Event.

“**Minimum Settlement Rate**” has the meaning set forth under Section 4.01(b)(i), subject to adjustment pursuant to the terms of Article V.

“Minimum Stock Price” has the meaning set forth under Section 4.07(f)(iii).

“Notes” means the series of notes designated as the 3.00% Senior Amortizing Notes due 2022 to be issued by the Company under the Indenture, and **“Note”** means each note of such series having an initial principal amount of \$8.62909.

“NYSE” means the New York Stock Exchange.

“Officer’s Certificate” means a certificate signed by the chairman of the Board of Directors, the president or chief executive officer, the chief financial officer, the treasurer, any assistant treasurer, the controller, any assistant controller, the secretary, any assistant secretary, any executive vice president, any senior vice president or any vice president of the Company. Each such certificate shall include the statements provided for in Section 1.02 if and to the extent required by the provisions of such Section 1.02.

“open of business” means 9:00 a.m. (New York City time).

“Opinion of Counsel” means an opinion in writing signed by the chief counsel of the Company or by such other legal counsel who may be an employee of or counsel to the Company and who shall be reasonably satisfactory to the Purchase Contract Agent and/or the Trustee, as applicable. Each such opinion shall include the statements provided for in Section 1.02 if and to the extent required by the provisions of such Section 1.02.

“Outstanding Purchase Contracts” means, subject to the provisions of Section 6.03, as of the date of determination, all Purchase Contracts theretofor executed, authenticated on behalf of the Holder and delivered under this Agreement (including, for the avoidance of doubt, Purchase Contracts held as a component of Units and Separate Purchase Contracts), except:

(a) Purchase Contracts theretofor cancelled by the Purchase Contract Agent or delivered to the Purchase Contract Agent for cancellation or deemed cancelled pursuant to the provisions of this Agreement; and

(b) Purchase Contracts in exchange for or in lieu of which other Purchase Contracts have been executed, authenticated on behalf of the Holder and delivered pursuant to this Agreement, other than any such Purchase Contract in respect of which there shall have been presented to the Purchase Contract Agent proof satisfactory to it that such Purchase Contract is held by a protected purchaser in whose hands the Purchase Contracts are valid obligations of the Company.

“Patriot Act” has the meaning set forth in Section 11.08.

“Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, estate, unincorporated organization or government or any agency or political subdivision thereof.

“Plan” has the meaning set forth in Section 4.02(d)(i)(C).

“Prospectus Supplement” means the preliminary prospectus supplement, dated April 15, 2019, as supplemented by the related pricing term sheet dated April 17, 2019, relating to the offering and sale of the Units.

“Purchase Contract” means a prepaid stock purchase contract obligating the Company to deliver shares of Common Stock on the terms and subject to the conditions set forth herein.

“**Purchase Contract Agent**” means the Person named as the “Purchase Contract Agent” in the first paragraph of this Agreement until a successor Purchase Contract Agent shall have become such pursuant to Article VIII, and thereafter “Purchase Contract Agent” shall mean such Person.

“**Purchase Contract Settlement Fund**” has the meaning set forth in Section 4.03.

“**Record Date**” means, when used with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock (or other applicable security) entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

“**Redemption Amount**” has the meaning set forth in Section 4.09(c).

“**Redemption Market Value**” means the arithmetic average of the VWAPs of the Common Stock for the 20 consecutive Trading Day period beginning on, and including, the 21st Scheduled Trading Day immediately preceding the Scheduled Acquisition Redemption Settlement Date.

“**Reference Price**” means the Stated Amount, *divided by* the then applicable Maximum Settlement Rate, which as of the Issue Date is approximately equal to \$34.62.

“**Relevant Stock Exchange**” means the NYSE or, if the Common Stock (or other security for which a VWAP or Closing Price must be determined) is not then listed on the NYSE, on the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed or, if the Common Stock (or such other security) is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock (or such other security) is then listed or admitted for trading.

“**Reorganization Event**” has the meaning set forth in Section 5.02(a).

“**Repurchase Date**” has the meaning set forth in the Indenture.

“**Repurchase Price**” has the meaning set forth in the Indenture.

“**Repurchase Right**” has the meaning set forth in the Indenture.

“**Responsible Officer**” means any officer of the Purchase Contract Agent with direct responsibility for the administration of this Agreement.

“**Scheduled Acquisition Redemption Settlement Date**” means, with respect to any Acquisition Termination Redemption: (i) if (x) the Acquisition Termination Stock Price is greater than the Reference Price and (y) the Company elects to pay cash in lieu of delivering any or all of the shares of Common Stock that would otherwise be included in the Redemption Amount, a date, as specified by the Company in the relevant Acquisition Redemption Notice, that is at least 30 and no more than 60 calendar days after the date of the Acquisition Redemption Notice; or (ii) otherwise, a date, as specified by the Company in the relevant Acquisition Redemption Notice, that is at least five and no more than 30 calendar days after the date of the Acquisition Redemption Notice.

“**Scheduled Mandatory Settlement Date**” means April 30, 2022.

“**Scheduled Trading Day**” means a day that is scheduled to be a Trading Day on the Relevant Stock Exchange. If the Common Stock (or such other security) is not listed or admitted for trading on a Relevant Stock Exchange, “**Scheduled Trading Day**” means a Business Day.

“**Securities Act**” means the Securities Act of 1933, as amended, and any statute successor thereto, in each case as amended from time to time, and the rules and regulations promulgated thereunder.

“**Security**” means a Unit, a Purchase Contract or a Note, as applicable.

“**Security Register**” has the meaning set forth in Section 3.05.

“**Security Registrar**” has the meaning set forth in Section 3.05.

“**Separate Note**” has the meaning set forth in Section 2.03(a).

“**Separate Purchase Contract**” has the meaning set forth in Section 2.03(a).

“**Settlement Date**” means (i) the second Business Day following any Early Settlement Date, (ii) the second Business Day following any Fundamental Change Early Settlement Date, (iii) any Early Mandatory Settlement Date, (iv) any Acquisition Redemption Settlement Date, or (v) the Mandatory Settlement Date.

“**Similar Laws**” has the meaning set forth in Section 4.02(d)(i)(B).

“**Spin-Off**” means the Company makes a dividend or distribution to all or substantially all holders of Common Stock consisting of Capital Stock of, or similar equity interests in, or relating to, a Subsidiary or other business unit of the Company that, upon issuance, will be traded on a U.S. national securities exchange.

“**Stated Amount**” means \$50.00.

“**Stock Price**” has the meaning set forth in Section 4.07(d).

“**Subsidiary**” of any Person means any corporation or other entity of which a majority of the Capital Stock having ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions of such corporation or other entity is at the time directly or indirectly owned or controlled by such Person.

“**Tender Offer Expiration Date**” has the meaning set forth in Section 5.01(a)(v).

“**Threshold Appreciation Price**” means an amount equal to the Stated Amount, *divided by* the then applicable Minimum Settlement Rate, which as of the Issue Date is approximately equal to \$42.41.

“**TIA**” means the Trust Indenture Act of 1939, as amended from time to time.

“**Trading Day**” means (A) for purposes of determining any consideration due at settlement of a Purchase Contract means a day on which (i) there is no Market Disruption Event and (ii) trading in the Common Stock (or other security for which a VWAP must be determined) generally occurs on the Relevant Stock Exchange; provided, that if the Common Stock (or such other security) is not so listed or traded, “**Trading Day**” means a Business Day; and (B) for all other purposes (including, for the avoidance of doubt, Section 5.01) a day on which (i) trading in the Common Stock (or other security for which a closing sale price must be determined) generally occurs on the Relevant Stock Exchange, or, if the Common Stock (or such other security) is not then listed on a Relevant Stock Exchange, on the principal other market on which the Common Stock (or such other security) is then listed or admitted for trading and (ii) a Closing Price per share for the Common Stock (or closing sale price for such other security) is available on such securities exchange or market; provided that if the Common Stock (or such other security) is not so listed or traded, “**Trading Day**” means a Business Day.

“**Trustee**” means U.S. Bank N.A., as trustee under the Indenture, or any successor thereto.

“**Unit**” means the collective rights of a Holder of a unit consisting of a single Purchase Contract and a single Note prior to separation pursuant Section 2.03 or subsequent to recreation pursuant to Section 2.04.

“**Valuation Period**” has the meaning set forth in Section 5.01(a)(iii)(B).

“**VWAP**” per share of Common Stock on any Trading Day means the per share volume-weighted average price as displayed under the heading “Bloomberg VWAP” on Bloomberg (or any successor service) page “WTR <Equity> AQR” (or its equivalent successor if such page is not available) in respect of the period from the scheduled open until the scheduled close of trading of the primary trading session on such Trading Day; or, if such price is not available, the market value per share of the Common Stock on such Trading Day as determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained by the Company for this purpose. For the avoidance of doubt, “VWAP” will be determined without regard to after hours trading or any other trading outside of the regular trading session trading hours.

“**Wholly Owned Subsidiary**” means, with respect to any Person, any Subsidiary of such Person, except that, solely for the purposes of this definition, the reference to “a majority of the Capital Stock” in the definition of “Subsidiary” shall be deemed replaced by a reference to “all of the Capital Stock”.

SECTION 1.02. Compliance Certificates and Opinions. Except as otherwise expressly provided by this Agreement, upon any application or request by the Company to the Purchase Contract Agent and/or Trustee to take any action in accordance with any provision of this Agreement, the Company shall furnish to the Purchase Contract Agent and/or Trustee, as applicable, an Officer’s Certificate stating that all conditions precedent, if any, provided for in this Agreement relating to the proposed action have been complied with and an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent, if any, have been complied with.

Every Officer’s Certificate or opinion with respect to compliance with a condition or covenant provided for in this Agreement shall include:

(i) a statement that each individual signing such Officer’s Certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such Officer’s Certificate or opinion are based;

(iii) a statement that, in the opinion of each such individual, he or she has made such examination or investigation as is necessary to enable such individual to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

Any certificate, statement or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters or information that is in the possession of the Company as applicable, upon the certificate, statement or opinion of or representations by an officer or officers of the Company, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an officer of the Company, as applicable, or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Company, as applicable, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with and directed to the Trustee shall contain a statement that such firm is independent.

SECTION 1.03. Notices. Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the Purchase Contract Agent or by the Holders to or on the Company may be given or served by being deposited postage prepaid, first class mail (except as otherwise specifically provided herein) addressed (until another address of the Company is filed by the Company with the Purchase Contract Agent) to Aqua America, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania, Attention: Corporate Secretary. Any notice, direction, request or demand by the Company or any Holder to or upon the Purchase Contract Agent or the Trustee shall be deemed to have been sufficiently given or served by being deposited postage prepaid, first class mail (except as otherwise specifically provided herein) addressed (until another address of the Purchase Contract Agent or Trustee is filed by the Purchase Contract Agent or Trustee with the Company) to U.S. Bank N.A., 100 Wall Street, Suite 1600, New York, New York 10005, Attention: Corporate Trust Services, re: Aqua America, Inc.

Where this Agreement provides for notice to Holders, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Holder entitled thereto, at his last address as it appears in the Security Register; *provided, however*, that, in the case of a Global Unit or Global Purchase Contract, electronic notice may be given to the Depositary, as the Holder thereof, in accordance with the applicable procedures of the Depositary. Where this Agreement provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Purchase Contract Agent, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of or irregularities in regular mail service, it shall be impracticable to mail notice to the Company when such notice is required to be given pursuant to any provision of this Agreement, then any manner of giving such notice as shall be reasonably satisfactory to the Purchase Contract Agent shall be deemed to be sufficient notice.

SECTION 1.04. Effect of Headings and Table of Contents. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 1.05. Successors and Assigns. All covenants and agreements in this Agreement by the Company and the Purchase Contract Agent shall bind their respective successors and assigns, whether so expressed or not.

SECTION 1.06. Separability Clause. In case any provision in this Agreement or in the Purchase Contracts shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof and thereof shall not in any way be affected or impaired thereby.

SECTION 1.07. Benefits of Agreement. Nothing contained in this Agreement or in the Purchase Contracts, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and, to the extent provided hereby, the Holders, any benefits or any legal or equitable right, remedy or claim under this Agreement. The Holders from time to time shall be beneficiaries of this Agreement and shall be bound by all of the terms and conditions hereof and of the Purchase Contracts by their acceptance of delivery of such Purchase Contracts.

SECTION 1.08. Governing Law. This Agreement, the Units and the Purchase Contracts and any claim, controversy or dispute arising under or related thereto shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 1.09. Conflict with Indenture. To the extent that any provision of this Purchase Contract Agreement relating to the Notes conflicts with or is inconsistent with the Indenture, the Indenture shall govern.

SECTION 1.10. Legal Holidays. In any case where any Settlement Date shall not be a Business Day, notwithstanding any other provision of this Agreement or the Purchase Contracts, the settlement or redemption of the Purchase Contracts shall not be effected on such date, but instead shall be effected on the next succeeding Business Day with the same force and effect as if made on such Settlement Date, and no interest or other amounts shall accrue or be payable by the Company or to any Holder in respect of such delay.

SECTION 1.11. Counterparts. This Agreement may be executed in any number of counterparts by the parties hereto on separate counterparts, each of which, when so executed and delivered, shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

SECTION 1.12. Inspection of Agreement. Unless a conformed copy of this Agreement has been filed on the EDGAR system of the U.S. Securities and Exchange Commission, a copy of this Agreement shall be available at all reasonable times during normal business hours at Aqua America, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania for inspection by any Holder or Beneficial Holder.

SECTION 1.13. Calculations. The solicitation of any necessary bids and the performance of any calculations to be made hereunder and under the Units and Purchase Contracts shall be the sole obligation of the Company, and the Purchase Contract Agent shall have no obligation to make, review or verify such calculations. These calculations include, but are not limited to, determination of the applicable Mandatory Settlement Rate, the Fixed Settlement Rates, the Early Settlement Rate, the Acquisition Redemption Rate, the Early Mandatory Settlement Rate, the Fundamental Change Early Settlement Rate, the Applicable Market Value, the Redemption Market Value, the Closing Price and the VWAP, as the case may be. All such calculations made by the Company or its agent hereunder shall be made in good faith and, absent manifest error, be final and binding on the Purchase Contract Agent, the Trustee, each Paying Agent and the Holders. For any calculations to be made by the Company or its agent hereunder, the Company shall provide a schedule of such calculations to the Purchase Contract Agent and the Trustee, and each of the Purchase Contract Agent and the Trustee shall be entitled to conclusively rely upon the accuracy of the calculations by the Company or its agent without independent verification, shall have no liability with respect thereto and shall have no liability to the Holders for any loss any of them may incur in connection with no independent verification having been done. Furthermore, the Purchase Contract Agent shall not be under any duty or responsibility to determine whether any facts exist which may require any adjustment hereunder, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed.

SECTION 1.14. UCC. Each Purchase Contract (whether or not included in a Unit) is a security governed by Article VIII of the Uniform Commercial Code as in effect in the State of New York on the date hereof.

SECTION 1.15. Waiver of Jury Trial. Each of the Company, the Purchase Contract Agent and the Trustee hereto waives its respective rights to trial by jury in any action or proceeding arising out of or related to the Purchase Contracts, this Agreement or the transactions contemplated hereby, to the maximum extent permitted by law.

ARTICLE II UNIT AND PURCHASE CONTRACT FORMS

SECTION 2.01. Forms of Units and Purchase Contracts Generally. (a) The Units and Purchase Contracts shall be in substantially the forms set forth in Exhibit A and Exhibit B hereto, respectively, which shall be incorporated in and made a part of this Purchase Contract Agreement, with such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as may be required by the rules of any securities exchange on which the Units or Purchase Contracts, as the case may be, are (or may in the future be) listed or any depository therefor, or as may, consistently herewith, be determined by the officers of the Company executing such Units and Purchase Contracts, as the case may be, as evidenced by their execution thereof.

(b) The Units and Purchase Contracts shall be issuable only in registered form and only in denominations of a single Unit or Purchase Contract, as the case may be, and any integral multiple thereof.

(c) The Units will initially be issued in the form of one or more fully registered Global Units as set forth in Section 3.06. The Purchase Contracts will initially be issued as Component Purchase Contracts substantially in the form of Attachment 3 to the form of Global Unit attached as Exhibit A hereto, and will be attached to the related Global Unit and registered in the name of U.S. Bank N.A., as attorney-in-fact of the holder(s) of such Global Unit.

(d) Definitive Securities shall be printed, lithographed or engraved with steel engraved borders or may be produced in any other manner, all as determined by the officers of the Company executing the Units or Purchase Contracts, as the case may be, evidenced by such Definitive Securities, consistent with the provisions of this Agreement, as evidenced by their execution thereof.

(e) Every Global Unit and Global Purchase Contract executed, authenticated on behalf of the Holders and delivered hereunder shall bear a legend in substantially the following form:

“THIS SECURITY IS A GLOBAL [UNIT / PURCHASE CONTRACT] WITHIN THE MEANING OF THE PURCHASE CONTRACT AGREEMENT HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY OR A SUCCESSOR DEPOSITARY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (THE “**DEPOSITARY**”) TO THE NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.

UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

SECTION 2.02. Form of Certificate of Authentication. The form of certificate of authentication of the Units and Purchase Contracts shall be in substantially the form set forth in the form of Unit or form of Purchase Contract, respectively, attached hereto.

SECTION 2.03. Global Securities; Separation of Units.

(a) On any Business Day during the period beginning on, and including, the Business Day immediately following the Issue Date to, but excluding, the second Scheduled Trading Day immediately preceding the Scheduled Mandatory Settlement Date or, if earlier, the second Scheduled Trading Day immediately preceding any Early Mandatory Settlement Date or the second Scheduled Trading Day immediately preceding any Acquisition Redemption Settlement Date and also excluding the Business Day immediately preceding any Installment Payment Date (*provided* that the right to separate the Units shall resume after such Business Day), a Holder of a Unit may separate such Unit into its constituent Purchase Contract and Note (each such separated Purchase Contract and separated Note, a “**Separate Purchase Contract**” and “**Separate Note**,” respectively), which will thereafter trade under their respective CUSIP numbers (03836W 301) and (03836W AA1), and that Unit will cease to exist. In order to cause the separation of a Global Unit into its component parts, a Beneficial Holder must comply with the applicable procedures of the Depositary. Following a valid exercise of separation rights by a Holder of Global Units, the Purchase Contract Agent or Trustee, as applicable, shall register (i) a decrease in the number of Units represented by the Global Unit and the number of Purchase Contracts and Notes represented by the Component Purchase Contract and the Component Note attached to the Global Unit as Attachments 3 and 4, respectively, as set forth in Schedule A to each such attachment, and (ii) a corresponding increase in the number of Purchase Contracts and Notes represented by the Global Purchase Contract and the Global Note, respectively. If, however, such Unit is in the form of a Definitive Security in accordance with Section 3.09, the Holder thereof must deliver to the Purchase Contract Agent such Unit, together with a separation notice, in the form set forth in Attachment 1 to the form of Unit attached hereto as Exhibit A. Upon the receipt of such separation notice, the Company shall promptly cause delivery, in accordance with the delivery instructions set forth in such separation notice, of one Separate Purchase Contract and one Separate Note for each such Unit. Separate Purchase Contracts and Separate Notes will be transferable independently from each other.

(b) Holders that elect to separate the Note and related Purchase Contract in accordance with this Section 2.03 shall be responsible for any fees or expenses payable in connection with such separation, and neither the Company, the Purchase Contract Agent nor the Trustee shall be liable for any such fees or expenses.

SECTION 2.04. Recreation of Units.

(a) On any Business Day during the period beginning on, and including, the Business Day immediately following the Issue Date to, but excluding, the second Scheduled Trading Day immediately preceding the Scheduled Mandatory Settlement Date or, if earlier, the second Scheduled Trading Day immediately preceding any Early Mandatory Settlement Date or the second Scheduled Trading Day immediately preceding any Acquisition Redemption Settlement Date and also excluding the Business Day immediately preceding any Installment Payment Date (*provided* that the right to recreate the Units shall resume after such Business Day), a Holder of a Separate Purchase Contract and a Separate Note may recreate a Unit (which will thereafter trade under the CUSIP number 03836W 202 for the Units), and each such Separate Purchase Contract and Separate Note will cease to exist. In order to cause the recreation of a global Separate Purchase Contract and a global Separate Note into a Unit, a Beneficial Holder must comply with the applicable procedures of the Depository. Following a valid exercise of recreation rights by a Holder of Global Notes and Global Purchase Contracts, the Purchase Contract Agent or Trustee, as applicable, shall register (i) an increase in the number of Units represented by the Global Unit and the number of Purchase Contracts and Notes represented by the Component Purchase Contract and the Component Note attached to the Global Unit as Attachments 3 and 4, respectively, as set forth in Schedule A to each such attachment, and (ii) a corresponding decrease in the number of Purchase Contracts and Notes represented by the Global Purchase Contract and Global Note, respectively. If, however, such Separate Purchase Contract and Separate Note are in the form of Definitive Securities, the Holder thereof must deliver to the Purchase Contract Agent such Definitive Securities, together with a recreation notice, in the form set forth in Attachment 2 to the form of Unit attached hereto as Exhibit A. Upon the receipt of such recreation notice, the Company shall promptly cause delivery, in accordance with the delivery instructions set forth in such recreation notice, of one Unit in definitive form for such Definitive Securities.

(b) Holders that recreate Units in accordance with this Section 2.04 shall be responsible for any fees or expenses payable in connection with such recreation, and neither the Company, the Purchase Contract Agent nor the Trustee shall be liable for any such fees or expenses.

ARTICLE III THE UNITS AND PURCHASE CONTRACTS

SECTION 3.01. Amount and Denominations. The aggregate number of Units and Separate Purchase Contracts evidenced by Equity-Linked Securities executed, authenticated on behalf of the Holders and delivered hereunder is limited to 13,800,000, except for Units and Separate Purchase Contracts executed, authenticated and delivered upon registration of transfer of, in exchange for, or in lieu of, other Units and Separate Purchase Contracts pursuant to Section 3.04, Section 3.05, Section 3.10 or Section 9.05. Each Unit was initially issued for a purchase price of \$50.00 (before underwriting discounts and commissions), which represented an issue price of \$8.62909 for the Note contained in each Unit and an issue price of \$41.37091 for the Purchase Contract contained in each Unit.

SECTION 3.02. Rights and Obligations Evidenced by the Equity-Linked Securities. Each Equity-Linked Security shall evidence the number of Units or Separate Purchase Contracts, as the case may be, specified therein, with (a) each such Unit representing the rights and obligations of the Holder thereof and of the Company under one Purchase Contract, and the rights and obligations of the Holder thereof and of the Company under one Note, and (b) each such Separate Purchase Contract representing the rights and obligations of the Holder thereof and of the Company under one Separate Purchase Contract. In the case of a Unit, the Holder of such Unit shall, for all purposes hereunder and under the Indenture, be deemed to be the Holder of the Note and Purchase Contract that are components of such Unit.

Prior to the close of business on the Determination Date with respect to any Purchase Contract (whether such Purchase Contract is held as a component of a Unit or as a Separate Purchase Contract), the shares of Common Stock underlying such Purchase Contract shall not be outstanding, and such Purchase Contract shall not entitle the Holder thereof to any of the rights of a holder of Common Stock, including, without limitation, the right to vote or receive any dividends or other payments or to consent or to receive notice as a shareholder in respect of the meetings of shareholders or for the election of directors for any other matter, or any other rights whatsoever as a shareholder of the Company.

SECTION 3.03. Execution, Authentication, Delivery and Dating. Upon the execution and delivery of this Agreement, and at any time and from time to time thereafter, the Company may deliver Equity-Linked Securities executed by the Company and the Purchase Contract Agent as attorney-in-fact for the Holders of Purchase Contracts from time to time (in the case of Purchase Contracts), to the Purchase Contract Agent and Trustee (if applicable) for authentication on behalf of the Holders and delivery, together with an Issuer Order for authentication of such Equity-Linked Securities, and the Purchase Contract Agent and Trustee (if applicable) in accordance with such Issuer Order shall authenticate on behalf of the Holders and deliver such Equity-Linked Securities.

The Equity-Linked Securities shall be executed on behalf of the Company by any authorized officer of the Company and, in the case of the Purchase Contracts, shall be executed on behalf of the Holders by any authorized officer of the Purchase Contract Agent as attorney-in-fact for the Holders of Purchase Contracts from time to time. The signature of any such officer on the Equity-Linked Securities may be manual or facsimile.

Equity-Linked Securities bearing the manual or facsimile signature of an individual who was at any time the proper officer of the Company or, in the case of the Purchase Contracts, the Purchase Contract Agent, shall bind the Company and the Holders of Purchase Contracts, as the case may be, notwithstanding that such individual has ceased to hold such offices prior to the authentication and delivery of such Equity-Linked Securities or did not hold such offices at the date of such Equity-Linked Securities.

Each Equity-Linked Security shall be dated the date of its authentication.

No Equity-Linked Security shall be entitled to any benefit under this Agreement or be valid or obligatory for any purpose unless there appears on such Equity-Linked Security a certificate of authentication substantially in the form provided for herein executed by an authorized officer of the Purchase Contract Agent and Trustee (if applicable) by manual signature, and such certificate upon any Equity-Linked Security shall be conclusive evidence, and the only evidence, that such Equity-Linked Security has been duly authenticated and delivered hereunder.

SECTION 3.04. Temporary Equity-Linked Securities. Pending the preparation of any Definitive Equity-Linked Securities, the Company shall execute and deliver to the Purchase Contract Agent and, in the case of Units, Trustee, and the Purchase Contract Agent and, if applicable, Trustee shall authenticate on behalf of the Holders, and deliver, in lieu of such Definitive Equity-Linked Securities, temporary Equity-Linked Securities that are in substantially the form set forth in Exhibit A or Exhibit B hereto, as the case may be, with such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as may be required by the rules of any securities exchange on which the Units or Separate Purchase Contracts, as the case may be, are listed, or as may, consistently herewith, be determined by the officers of the Company executing such Equity-Linked Securities, as evidenced by their execution of the Equity-Linked Securities.

If temporary Equity-Linked Securities are issued, the Company will cause Definitive Equity-Linked Securities to be prepared without unreasonable delay. After the preparation of Definitive Equity-Linked Securities, the temporary Equity-Linked Securities shall be exchangeable for Definitive Equity-Linked Securities upon surrender of the temporary Equity-Linked Securities at the Corporate Trust Office, at the expense of the Company and without charge to the Holder or the Purchase Contract Agent. Upon surrender for cancellation of any one or more temporary Equity-Linked Securities, the Company shall execute and deliver to the Purchase Contract Agent and Trustee, and the Purchase Contract Agent and, if applicable, the Trustee shall authenticate on behalf of the Holder, and deliver in exchange therefor, one or more Definitive Equity-Linked Securities of like tenor and denominations and evidencing a like number of Units or Separate Purchase Contracts, as the case may be, as the temporary Equity-Linked Security or Equity-Linked Securities so surrendered. Until so exchanged, the temporary Equity-Linked Securities shall in all respects evidence the same benefits and the same obligations with respect to the Units or Separate Purchase Contracts, as the case may be, evidenced thereby as Definitive Equity-Linked Securities.

SECTION 3.05. Registration; Registration of Transfer and Exchange. The Company shall cause to be kept at the Corporate Trust Office a register (the “**Security Register**”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Equity-Linked Securities and of transfers of Equity-Linked Securities. The Purchase Contract Agent is hereby initially appointed security registrar (the “**Security Registrar**”) for the purpose of registration of Equity-Linked Securities and transfers of Equity-Linked Securities as provided herein. The Security Registrar shall record separately the registration and transfer of the Equity-Linked Securities evidencing Units and Separate Purchase Contracts.

Upon surrender for registration of transfer of any Equity-Linked Security at the Corporate Trust Office, the Company shall execute and deliver to the Purchase Contract Agent and Trustee, and the Purchase Contract Agent and Trustee shall authenticate on behalf of the designated transferee or transferees, and deliver, in the name of the designated transferee or transferees, one or more new Equity-Linked Securities of any authorized denominations, of like tenor, and evidencing a like number of Units or Separate Purchase Contracts, as the case may be.

At the option of the Holder, Equity-Linked Securities may be exchanged for other Equity-Linked Securities, of any authorized numbers and evidencing a like number of Units or Separate Purchase Contracts, as the case may be, upon surrender of the Equity-Linked Securities to be exchanged at the Corporate Trust Office. Whenever any Equity-Linked Securities are so surrendered for exchange, the Company shall execute and deliver to the Purchase Contract Agent and Trustee, and the Purchase Contract Agent and, in the case of Units, the Trustee shall authenticate on behalf of the Holder, and deliver the Equity-Linked Securities which the Holder making the exchange is entitled to receive.

All Equity-Linked Securities issued upon any registration of transfer or exchange of an Equity-Linked Security shall evidence the ownership of the same number of Units or Separate Purchase Contracts, as the case may be, and be entitled to the same benefits and subject to the same obligations, under this Agreement as the Units or Separate Purchase Contracts, as the case may be, evidenced by the Equity-Linked Security surrendered upon such registration of transfer or exchange.

Every Equity-Linked Security presented or surrendered for registration of transfer or exchange shall (if so required by the Purchase Contract Agent) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Purchase Contract Agent duly executed by the Holder thereof, or its attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of an Equity-Linked Security, but the Company or the Purchase Contract Agent on behalf of the Company may require payment from the Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Equity-Linked Securities, other than any exchanges pursuant to Section 3.06 and Section 9.05 not involving any transfer.

Notwithstanding the foregoing, the Company shall not be obligated to execute and deliver to the Purchase Contract Agent, and the Purchase Contract Agent and, in the case of Units, the Trustee shall not be obligated to authenticate on behalf of the Holder or deliver any Equity-Linked Security in exchange for any other Equity-Linked Security presented or surrendered for registration of transfer or for exchange on or after the Business Day immediately preceding the Scheduled Mandatory Settlement Date or any earlier Settlement Date with respect to such Equity-Linked Security. In lieu of delivery of a new Equity-Linked Security, upon satisfaction of the applicable conditions specified above in this Section and receipt of appropriate registration or transfer instructions from such Holder, the Company shall, if a Settlement Date with respect to such Equity-Linked Security has occurred, deliver or cause to be delivered the shares of Common Stock deliverable and cash in lieu of any fractional share of Common Stock (and/or, in the case of an Acquisition Redemption Settlement Date, make the required cash payment, if any) in respect of the Purchase Contracts evidenced by such Equity-Linked Security (together with the Separate Note, if such Equity-Linked Security is a Unit and if the Repurchase Right is not applicable or, if applicable, not exercised).

SECTION 3.06. Book-Entry Interests. The Units, on original issuance, will be issued in the form of one or more fully registered Global Units, to be delivered to the Depositary or its custodian by, or on behalf of, the Company. The Company hereby designates DTC as the initial Depositary. Such Global Units shall initially be registered on the books and records of the Company in the name of Cede & Co., the nominee of DTC, and no Beneficial Holder will receive a Definitive Unit representing such Beneficial Holder's interest in such Global Unit, except as provided in Section 3.09. Unless and until definitive, fully registered Securities have been issued to Beneficial Holders pursuant to Section 3.09:

(i) the provisions of this Section 3.06 shall be in full force and effect;

(ii) the Company shall treat the Depositary for all purposes of this Agreement (including settling the Purchase Contracts and receiving approvals, votes or consents hereunder) as the Holder of the Global Units and Global Purchase Contracts and shall have no obligation to the Beneficial Holders;

(iii) to the extent that the provisions of this Section 3.06 conflict with any other provisions of this Agreement, the provisions of this Section 3.06 shall control; and

(iv) the rights of the Beneficial Holders shall be exercised only through the Depositary and shall be limited to those established by law and agreements between such Beneficial Holders and the Depositary or the Depositary Participants.

SECTION 3.07. Notices to Holders. Whenever a notice or other communication to the Holders is required to be given under this Agreement, the Company or the Company's agent shall give such notices and communications to the Holders and, with respect to any Units or Purchase Contracts registered in the name of the Depositary or the nominee of the Depositary, the Company or the Company's agent shall, except as set forth herein, have no obligations to the Beneficial Holders.

SECTION 3.08. Appointment of Successor Depositary. If the Depositary elects to discontinue its services as securities depositary with respect to the Units or Purchase Contracts, the Company may, in its sole discretion, appoint a successor Depositary with respect to such Units or such Purchase Contracts, as the case may be.

SECTION 3.09. Definitive Securities. If:

(i) the Depositary is at any time unwilling or unable to continue as depositary for the Global Securities or ceases to be a Clearing Agency registered under the Exchange Act, and a successor Depositary registered as a Clearing Agency under the Exchange Act is not appointed by the Company within 90 days; or

(ii) an Event of Default (as defined in the Indenture), or any failure on the part of the Company to observe or perform any covenant or agreement in the Purchase Contracts or the Purchase Contract Agreement, has occurred and is continuing and a Beneficial Holder requests that its Securities be issued in physical, certificated form,

then, in each case the Company shall execute, and the Purchase Contract Agent and/or the Trustee, as applicable, upon receipt of an Issuer Order for the authentication and delivery of Definitive Securities, shall authenticate and deliver Definitive Securities representing an aggregate number of Securities with respect to the Global Security or Securities representing such Securities (or representing an aggregate number of Securities equal to the aggregate number of Securities in respect of which such Beneficial Holder has requested the issuance of Definitive Securities pursuant to clause (ii) above) in exchange for such Global Security or Securities (or portion thereof). Each Definitive Security so delivered shall evidence Units or Purchase Contracts or Notes, as the case may be, of the same kind and tenor as the Global Security so surrendered in respect thereof. Notwithstanding the foregoing, the exchange of Global Notes for Notes in definitive form shall be governed by the Indenture.

SECTION 3.10. Mutilated, Destroyed, Lost and Stolen Securities. If any mutilated Equity-Linked Security is surrendered to the Purchase Contract Agent, together with such security or indemnity as may be reasonably required by the Company, the Purchase Contract Agent and the Trustee to hold them or any of their agents harmless, then the Company shall execute and deliver to the Purchase Contract Agent and Trustee, and the Purchase Contract Agent and, if applicable, the Trustee shall authenticate on behalf of the Holder, and deliver in exchange therefor, a new Equity-Linked Security, evidencing the same number of Units or Separate Purchase Contracts, as the case may be, and bearing a security number not contemporaneously outstanding.

If there shall be delivered to the Company, the Purchase Contract Agent and the Trustee (in the case of any Units) (i) evidence to their satisfaction of the destruction, loss or theft of any Equity-Linked Security, and (ii) such security or indemnity satisfactory to the Company, the Purchase Contract Agent and the Trustee at the expense of the Holder, then, in the absence of notice to the Company, the Purchase Contract Agent or the Trustee that such Equity-Linked Security has been acquired by a protected purchaser, the Company shall execute and deliver to the Purchase Contract Agent and the Trustee (in the case of any Units), and the Purchase Contract Agent and the Trustee (in the case of any Units) shall authenticate on behalf of the Holder, and deliver to the Holder, in lieu of any such destroyed, lost or stolen Equity-Linked Security, a new Equity-Linked Security, evidencing the same number of Units or Separate Purchase Contracts, as the case may be, and bearing a security number not contemporaneously outstanding.

Notwithstanding the foregoing, the Company shall not be obligated to execute and deliver to the Purchase Contract Agent and Trustee, and the Purchase Contract Agent and, in the case of Units, the Trustee shall not be obligated to authenticate on behalf of the Holder, and deliver to the Holder, an Equity-Linked Security on or after the second Scheduled Trading Day immediately preceding the Scheduled Mandatory Settlement Date or the second Scheduled Trading Day immediately preceding any Early Mandatory Settlement Date or the second Scheduled Trading Day immediately preceding any Acquisition Redemption Settlement Date with respect to such Equity-Linked Security. In lieu of delivery of a new Equity-Linked Security, upon satisfaction of the applicable conditions specified above in this Section and receipt of appropriate registration or transfer instructions from such Holder, the Company shall, if a Settlement Date with respect to such Equity-Linked Security has occurred, deliver or arrange for delivery of the shares of Common Stock deliverable and cash in lieu of any fractional share of Common Stock (and/or, in the case of a Acquisition Redemption Settlement Date, make the required cash payment, if any) in respect of the Purchase Contracts evidenced by such Equity-Linked Security (together with Separate Notes equal to the number of, and in the same form as, the Notes evidenced by such Equity-Linked Security if such Equity-Linked Security is a Unit and if the Repurchase Right is not applicable or, if applicable, not exercised).

Upon the issuance of any new Equity-Linked Security under this Section 3.10, the Company and the Purchase Contract Agent may require the payment by the Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Purchase Contract Agent) connected therewith.

Every new Equity-Linked Security issued pursuant to this Section 3.10 in lieu of any destroyed, lost or stolen Equity-Linked Security shall constitute an original additional contractual obligation of the Company and of the Holder in respect of the Unit or Separate Purchase Contract, as the case may be, evidenced thereby, whether or not the destroyed, lost or stolen Equity-Linked Security shall be found at any time. Such new Equity-Linked Security (and the Units or Separate Purchase Contracts, as applicable, evidenced thereby) shall be at any time enforceable by anyone, and shall be entitled to all the benefits and be subject to all the obligations of this Agreement equally and proportionately with any and all other Equity-Linked Securities delivered hereunder.

The provisions of this Section 3.10 are exclusive and shall preclude, to the extent lawful, all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Equity-Linked Securities.

SECTION 3.11. Persons Deemed Owners. Prior to due presentment of an Equity-Linked Security for registration of transfer, the Company, the Purchase Contract Agent and the Trustee, and any agent of the Company, the Purchase Contract Agent or the Trustee, may treat the Person in whose name such Equity-Linked Security is registered as the owner of the Unit or Purchase Contract, as the case may be, evidenced thereby, for the purpose of performance of the Units or Purchase Contracts, as applicable, evidenced by such Equity-Linked Securities and for all other purposes whatsoever, and none of the Company, the Purchase Contract Agent nor the Trustee, nor any agent of the Company, the Purchase Contract Agent nor the Trustee, shall be affected by notice to the contrary.

Notwithstanding the foregoing, with respect to any Global Unit or Global Purchase Contract, nothing contained herein shall prevent the Company, the Purchase Contract Agent, the Trustee or any agent of the Company, the Purchase Contract Agent or the Trustee, from giving effect to any written certification, proxy or other authorization furnished by the Depositary (or its nominee), as a Holder, with respect to such Global Unit or Global Purchase Contract or impair, as between such Depositary and the related Beneficial Holder, the operation of customary practices governing the exercise of rights of the Depositary (or its nominee) as Holder of such Global Unit or Global Purchase Contract.

None of the Purchase Contract Agent, Trustee, the Paying Agent and the Security Registrar shall have any responsibility or obligation to any Beneficial Holder in a Global Security, an agent member or other Person with respect to the accuracy of the records of the Depositary or its nominee or of any agent member, with respect to any ownership interest in the Securities or with respect to the delivery to any agent member, Beneficial Holder or other Person (other than the Depositary) of any notice or the payment of any amount, under or with respect to such Securities. All notices and communications to be given to the Holders and all payments to be made to Holders under the Securities and this Agreement shall be given or made only to or upon the order of the registered Holders (which shall be the Depositary or its nominee in the case of a Global Security). The rights of Beneficial Holders in Global Securities shall be exercised only through the Depositary subject to the applicable procedures. The Purchase Contract Agent, the Trustee, the Paying Agent and the Registrar shall be entitled to rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its members, DTC Participants and any Beneficial Holders. The Purchase Contract Agent, the Trustee, the Paying Agent and the Security Registrar shall be entitled to deal with the Depositary, and any nominee thereof, that is the registered Holder of any Global Security for all purposes of this Agreement relating to such Global Security (including the payment or delivery of amounts due hereunder and the giving of instructions or directions by or to any Beneficial Holder) as the sole Holder of such Global Security and shall have no obligations to the Beneficial Holders thereof. None of the Purchase Contract Agent, the Trustee, the Paying Agent and the Security Registrar shall have any responsibility or liability for any acts or omissions of the Depositary with respect to such Global Security, for the records of any such Depositary, including records in respect of the Beneficial Holders of any such Global Security, for any transactions between the Depositary and any agent member or between or among the Depositary, any such agent member and/or any Holder or Beneficial Holder of such Global Security, or for any transfers of beneficial interests in any such Global Security.

Notwithstanding the foregoing, with respect to any Global Security, nothing herein shall prevent the Company, the Purchase Contract Agent, the Trustee, or any agent of the Company, the Purchase Contract Agent or the Trustee from giving effect to any written certification, proxy or other authorization furnished by any depository (or its nominee), as a Holder, with respect to such Global Security or shall impair, as between such Depository and Beneficial Holders of such Global Security, the operation of customary practices governing the exercise of the rights of such depository (or its nominee) as Holder of such Global Security.

None of the Purchase Contract Agent, the Trustee, the Paying Agent or the Registrar shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Agreement or under applicable law with respect to any transfer of any interest in any Security (including any transfers between or among DTC Participants, members or Beneficial Holders in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Agreement, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

SECTION 3.12. Cancellation. All Securities surrendered for separation or recreation and all Equity-Linked Securities surrendered for settlement or redemption or upon the registration of transfer or exchange of an Equity-Linked Security shall, if surrendered to any Person other than the Purchase Contract Agent, be delivered to the Purchase Contract Agent and, if not already cancelled, be promptly cancelled by it; *provided, however*, that the Purchase Contract Agent shall deliver any Notes or Separate Notes so surrendered to it to the Trustee and Paying Agent (as defined in the Indenture) for disposition in accordance with the provisions of the Indenture. In the case of a Unit or Units surrendered for settlement or redemption, subject to Section 4.08 hereof, the Company shall promptly execute and the Trustee shall promptly authenticate and deliver in accordance with the terms of the Indenture to the Holder thereof a number of Separate Notes equal to the number of, and in the same form as, the Notes comprising part of the Units so surrendered. The Company may at any time deliver to the Purchase Contract Agent for cancellation any Equity-Linked Securities previously executed, authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and all Equity-Linked Securities so delivered shall, upon an Issuer Order, be promptly cancelled by the Purchase Contract Agent; *provided, however*, that if the Equity-Linked Securities so delivered are Units, the Purchase Contract Agent shall deliver the Notes comprising such Units to the Trustee and Paying Agent (as defined in the Indenture) for disposition in accordance with the provisions of the Indenture. No Equity-Linked Securities shall be executed, authenticated on behalf of the Holder and delivered in lieu of or in exchange for any Equity-Linked Securities cancelled as provided in this Section, except as expressly permitted by this Agreement. All cancelled Equity-Linked Securities held by the Purchase Contract Agent shall be disposed of in accordance with its customary practices.

If the Company or any Affiliate of the Company shall acquire any Equity-Linked Security, such acquisition shall not operate as a cancellation of such Equity-Linked Security unless and until such Equity-Linked Security is delivered to the Purchase Contract Agent for cancellation, in which case such Equity-Linked Security shall be accompanied by an Issuer Order and cancelled in accordance with the immediately preceding paragraph.

ARTICLE IV SETTLEMENT OF THE PURCHASE CONTRACTS

SECTION 4.01. Mandatory Settlement Rate. (a) Each Purchase Contract obligates the Company to deliver, on the Mandatory Settlement Date, a number of shares of Common Stock equal to the Mandatory Settlement Rate as determined by the Company, unless such Purchase Contract has settled or been redeemed prior to the Mandatory Settlement Date.

(b) The “**Mandatory Settlement Rate**” is equal to:

(i) if the Applicable Market Value is greater than the Threshold Appreciation Price, 1.1790 shares of Common Stock for each Purchase Contract (the “**Minimum Settlement Rate**”);

(ii) if the Applicable Market Value is less than or equal to the Threshold Appreciation Price but greater than or equal to the Reference Price, a number of shares of Common Stock for each Purchase Contract equal to the Stated Amount, *divided by* the Applicable Market Value; and

(iii) if the Applicable Market Value is less than the Reference Price, 1.4442 shares of Common Stock for each Purchase Contract (the “**Maximum Settlement Rate**”).

(c) The Maximum Settlement Rate and the Minimum Settlement Rate (each, a “**Fixed Settlement Rate**”) shall be subject to adjustment as provided in Article V.

(d) The Company shall give notice of the Mandatory Settlement Rate to the Purchase Contract Agent and Holders no later than the Scheduled Trading Day prior to the Mandatory Settlement Date.

SECTION 4.02. Representations and Agreements of Holders. Each Holder of an Equity-Linked Security, by its acceptance thereof:

(a) irrevocably authorizes and directs the Purchase Contract Agent to execute and deliver on its behalf and perform this Agreement on its behalf and appoints the Purchase Contract Agent as its attorney-in-fact for any and all such purposes;

(b) in the case of a Purchase Contract that is a component of a Unit, or that is evidenced by a Separate Purchase Contract, irrevocably authorizes and directs the Purchase Contract Agent to execute, deliver and hold on its behalf the Separate Purchase Contract or the Component Purchase Contract evidencing such Purchase Contract and appoints the Purchase Contract Agent its attorney-in-fact for any and all such purposes;

(c) consents to, and agrees to be bound by, the terms and provisions hereof and thereof;

(d) represents that either (i) no portion of the assets used to acquire or hold the Units, Common Stock issuable upon the settlement of the Purchase Contracts or Notes constitutes assets of any (A) employee benefit plans that are subject to Title I of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), (B) plan, individual retirement account or other arrangement that is subject to Section 4975 of the Code or provisions under any other U.S. or non-U.S. federal, state, local or other laws or regulations that are similar to such provisions of ERISA or the Code (collectively, “**Similar Laws**”), or (C) entity which is deemed to hold the assets of any of the foregoing types of plans, accounts or arrangements described in clauses (A) and (B) (each of the foregoing described in clause (A), (B) and (C) referred to as a “**Plan**”) or (ii) (A) the acquisition and holding of the Units, Common Stock issuable upon the settlement of the Purchase Contracts or Notes and any of its constituent parts will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or a similar violation under any applicable Similar Laws and (B) neither the Company, the underwriters in the offering of the Units or any of their respective Affiliates is, or is undertaking to be, a fiduciary with respect to the Plan in connection with the Plan’s acquisition, holding or disposition of the Units, Common Stock issuable upon settlement of the Purchase Contracts or Notes, as applicable; and

(e) agrees to the tax treatment provided for in Section 11.07.

SECTION 4.03. Purchase Contract Settlement Fund. On the applicable Settlement Date, the Company shall issue and deliver to the Holders of the Outstanding Purchase Contracts (or, in the case of an Early Settlement, to the Holders of Purchase Contracts that have elected such Early Settlement) the aggregate number of shares of Common Stock to which such Holders of the Purchase Contracts to be settled or redeemed on such Settlement Date are entitled hereunder and any cash payable for fractional shares pursuant to Section 4.13. When any shares of Common Stock are required to be delivered to Holders pursuant to this Article IV, the Company shall deliver such shares of Common Stock, together with any dividends or distributions for which a Record Date and payment date for such dividend or distribution have occurred as of or after the close of business on the applicable Determination Date (collectively, the “**Purchase Contract Settlement Fund**”) to such Holders, and the Company shall cause any such shares to be registered in the name of such Holder or such Holder’s designee pursuant to Section 4.11.

SECTION 4.04. Settlement Conditions. A Holder’s right to receive the shares of Common Stock, any cash payable for fractional shares pursuant to Section 4.13, and any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund, upon settlement of any of its Purchase Contracts is subject to the following conditions:

(a) if such Purchase Contract or the Unit that includes such Purchase Contract is in the form of a Definitive Security, surrendering the relevant Definitive Security to the Purchase Contract Agent at the Corporate Trust Office duly endorsed for transfer to the Company or in blank and with duly completed settlement instructions in the form attached thereto, or if such Purchase Contract is represented by a Global Security, surrendering the relevant Security in compliance with the Depositary’s applicable procedures; and

(b) the payment of any transfer or similar taxes payable pursuant to Section 4.11.

SECTION 4.05. Mandatory Settlement on the Mandatory Settlement Date. On the Mandatory Settlement Date, subject to satisfaction of the conditions set forth in Section 4.04 by a Holder with respect to any of its Purchase Contracts, the Company shall cause a number of shares of Common Stock per Purchase Contract equal to the Mandatory Settlement Rate to be issued and delivered, together with payment of (i) any cash payable in lieu of fractional shares pursuant to Section 4.13 and (ii) any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund (but without any interest thereon), to such Holder by book-entry transfer or other appropriate procedures pursuant to Section 4.11. The Person in whose name any shares of Common Stock shall be issuable upon settlement of any Purchase Contract on the Mandatory Settlement Date shall be treated as the holder of record of such shares as of the close of business on the last Trading Day of the Mandatory Settlement Period.

SECTION 4.06. Early Settlement. (a) Subject to and upon compliance with the provisions of this Section 4.06, prior to the close of business on the second Scheduled Trading Day immediately preceding the Scheduled Mandatory Settlement Date, a Holder may elect to settle its Purchase Contracts early, in whole or in part, at the Early Settlement Rate (“**Early Settlement Right**”).

(b) A Holder’s right to receive Common Stock upon Early Settlement of any of its Purchase Contracts is subject to the following conditions (in the case of Global Securities, subject to the applicable procedures of the Depositary):

(i) delivery of a written and signed notice of election (an “**Early Settlement Notice**”) in the form attached to the Purchase Contract to the Purchase Contract Agent electing Early Settlement of such Purchase Contract; and

(ii) satisfaction of the conditions set forth in Section 4.04.

(c) If a Holder complies with the requirements set forth in Section 4.06(b) prior to the close of business on any Business Day, then that Business Day shall be considered the “**Early Settlement Date**.” If a Holder complies with the requirements set forth in Section 4.06(b) at or after the close of business on any Business Day or at any time on a day that is not a Business Day, then the next succeeding Business Day shall be considered the “**Early Settlement Date**.”

(d) On the second Business Day following the Early Settlement Date, subject to satisfaction of the conditions set forth in Section 4.06(b) by a Holder with respect to any of its Purchase Contracts, the Company shall cause a number of shares of Common Stock per Purchase Contract equal to the Early Settlement Rate to be issued and delivered, together with payment of (i) any cash payable in lieu of fractional shares pursuant to Section 4.13 and (ii) any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund (but without any interest thereon), to such Holder by book-entry transfer or other appropriate procedures pursuant to Section 4.11. The Person in whose name any shares of the Common Stock shall be issuable upon such Early Settlement of a Purchase Contract shall be treated as the holder of record of such shares as of the close of business on the relevant Early Settlement Date.

(e) In the event that Early Settlement is effected with respect to Purchase Contracts that are a component of Units, upon such Early Settlement, the Company shall execute and the Trustee shall authenticate (pursuant to the Indenture) on behalf of the Holder and deliver to the Holder thereof, at the expense of the Company, Separate Notes, in same form as the Notes comprising part of the Units, equal to the number of Purchase Contracts as to which Early Settlement was effected.

(f) In the event that Early Settlement is effected with respect to Purchase Contracts represented by less than all the Purchase Contracts evidenced by a Security, upon such Early Settlement, the Company shall execute and the Purchase Contract Agent and Trustee shall authenticate on behalf of the Holder and deliver to the Holder thereof, at the expense of the Company, a Security evidencing the Purchase Contracts as to which Early Settlement was not effected.

(g) Upon receipt of any Early Settlement Notice pursuant to Section 4.06(b), the Purchase Contract Agent shall promptly deliver a copy of such Early Settlement Notice to the Company.

SECTION 4.07. Early Settlement Upon a Fundamental Change. (a) If a Fundamental Change occurs and a Holder exercises the right to effect Early Settlement in respect of its Purchase Contracts in connection with such Fundamental Change in accordance with the procedures set forth in Section 4.06, such Holder shall receive a number of shares of Common Stock (or, if a Reorganization Event has occurred, cash, securities or other property, as applicable) for each such Purchase Contract equal to the applicable Fundamental Change Early Settlement Rate (the “**Fundamental Change Early Settlement Right**”). An Early Settlement shall be deemed for these purposes to be “in connection with” such Fundamental Change if the Holder delivers an Early Settlement Notice to the Purchase Contract Agent, and otherwise satisfies the requirements for effecting Early Settlement of its Purchase Contracts set forth in Section 4.06, during the period beginning on, and including, the Effective Date of the Fundamental Change and ending at the close of business on the 35th Business Day thereafter (or, if earlier, the second Scheduled Trading Day immediately preceding the Scheduled Mandatory Settlement Date) (the “**Fundamental Change Early Settlement Period**”).

(b) If a Holder complies with the requirements set forth in Section 4.07(a) and 4.06(b) to exercise the Fundamental Change Early Settlement Right prior to the close of business on any Business Day during the Fundamental Change Early Settlement Period, then that Business Day shall be considered the “**Fundamental Change Early Settlement Date**.” If a Holder complies with the requirements set forth in set forth in Section 4.07(a) and 4.06(b) to exercise the Fundamental Change Early Settlement Right at or after the close of business on any Business Day during the Fundamental Change Early Settlement Period or at any time on a day during the Fundamental Change Early Settlement Period that is not a Business Day, then the next succeeding Business Day shall be considered the “**Fundamental Change Early Settlement Date**.”

(c) The Company shall provide the Purchase Contract Agent, the Trustee and the Holders of Units and Separate Purchase Contracts with a notice of a Fundamental Change within five Business Days after its Effective Date and issue a press release announcing such Effective Date. The notice shall set forth:

- (i) the applicable Fundamental Change Early Settlement Rate;
- (ii) if not Common Stock, the kind and amount of cash, securities and other property receivable by the Holder upon settlement;
- (iii) the deadline by which each Holder’s Fundamental Change Early Settlement Right must be exercised; and
- (iv) any other information the Company determines to be appropriate.

(d) The Fundamental Change Early Settlement Rate shall be determined by the Company by reference to the table set forth in Section 4.07(f), based on the date on which the Fundamental Change occurs or becomes effective (the “**Effective Date**”) and the stock price (the “**Stock Price**”) in the Fundamental Change, which shall be:

- (i) in the case of a Fundamental Change described in clause (b) of the definition thereof in which all holders of shares of Common Stock receive only cash in the Fundamental Change, the Stock Price shall be the cash amount paid per share of Common Stock; and
- (ii) in all other cases, the Stock Price shall be the arithmetic average of the VWAPs of the Common Stock over the five consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date.

(e) The Stock Prices set forth in the column headings of the table set forth in Section 4.07(f) shall be adjusted as of any date on which the Fixed Settlement Rates are adjusted. The adjusted Stock Prices shall equal the Stock Prices applicable immediately prior to such adjustment, *multiplied by* a fraction, the numerator of which is the Maximum Settlement Rate immediately prior to the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Maximum Settlement Rate as so adjusted. The Fundamental Change Early Settlement Rates per Purchase Contract in the table set forth in Section 4.07(f) shall be adjusted in the same manner and at the same time as the Fixed Settlement Rates as set forth in Section 5.01.

(f) The following table sets forth the Fundamental Change Early Settlement Rate per Purchase Contract (the “**Fundamental Change Early Settlement Rate**”) for each Stock Price and Effective Date set forth below:

Effective Date	Stock Price												
	\$ 10.00	\$ 17.50	\$ 25.00	\$ 30.00	\$ 34.62	\$ 37.50	\$ 40.00	\$ 42.41	\$ 45.00	\$ 50.00	\$ 60.00	\$ 75.00	\$100.00
April 23, 2019	1.1093	1.2275	1.2513	1.2383	1.2837	1.1947	1.1785	1.1641	1.1508	1.1340	1.1290	1.1382	1.1483
July 30, 2019	1.1358	1.2458	1.2667	1.2520	1.2882	1.2043	1.1865	1.1706	1.1561	1.1380	1.1332	1.1418	1.1510
October 30, 2019	1.1610	1.2630	1.2814	1.2652	1.2928	1.2135	1.1940	1.1766	1.1608	1.1415	1.1371	1.1451	1.1535
January 30, 2020	1.1867	1.2805	1.2964	1.2790	1.2979	1.2229	1.2016	1.1824	1.1652	1.1449	1.1411	1.1485	1.1560
April 30, 2020	1.2130	1.2982	1.3119	1.2933	1.3036	1.2327	1.2091	1.1881	1.1693	1.1481	1.1452	1.1518	1.1585
July 30, 2020	1.2399	1.3161	1.3277	1.3081	1.3096	1.2425	1.2164	1.1932	1.1727	1.1510	1.1493	1.1552	1.1611
October 30, 2020	1.2673	1.3343	1.3439	1.3238	1.3175	1.2527	1.2237	1.1978	1.1755	1.1538	1.1535	1.1586	1.1636
January 30, 2021	1.2953	1.3525	1.3605	1.3403	1.3382	1.2633	1.2306	1.2015	1.1773	1.1566	1.1577	1.1619	1.1662
April 30, 2021	1.3239	1.3710	1.3776	1.3581	1.3591	1.2746	1.2371	1.2041	1.1779	1.1599	1.1619	1.1653	1.1687
July 30, 2021	1.3531	1.3894	1.3951	1.3773	1.3802	1.2867	1.2427	1.2044	1.1769	1.1639	1.1662	1.1687	1.1713
October 30, 2021	1.3829	1.4079	1.4127	1.3987	1.4014	1.3005	1.2466	1.2013	1.1745	1.1687	1.1704	1.1721	1.1739
January 30, 2022	1.4132	1.4262	1.4297	1.4224	1.4227	1.3178	1.2470	1.1925	1.1736	1.1739	1.1747	1.1756	1.1764
April 30, 2022	1.4442	1.4442	1.4442	1.4442	1.4442	1.3333	1.2500	1.1790	1.1790	1.1790	1.1790	1.1790	1.1790

The exact Stock Price and Effective Date may not be set forth in the table above, in which case:

(i) if the applicable Stock Price is between two Stock Prices in the table or the applicable Effective Date is between two Effective Dates in the table, the Fundamental Change Early Settlement Rate shall be determined by a straight-line interpolation between the Fundamental Change Early Settlement Rates set forth for the higher and lower Stock Prices and the earlier and later Effective Dates, as applicable, based on a 365- or 366-day year, as applicable;

(ii) if the applicable Stock Price is greater than \$100.00 per share (subject to adjustment in the same manner and at the same time as the Stock Prices set forth in the column headings of the table above), the Fundamental Change Early Settlement Rate shall be the Minimum Settlement Rate; or

(iii) if the applicable Stock Price is less than \$10.00 per share (subject to adjustment in the same manner and at the same time as the Stock Prices set forth in the column headings of the table above, the “**Minimum Stock Price**”), the Fundamental Change Early Settlement Rate shall be determined as if the Stock Price equaled the Minimum Stock Price, and using straight-line interpolation, as described in clause (i) of this Section 4.07(f), if the Effective Date is between two Effective Dates in the table.

The maximum number of shares of Common Stock deliverable under a Purchase Contract is 1.4442, subject to adjustment in the same manner and at the same time as the Fixed Settlement Rates as set forth under Section 5.01.

(g) [Reserved.]

(h) On the second Business Day following the Fundamental Change Early Settlement Date, subject to satisfaction of the conditions set forth in Section 4.06(b) by a Holder with respect to any of its Purchase Contracts, the Company shall cause a number of shares of Common Stock (or, if a Reorganization Event has occurred, cash, securities or other property, as applicable) per Purchase Contract, as a result of such Holder's exercise of the Fundamental Change Early Settlement Right equal to the Fundamental Change Early Settlement Rate to be issued (if applicable) and delivered, together with payment of (i) any cash payable in lieu of fractional shares pursuant to Section 4.13 and (ii) any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund (but without interest thereto), to such Holder by book-entry transfer or other appropriate processes pursuant to Section 4.11. The Person in whose name any shares of Common Stock or such other securities shall be deliverable following exercise of a Holder's Fundamental Change Early Settlement Right shall be treated as the holder of record of such shares or such other securities as of the close of business on the Fundamental Change Early Settlement Date.

(i) If a Holder exercises its Fundamental Change Early Settlement Right with respect to Purchase Contracts that are a component of Units, upon such Early Settlement in connection with a Fundamental Change, the Company shall execute and the Trustee shall authenticate (pursuant to the Indenture) on behalf of the Holder and deliver to the Holder thereof, at the expense of the Company, Separate Notes, in same form as the Notes comprising part of the Units, equal to the number of Purchase Contracts as to which Early Settlement in connection with a Fundamental Change was effected.

(j) If a Holder exercises its Fundamental Change Early Settlement Right with respect to Purchase Contracts represented by less than all the Purchase Contracts evidenced by a Security, upon such Early Settlement in connection with a Fundamental Change, the Company shall execute and the Purchase Contract Agent and Trustee shall authenticate on behalf of the Holder and deliver to the Holder thereof, at the expense of the Company, a Security evidencing the Purchase Contracts as to which Early Settlement in connection with a Fundamental Change was not effected.

(k) If a Holder does not elect to exercise the Fundamental Change Early Settlement Right, such Holder's Purchase Contracts shall remain outstanding and shall be subject to normal settlement on any subsequent Settlement Date or redemption on any subsequent Acquisition Redemption Settlement Date, as the case may be, including, if applicable.

(l) For the avoidance of doubt, each of the calculation methodologies and adjustments described in this Section 4.07 shall apply if the Fundamental Change Repurchase Rate is being used as the Acquisition Redemption Rate pursuant to Section 4.09.

SECTION 4.08. Early Mandatory Settlement at the Company's Election. (a) The Company has the right to settle the Purchase Contracts on or after January 30, 2020, in whole but not in part (the "**Early Mandatory Settlement Right**"), on a date fixed by it (the "**Early Mandatory Settlement Date**") at the Early Mandatory Settlement Rate on the Early Mandatory Settlement Notice Date.

(b) If the Company elects to exercise its Early Mandatory Settlement Right, the Company shall provide the Purchase Contract Agent and the Holders of Units, Separate Purchase Contracts and Separate Notes with a notice of its election (the "**Early Mandatory Settlement Notice**") and issue a press release announcing its election. The Early Mandatory Settlement Notice shall specify:

(i) the Early Mandatory Settlement Rate;

(ii) the Early Mandatory Settlement Date, which will be on or after January 30, 2020 and at least five but not more than 20 Business Days following the date of the Early Mandatory Settlement Notice (the “**Early Mandatory Settlement Notice Date**”);

(iii) that Holders of Units and Separate Notes will have the right to require the Company to repurchase their Notes that are a component of the Units or their Separate Notes, as the case may be, pursuant to and in accordance with the Indenture (subject to certain exceptions as provided in the Indenture);

(iv) if applicable, the Repurchase Price and Repurchase Date;

(v) if applicable, the last date on which Holders of Units or Separate Notes may exercise their Repurchase Right;

(vi) if applicable, the procedures that Holders of Units or Separate Notes must follow to require the Company to repurchase their Notes (which procedures shall be in accordance with the Indenture); and

(vii) any other information the Company determines to be appropriate.

(c) On the Early Mandatory Settlement Date, subject to satisfaction of the conditions set forth in Section 4.04 by a Holder with respect to any of its Purchase Contracts, the Company shall cause a number of shares of Common Stock per Purchase Contract equal to the Early Mandatory Settlement Rate to be issued and delivered, together with payment of (i) any cash payable in lieu of fractional shares pursuant to Section 4.13 and (ii) any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund (but without any interest thereon), to such Holder by book-entry transfer or other appropriate procedures pursuant to Section 4.11. The Person in whose name any shares of the Common Stock shall be issuable following exercise of the Early Mandatory Settlement Right shall be treated as the holder of record of such shares as of the close of business on the Early Mandatory Settlement Notice Date.

(d) In the event that Early Mandatory Settlement is effected with respect to Purchase Contracts that are a component of Units, upon such Early Mandatory Settlement, the Company shall execute and the Trustee shall authenticate (pursuant to the Indenture) on behalf of the Holder and deliver to the Holder thereof, at the expense of the Company, Separate Notes in the same form and in the same number as the Notes comprising part of the Units; *provided, however*, that if the Repurchase Date occurs prior to the Early Mandatory Settlement Date, any Holder exercising the Repurchase Right shall surrender the Units on the Repurchase Date and the Company shall execute, and the Purchase Contract Agent shall authenticate, Separate Purchase Contracts in the same form and in the same number as the Purchase Contracts comprising part of the Units, such Separate Purchase Contracts to be settled on the Early Mandatory Settlement Date.

SECTION 4.09. Acquisition Termination Redemption. (a) If the closing of the Acquisition has not occurred on or prior to April 22, 2020, or if, prior to such date, the Purchase Agreement is terminated, the Company may elect to redeem all, but not less than all, of the Outstanding Purchase Contracts, on the terms described in this Section 4.09 (an “**Acquisition Termination Redemption**”), by delivering notice (such notice, the “**Acquisition Redemption Notice**”) within the five Business Day period immediately following the earlier of (x) April 22, 2020 if the closing of the Acquisition has not occurred on or prior to such date and (y) the date on which the Purchase Agreement is terminated, in each case in the manner specified in Section 4.09(b).

(b) In the event of an Acquisition Termination Redemption, the Company shall provide the Purchase Contract Agent, the Trustee and the Holders of Units, Separate Purchase Contracts and Separate Notes with the Acquisition Redemption Notice and issue a press release announcing its election. The Acquisition Redemption Notice shall specify:

(i) the Acquisition Termination Stock Price;

(ii) the Scheduled Acquisition Redemption Settlement Date;

(iii) if the Redemption Amount will be determined pursuant to Section 4.09(c)(i), the Redemption Amount;

(iv) if the Redemption Amount will be determined pursuant to Section 4.09(c)(ii), the Acquisition Redemption Rate, and, if applicable, the number of shares of Common Stock that would otherwise be included in the applicable Redemption Amount that will be replaced with cash;

(v) that Holders of Units and Separate Notes will have the right to require the Company to repurchase their Notes that are a component of the Units or their Separate Notes, as the case may be, pursuant to and in accordance with the Indenture (subject to certain exceptions as provided in the Indenture);

(vi) if applicable, the Repurchase Price and Repurchase Date;

(vii) if applicable, the last date on which Holders of Units or Separate Notes may exercise their Repurchase Right;

(viii) if applicable, the procedures that Holders of Units or Separate Notes must follow under the Indenture to require the Company to repurchase their Notes;

(ix) if any outstanding Securities are Definitive Securities, the name and address of the Purchase Contract Agent; and

(x) any other information the Company determines to be appropriate.

In the event the Redemption Amount is determined pursuant to Section 4.09(c)(ii), if the Company does not specify a number of shares of Common Stock that will be replaced with cash in the Acquisition Redemption Notice, the Company shall be deemed to have elected to settle the Redemption Amount solely in shares of Common Stock.

(c) In the event of an Acquisition Termination Redemption, the Company shall deliver the applicable Redemption Amount on the Acquisition Redemption Settlement Date. The “**Redemption Amount**” shall mean:

(i) if the Acquisition Termination Stock Price is equal to or less than the Reference Price, an amount of cash per Purchase Contract equal to (x) the Stated Amount *less* (y) the applicable Repurchase Price; or

(ii) if the Acquisition Termination Stock Price is greater than the Reference Price, a number of shares of Common Stock per Purchase Contract (the “**Acquisition Redemption Rate**”) equal to the number of shares of Common Stock determined by reference to the table set forth in Section 4.07(f) (with references to “Stock Price” deemed to refer to the “Acquisition Termination Stock Price,” references to “Fundamental Change Early Settlement Rate” deemed to refer to the “Acquisition Redemption Rate,” and references to “Effective Date” deemed to refer to the date of the related Acquisition Redemption Notice); *provided* that the Company may elect to pay cash in lieu of delivering any or all of such shares of Common Stock in an amount equal to such number of shares multiplied by the Redemption Market Value; *provided further* that, if the Company so elects to pay cash, the Company shall specify in the Acquisition Redemption Notice the number of shares of Common Stock that shall be replaced with cash.

On the Acquisition Redemption Settlement Date, subject to satisfaction of the conditions set forth in Section 4.04 by a Holder with respect to any of its Purchase Contracts, the Company shall cause any shares referred to in clause (ii) above to be issued and delivered, together with payment of (a) any cash payable in lieu of fractional shares pursuant to Section 4.13 and (b) any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund (but without any interest thereon), to such Holder by book-entry transfer or other appropriate procedures pursuant to Section 4.11. The Person in whose name any shares of the Common Stock shall be issuable pursuant to an Acquisition Termination Redemption shall be treated as the holder of record of such shares as of the close of business on:

(i) the date of the Acquisition Redemption Notice, if the Company has elected (or is deemed to have elected) to settle the Redemption Amount solely in shares of Common Stock; or

(ii) the last Trading Day in the 20 consecutive Trading Day period used to determine the Redemption Market Value, if the Acquisition Termination Stock Price is greater than the Reference Price and the Company has elected to pay cash in lieu of delivering any shares of Common Stock that would otherwise be included in the Redemption Amount.

(d) [Reserved.]

(e) [Reserved.]

(f) In the event of an Acquisition Termination Redemption with respect to Purchase Contracts that are a component of Units, upon the applicable Acquisition Redemption Settlement Date, the Company shall execute and the Trustee shall authenticate (pursuant to the Indenture) on behalf of the Holder and deliver to the Holder thereof, at the expense of the Company, Separate Notes in the same form and in the same number as the Notes comprising part of the Units; *provided, however*, that if the Repurchase Date occurs prior to the Acquisition Redemption Settlement Date, any Holder exercising the Repurchase Right shall surrender the Units on the Repurchase Date and the Company shall execute, and the Purchase Contract Agent shall authenticate, Separate Purchase Contracts in the same form and in the same number as the Purchase Contracts comprising part of the Units, such Separate Purchase Contracts to be redeemed on the Acquisition Redemption Settlement Date.

SECTION 4.10. Acceleration of Mandatory Settlement Date. If a Bankruptcy Event occurs at any time on or before the last Trading Day of the Mandatory Settlement Period during which the Applicable Market Value is determined (the day on which such Bankruptcy Event occurs, the “**Acceleration Date**”), the Mandatory Settlement Date shall automatically be accelerated to the Business Day immediately following the Acceleration Date and Holders of Purchase Contracts shall be entitled to receive, upon settlement of the Purchase Contracts on such accelerated Mandatory Settlement Date, a number of shares of Common Stock per Purchase Contract equal to the Maximum Settlement Rate in effect immediately prior to the Acceleration Date (regardless of the Applicable Market Value of the Common Stock at that time). The Company shall cause to be delivered the shares of Common Stock, securities, cash or other property deliverable as a result of any such acceleration of the Mandatory Settlement Date in accordance with the provisions set forth in Section 4.05, except that (i) such delivery shall be made on the accelerated Mandatory Settlement Date, and (ii) the Person in whose name any shares of Common Stock shall be issuable following such acceleration shall be treated as the holder of record of such shares as of the close of business on the Acceleration Date. Any claim for damages that Holders of the Purchase Contracts (whether as Separate Purchase Contracts or Purchase Contracts underlying Units) have for the Company’s failure to deliver Common Stock following a Bankruptcy Event as described in this Section 4.10 will rank *pari passu* with the claims of holders of the Common Stock in the relevant bankruptcy proceeding.

SECTION 4.11. Registration of Underlying Shares and Transfer Taxes. The shares of Common Stock underlying the Purchase Contracts shall be registered in the name of the Holder or the Holder's designee as specified in the settlement instructions provided by the Holder to the Purchase Contract Agent, and the Company will pay all documentary, stamp or similar issue or transfer taxes due on the issue of any shares of Common Stock upon settlement or redemption of the Purchase Contracts, unless any such tax is payable in respect of any registration of such shares in a name of a Person other than the Person in whose name the Security evidencing such Purchase Contract is registered, in which case the Company shall not be required to pay any such tax and no such registration shall be made unless the Person requesting such registration has paid any such taxes required by reason of such registration in a name of a Person other than the Person in whose name the Security evidencing such Purchase Contract is registered or has established to the satisfaction of the Company that such tax either has been paid or is not payable.

SECTION 4.12. Return of Purchase Contract Settlement Fund. In the event a Holder fails to effect surrender or delivery of its Units or Purchase Contracts on or following the applicable Settlement Date in accordance with the provisions hereof, the shares of Common Stock underlying such Purchase Contracts, any cash paid in lieu of fractional shares pursuant to Section 4.13 and any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund, shall be held in the name of the Purchase Contract Agent or its nominee in trust for the benefit of such Holder, until the earlier to occur of:

(i) the surrender of the relevant Units or Separate Purchase Contracts for settlement or redemption in accordance with the provisions hereof or receipt by the Company and the Purchase Contract Agent from such Holder of satisfactory evidence that such Units or Separate Purchase Contracts have been destroyed, lost or stolen, together with any indemnity that may be required by the Purchase Contract Agent and the Company; and

(ii) the passage of two years from the applicable Settlement Date, as the case may be, following which the Purchase Contract Agent shall pay to the Company such Holder's share of such Common Stock, any cash paid with respect to fractional shares and any dividends or distributions with respect to such shares constituting part of the Purchase Contract Settlement Fund; *provided, however*, that prior to receiving any such payment, the Company shall notify each such Holder that such property remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notice, any unclaimed balance of such property then remaining will be repaid to the Company. After payment to the Company, (A) Holders entitled to such property must look to the Company for payment as general creditors, unless applicable abandoned property law designates another Person, and (B) all liability of the Purchase Contract Agent with respect to such property shall cease.

SECTION 4.13. No Fractional Shares. No fractional shares or scrip certificates representing fractional shares of Common Stock shall be issued or delivered to Holders upon settlement or redemption of the Purchase Contracts. In lieu of any fractional shares of Common Stock that would otherwise be issuable upon settlement or redemption of any Purchase Contracts, a Holder of a Purchase Contract shall be entitled to receive an amount in cash equal to the fraction of a share of Common Stock, calculated on an aggregate basis in respect of the Purchase Contracts being settled or redeemed (provided that, so long as the Units are held as Global Units, the Company may elect to aggregate Units for purposes of these calculations on any basis permitted by the applicable procedures of the Depositary), *multiplied by* the VWAP of the Common Stock on the Trading Day immediately preceding the applicable Settlement Date. To the extent the Purchase Contract Agent is obligated to make any payments on behalf of the Company pursuant to this Agreement, the Company shall provide the Purchase Contract Agent with sufficient funds to permit the Purchase Contract Agent to make all such cash payments in a timely manner.

ARTICLE V
ADJUSTMENTS

SECTION 5.01. Adjustments to the Fixed Settlement Rates. (a) Each Fixed Settlement Rate shall be subject to the adjustment, without duplication, upon:

(i) If the Company issues Common Stock to all or substantially all of the holders of Common Stock as a dividend or other distribution, or if the Company effects a share split or share combination, then each Fixed Settlement Rate shall be adjusted based on the following formula:

$$SR_1 = SR_0 \times \frac{OS_1}{OS_0}$$

where,

SR_0 = the Fixed Settlement Rate in effect immediately prior to the close of business on the Record Date for such dividend or distribution or immediately prior to the open of business on the Effective Date for such share split or share combination, as the case may be;

SR_1 = the Fixed Settlement Rate in effect immediately after the close of business on such Record Date or immediately after the open of business on such Effective Date, as the case may be;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on such Record Date or immediately prior to the open of business on such Effective Date, as the case may be (in either case, prior to giving effect to such event); and

OS_1 = the number of shares of Common Stock that would be outstanding immediately after, and solely as a result of, such dividend, distribution, share split or share combination.

Any adjustment made pursuant to this Section 5.01(a)(i) will become effective immediately after the close of business on the Record Date for such dividend or distribution, or immediately after the open of business on the Effective Date for such share subdivision or share combination, as the case may be. If any dividend or distribution described in this clause (i) is declared but not so paid or made, each Fixed Settlement Rate shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to make such dividend or distribution, to such Fixed Settlement Rate that would be in effect if such dividend or distribution had not been declared. For the purposes of this clause (i), the number of shares of Common Stock outstanding immediately prior to the close of business on the Record Date for such dividend or distribution or the open of business on the Effective Date for such share subdivision or share combination, as applicable, shall not include shares held in treasury by the Company but shall include any shares issuable in respect of any scrip certificates issued in lieu of fractions of shares of Common Stock. The Company shall not pay any such dividend or make any such distribution on shares of Common Stock held in treasury by the Company.

(ii) If the Company issues to all or substantially all holders of Common Stock rights, options or warrants (other than rights issued pursuant to a stockholder rights plan) entitling such holders, for a period of up to 45 calendar days from the date of issuance of such rights, options or warrants, to subscribe for or purchase shares of Common Stock at a price per share less than the average of the Closing Prices per share of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement for such distribution per share of Common Stock, then each Fixed Settlement Rate shall be adjusted based on the following formula:

$$SR_1 = SR_0 \times \frac{(OS_0 + X)}{(OS_0 + Y)}$$

where,

SR_0 = the Fixed Settlement Rate in effect immediately prior to the close of business on the Record Date for such issuance;

SR_1 = the Fixed Settlement Rate in effect immediately after the close of business on such Record Date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the close of business on such Record Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = the total number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided by* the average of the Closing Prices per share of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement for such distribution.

Any adjustment made pursuant to this Section 5.01(a)(ii) shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the close of business on the Record Date for such issuance. In the event that such rights, options or warrants described in this clause (ii) are not so issued, each Fixed Settlement Rate shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to issue such rights, options or warrants, to such Fixed Settlement Rate that would then be in effect if such issuance had not been declared. To the extent that such rights, options or warrants are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights, options or warrants upon the exercise of such rights, options or warrants, each Fixed Settlement Rate shall be readjusted, effective as of the date of such expiration or the date it is determined such shares will not be delivered, as the case may be, to such Fixed Settlement Rate that would then be in effect had the adjustment made upon the issuance of such rights, options or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered.

In determining whether any rights, options or warrants entitle the holders thereof to subscribe for or purchase shares of Common Stock at less than the average of the Closing Prices per share of Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement for such distribution, and in determining the aggregate price payable to exercise such rights, options or warrants, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

For the purposes of this clause (ii), the number of shares of Common Stock at the time outstanding shall not include shares held in treasury by the Company but shall include any shares issuable in respect of any scrip certificates issued in lieu of fractions of shares of Common Stock. The Company shall not issue any such rights, options or warrants in respect of share of Common Stock held in treasury by the Company.

(iii) (A) If the Company distributes to all or substantially all holders of the Common Stock shares of Capital Stock (other than Common Stock), evidences of the Company's indebtedness, assets or rights, options or warrants to acquire Capital Stock, indebtedness or assets, excluding (1) any dividend or distribution (including share splits or share combinations) as to which an adjustment was effected pursuant to Section 5.01(a)(i), (2) any rights, options or warrants as to which an adjustment was effected pursuant to Section 5.01(a)(ii), (3) except as otherwise described in Section 5.01(b), rights issued pursuant to any stockholder rights plan of the Company then in effect, (4) any dividend or distribution described in Section 5.01(a)(iv), (5) distributions of Exchange Property in a transaction described in Section 5.02(a) and (6) any Spin-Off to which the provisions set forth in Section 5.01(a)(iii)(B) shall apply, then each Fixed Settlement Rate shall be adjusted based on the following formula:

$$SR_1 = SR_0 \times \frac{SP_0}{(SP_0 - FMV)}$$

where,

SR_0 = the Fixed Settlement Rate in effect immediately prior to the close of business on the Record Date for such dividend or distribution;

SR_1 = the Fixed Settlement Rate in effect immediately after the close of business on such Record Date;

SP_0 = the average of the Closing Prices per share of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date for such dividend or distribution; and

FMV = the Fair Market Value (as determined by the Board of Directors) on the Ex-Date for such dividend or distribution, of the shares of Capital Stock, evidences of indebtedness, assets or rights, options or warrants so distributed, expressed as an amount per share of Common Stock.

If FMV (as defined above) is equal to or greater than SP_0 (as defined above) or if the difference between SP_0 and FMV is less than \$1.00, in lieu of the foregoing adjustment, provision shall be made for each Holder of a Unit or Separate Purchase Contract to receive, for each Unit or Separate Purchase Contract, at the same time and upon the same terms as holders of the Common Stock, the kind and amount of Capital Stock, evidences of indebtedness, assets or rights, options or warrants that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Maximum Settlement Rate in effect on the Record Date for the dividend or distribution.

Any adjustment made pursuant to this Section 5.01(iii)(A) shall become effective immediately after the close of business on the Record Date for such dividend or distribution. In the event that such dividend or distribution is not so made, each Fixed Settlement Rate shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to make such dividend or distribution, to such Fixed Settlement Rate that would then be in effect if such dividend or distribution had not been declared. The Company shall not make any such distribution on shares of Common Stock held in treasury by the Company.

(B) In the event that the transaction that gives rise to an adjustment pursuant to this Section 5.01(a)(iii) is a Spin-Off, each Fixed Settlement Rate shall be adjusted based on the following formula:

$$SR_1 = SR_0 \times \frac{(FMV_0 + MP_0)}{MP_0}$$

where,

SR_0 = the Fixed Settlement Rate in effect immediately prior to the open of business on the Ex-Date for the Spin-Off;

SR_1 = the Fixed Settlement Rate in effect immediately after the open of business on the Ex-Date for the Spin-Off;

FMV_0 = the average of the Closing Prices (as if references to “Common Stock” therein were references to such Capital Stock or similar equity interest distributed to holders of Common Stock) per share of the Capital Stock or similar equity interests so distributed applicable to one share of Common Stock for the 10 consecutive Trading Day period commencing on, and including, the Ex-Date for the Spin-Off (the “Valuation Period”); and

MP_0 = the average of the Closing Prices per share of the Common Stock for the Valuation Period.

Any adjustment made pursuant to this Section 5.01(iii)(B) shall become effective immediately after the close of business on the last Trading Day of the Valuation Period but will be given effect as of immediately after the open of business on the Ex-Date of the Spin-Off; *provided that*, if any Determination Date occurs during the Valuation Period, the Company will delay any settlement of a Unit or Purchase Contract until the second Business Day after the last date for determining the number of shares of Common Stock issuable to such Holder with respect to such settlement occurs. In the event that such dividend or distribution described in this Section 5.01(a)(iii)(B) is not so made, each Fixed Settlement Rate shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay such dividend or distribution, to such Fixed Settlement Rate that would then be in effect if such distribution had not been declared. The Company shall not make any such dividend or distribution on shares of Common Stock held in treasury by the Company.

(iv) If the Company makes a dividend or distribution consisting exclusively of cash to all or substantially all holders of Common Stock (excluding (1) any regular quarterly dividend that does not exceed \$0.219 per share of Common Stock (the “**Dividend Threshold Amount**”), (2) any cash that is distributed in, and will constitute Exchange Property as a result of, a Reorganization Event in exchange for shares of Common Stock and (3) any dividend or distribution in connection with the liquidation, dissolution or winding up of the Company), then each Fixed Settlement Rate shall be adjusted based on the following formula:

$$SR_1 = SR_0 \times \frac{(SP_0 - T)}{(SP_0 - C)}$$

where,

SR_0 = the Fixed Settlement Rate in effect immediately prior to the close of business on the Record Date for such dividend or distribution;

SR_1 = the Fixed Settlement Rate in effect immediately after the close of business on the Record Date for such dividend or distribution;

SP_0 = the average of the Closing Prices per share of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Date for such dividend or distribution;

T = the Dividend Threshold Amount; *provided* that if the dividend or distribution is not a regular quarterly cash dividend, the Dividend Threshold Amount will be deemed to be zero; and

C = the amount in cash per share the Company distributes to holders of Common Stock.

The Dividend Threshold Amount is subject to adjustment on an inversely proportional basis whenever the Fixed Settlement Rates are adjusted (by multiplying the Dividend Threshold Amount by a fraction, the numerator of which will be the Minimum Settlement Rate in effect immediately prior to the adjustment and the denominator of which will be the Minimum Settlement Rate as adjusted), but no adjustment will be made to the Dividend Threshold Amount for any adjustment made to the Fixed Settlement Rates pursuant to this Section 5.01(a)(iv).

If C (as defined above) is equal to or greater than SP_0 (as defined above) or if the difference between SP_0 and C is less than \$1.00, in lieu of the foregoing adjustment, provision shall be made for each Holder of a Unit or Separate Purchase Contract to receive, for each Unit or Separate Purchase Contract, at the same time and upon the same terms as holders of Common Stock, the amount of cash that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Maximum Settlement Rate on the Record Date for such cash dividend or distribution.

Any adjustment made pursuant to this Section 5.01(a)(iv) shall become effective immediately after the close of business on the Record Date for such dividend or distribution. In the event that any dividend or distribution described in this Section 5.01(a)(iv) is not so made, each Fixed Settlement Rate shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay such dividend or distribution, to such Fixed Settlement Rate which would then be in effect if such dividend or distribution had not been declared. The Company shall not make any such dividend or distribution on shares of Common Stock held in treasury.

(v) If the Company or one or more Subsidiaries of the Company successfully completes a tender or exchange offer for the Common Stock where the cash and the value of any other consideration included in the payment per share of Common Stock validly tendered or exchanged exceeds the average of the Closing Prices per share of the Common Stock for the 10 consecutive Trading Day period (the “**Averaging Period**”) commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender offer or exchange offer (the “**Tender Offer Expiration Date**”), then each Fixed Settlement Rate shall be adjusted based on the following formula:

$$SR_1 = SR_0 \times \frac{(AC + (SP \times OS_1))}{(SP \times OS_0)}$$

where,

SR_0 = the Fixed Settlement Rate in effect immediately prior to the close of business on Tender Offer Expiration Date;

SR_1 = the Fixed Settlement Rate in effect immediately after the close of business on the Tender Offer Expiration Date;

AC = the aggregate value of all cash and the Fair Market Value (as determined by the Board of Directors) on the Tender Offer Expiration Date of any other consideration paid or payable for shares of Common Stock acquired pursuant to such tender offer or exchange offer;

OS_1 = the number of shares of Common Stock outstanding immediately after the Tender Offer Expiration Date, after giving effect to the purchase of all shares accepted for purchase or exchange in such tender offer or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Tender Offer Expiration Date, prior to giving effect to the purchase of any shares accepted for purchase or exchange in such tender offer or exchange offer; and

SP_1 = the average of the Closing Prices per share of the Common Stock over the Averaging Period.

Any adjustment made pursuant to this Section 5.01(a)(v) shall become effective immediately after the close of business on the Tender Offer Expiration Date; *provided* that, if any Determination Date occurs during the Averaging Period, the Company will delay any settlement of a Unit or Purchase Contract until the second Business Day after the last date for determining the number of shares of Common Stock issuable to such Holder with respect to such settlement occurs. If the Company or one of its Subsidiaries is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer, but the Company or such Subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then each Fixed Settlement Rate shall be readjusted to be such Fixed Settlement Rate that would then be in effect if such tender or exchange offer had not been made.

(b) *Rights Plans.* To the extent that the Company has a rights plan in effect with respect to the Common Stock on any Determination Date, Holders shall receive, in addition to the Common Stock, the rights under the rights plan, unless, prior to such Determination Date, the rights have separated from the Common Stock, in which case each Fixed Settlement Rate shall be adjusted at the time of separation as if the Company made a distribution to all holders of the Common Stock as described in Section 5.01(a)(iii)(A), subject to readjustment in the event of the expiration, termination or redemption of such rights.

(c) *Discretionary Adjustments.* Subject to applicable law and the applicable listing standards of the NYSE (or any other securities exchange where the Common Stock is listed) and in accordance with this Agreement, the Company may make such increases in each Fixed Settlement Rate, in addition to any other increases required by this Article V, as the Company determines to be in its best interests or the Company deems advisable. The Company may also (but is not required to) increase each Fixed Settlement Rate in order to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of shares of Common Stock (or issuance of rights, options or warrants to acquire shares of Common Stock) or from any event treated as such for income tax purposes or for any other reasons; *provided* that, in each case, the same proportionate adjustment must be made to each Fixed Settlement Rate.

(d) *Calculation of Adjustments.* All adjustments to each Fixed Settlement Rate shall be calculated to the nearest 1/10,000th of a share of Common Stock. No adjustment in a Fixed Settlement Rate shall be required unless the adjustment would require an increase or decrease of at least one percent therein. If any adjustment is not required to be made by reason of this Section 5.01(d), then the adjustment shall be carried forward and taken into account in any subsequent adjustment; *provided* that on each Determination Date (including any date for determining the amount of cash payable in connection with an Acquisition Termination Redemption), adjustments to the Fixed Settlement Rates shall be made with respect to any such adjustment carried forward and which has not been taken into account before such Determination Date.

(e) *Adjustments to Prices Over a Period.* Whenever the Company is required to calculate the Closing Prices, the VWAPs or any other prices or amounts over a span of multiple days (including, without limitation, the Applicable Market Value, the Redemption Market Value, the Stock Price or the Acquisition Termination Stock Price), the Board of Directors shall make appropriate adjustments, if any, to each to account for any adjustment to the Fixed Settlement Rates if the related Record Date, Ex-Date, Effective Date or Tender Offer Expiration Date occurs during the period in which the Closing Prices, the VWAPs or such other prices or amounts are to be calculated.

(f) *Limitation on Adjustments.* No adjustment to the Fixed Settlement Rates shall be made if Holders of Units or any Separate Purchase Contracts participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Purchase Contracts, in the transaction that would otherwise give rise to an adjustment without having to settle the Purchase Contracts as if such Holder held a number of shares of the Common Stock equal to the Maximum Settlement Rate, *multiplied* by the number of Purchase Contracts held by such Holder. In addition, the Fixed Settlement Rates shall only be adjusted as set forth above and shall not be adjusted:

(i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any plan;

(ii) upon the issuance of any shares of Common Stock or rights, options or warrants to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its Subsidiaries;

(iii) upon the repurchase of any shares of Common Stock pursuant to an open market share repurchase program or other buy-back transaction, including structured or derivative transactions, that is not a tender offer or exchange offer of the nature described in Section 5.01(a)(v);

(iv) for the sale or issuance of shares of Common Stock, or securities convertible into or exercisable for shares of Common Stock, for cash, including at a price per share less than the Fair Market Value thereof or otherwise or in an acquisition, except as described in one of Section 5.01(a)(i) through Section 5.01(a)(v) above;

(v) for a third party tender offer;

(vi) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the Issue Date;

(vii) solely for a change in, or elimination of, the par value of the Common Stock; or

(viii) for accrued and unpaid interest, if any.

(g) *Notice of Adjustment.* Whenever the Fixed Settlement Rates are adjusted, the Company shall:

(i) prepare and transmit to the Purchase Contract Agent an Officer's Certificate setting forth such adjusted Fixed Settlement Rates and/or the adjusted Fundamental Change Early Settlement Rates and Acquisition Redemption Rates, the method of calculation thereof in reasonable detail and the facts requiring such adjustment and upon which such adjustment is based;

(ii) within five Business Days following the occurrence of an event that requires an adjustment to the Fixed Settlement Rates, the Fundamental Change Early Settlement Rates and the Acquisition Redemption Rates (or if the Company is not aware of such occurrence, as soon as practicable after becoming so aware), provide, or cause to be provided, a written notice to the Holders of the occurrence of such event; and

(iii) within five Business Days following the determination of such adjusted Fixed Settlement Rates, Fundamental Change Early Settlement Rates and Acquisition Redemption Rates provide, or cause to be provided, to the Holders of the Units and the Separate Purchase Contracts a statement setting forth in reasonable detail the method by which the adjustment to such Fixed Settlement Rates, the Fundamental Change Early Settlement Rates and the Acquisition Redemption Rates was determined and setting forth such adjusted Fixed Settlement Rates, Fundamental Change Early Settlement Rates and the Acquisition Redemption Rates and the facts requiring such adjustment and upon which such adjustment is based.

(iv) The Company shall adjust the Fundamental Change Early Settlement Rates and Acquisition Redemption Rates at the time it adjusts the Fixed Settlement Rates pursuant to this Section 5.01. For the avoidance of doubt, if the Company makes an adjustment to the Fixed Settlement Rates pursuant to this Section 5.01, such adjustment will result in a corresponding adjustment to the Early Settlement Rate and the Early Mandatory Settlement Rate. For the further avoidance of doubt, if the Company makes an adjustment to the Fixed Settlement Rates, no separate inversely proportionate adjustment will be made either to (i) the Threshold Appreciation Price because it is equal to \$50.00 divided by the Minimum Settlement Rate as adjusted in the manner described herein (rounded to the nearest \$0.0001) or (ii) the Reference Price because it is equal to \$50.00 divided by the Maximum Settlement Rate as adjusted in the manner described herein (rounded to the nearest \$0.0001).

SECTION 5.02. Reorganization Events. (a) In the event of:

- (i) any consolidation or merger of the Company with or into another Person (other than a merger or consolidation in which the Company is the continuing or surviving corporation and in which the Common Stock outstanding immediately prior to the merger or consolidation is not exchanged for cash, securities or other property of the Company or another Person);
- (ii) any direct or indirect sale, lease, assignment, transfer or conveyance of all or substantially all of the Company's consolidated property or assets;
- (iii) any reclassification of Common Stock into securities, including securities other than Common Stock (other than changes in par value or resulting from a subdivision or combination); or
- (iv) any statutory exchange of securities of the Company with another Person (other than in connection with a merger or acquisition);

in each case, as a result of which the Common Stock would be converted into, or exchanged for, securities, cash or other property (each, a “**Reorganization Event**”), each Purchase Contract outstanding immediately prior to such Reorganization Event shall, without the consent of Holders of the Purchase Contracts, become a contract to purchase the kind of securities, cash and/or other property that a holder of Common Stock would have been entitled to receive in connection with such Reorganization Event (such securities, cash and other property, the “**Exchange Property**” with each unit of Exchange Property being the kind and amount of Exchange Property that a holder of one share of Common Stock would have received in such Reorganization Event) and, prior to or at the effective time of such Reorganization Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Purchase Contract Agent and the Trustee a supplemental agreement permitted under Section 9.01(iv) amending this Agreement and the Purchase Contracts to provide for such change in the right to settle the Purchase Contracts.

For purposes of the foregoing, the type and amount of Exchange Property in the case of any Reorganization Event that causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of shareholder election) will be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of Common Stock. The Company shall notify the Purchase Contract Agent in writing of such weighted average as soon as practicable after such determination is made.

The number of units of Exchange Property the Company shall deliver for each Purchase Contract settled or redeemed (if the Company elects not to deliver solely cash in respect of an Acquisition Termination Redemption) following the effective date of such Reorganization Event shall be equal to the number of shares of Common Stock that the Company would otherwise be required to deliver as determined based on the Fixed Settlement Rates then in effect on the applicable Determination Date, or such other settlement rates or redemption rates as provided herein (without interest thereon and without any right to dividends or distributions thereon which have a record date prior to the close of business on the Determination Date). Each Fixed Settlement Rate shall be determined based upon the Applicable Market Value of a unit of Exchange Property that a holder of one share of Common Stock would have received in such Reorganization Event.

For purposes of this Section 5.02(a), “**Applicable Market Value**” shall be deemed to refer to the Applicable Market Value of the Exchange Property and such value shall be determined (A) in the case of any publicly traded securities that comprise all or part of the Exchange Property, based on the VWAP of such securities on such Determination Date, (B) in the case of any cash that comprises all or part of the Exchange Property, based on the amount of such cash and (C) in the case of any other property that comprises all or part of the Exchange Property, based on the value of such property on such Determination Date, as determined by a nationally recognized independent investment banking firm retained by the Company for this purpose. For purposes of this Section 5.02(a), the term “**VWAP**” shall be determined by reference to the definition of VWAP as if references therein to Common Stock were to such publicly traded securities that comprise all or part of the Exchange Property. For purposes of this Section 5.02(a), references to Common Stock in the definition of “**Trading Day**” shall be replaced by references to any publicly traded securities that comprise all or part of the Exchange Property.

If the Exchange Property in respect of any Reorganization Event includes, in whole or in part, securities of another Person, such supplemental agreement described in the second immediately preceding paragraph shall be executed by such other Person and shall (x) provide for anti-dilution and other adjustments that shall be as nearly equivalent as practicable, as determined by the officer of the Company executing such supplemental agreement, to the adjustments provided for in this Article V, and (y) otherwise modify the terms of this Agreement and the Purchase Contracts to reflect the substitution of the applicable Exchange Property for the Common Stock (or other Exchange Property then underlying the Purchase Contracts). In establishing such anti-dilution and other adjustments referenced in the immediately preceding sentence, such officer shall act in a commercially reasonable manner and in good faith.

(b) In the event the Company shall execute a supplemental agreement pursuant to Section 5.02(a), the Company shall promptly file with the Purchase Contract Agent an Officer’s Certificate briefly stating the reasons therefor, the kind or amount of cash, securities or property or asset that will comprise the Exchange Property after any such Reorganization Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with, and shall promptly notify Holders thereof. The Company (or any successor) shall, within 20 days of the occurrence of any Reorganization Event or, if earlier, within 20 days of the execution of any supplemental agreement pursuant to Section 5.02(a), provide written notice to the Purchase Contract Agent and Holders of such occurrence of such event and of the kind and amount of the cash, securities or other property that constitute the Exchange Property and of the execution of such supplemental agreement, if applicable. Failure to deliver such notice shall not affect the operation of this Section 5.02 or the legality or validity of any such supplemental agreement.

(c) The Company shall not become a party to any Reorganization Event unless its terms are consistent with this Section 5.02. None of the foregoing provisions shall affect the right of a Holder of Purchase Contracts to effect Early Settlement pursuant to Section 4.06 and Section 4.07 prior to the effective date of such Reorganization Event.

(d) The above provisions of this Section 5.02 shall similarly apply to successive Reorganization Events and the provisions of Section 5.01 shall apply to any shares of Capital Stock of the Company (or any successor) received by the holders of Common Stock in any such Reorganization Event.

(e) In connection with any Reorganization Event, the Dividend Threshold Amount shall be subject to adjustment as described in clause (i), clause (ii) or clause (iii) below, as the case may be.

(i) In the case of a Reorganization Event in which the Exchange Property (determined, as appropriate, pursuant to subsection (a) above and excluding any dissenters' appraisal rights) is composed entirely of shares of common stock (the "**Merger Common Stock**"), the Dividend Threshold Amount at and after the effective time of such Reorganization Event will be equal to (x) the Dividend Threshold Amount immediately prior to the effective time of such Reorganization Event, *divided by* (y) the number of shares of Merger Common Stock that a holder of one share of Common Stock would receive in such Reorganization Event (such quotient rounded to the nearest cent).

(ii) In the case of a Reorganization Event in which the Exchange Property (determined, as appropriate, pursuant to subsection (a) above and excluding any dissenters' appraisal rights) is composed in part of shares of Merger Common Stock, the Dividend Threshold Amount at and after the effective time of such Reorganization Event will be equal to (x) the Dividend Threshold Amount immediately prior to the effective time of such Reorganization Event, *multiplied by* (y) the Merger Valuation Percentage for such Reorganization Event (such product rounded to the nearest cent).

(iii) For the avoidance of doubt, in the case of a Reorganization Event in which the Exchange Property (determined, as appropriate, pursuant to subsection (a) above and excluding any dissenters' appraisal rights) is composed entirely of consideration other than shares of common stock, the Dividend Threshold Amount at and after the effective time of such Reorganization Event will be equal to zero.

ARTICLE VI CONCERNING THE HOLDERS OF PURCHASE CONTRACTS

SECTION 6.01. Evidence of Action Taken by Holders. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Agreement to be given or taken by a specified percentage of number of Purchase Contracts may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Holders in Person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Purchase Contract Agent. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Agreement and (subject to Section 8.01 and Section 8.03) conclusive in favor of the Purchase Contract Agent and the Company, if made in the manner provided in this Article VI.

SECTION 6.02. Proof of Execution of Instruments and of Holding of Securities. Subject to Section 8.01 and Section 8.03, the execution of any instrument by a Holder or his agent or proxy may be proved in the following manner:

(a) The fact and date of the execution by any Holder of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction authorized to take acknowledgments of deeds or administer oaths that the Person executing such instruments acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute sufficient proof of the authority of the Person executing the same.

(b) The ownership of the Units and the Purchase Contracts shall be proved by the Security Register or by a certificate of the Security Registrar.

SECTION 6.03. Purchase Contracts Deemed Not Outstanding. In determining whether the Holders of the requisite number of Outstanding Purchase Contracts have concurred in any direction, consent or waiver under this Agreement, Purchase Contracts which are owned by the Company or by any Affiliate of the Company with respect to which such determination is being made shall be disregarded and deemed not to be Outstanding Purchase Contracts for the purpose of any such determination, except that for the purpose of determining whether the Purchase Contract Agent shall be protected in relying on any such direction, consent or waiver only Purchase Contracts which a Responsible Officer of the Purchase Contract Agent knows are so owned shall be so disregarded. Purchase Contracts so owned which have been pledged in good faith may be regarded as Outstanding Purchase Contracts if the pledgee establishes to the satisfaction of the Purchase Contract Agent the pledgee's right so to act with respect to such Purchase Contracts and that the pledgee is not the Company or any Affiliate of the Company. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Purchase Contract Agent in accordance with such advice. Upon request of the Purchase Contract Agent, the Company shall furnish to the Purchase Contract Agent promptly an Officer's Certificate listing and identifying all Purchase Contracts, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to Section 8.01 and Section 8.03, the Purchase Contract Agent shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Purchase Contracts not listed therein are Outstanding Purchase Contracts for the purpose of any such determination.

SECTION 6.04. Right of Revocation of Action Taken. At any time prior to (but not after) the evidencing to the Purchase Contract Agent, as provided in Section 6.01, of the taking of any action by the Holders of the percentage of the number of Purchase Contracts specified in this Agreement in connection with such action, any Holder of a Purchase Contract the serial number of which is shown by the evidence to be included among the serial numbers of the Purchase Contracts the Holders of which have consented to such action may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article VI, revoke such action so far as concerns such Purchase Contract; *provided* that such revocation shall not become effective until three Business Days after such filing. Except as aforesaid, any such action taken by the Holder of any Purchase Contract shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Purchase Contract and of any Purchase Contracts issued in exchange or substitution therefor or on registration of transfer thereof, irrespective of whether or not any notation in regard thereto is made upon any such Purchase Contract. Any action taken by the Holders of the percentage of the number of Purchase Contracts specified in this Agreement in connection with such action shall be conclusively binding upon the Company, the Purchase Contract Agent, the Trustee and the Holders of all the Purchase Contracts affected by such action.

SECTION 6.05. Record Date for Consents and Waivers. The Company may, but shall not be obligated to, establish a record date for the purpose of determining the Persons entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Agreement to be given made or taken by Holders of Purchase Contracts. If a record date is fixed, the Holders on such record date, or their duly designated proxies, and any such Persons, shall be entitled to give, make or take any such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holder remains a Holder after such record date; *provided, however*, that unless such waiver or consent is obtained from the Holders, or duly designated proxies, of the requisite number of Outstanding Purchase Contracts prior to the date which is the 120th day after such record date, any such waiver or consent previously given shall automatically and, without further action by any Holder be cancelled and of no further effect.

ARTICLE VII REMEDIES

SECTION 7.01. Unconditional Right of Holders to Receive Shares of Common Stock. Each Holder of a Purchase Contract (whether or not included in a Unit) shall have the right, which is absolute and unconditional, to receive the shares of Common Stock (and/or, in the case of an Acquisition Termination Redemption, any cash included in the Redemption Amount) pursuant to such Purchase Contract and to institute suit for the enforcement of any such right to receive the shares of Common Stock (and/or, in the case of an Acquisition Termination Redemption, any cash included in the Redemption Amount), and such right shall not be impaired without the consent of such Holder.

SECTION 7.02. Notice To Purchase Contract Agent; Limitation On Proceedings. Holders of not less than 25% of Outstanding Purchase Contracts, by notice given to the Purchase Contract Agent, may request that Purchase Contract Agent institute proceedings with respect to a default relating to any covenant hereunder; *provided*, subject to Section 7.08 and Article VIII hereof, the Purchase Contract Agent shall have no obligation to institute any such proceeding. No Holder of Purchase Contracts may institute any proceedings, judicial or otherwise, with respect to this Agreement or for any remedy hereunder, except in the case of failure of the Purchase Contract Agent, for 60 days, to act after the Purchase Contract Agent has received a written request to institute proceedings in respect of a default with respect to any covenant hereunder from the Holders of not less than 25% of the Outstanding Purchase Contracts, as well as an offer of indemnity reasonably satisfactory to the Purchase Contract Agent. This provision will not prevent any Holder of Purchase Contracts from instituting suit for the delivery of Common Stock (and/or, in the case of an Acquisition Termination Redemption, any cash included in the Redemption Amount) deliverable upon settlement or redemption of the Purchase Contracts on any Settlement Date.

SECTION 7.03. Restoration of Rights and Remedies. If any Holder or the Purchase Contract Agent has instituted any proceeding to enforce any right or remedy under this Agreement and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to such Holder or the Purchase Contract Agent, then and in every such case, subject to any determination in such proceeding, the Company and such Holder or the Purchase Contract Agent shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of such Holder shall continue as though no such proceeding had been instituted.

SECTION 7.04. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.10, no right or remedy herein conferred upon or reserved to the Holders or the Purchase Contract Agent is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 7.05. Delay or Omission Not Waiver. No delay or omission of any Holder or the Purchase Contract Agent to exercise any right or remedy upon a default hereunder shall impair any such right or remedy or constitute a waiver of any such right. Every right and remedy given by this Article or by law to the Holders or the Purchase Contract Agent may be exercised from time to time, and as often as may be deemed expedient, by such Holders or the Purchase Contract Agent.

SECTION 7.06. Undertaking for Costs. All parties to this Agreement agree, and each Holder of a Purchase Contract, by its acceptance of such Purchase Contract shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Agreement, or in any suit against the Purchase Contract Agent for any action taken, suffered or omitted by it as Purchase Contract Agent, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and costs against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided* that the provisions of this Section shall not apply to any suit instituted by (a) the Purchase Contract Agent, (b) any Holder, or group of Holders, holding in the aggregate more than 10% of the Outstanding Purchase Contracts, or (c) any Holder for the enforcement of the right to receive shares of Common Stock or other Exchange Property issuable upon settlement or the Redemption Amount payable or deliverable, as the case may be, upon redemption, as the case may be, of the Purchase Contracts held by such Holder.

SECTION 7.07. Waiver of Stay or Execution Laws. The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or assume or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Agreement; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Purchase Contract Agent or the Holders, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 7.08. Control by Majority. The Holders of not less than a majority in number of the Outstanding Purchase Contracts shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Purchase Contract Agent, or of exercising any trust or power conferred upon the Purchase Contract Agent; *provided* that the Purchase Contract Agent has received indemnity satisfactory to it. Notwithstanding the foregoing, the Purchase Contract Agent may refuse to follow any direction that is in conflict with any law or the Purchase Contract Agreement or that may involve it in personal liability.

ARTICLE VIII

THE PURCHASE CONTRACT AGENT AND TRUSTEE

SECTION 8.01. Certain Duties and Responsibilities. (a) Each of the Purchase Contract Agent and Trustee undertakes to perform, with respect to the Units and Purchase Contracts, such duties and only such duties as are specifically delegated to it and set forth in this Agreement.

(b) No provision of this Agreement shall be construed to relieve the Purchase Contract Agent from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(i) the duties and obligations of the Purchase Contract Agent with respect to the Purchase Contracts shall be determined solely by the express provisions of this Agreement, and the Purchase Contract Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Purchase Contract Agent or the Trustee;

(ii) in the absence of bad faith on the part of the Purchase Contract Agent and/or the Trustee, as applicable, the Purchase Contract Agent and/or the Trustee, as applicable, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Purchase Contract Agent and/or the Trustee, as applicable, and conforming to the requirements of this Agreement; but in the case of any such statements, certificates or opinions which by any provision hereof are specifically required to be furnished to the Purchase Contract Agent and/or the Trustee, the Purchase Contract Agent and/or the Trustee, as applicable, shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(iii) the Purchase Contract Agent and/or the Trustee, as applicable, shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Purchase Contract Agent and/or the Trustee, as applicable, unless it shall be proved that the Purchase Contract Agent was negligent in ascertaining the pertinent facts; and

(iv) the Purchase Contract Agent and/or the Trustee, as applicable, shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders pursuant to Section 7.08 relating to the time, method and place of conducting any proceeding for any remedy available to the Purchase Contract Agent and/or the Trustee, as applicable, or exercising any right or power conferred upon the Purchase Contract Agent and/or the Trustee, as applicable, under this Agreement.

(c) This Agreement shall not be deemed to create a fiduciary relationship under state or federal law between U.S. Bank N.A., in its capacity as the Purchase Contract Agent, and any Holder of any Equity-Linked Security or between U.S. Bank N.A. in its capacity as Trustee under the Indenture, and any Holder of any Purchase Contract (whether separated or as part of a Unit). Nothing herein shall be deemed to govern or effect the Trustee's rights, duties, responsibilities, benefits, protections, indemnities or immunities with respect to the Notes, which shall be governed by the Indenture.

None of the provisions contained in this Agreement shall require the Purchase Contract Agent to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there shall be reasonable ground for believing that the repayment of such funds or adequate indemnity against such liability is not reasonably assured to it.

SECTION 8.02. Notice of Default. Within 90 days after the occurrence of any default by the Company hereunder of which a Responsible Officer of the Purchase Contract Agent has knowledge (subject to Section 8.03(h) hereof), the Purchase Contract Agent shall notify the Company and the Holders of Purchase Contracts of such default hereunder, unless such Responsible Officer of the Purchase Contract Agent has actual knowledge that such default shall have been cured or waived.

SECTION 8.03. Certain Rights of Purchase Contract Agent. Subject to the provisions of Section 8.01:

(a) the Purchase Contract Agent may rely and shall be protected in acting or refraining from acting upon any resolution, Officer's Certificate or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, coupon, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officer's Certificate or Issuer Order (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board of Directors may be evidenced to the Purchase Contract Agent by a Board Resolution;

(c) the Purchase Contract Agent may consult with counsel of its selection and any advice of such counsel promptly confirmed in writing shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon in accordance with such advice or Opinion of Counsel;

(d) the Purchase Contract Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request, order or direction of any of the Holders pursuant to the provisions of this Agreement (including, without limitation, pursuant to Section 7.08), unless such Holders shall have offered to the Purchase Contract Agent security or indemnity satisfactory to the Purchase Contract Agent against the costs, expenses and liabilities which might be incurred therein or thereby;

(e) the Purchase Contract Agent shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Agreement and in no case shall the Purchase Contract Agent be liable for any act or omission hereunder in the absence of its own gross negligence, willful misconduct or bad faith;

(f) the Purchase Contract Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, appraisal, bond, debenture, note, coupon, security, or other paper or document unless requested in writing so to do by the Holders of not less than a majority in number of the Outstanding Purchase Contracts; *provided* that, if the payment within a reasonable time to the Purchase Contract Agent of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Purchase Contract Agent, not reasonably assured to the Purchase Contract Agent by the security afforded to it by the terms of this Agreement, the Purchase Contract Agent may require indemnity against such expenses or liabilities as a condition to proceeding; the reasonable expenses of every such investigation shall be paid by the Company or, if paid by the Purchase Contract Agent or any predecessor Purchase Contract Agent, shall be repaid by the Company upon demand;

(g) the Purchase Contract Agent may execute any of the rights or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ and the Purchase Contract Agent shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder;

(h) the Purchase Contract Agent shall not be charged with knowledge of any default with respect to a series of Securities unless either a Responsible Officer of the Purchase Contract Agent assigned to the Corporate Trust Office of the Purchase Contract Agent (or any successor division or department of the Purchase Contract Agent) shall have received written notice of such default from the Company or any Holder;

(i) the Purchase Contract Agent shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement and in no case shall the Purchase Contract Agent be liable for any losses, costs or liabilities of any kind except for those arising directly out of its own gross negligence or willful misconduct;

(j) the permissive rights of the Purchase Contract Agent hereunder shall not be construed as duties;

(k) in no event shall the Purchase Contract Agent be liable for any consequential, special, punitive or indirect loss or damages, even if advised of the likelihood thereof in advance and regardless of the form of action;

(l) the rights, privileges, protections, immunities and benefits given to the Purchase Contract Agent, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Purchase Contract Agent and the Trustee (whether or not the Trustee is expressly referred to in connection with any such rights, privileges, protections, immunities and benefits) in each of their capacities hereunder, and to each agent, custodian and other Person employed to act hereunder;

(m) each of the Purchase Contract Agent and the Trustee may request that the Company deliver an Officer's Certificate setting forth the name of the individuals and/or titles of Officers authorized at such time to take specific actions pursuant to this Agreement, which Officer's Certificate may be signed by any Person authorized to sign an Officer's Certificate, including any Person specified as so authorized in any such Officer's Certificate previously delivered and not superseded;

(n) neither the Purchase Contract Agent nor the Trustee shall be responsible for delays or failures in performance of its obligations hereunder resulting from acts beyond its reasonable control. Such acts shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, computer viruses, power failures, earthquakes, terrorist attacks or other disasters, it being understood that each of the Purchase Contract Agent and the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances;

(o) the Purchase Contract Agent shall not be required to exercise discretion in exercising its rights, powers or authorizations hereunder and the Purchase Contract Agent shall be entitled to refrain from any such act unless and until the Purchase Contract Agent has received written direction from a majority in number of the Outstanding Purchase Contracts and indemnification satisfactory to it and shall not be liable for any delay in acting caused while awaiting such direction; and

(p) delivery of reports, information and documents to the Purchase Contract Agent is for informational purposes only and the Purchase Contract Agent's receipt of such shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein.

SECTION 8.04. Not Responsible for Recitals. The recitals contained herein and in the Certificates shall be taken as the statements of the Company and neither the Purchase Contract Agent nor the Trustee assumes any responsibility for their accuracy. Neither the Purchase Contract Agent nor the Trustee makes any representations as to the validity or sufficiency of either this Agreement or of the Purchase Contracts. Neither the Purchase Contract Agent nor the Trustee shall be accountable for the use or application by the Company of the proceeds in respect of the Purchase Contracts.

SECTION 8.05. May Hold Units and Purchase Contracts. Any Security Registrar or any other agent of the Company, or the Purchase Contract Agent, the Trustee and any of their Affiliates, in their individual or any other capacity, may become the owner of Units, Separate Purchase Contracts and Separate Notes and may otherwise deal with the Company or any other Person with the same rights it would have if it were not Security Registrar or such other agent, or the Purchase Contract Agent. The Company may become the owner of Units, Separate Purchase Contracts and Separate Notes.

SECTION 8.06. Money Held in Custody. Money held by the Purchase Contract Agent in custody hereunder need not be segregated from other funds except to the extent required by law or provided herein. The Purchase Contract Agent shall be under no obligation to invest or pay interest on any money received by it hereunder except as it may specifically agree in writing with the Company.

SECTION 8.07. Compensation, Reimbursement and Indemnification. The Company covenants and agrees to pay to the Purchase Contract Agent from time to time, and the Purchase Contract Agent shall be entitled to, such compensation as shall be agreed to in writing between the Company and the Purchase Contract Agent and the Company covenants and agrees to pay or reimburse the Purchase Contract Agent and each predecessor Purchase Contract Agent upon its request for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Agreement (including the reasonable compensation and the expenses and disbursements of its counsel and of all agents and other Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its gross negligence or bad faith as determined by a final, non-appealable, judgment of a court of competent jurisdiction. The Company also covenants to indemnify the Purchase Contract Agent and each predecessor Purchase Contract Agent for, and to hold it harmless against, any and all loss, liability, damage, claim or expense, including taxes (other than taxes based on the income of the Purchase Contract Agent), incurred without gross negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this Agreement and its duties hereunder, including the costs and expenses of defending itself against or investigating any claim or liability (regardless of whether such claim is brought by the Company or any third party). The provisions of this Section 8.07 shall survive the resignation or removal of the Purchase Contract Agent and the termination of this Agreement. If the Purchase Contract Agent incurs any expenses, or if the Purchase Contract Agent is entitled to any compensation for services rendered (including fees and expenses of its agent and counsel), in each case, in connection with the performance of its obligations under this Agreement after the occurrence of a Bankruptcy Event, then any such expenses or compensation are intended to constitute expenses of administration under applicable Bankruptcy Laws. As security for the performance of the obligations of the Company under this Section the Purchase Contract Agent shall have a lien prior to the Holders upon all property and funds held or collected by the Purchase Contract Agent as such, except funds or property held in trust for payment to the Holders.

SECTION 8.08. Corporate Purchase Contract Agent Required; Eligibility. There shall at all times be a Purchase Contract Agent hereunder. The Purchase Contract Agent shall at all times be a corporation organized and doing business under the laws of the United States of America or of any state thereof or the District of Columbia having a combined capital and surplus of at least \$25,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by federal, state or District of Columbia authority, or a corporation or other Person permitted to act as trustee by the Commission. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Purchase Contract Agent shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Article.

SECTION 8.09. Resignation and Removal; Appointment of Successor. (a) No resignation or removal of the Purchase Contract Agent and no appointment of a successor Purchase Contract Agent pursuant to this Article shall become effective until the acceptance of appointment by the successor Purchase Contract Agent in accordance with the applicable requirements of Section 8.10.

(b) The Purchase Contract Agent may resign at any time by giving written notice thereof to the Company 60 days prior to the effective date of such resignation. If the instrument of acceptance by a successor Purchase Contract Agent required by Section 8.10 shall not have been delivered to the Purchase Contract Agent within 30 days after the giving of such notice of resignation, the resigning Purchase Contract Agent may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Purchase Contract Agent.

(c) The Purchase Contract Agent may be removed at any time by the Holders of a majority in number of the Outstanding Purchase Contracts. If the instrument of acceptance by a successor Purchase Contract Agent required by Section 8.10 shall not have been delivered to the Purchase Contract Agent within 30 days after evidence of such removal is delivered to the Company and Purchase Contract Agent, the removed Purchase Contract Agent may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Purchase Contract Agent.

(d) If at any time:

(i) the Purchase Contract Agent shall cease to be eligible under Section 8.08 and shall fail to resign after written request therefor by the Company or by any such Holder; or

(ii) the Purchase Contract Agent shall be adjudged bankrupt or insolvent or a receiver of the Purchase Contract Agent or of its property shall be appointed or any public officer shall take charge or control of the Purchase Contract Agent or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (x) the Company by a Board Resolution may remove the Purchase Contract Agent, or (y) any Holder who has been a bona fide Holder of a Purchase Contract for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Purchase Contract Agent and the appointment of a successor Purchase Contract Agent.

(e) If the Purchase Contract Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Purchase Contract Agent for any cause, the Company shall promptly appoint a successor Purchase Contract Agent and shall comply with the applicable requirements of Section 8.10. If no successor Purchase Contract Agent shall have been so appointed by the Company and accepted appointment in the manner required by Section 8.10, any Holder who has been a bona fide Holder of a Purchase Contract for at least six months, on behalf of itself and all others similarly situated, or the Purchase Contract Agent may petition at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Purchase Contract Agent.

(f) The Company shall give, or shall cause such successor Purchase Contract Agent to give, notice of each resignation and each removal of the Purchase Contract Agent and each appointment of a successor Purchase Contract Agent to Holders. Each notice shall include the name of the successor Purchase Contract Agent and the address of its Corporate Trust Office.

SECTION 8.10. Acceptance of Appointment by Successor. (a) In case of the appointment hereunder of a successor Purchase Contract Agent, every such successor Purchase Contract Agent so appointed shall execute, acknowledge and deliver to the Company and to the retiring Purchase Contract Agent an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Purchase Contract Agent shall become effective and such successor Purchase Contract Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, agencies and duties of the retiring Purchase Contract Agent. At the request of the Company or the successor Purchase Contract Agent, such retiring Purchase Contract Agent shall, upon its receipt of payment or reimbursement of any amounts due to it hereunder, execute and deliver an instrument transferring to such successor Purchase Contract Agent all the rights, powers and trusts of the retiring Purchase Contract Agent and shall duly assign, transfer and deliver to such successor Purchase Contract Agent all property and money held by such retiring Purchase Contract Agent hereunder.

(b) Upon request of any such successor Purchase Contract Agent, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Purchase Contract Agent all such rights, powers and agencies referred to in paragraph (a) of this Section.

(c) No successor Purchase Contract Agent shall accept its appointment unless at the time of such acceptance such successor Purchase Contract Agent shall be qualified and eligible under this Article.

SECTION 8.11. Merger; Conversion; Consolidation or Succession to Business. Any corporation into which the Purchase Contract Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Purchase Contract Agent shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Purchase Contract Agent, shall be the successor of the Purchase Contract Agent hereunder; *provided* that such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. If any Equity-Linked Securities shall have been authenticated on behalf of the Holders by the Trustee and Purchase Contract Agent then in office, but not delivered, any successor by merger, conversion or consolidation to such Purchase Contract Agent may adopt such Purchase Contract Agent's authentication and deliver the Equity-Linked Securities so authenticated with the same effect as if such successor Purchase Contract Agent had itself authenticated such Equity-Linked Securities.

SECTION 8.12. Preservation of Information; Communications to Holders. (a) The Purchase Contract Agent shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders as received by the Purchase Contract Agent in its capacity as Security Registrar.

(b) If three or more Holders (such three or more Holders, the "**Applicants**") apply in writing to the Purchase Contract Agent, and furnish to the Purchase Contract Agent reasonable proof that each such Applicant has owned a Unit or Separate Purchase Contract for a period of at least six months preceding the date of such application, and such application states that the Applicants desire to communicate with other Holders with respect to their rights under this Agreement or under the Units or Separate Purchase Contracts and is accompanied by a copy of the form of proxy or other communication that such Applicants propose to transmit, then the Purchase Contract Agent shall transmit to all the Holders copies of the form of proxy or other communication that is specified in such request, with reasonable promptness after a tender to the Purchase Contract Agent of the materials to be transmitted and of payment, or provision for the payment, of the reasonable expenses of such transmission.

SECTION 8.13. No Other Obligations of Purchase Contract Agent or Trustee. Except to the extent otherwise expressly provided in this Agreement, neither the Purchase Contract Agent nor Trustee assumes any obligations, and neither the Purchase Contract Agent nor Trustee shall be subject to any liability, under this Agreement or any Security evidencing a Unit or Purchase Contract in respect of the obligations of the Holder of any Unit or Purchase Contract thereunder. The Company agrees, and each Holder of a Security, by his or her acceptance thereof, shall be deemed to have agreed, that the Purchase Contract Agent's and/or Trustee's authentication, as applicable, of the Securities on behalf of the Holders shall be solely as agent and attorney-in-fact for the Holders, and that neither the Purchase Contract Agent nor Trustee shall have any obligation to perform such Purchase Contracts (whether held as components of Units or Separate Purchase Contracts) on behalf of the Holders, except to the extent expressly provided in Article III hereof.

SECTION 8.14. Tax Compliance. (a) The Purchase Contract Agent shall comply with all applicable certification, information reporting and withholding (including "backup" withholding) requirements imposed by applicable tax laws, regulations or administrative practice with respect to (i) any shares of Common Stock delivered upon settlement of the Purchase Contracts, any amounts paid in lieu of fractional shares of Common Stock upon settlement or redemption of the Purchase Contracts, and any other amounts included in the Purchase Contract Settlement Fund paid to Holders upon settlement or redemption of any Purchase Contracts or (ii) the issuance, delivery, holding, transfer or exercise of rights under the Purchase Contracts. Such compliance shall include, without limitation, the preparation and timely filing of required returns and the timely payment of all amounts required to be withheld to the appropriate taxing authority or its designated agent. Notwithstanding anything to the contrary, but without limiting the requirements imposed by applicable tax laws, the Purchase Contract Agent's obligations under this Section 8.14 shall extend only to form 1099 reporting and any applicable withholding unless and until the Purchase Contract Agent is otherwise notified by the Company pursuant to paragraph (b) below.

(b) The Purchase Contract Agent shall, in accordance with the terms hereof, comply with any written direction received from the Company with respect to the execution or certification of any required documentation and the application of such requirements to particular payments or Holders or in other particular circumstances, and may for purposes of this Agreement conclusively rely on any such direction in accordance with the provisions of Section 8.01(b)(ii).

(c) The Purchase Contract Agent shall maintain all appropriate records documenting compliance with such requirements, and shall make such records available, on written request, to the Company or its authorized representative within a reasonable period of time after receipt of such request. For the avoidance of doubt, any costs or expenses incurred by the Purchase Contract Agent in connection with complying with its obligations under this Section 8.14 shall be covered by Section 8.07.

ARTICLE IX SUPPLEMENTAL AGREEMENTS

SECTION 9.01. Supplemental Agreements Without Consent of Holders. Without the consent of any Holders, the Company, the Purchase Contract Agent and the Trustee at any time and from time to time, may enter into one or more agreements supplemental hereto, in form satisfactory to the Company and the Purchase Contract Agent, for the purpose of modifying in any manner the terms of the Purchase Contracts, or the provisions of this Agreement or the rights of the Holders in respect of the Purchase Contracts:

(i) to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants and obligations of the Company under this Agreement and the Units and Separate Purchase Contracts, if any;

(ii) to add to the covenants for the benefit of Holders of Purchase Contracts or to surrender any of the Company's rights or powers under this Agreement;

(iii) to evidence and provide for the acceptance of appointment of a successor Purchase Contract Agent;

(iv) upon the occurrence of a Reorganization Event, solely (i) to provide that each Purchase Contract will become a contract to purchase Exchange Property and (ii) to effect the related changes to the terms of the Purchase Contracts, in each case, pursuant to Section 5.02;

(v) to conform the terms of the Purchase Contracts or the provisions of this Agreement to the "Description of the Purchase Contracts," and "Description of the Units" sections in the Prospectus Supplement;

(vi) to cure any ambiguity or manifest error, to correct or supplement any provisions that may be inconsistent; or

(vii) to make any other provisions with respect to such matters or questions, so long as such action does not adversely affect the interest of the Holders.

SECTION 9.02. Supplemental Agreements with Consent of Holders. With the consent of the Holders of not less than a majority in number of the Outstanding Purchase Contracts, the Company, when authorized by a Board Resolution, and the Purchase Contract Agent and Trustee may enter into an one or more agreements supplemental hereto for the purpose of modifying in any manner the terms of the Purchase Contracts, or the provisions of this Agreement or the rights of the Holders in respect of the Purchase Contracts; *provided, however*, that, except as contemplated herein, no such supplemental agreement shall, without the consent of each Holder of an Outstanding Purchase Contract affected thereby:

(i) reduce the number of shares of Common Stock deliverable upon settlement of the Purchase Contracts (except to the extent expressly provided in Section 5.01);

(ii) change the Mandatory Settlement Date, or adversely modify the right to settle Purchase Contracts early or the Fundamental Change Early Settlement Right;

(iii) reduce the Redemption Amount or adversely modify the right of any Holder to receive such amount if the Company elects to redeem the Purchase Contracts in connection with an Acquisition Termination Redemption;

(iv) impair the right to institute suit for the enforcement of the Purchase Contracts; or

(v) reduce the above-stated percentage of Outstanding Purchase Contracts the consent of the Holders of which is required for the modification or amendment of the provisions of the Purchase Contracts or the Purchase Contract Agreement.

It shall not be necessary for any consent of Holders under this Section to approve the particular form of any proposed supplemental agreement, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 9.03. Execution of Supplemental Agreements. In executing, or accepting the additional agencies created by, any supplemental agreement permitted by this Article or the modifications thereby of the agencies created by this Agreement, the Purchase Contract Agent and Trustee shall be provided, and (subject to Section 8.01) shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel stating that the execution of such supplemental agreement is authorized or permitted by this Agreement and does not violate the Indenture, and that any and all conditions precedent to the execution and delivery of such supplemental agreement have been satisfied. The Purchase Contract Agent and Trustee may, but shall not be obligated to, enter into any such supplemental agreement that affects the Purchase Contract Agent's or Trustee's own rights, duties or immunities under this Agreement or otherwise.

SECTION 9.04. Effect of Supplemental Agreements. Upon the execution of any supplemental agreement under this Article, this Agreement and the Equity-Linked Securities shall be modified in accordance therewith, and such supplemental agreement shall form a part of this Agreement and the Equity Linked Securities for all purposes; and every Holder of Securities theretofore or thereafter authenticated on behalf of the Holders and delivered hereunder, shall be bound thereby.

SECTION 9.05. Reference to Supplemental Agreements. Securities authenticated on behalf of the Holders and delivered after the execution of any supplemental agreement pursuant to this Article may, and shall if required by the Purchase Contract Agent, bear a notation in form approved by the Purchase Contract Agent as to any matter provided for in such supplemental agreement. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Purchase Contract Agent, the Trustee and the Company, to any such supplemental agreement may be prepared and executed by the Company and authenticated on behalf of the Holders and delivered by the Purchase Contract Agent in exchange for outstanding Securities.

SECTION 9.06. Notice of Supplemental Agreements. After any supplemental agreement under this Article becomes effective, the Company shall give to the Holders a notice briefly describing such supplemental agreement; *provided, however*, that the failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of such supplemental agreement.

ARTICLE X
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

SECTION 10.01. Covenant Not to Consolidate, Merge, Convey, Transfer or Lease Property Except Under Certain Conditions. The Company shall not consolidate or merge with or into any other entity, or sell, transfer, lease or otherwise convey its properties and assets as an entirety or substantially as an entirety to any entity, unless:

(i) (a) it is the continuing entity (in the case of a merger), or (b) the successor entity formed by such consolidation or into which it is merged or which acquires by sale, transfer, lease or other conveyance of its properties and assets, as an entirety or substantially as an entirety, is a corporation organized and existing under the laws of the United States of America or any State thereof or the District of Columbia, and expressly assumes, by a supplement to this Agreement, all obligations of the Company under this Agreement; and

(ii) immediately after giving effect to the transaction, no default, and no event which after notice or lapse of time or both would become a default under this Agreement or the Purchase Contracts, has or will have occurred and be continuing.

SECTION 10.02. Rights and Duties of Successor Entity. In case of any such merger, consolidation, sale, assignment, transfer or conveyance (but not any such lease) and upon any such assumption by a successor entity in accordance with Section 10.01, such successor entity shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company. Such successor entity thereupon may cause to be signed, and may issue either in its own name or in the name of the Company, any or all of the Securities evidencing Units or Purchase Contracts issuable hereunder which theretofor shall not have been signed by the Company and delivered to the Purchase Contract Agent; and, upon the order of such successor entity, instead of the Company, and subject to all the terms, conditions and limitations in this Agreement prescribed, the Purchase Contract Agent and Trustee (if applicable) shall authenticate on behalf of the Holders and deliver any Securities that previously shall have been signed and delivered by the officers of the Company to the Purchase Contract Agent and Trustee for authentication, and any Security evidencing Units or Purchase Contracts that such successor corporation thereafter shall cause to be signed and delivered to the Purchase Contract Agent and Trustee for that purpose. All the Securities issued shall in all respects have the same legal rank and benefit under this Agreement as the Securities theretofor or thereafter issued in accordance with the terms of this Agreement as though all of such Securities had been issued at the date of the execution hereof.

In the event of any such merger, consolidation, sale, assignment, transfer, lease or conveyance, such change in phraseology and form (but not in substance) may be made in the Securities evidencing Units or Purchase Contracts thereafter to be issued as may be appropriate.

SECTION 10.03. Officer's Certificate and Opinion of Counsel Given to Purchase Contract Agent. The Purchase Contract Agent, subject to Section 8.01 and Section 8.03, shall receive an Officer's Certificate and an Opinion of Counsel as conclusive evidence that any such merger, consolidation, sale, assignment, transfer, lease or conveyance, and any such assumption, complies with the provisions of this Article and that all conditions precedent to the consummation of any such merger, consolidation, sale, assignment, transfer, lease or conveyance have been met.

ARTICLE XI
COVENANTS OF THE COMPANY

SECTION 11.01. Performance Under Purchase Contracts. The Company covenants and agrees for the benefit of the Holders from time to time of the Units and Purchase Contracts, as the case may be, that it will duly and punctually perform its obligations under the Units and Purchase Contracts, as the case may be, in accordance with the terms of the Units and Purchase Contracts and this Agreement.

SECTION 11.02. Maintenance of Office or Agency. The Company will maintain in the Borough of Manhattan, New York City an office or agency where Securities may be presented or surrendered for acquisition of shares of Common Stock (and/or in the case of an Acquisition Termination Redemption, any cash included in the Redemption Amount) upon settlement or redemption of the Purchase Contracts on any Settlement Date, and where notices and demands to or upon the Company in respect of the Purchase Contracts and this Agreement may be served. The Company will give prompt written notice to the Purchase Contract Agent of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Purchase Contract Agent with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office, and the Company hereby appoints the Purchase Contract Agent as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies where Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, New York City for such purposes. The Company will give prompt written notice to the Purchase Contract Agent of any such designation or rescission and of any change in the location of any such other office or agency. The Company hereby designates as the place of payment for the Purchase Contracts the Corporate Trust Office and appoints the Purchase Contract Agent at its Corporate Trust Office as paying agent in such city.

SECTION 11.03. Statements of Officers of the Company as to Default; Notice of Default. The Company will deliver to the Purchase Contract Agent, within 120 days after the end of each fiscal year of the Company (which fiscal year ends, as of the Issue Date, on December 31, 2019) ending after the date hereof, an Officer's Certificate (one of the signers of which shall be the principal executive officer, principal financial officer or principal accounting officer of the Company), stating whether or not to the knowledge of the signers thereof the Company is in default in the performance and observance of any of the terms, provisions and conditions hereof, and if the Company shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge and what action the Company is taking or proposes to take with respect thereto.

SECTION 11.04. *[Reserved.]*

SECTION 11.05. Company to Reserve Common Stock. The Company shall at all times reserve and keep available out of its authorized but unissued Common Stock, solely for issuance upon settlement or (if applicable) redemption of the Purchase Contracts, the number of shares of Common Stock that would be issuable upon the settlement of all Outstanding Purchase Contracts (whether or not included in a Unit), assuming settlement at the Maximum Settlement Rate.

SECTION 11.06. Covenants as to Common Stock. The Company covenants that all shares of Common Stock issuable upon settlement or redemption of any Outstanding Purchase Contract will, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, free from all taxes, liens and charges and not subject to any preemptive rights.

The Company further covenants that, if at any time the Common Stock shall be listed on the NYSE or any other national securities exchange, the Company will, if permitted by the rules of such exchange, list and keep listed, so long as the Common Stock shall be so listed on such exchange, all Common Stock issuable upon settlement or redemption of the Purchase Contracts; *provided, however*, that, if the rules of such exchange system permit the Company to defer the listing of such Common Stock until the first delivery of Common Stock upon settlement or redemption of Purchase Contracts in accordance with the provisions of this Agreement, the Company covenants to list such Common Stock issuable upon settlement or redemption of the Purchase Contracts in accordance with the requirements of such exchange at such time.

SECTION 11.07. Tax Treatment. The Company agrees, and by purchasing a Unit each Beneficial Holder agrees, for United States federal income tax purposes, to (a) treat a Unit as an investment unit composed of two separate instruments, in accordance with its form, (b) treat the Notes as indebtedness of the Company and (c) in the case of each Beneficial Holder acquiring the Units at original issuance, allocate the Stated Amount of each Unit between the Note and the Purchase Contract so that such Beneficial Holder's initial tax basis in each Purchase Contract will be \$41.37091 and each such Beneficial Holder's initial tax basis in each Note will be \$8.62909 (as reflected in the cross-receipt for the Units' initial issuance).

SECTION 11.08. Patriot Act. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A Patriot Act (the "**Patriot Act**"), the Purchase Contract Agent, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Purchase Contract Agent. The parties to this Agreement agree that they shall provide the Purchase Contract Agent with such information as it they request in order for the Trustee to satisfy the requirements of the Patriot Act.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

AQUA AMERICA, INC.

By: /s/ Christopher P. Luning
Name: Christopher P. Luning
Title: Executive Vice President, General
Counsel and Secretary

U.S. BANK N.A., as Purchase Contract Agent

By: /s/ Gregory P. Gulm
Name: Gregory P. Gulm
Title: Vice President

U.S. BANK N.A., as Trustee under the Indenture

By: /s/ Gregory P. Gulm
Name: Gregory P. Gulm
Title: Vice President

U.S. BANK N.A., as Attorney-in-Fact of the Holders from time
to time as provided under the Purchase Contract Agreement

By: /s/ Gregory P. Gulm
Name: Gregory P. Gulm
Title: Vice President

[FORM OF FACE OF UNIT]

[THIS SECURITY IS A GLOBAL UNIT WITHIN THE MEANING OF THE PURCHASE CONTRACT AGREEMENT HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY OR A SUCCESSOR DEPOSITARY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION (THE “**DEPOSITARY**”) TO THE NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.

UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]^{*}

* Include only if a Global Unit.

AQUA AMERICA, INC.

6.00% TANGIBLE EQUITY UNITS

CUSIP No. 03836W 202

ISIN No. US03836W2026

No. []

[Initial]* Number of Units []

This Unit certifies that [CEDE & CO., as nominee of The Depository Trust Company]* []** (the “**Holder**”), or registered assigns, is the registered owner of the number of Units set forth above[, which number may from time to time be reduced or increased, as set forth on Schedule A, as appropriate, in accordance with the terms of the Purchase Contract Agreement (as defined below), but which number, taken together with the number of all other outstanding Units, shall not exceed 13,800,000 Units at any time]*.

Each Unit consists of (i) a Purchase Contract issued by the Company, and (ii) a Note issued by the Company. Each Unit evidenced hereby is governed by a Purchase Contract Agreement, dated as of April 23, 2019 (as may be supplemented from time to time, the “**Purchase Contract Agreement**”), between the Company and U.S. Bank N.A., as Purchase Contract Agent (including its successors hereunder, the “**Purchase Contract Agent**”), as Trustee (including its successors hereunder, the “**Trustee**”) under the Indenture and as attorney-in-fact for the Holders of Purchase Contracts from time to time.

Reference is hereby made to the Purchase Contract Agreement and the Indenture and, in each case supplemental agreements thereto, for a description of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Purchase Contract Agent, the Trustee, the Company and the Holders and of the terms upon which the Units are, and are to be, executed and delivered.

Upon the conditions and under the circumstances set forth in the Purchase Contract Agreement, Holders of Units shall have the right to separate a Unit into its component parts, and a Holder of a Separate Purchase Contract and Separate Note shall have the right to re-create a Unit.

The Company agrees, and by purchasing a Unit each Beneficial Holder agrees, for United States federal income tax purposes, to (1) treat each Unit as an investment unit composed of two separate instruments, in accordance with its form, (2) treat each Note as indebtedness of the Company and (3) in the case of each Beneficial Holder acquiring the Units at original issuance, allocate the Stated Amount of each Unit between the Note and the Purchase Contract so that such Beneficial Holder’s initial tax basis in each Purchase Contract will be \$41.37091 and each such Beneficial Holder’s initial tax basis in each Note will be \$8.62909.

The Units and any claim, controversy or dispute arising under or related thereto shall be governed by, and construed in accordance with, the laws of the State of New York.

Capitalized terms used herein and not defined have the meanings given to such terms in the Purchase Contract Agreement.

* Include only if a Global Unit.

** Include only if not a Global Unit.

In the event of any inconsistency between the provisions of this Unit and the provisions of the Purchase Contract Agreement, the Purchase Contract Agreement shall prevail.

[SIGNATURES ON THE FOLLOWING PAGE]

A-3

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated: _____

AQUA AMERICA, INC.

By: _____
Name:
Title:

UNIT CERTIFICATE OF AUTHENTICATION
OF PURCHASE CONTRACT AGENT AND TRUSTEE UNDER THE INDENTURE

This is one of the Units referred to in the within mentioned Purchase Contract Agreement.

Dated: _____

U.S. BANK N.A., as Purchase Contract Agent

By: _____
Authorized Signatory

U.S. BANK N.A., as Trustee under the Indenture

By: _____
Authorized Signatory

[FORM OF REVERSE OF UNIT]

[Intentionally Blank]

A-6

SCHEDULE A*

[SCHEDULE OF INCREASES OR DECREASES IN GLOBAL UNIT]

The initial number of Units evidenced by this Global Unit is []. The following increases or decreases in this Global Unit have been made:

Date	Amount of increase in number of Units evidenced by the Global Unit	Amount of decrease in number of Units evidenced by the Global Unit	Number of Units evidenced by the Global Unit following such decrease or increase	Signature of authorized signatory of Purchase Contract Agent

* Include only if a Global Unit.

[FORM OF SEPARATION NOTICE]

U.S. BANK N.A.
100 Wall Street, Suite 1600
New York, New York 10005
Attention: Corporate Trust Services, re: Aqua America, Inc.

Re: Separation of [Global]* Units

The undersigned [Beneficial Holder]* hereby notifies you that it wishes to separate Units [as to which it holds a Book-Entry Interest]* (the “**Relevant Units**”) into a number of Notes equal to the number of Relevant Units and a number of Purchase Contracts equal to the number of Relevant Units in accordance with the Purchase Contract Agreement (the “**Purchase Contract Agreement**”) dated April 23, 2019 between the Company and U.S. Bank N.A., as Purchase Contract Agent, as Trustee under the Indenture and as attorney-in-fact for the Holders of Purchase Contracts from time to time. Terms used and not defined herein have the meaning assigned to such terms in the Purchase Contract Agreement.

The undersigned [includes herewith]** [Beneficial Holder has instructed the undersigned Depository Participant to transfer to you its Book-Entry Interests in]* the number of Units specified in the immediately succeeding paragraph. The undersigned [includes herewith]** [Beneficial Holder has furnished the undersigned Depository Participant with]* the appropriate endorsements and documents and paid all applicable transfer or similar taxes, if any, to the extent required by the Purchase Contract Agreement.

Please [deliver to the undersigned’s address specified below]** [transfer to the account of the undersigned Beneficial Holder with the undersigned Depository Participant the beneficial interests in]* (i) the number of Separate Notes and (ii) number of Separate Purchase Contracts represented by the number of Units specified above.

[SIGNATURES ON THE FOLLOWING PAGE]

* Include only if a Global Unit.

** Include only if not a Global Unit.

IN WITNESS WHEREOF, the [undersigned has caused this instrument to be duly executed] * [Depository Participant has caused this instrument to be duly executed on behalf of itself and the undersigned Beneficial Holder]**.

Dated: _____

[NAME OF BENEFICIAL HOLDER]

By:

Name:
Title:
Address:

[NAME OF DEPOSITORY PARTICIPANT]*

By:

Name:
Address:

Attest By:

* Include only if not a Global Unit
** Include only if a Global Unit

[FORM OF RECREATION NOTICE]

U.S. BANK N.A.
100 Wall Street, Suite 1600
New York, New York 10005
Attention: Corporate Trust Services, re: Aqua America, Inc.

Re: Recreation of [Global]* Units

The undersigned [Beneficial Holder]* hereby notifies you that it wishes to recreate Units [as to which it holds a Book-Entry Interest]* (the “**New Units**”) from a number of Separate Notes equal to the number of New Units and a number of Separate Purchase Contracts equal to the number of New Units in accordance with the Purchase Contract Agreement (the “**Purchase Contract Agreement**”) dated as of April 23, 2019 between the Company and U.S. Bank N.A., as Purchase Contract Agent, as Trustee under the Indenture and as attorney-in-fact for the Holders of Purchase Contracts from time to time. Terms used and not defined herein have the meaning assigned to such terms in the Purchase Contract Agreement.

The undersigned [includes herewith]** [Beneficial Holder has instructed the undersigned Depository Participant to transfer to you its Book-Entry Interests in]* the applicable number of Separate Notes and the applicable number of Separate Purchase Contracts sufficient for the recreation of the number of Units specified above. The undersigned [includes herewith]** [Beneficial Holder has furnished the undersigned Depository Participant with]* the appropriate endorsements and documents and paid all applicable transfer or similar taxes, if any, to the extent required by the Purchase Contract Agreement.

Please [deliver to the undersigned’s address specified below]** [transfer to the account of the undersigned Beneficial Holder with the undersigned Depository Participant the beneficial interests in]* the number of Units specified above.

[SIGNATURES ON THE FOLLOWING PAGE]

* Include only if a Global Unit.

** Include only if not a Global Unit.

IN WITNESS WHEREOF, the [undersigned has caused this instrument to be duly executed] * [Depository Participant has caused this instrument to be duly executed on behalf of itself and the undersigned Beneficial Holder]**.

Dated: _____

[NAME OF BENEFICIAL HOLDER]

By: _____
Name:
Title:
Address:

[NAME OF DEPOSITORY PARTICIPANT]*

By: _____
Name:
Address:

Attest By:

* Include only if not a Global Unit.
** Include only if a Global Unit.

AQUA AMERICA, INC.

PURCHASE CONTRACTS

No. ____

Initial Number of Purchase Contracts: _____

This Purchase Contract certifies that, U.S. Bank N.A., as attorney-in-fact of holder(s) of the Purchase Contracts evidenced hereby, or its registered assigns (the “**Holder**”) is the registered owner of the number of Purchase Contracts set forth above, which number may from time to time be reduced or increased as set forth on Schedule A hereto, as appropriate, in accordance with the terms of the Purchase Contract Agreement (as defined below), but which number of Purchase Contracts, taken together with the number of all other Outstanding Purchase Contracts, shall not exceed 13,800,000 Purchase Contracts at any time.

Each Purchase Contract consists of the rights of the Holder under such Purchase Contract with the Company. All capitalized terms used herein which are defined in the Purchase Contract Agreement (as defined on the reverse hereof) have the meaning set forth therein.

Each Purchase Contract evidenced hereby obligates the Company to deliver to the Holder of this Purchase Contract on the Mandatory Settlement Date a number shares of Common Stock, \$0.50 par value (“**Common Stock**”), of the Company equal to the Mandatory Settlement Rate, unless such Purchase Contract has settled or been redeemed prior to the Mandatory Settlement Date, all as provided in the Purchase Contract Agreement and more fully described on the reverse hereof.

Reference is hereby made to the further provisions set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

[SIGNATURES ON THE FOLLOWING PAGE]

A-12

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

AQUA AMERICA, INC.

By: _____
Name:
Title:

Dated: _____

REGISTERED HOLDER(S) (as to obligations of such holder(s) under the Purchase Contracts evidenced hereby)

By: U.S. BANK N.A., not individually but solely as Attorney-in-Fact of such holder(s)

By: _____
Name:
Title:

PURCHASE CONTRACT CERTIFICATE OF AUTHENTICATION OF
PURCHASE CONTRACT AGENT

This is one of the Purchase Contracts referred to in the within-mentioned Purchase Contract Agreement.

U.S. BANK N.A. as Purchase Contract Agent

By: _____
Authorized Signatory

Dated: _____

[REVERSE OF PURCHASE CONTRACT]

Each Purchase Contract evidenced hereby is governed by a Purchase Contract Agreement, dated as of April 23, 2019 (as may be supplemented from time to time, the “**Purchase Contract Agreement**”), between Aqua America, Inc., a Pennsylvania corporation (the “**Company**”), and U.S. Bank N.A., as Purchase Contract Agent (including its successors hereunder, the “**Purchase Contract Agent**”), as Trustee under the Indenture and as attorney-in-fact for the Holders of Purchase Contracts from time to time. Reference is hereby made to the Purchase Contract Agreement and supplemental agreements thereto for a description of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Purchase Contract Agent, the Company and the Holders and of the terms upon which the Purchase Contracts are, and are to be, executed and delivered.

Each Purchase Contract evidenced hereby obligates the Company to deliver to the Holder of this Purchase Contract, on the Mandatory Settlement Date, a number of shares of Common Stock equal to the Mandatory Settlement Rate, unless such Purchase Contract has settled or been redeemed prior to the Mandatory Settlement Date, in either case, pursuant to the terms of the Purchase Contract Agreement.

No fractional shares of Common Stock will be issued upon settlement or redemption of Purchase Contracts, as provided in Section 4.13 of the Purchase Contract Agreement.

The Purchase Contracts are issuable only in registered form and only in denominations of a single Purchase Contract and any integral multiple thereof. The transfer of any Purchase Contract will be registered and Purchase Contracts may be exchanged as provided in the Purchase Contract Agreement.

The Purchase Contracts are initially being issued as part of the 6.00% Tangible Equity Units (the “**Units**”) issued by the Company pursuant to the Purchase Contract Agreement. Holders of the Units have the right to separate such Units into their constituent parts, consisting of Separate Notes and Separate Purchase Contracts, during the times, and under the circumstances, described in the Purchase Contract Agreement. Following separation of any Unit into its constituent parts, the Separate Purchase Contracts are transferable independently from the Separate Notes. In addition, Separate Purchase Contracts can be recombined with Separate Notes to recreate Units, as provided for in the Purchase Contract Agreement.

The Holder of this Purchase Contract, by its acceptance hereof, authorizes the Purchase Contract Agent to enter into and perform the Purchase Contract Agreement on its behalf as its attorney-in-fact and agrees to be bound by the terms and provisions thereof.

Subject to certain exceptions set forth in the Purchase Contract Agreement, the provisions of the Purchase Contract Agreement may be amended with the consent of the Holders of a majority of the Purchase Contracts.

The Purchase Contracts and any claim, controversy or dispute arising under or related thereto shall be governed by, and construed in accordance with, the laws of the State of New York.

The Company, the Purchase Contract Agent, and any agent of the Company or the Purchase Contract Agent, may treat the Person in whose name this Purchase Contract is registered as the owner of the Purchase Contracts, evidenced hereby, for the purpose of performance of the Purchase Contracts evidenced by such Purchase Contracts and for all other purposes whatsoever, and neither the Company nor the Purchase Contract Agent, nor any agent of the Company or the Purchase Contract Agent, shall be affected by notice to the contrary.

The Purchase Contracts shall not entitle the Holder to any of the rights of a holder of the Common Stock or other Exchange Property, except as provided by the Purchase Contract Agreement.

Each Purchase Contract (whether or not included in a Unit) is a security governed by Article VIII of the Uniform Commercial Code as in effect in the State of New York on the date hereof.

Unless a conformed copy of the Purchase Contract Agreement has been filed on the EDGAR system of the U.S. Securities and Exchange Commission, a copy of the Purchase Contract Agreement will be available for inspection at the offices of the Company.

In the event of any inconsistency between the provisions of this Purchase Contract and the provisions of the Purchase Contract Agreement, the Purchase Contract Agreement shall prevail.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM:	as tenants in common	
UNIF GIFT MIN ACT:	(cust)	Custodian (minor)
	Under Uniform Gifts to Minors	
	Act of _____	

TENANT:	as tenants by the entireties
JT TEN:	as joint tenants with rights of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

(Please insert Social Security or Taxpayer I.D. or other Identifying Number of Assignee)

(Please Print or Type Name and Address Including Postal Zip Code of Assignee)

the within Purchase Contracts and all rights thereunder, hereby irrevocably constituting and appointing attorney , to transfer said Purchase Contracts on the books of the Company with full power of substitution in the premises.

DATED: _____

Signature _____

Notice: The signature to this assignment must correspond with the name as it appears upon the face of the within Purchase Contracts in every particular, without alteration or enlargement or any change whatsoever.

Signature Guarantee:

SETTLEMENT INSTRUCTIONS

The undersigned Holder directs that a certificate for shares of Common Stock or other securities, as applicable, deliverable upon settlement or redemption of the number of Purchase Contracts evidenced by this Purchase Contract be registered in the name of, and delivered, together with a check in payment for any fractional share (or cash included in the Redemption Amount, if applicable), to the undersigned at the address indicated below unless a different name and address have been indicated below. If shares of Common Stock or other securities, as applicable, are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incidental thereto, as provided in the Purchase Contract Agreement.

Dated: _____

Signature

Signature Guarantee: _____
(if assigned to another Person)

If shares are to be registered in the name of and delivered to (or cash is to be paid to) a Person other than the Holder, please (i) print such Person's name and address and (ii) provide a guarantee of your signature:

Name _____

Name _____

Address _____

Address _____

Social Security or other Taxpayer Identification Number, if any

ELECTION TO SETTLE EARLY

The undersigned Holder of this Purchase Contract hereby irrevocably exercises the option to effect Early Settlement (which Early Settlement may, as applicable, be deemed to be in connection with a Fundamental Change pursuant to Section 4.07 of the Purchase Contract Agreement) in accordance with the terms of the Purchase Contract Agreement with respect to the Purchase Contracts evidenced by this Purchase Contract as specified below. The undersigned Holder directs that a certificate for shares of Common Stock or other securities, as applicable, deliverable upon such Early Settlement be registered in the name of, and delivered, together with a check in payment for any fractional share and any Purchase Contract representing any Purchase Contracts evidenced hereby as to which Early Settlement is not effected, to the undersigned at the address indicated below unless a different name and address have been indicated below. If shares of Common Stock or other securities, as applicable, are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incident thereto, as provided in the Purchase Contract Agreement.

Dated: _____

Signature _____

Signature Guarantee: _____

Number of Purchase Contracts evidenced hereby as to which Early Settlement is being elected:

If shares of Common Stock or Purchase Contracts are to be registered in the name of and delivered to a Person other than the Holder, please print such Person's name and address:

Name _____

Address _____

REGISTERED HOLDER

Please print name and address of Registered Holder:

Name _____

Address _____

Social Security or other Taxpayer Identification Number, if any

SCHEDULE A*

**SCHEDULE OF INCREASES OR DECREASES
IN THE PURCHASE CONTRACT**

The initial number of Purchase Contracts evidenced by this certificate is []. The following increases or decreases in this certificate have been made:

Date	Amount of increase in number of Purchase Contracts evidenced hereby	Amount of decrease in number of Purchase Contracts evidenced hereby	Number of Purchase Contracts evidenced hereby following such decrease or increase	Signature of authorized signatory of Purchase Contract Agent

* Include only if a Global Purchase Contract.

AQUA AMERICA, INC.
3.00% SENIOR AMORTIZING NOTES DUE 2022

CUSIP No.: 03836W AA1
ISIN No.: US03836WAA18

No. []

[Initial]* Number of Notes: []

AQUA AMERICA, INC., a Pennsylvania corporation (the “**Company**”, which term includes any successor under the Indenture hereinafter referred to), for value received, hereby promises to pay to [U.S. Bank N.A., as attorney-in-fact of holder(s) of the Units of which this Note forms a part]* []**, or registered assigns (the “**Holder**”), the initial principal amount of \$8.62909 for each of the number of Notes set forth above[, which number of Notes may from time to time be reduced or increased as set forth in Schedule A hereto, as appropriate, in accordance with the terms of the Indenture]*, in equal quarterly installments (except for the first such payment) (each such payment, an “**Installment Payment**”), constituting a payment of interest (at a rate of 3.00% per annum) and a partial repayment of principal, payable on each January 30, April 30, July 30 and October 30, commencing on July 30, 2019 (each such date, an “**Installment Payment Date**”, and the period from, and including, April 23, 2019 to, but excluding, the first Installment Payment Date and thereafter each quarterly period from, and including, the immediately preceding Installment Payment Date to, but excluding, the relevant Installment Payment Date, an “**Installment Payment Period**”) with the final Installment Payment due and payable on April 30, 2022, all as set forth on the reverse hereof and in the Indenture referred to on the reverse hereof. To the extent that payment of interest shall be legally enforceable, interest shall accrue and be payable on any overdue Installment Payments or principal at a rate of 3.00% per annum.

Each Installment Payment for any Installment Payment Period shall be computed on the basis of a 360-day year of twelve 30-day months. If an Installment Payment is payable for any period shorter or longer than a full Installment Payment Period, such Installment Payment shall be computed on the basis of the actual number of days elapsed per 30-day month. Furthermore, if any date on which an Installment Payment is payable is not a Business Day, then payment of the Installment Payment on such date shall be made on the next succeeding day that is a Business Day, and without any interest or other payment in respect of any such delay. Installment Payments shall be paid to the Person in whose name the Note is registered, with limited exceptions as provided in the Indenture, at the close of business on January 15, April 15, July 15 and October 15 immediately preceding the relevant Installment Payment Date, as applicable (each, a “**Regular Record Date**”). Installment Payments shall be payable (x) in the case of any Certificated Note, at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York; *provided, however*, that payment of Installment Payments may be made at the option of the Company by check mailed to the registered Holder at such address as shall appear in the Security Register or (y) in the case of any Global Note, by wire transfer in immediately available funds to the account of the Depositary or its nominee or otherwise in accordance with applicable procedures of the Depositary.

This Note shall not be entitled to any benefit under the Indenture hereinafter referred to or be valid or obligatory for any purpose until the Certificate of Authentication shall have been manually signed by or on behalf of the Trustee.

* Include only if a Global Note.

** Include only if not a Global Note.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

[SIGNATURES ON THE FOLLOWING PAGE]

A-24

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated: _____

AQUA AMERICA, INC.

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

U.S. Bank N.A., as Trustee, certifies that this is
one of the Securities of the series designated
herein referred to in the within mentioned
Indenture.

Dated:

U.S. BANK N.A., as Trustee

By: _____
Authorized Signatory

[REVERSE OF NOTE]

AQUA AMERICA, INC.

3.00% Senior Amortizing Notes due 2022

This Note is one of a duly authorized series of Securities of the Company designated as its 3.00% Senior Amortizing Notes due 2022 (herein sometimes referred to as the “**Notes**”), issued under the Indenture, dated as of April 23, 2019, between the Company and U.S. Bank N.A., as trustee (the “**Trustee**,” which term includes any successor trustee under the Indenture) (including any provisions of the Trust Indenture Act that are deemed incorporated therein) (the “**Base Indenture**”), as supplemented by the First Supplemental Indenture, dated as of April 23, 2019 (the “**First Supplemental Indenture**”), and the Second Supplemental Indenture, dated as of April 23, 2019 (the “**Second Supplemental Indenture**” and, together with the First Supplemental Indenture, the “**Supplemental Indentures**”), between the Company and the Trustee (the Base Indenture, as supplemented by the Supplemental Indentures, the “**Indenture**”), to which Indenture reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders. The terms of other series of Securities issued under the Base Indenture may vary with respect to interest rates, issue dates, maturity, redemption, repayment, currency of payment and otherwise as provided in the Base Indenture. The Base Indenture further provides that securities of a single series may be issued at various times, with different maturity dates and may bear interest at different rates. This series of Securities is limited in aggregate initial principal amount as specified in the Second Supplemental Indenture.

Each Installment Payment shall constitute a payment of interest (at a rate of 3.00% per annum) and a partial repayment of principal on the Notes, allocated with respect to each Note as set forth in the schedule below:

Scheduled Installment Payment Date	Amount of Principal	Amount of Interest
July 30, 2019	\$ 0.73858	\$ 0.06975
October 30, 2019	\$ 0.69082	\$ 0.05918
January 30, 2020	\$ 0.69600	\$ 0.05400
April 30, 2020	\$ 0.70122	\$ 0.04878
July 30, 2020	\$ 0.70648	\$ 0.04352
October 30, 2020	\$ 0.71178	\$ 0.03822
January 30, 2021	\$ 0.71712	\$ 0.03288
April 30, 2021	\$ 0.72250	\$ 0.02750
July 30, 2021	\$ 0.72792	\$ 0.02208
October 30, 2021	\$ 0.73337	\$ 0.01663
January 30, 2022	\$ 0.73888	\$ 0.01112
April 30, 2022	\$ 0.74442	\$ 0.00558

Any Installment Payment on any Note which is payable, but is not punctually paid or duly provided for, on any Installment Payment Date (herein called “**Defaulted Installment Payment**”) shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Installment Payment may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Installment Payment to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Installment Payment, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Installment Payment proposed to be paid on each Note and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Installment Payment or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Installment Payment as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Installment Payment which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Installment Payment and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Notes at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Installment Payment and the Special Record Date therefor having been so mailed, such Defaulted Installment Payment shall be paid to the Persons in whose names the Notes (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Installment Payment on the Notes in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

The Notes shall not be subject to redemption at the option of the Company. However, a Holder shall have the right to require the Company to repurchase some or all of its Notes for cash at the Repurchase Price per Note and on the Repurchase Date, upon the occurrence of certain events and subject to the conditions set forth in the Indenture.

This Note is not entitled to the benefit of any sinking fund. The Indenture contains provisions for satisfaction and discharge, legal defeasance and covenant defeasance of this Note upon compliance by the Company with certain conditions set forth therein, which provisions apply to this Note.

If an Event of Default with respect to the Notes shall occur and be continuing, then either the Trustee or the Holders of not less than 25% in principal amount of the Notes then outstanding may declare the Repurchase Price and all Installment Payments on this Note, to be due and payable immediately, in the manner, subject to the conditions and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the Company and the Trustee, with the consent of the Holders of not less than a majority in principal amount of the Notes at the time outstanding, to execute supplemental indentures for certain purposes as described therein.

No provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Repurchase Price, if applicable, of and all Installment Payments on this Note at the time, place and rate, and in the coin or currency, herein and in the Indenture prescribed.

The Notes are originally being issued as part of the 6.00% Tangible Equity Units (the “Units”) issued by the Company pursuant to that certain Purchase Contract Agreement, dated as of April 23, 2019, between the Company and U.S. Bank N.A., as Purchase Contract Agent, as Trustee and as attorney-in-fact for the holders of Purchase Contracts from time to time (the “Purchase Contract Agreement”). Holders of the Units have the right to separate such Units into their constituent parts, consisting of Separate Purchase Contracts (as defined in the Purchase Contract Agreement) and Separate Notes, during the times, and under the circumstances, described in the Purchase Contract Agreement. Following separation of any Unit into its constituent Separate Note and Separate Purchase Contract, the Separate Notes are transferable independently from the Separate Purchase Contracts. In addition, Separate Notes can be recombined with Separate Purchase Contracts to recreate Units, as provided for in the Purchase Contract Agreement. Reference is hereby made to the Purchase Contract Agreement for a more complete description of the terms thereof applicable to the Units.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note shall be registered on the Security Register of the Company, upon due presentation of this Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon the Company shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Note or Notes in authorized denominations and for a like aggregate principal amount.

The Notes are initially issued in registered, global form without coupons in denominations equal to \$8.62909 initial principal amount and integral multiples in excess thereof.

The Company or Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer of this Note. No service charge shall be made for any such transfer or for any exchange of this Note as contemplated by the Indenture.

The Company, the Trustee and any agent of the Company or the Trustee may deem and treat the Person in whose name this Note is registered upon the Security Register for the Notes as the absolute owner of this Note (whether or not this Note shall be overdue and notwithstanding any notice of ownership or writing thereon made by anyone other than the Registrar) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of the Indenture, interest on this Note and for all other purposes; and neither the Company nor the Trustee nor any agent of the Company or the Trustee shall be affected by any notice to the contrary.

This Note and the Indenture and any claim, controversy or dispute arising under or related thereto shall be governed by and construed in accordance with the laws of the State of New York.

Capitalized terms used but not defined in this Note shall have the meanings ascribed to such terms in the Indenture.

No recourse shall be had for the payment of any Installment Payment on this Note, or for any claim based hereon, or upon any obligation, covenant or agreement of the Company in the Indenture, against any incorporator, stockholder, officer or director, past, present or future of the Company or of any predecessor or successor, either directly or through the Company or any predecessor or successor, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment of penalty or otherwise; and all such personal liability is expressly released and waived as a condition of, and as part of the consideration for, the issuance of this Note.

The Company and each Beneficial Holder agrees, for United States federal income tax purposes, to treat the Notes as indebtedness of the Company.

In the event of any inconsistency between the provisions of this Note and the provisions of the Indenture, the Indenture shall prevail.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Note to:

(Insert assignee's social security or tax identification number)

(Insert address and zip code of assignee)

and irrevocably appoints

agent to transfer this Note on the books of the Company. The agent may substitute another to act for him or her.

Date: _____

Signature: _____

Signature Guarantee: _____

(Sign exactly as your name appears on the other side of this Note)

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

By: _____
Name:
Title:

as Trustee

By: _____
Name:
Title:

Attest

By: _____
Name:
Title:

FORM OF REPURCHASE NOTICE

TO: AQUA AMERICA, INC.
U.S. BANK N.A., as Trustee

The undersigned registered Holder hereby irrevocably acknowledges receipt of a notice from Aqua America, Inc. (the “**Company**”) regarding the right of Holders to elect to require the Company to repurchase the Notes and requests and instructs the Company to pay, for each Note designated below, the Repurchase Price for such Notes (determined as set forth in the Indenture), in accordance with the terms of the Indenture and the Notes, to the registered holder hereof. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture. The Notes shall be repurchased by the Company as of the Repurchase Date pursuant to the terms and conditions specified in the Indenture.

Dated: _____

Signature: _____

NOTICE: The above signature of the Holder hereof must correspond with the name as written upon the face of the Notes in every particular without alteration or enlargement or any change whatever.

Notes Certificate Number (if applicable): _____

Number of Notes to be repurchased (if less than all, must be one Note or integral multiples in excess thereof): _____

Social Security or Other Taxpayer Identification Number: _____

SCHEDULE A*
[SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE]

The initial number of Notes evidenced by this Global Note is []. The following increases or decreases in this Global Note have been made:

Date	Amount of decrease in number of Notes evidenced hereby	Amount of increase in number of Notes evidenced hereby	Number of Notes evidenced hereby following such decrease (or increase)	Signature of authorized officer of Trustee
-------------	---	---	---	---

* Include only if a Global Note.

[FORM OF FACE OF PURCHASE CONTRACT]

[THIS SECURITY IS A GLOBAL PURCHASE CONTRACT WITHIN THE MEANING OF THE PURCHASE CONTRACT AGREEMENT HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY OR A SUCCESSOR DEPOSITARY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN CERTIFICATED FORM, THIS SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION (THE “**DEPOSITARY**”) TO THE NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.

UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]^{*}

^{*} Include only if a Global Purchase Contract.

AQUA AMERICA, INC.

PURCHASE CONTRACTS

CUSIP No. 03836W 301

ISIN No. US03836W3016

No. ____ [Initial]* Number of Purchase Contracts: _____

This Purchase Contract certifies that [CEDE & CO., as nominee of The Depository Trust Company]* []**, or its registered assigns (the “**Holder**”) is the registered owner of the number of Purchase Contracts set forth above[, which number may from time to time be reduced or increased as set forth on Schedule A hereto, as appropriate, in accordance with the terms of the Purchase Contract Agreement (as defined below), but which number of Purchase Contracts, taken together with the number of all other Outstanding Purchase Contracts, shall not exceed 13,800,000 Purchase Contracts at any time]*.

Each Purchase Contract consists of the rights of the Holder under such Purchase Contract with the Company. All capitalized terms used herein which are defined in the Purchase Contract Agreement (as defined on the reverse hereof) have the meaning set forth therein.

Each Purchase Contract evidenced hereby obligates the Company to deliver to the Holder of this Purchase Contract on the Mandatory Settlement Date a number shares of Common Stock, \$0.50 par value (“**Common Stock**”), of the Company equal to the Mandatory Settlement Rate, unless such Purchase Contract has settled or been redeemed prior to the Mandatory Settlement Date, all as provided in the Purchase Contract Agreement and more fully described on the reverse hereof.

Reference is hereby made to the further provisions set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

[SIGNATURES ON THE FOLLOWING PAGE]

* Include only if a Global Purchase Contract.

** Include only if not a Global Purchase Contract.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

AQUA AMERICA, INC.

By: _____
Name:
Title:

Dated: _____

REGISTERED HOLDER(S) (as to
obligations of such holder(s) under the
Purchase Contracts evidenced hereby)

By: U.S. BANK N.A., not individually but solely as Attorney-
in-Fact of such holder(s)

By: _____
Name:
Title:

PURCHASE CONTRACT CERTIFICATE OF AUTHENTICATION OF

PURCHASE CONTRACT AGENT

This is one of the Purchase Contracts referred to in the within-mentioned Purchase Contract Agreement.

U.S. BANK N.A., as Purchase
Contract Agent

By: _____
Authorized Signatory

Dated: _____

[REVERSE OF PURCHASE CONTRACT]

Each Purchase Contract evidenced hereby is governed by a Purchase Contract Agreement, dated as of April 23, 2019 (as may be supplemented from time to time, the “**Purchase Contract Agreement**”), between Aqua America, Inc., a Pennsylvania corporation (the “**Company**”), and U.S. Bank N.A., as Purchase Contract Agent (including its successors hereunder, the “**Purchase Contract Agent**”), as Trustee under the Indenture and as attorney-in-fact for the Holders of Purchase Contracts from time to time. Reference is hereby made to the Purchase Contract Agreement and supplemental agreements thereto for a description of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Purchase Contract Agent, the Company and the Holders and of the terms upon which the Purchase Contracts are, and are to be, executed and delivered.

Each Purchase Contract evidenced hereby obligates the Company to deliver to the Holder of this Purchase Contract, on the Mandatory Settlement Date, a number of shares of Common Stock equal to the Mandatory Settlement Rate, unless such Purchase Contract has settled or been redeemed prior to the Mandatory Settlement Date, in either case, pursuant to the terms of the Purchase Contract Agreement.

No fractional shares of Common Stock will be issued upon settlement or redemption of Purchase Contracts, as provided in Section 4.13 of the Purchase Contract Agreement.

The Purchase Contracts are issuable only in registered form and only in denominations of a single Purchase Contract and any integral multiple thereof. The transfer of any Purchase Contract will be registered and Purchase Contracts may be exchanged as provided in the Purchase Contract Agreement.

The Purchase Contracts are initially being issued as part of the 6.00% Tangible Equity Units (the “**Units**”) issued by the Company pursuant to the Purchase Contract Agreement. Holders of the Units have the right to separate such Units into their constituent parts, consisting of Separate Notes and Separate Purchase Contracts, during the times, and under the circumstances, described in the Purchase Contract Agreement. Following separation of any Unit into its constituent parts, the Separate Purchase Contracts are transferable independently from the Separate Notes. In addition, Separate Purchase Contracts can be recombined with Separate Notes to recreate Units, as provided for in the Purchase Contract Agreement.

The Holder of this Purchase Contract, by its acceptance hereof, authorizes the Purchase Contract Agent to enter into and perform the Purchase Contract Agreement on its behalf as its attorney-in-fact and agrees to be bound by the terms and provisions thereof.

Subject to certain exceptions set forth in the Purchase Contract Agreement, the provisions of the Purchase Contract Agreement may be amended with the consent of the Holders of a majority of the Purchase Contracts.

The Purchase Contracts and any claim, controversy or dispute arising under or related thereto shall be governed by, and construed in accordance with, the laws of the State of New York.

The Company, the Purchase Contract Agent, and any agent of the Company or the Purchase Contract Agent, may treat the Person in whose name this Purchase Contract is registered as the owner of the Purchase Contracts, evidenced hereby, for the purpose of performance of the Purchase Contracts evidenced by such Purchase Contracts and for all other purposes whatsoever, and neither the Company nor the Purchase Contract Agent, nor any agent of the Company or the Purchase Contract Agent, shall be affected by notice to the contrary.

The Purchase Contracts shall not entitle the Holder to any of the rights of a holder of the Common Stock or other Exchange Property, except as provided by the Purchase Contract Agreement.

Each Purchase Contract (whether or not included in a Unit) is a security governed by Article VIII of the Uniform Commercial Code as in effect in the State of New York on the date hereof.

Unless a conformed copy of the Purchase Contract Agreement has been filed on the EDGAR system of the U.S. Securities and Exchange Commission, a copy of the Purchase Contract Agreement will be available for inspection at the offices of the Company.

In the event of any inconsistency between the provisions of this Purchase Contract and the provisions of the Purchase Contract Agreement, the Purchase Contract Agreement shall prevail.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM: as tenants in common

UNIF GIFT MIN ACT: Custodian _
(cust) (minor)
Under Uniform Gifts to Minors
Act of _

TENANT: as tenants by the entirety

JT TEN: as joint tenants with rights of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

(Please insert Social Security or Taxpayer I.D. or other Identifying Number of Assignee)

(Please Print or Type Name and Address Including Postal Zip Code of Assignee)

the within Purchase Contracts and all rights thereunder, hereby irrevocably constituting and appointing attorney, to transfer said Purchase Contracts on the books of the Company with full power of substitution in the premises.

DATED: _____

Signature _____

Notice : The signature to this assignment must correspond with the name as it appears upon the face of the within Purchase Contracts in every particular, without alteration or enlargement or any change whatsoever.

Signature Guarantee: _____

SETTLEMENT INSTRUCTIONS

The undersigned Holder directs that a certificate for shares of Common Stock or other securities, as applicable, deliverable upon settlement or redemption of the number of Purchase Contracts evidenced by this Purchase Contract be registered in the name of, and delivered, together with a check in payment for any fractional share (or cash included in the Redemption Amount, if applicable), to the undersigned at the address indicated below unless a different name and address have been indicated below. If shares of Common Stock or other securities, as applicable, are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incidental thereto, as provided in the Purchase Contract Agreement.

Date: _____

Signature: _____

Signature Guarantee: _____
(if assigned to another Person)

If shares are to be registered in the name of and delivered to (or cash is paid to) a Person other than the Holder, please (i) print such Person's name and address and (ii) provide a guarantee of your signature:

Name _____

Name _____

Address _____

Address _____

Social Security or other Taxpayer Identification Number, if any

ELECTION TO SETTLE EARLY

The undersigned Holder of this Purchase Contract hereby irrevocably exercises the option to effect Early Settlement (which Early Settlement may, as applicable, be deemed to be in connection with a Fundamental Change pursuant to Section 4.07 of the Purchase Contract Agreement) in accordance with the terms of the Purchase Contract Agreement with respect to the Purchase Contracts evidenced by this Purchase Contract as specified below. The undersigned Holder directs that a certificate for shares of Common Stock or other securities, as applicable, deliverable upon such Early Settlement be registered in the name of, and delivered, together with a check in payment for any fractional share and any Purchase Contract representing any Purchase Contracts evidenced hereby as to which Early Settlement is not effected, to the undersigned at the address indicated below unless a different name and address have been indicated below. If shares of Common Stock or other securities, as applicable, are to be registered in the name of a Person other than the undersigned, the undersigned will pay any transfer tax payable incident thereto, as provided in the Purchase Contract Agreement.

Date: _____

Signature: _____

Signature Guarantee: _____

Number of Purchase Contracts evidenced hereby as to which Early Settlement is being elected:

If shares of Common Stock or Purchase Contracts are to be registered in the name of and delivered to a Person other than the Holder, please print such Person's name and address:

Name _____

Address _____

Social Security or other Taxpayer Identification Number, if any

REGISTERED HOLDER
Please print name and address of Registered Holder:

Name _____

Address _____

SCHEDULE A*

[SCHEDULE OF INCREASES OR DECREASES
IN THE PURCHASE CONTRACT]

The initial number of Purchase Contracts evidenced by this certificate is []. The following increases or decreases in this certificate have been made:

<u>Date</u>	<u>Amount of increase in number of Purchase Contracts evidenced hereby</u>	<u>Amount of decrease in number of Purchase Contracts evidenced hereby</u>	<u>Number of Purchase Contracts evidenced hereby following such decrease or increase</u>	<u>Signature of authorized signatory of Purchase Contract Agent</u>
-------------	--	--	--	---

* Include only if a Global Purchase Contract.

AQUA AMERICA, INC.,

as Issuer,

and

U.S. BANK N.A.,

as Trustee

INDENTURE

Dated as of April 23, 2019

Senior Securities

Table of Contents

	Page
<u>ARTICLE I DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION</u>	1
<u>Section 1.01 Definitions</u>	1
<u>Section 1.02 Compliance Certificates and Opinions</u>	7
<u>Section 1.03 Form of Documents Delivered to Trustee</u>	7
<u>Section 1.04 Acts of Holders; Record Dates</u>	8
<u>Section 1.05 Notices, Etc., to Trustee and Company</u>	9
<u>Section 1.06 Notice to Holders; Waiver</u>	9
<u>Section 1.07 Conflict with Trust Indenture Act</u>	10
<u>Section 1.08 Effect of Headings and Table of Contents</u>	10
<u>Section 1.09 Successors and Assigns</u>	10
<u>Section 1.10 Separability Clause</u>	10
<u>Section 1.11 Benefits of Indenture</u>	11
<u>Section 1.12 Governing Law</u>	11
<u>Section 1.13 Legal Holidays</u>	11
<u>ARTICLE II SECURITY FORMS</u>	11
<u>Section 2.01 Forms Generally</u>	11
<u>Section 2.02 Form of Face of Security</u>	11
<u>Section 2.03 Form of Reverse of Security</u>	13
<u>Section 2.04 Form of Legend for Global Securities</u>	17
<u>Section 2.05 Form of Trustee's Certificate of Authentication</u>	17
<u>ARTICLE III THE SECURITIES</u>	17
<u>Section 3.01 Amount Unlimited; Issuable in Series</u>	17
<u>Section 3.02 Denominations</u>	19
<u>Section 3.03 Execution, Authentication, Delivery and Dating</u>	20
<u>Section 3.04 Temporary Securities</u>	21
<u>Section 3.05 Registration, Registration of Transfer and Exchange</u>	21
<u>Section 3.06 Mutilated, Destroyed, Lost and Stolen Securities</u>	22
<u>Section 3.07 Payment of Interest; Interest Rights Preserved</u>	23
<u>Section 3.08 Persons Deemed Owners</u>	24
<u>Section 3.09 Cancellation</u>	24
<u>Section 3.10 Computation of Interest</u>	24
<u>Section 3.11 CUSIP Numbers</u>	24
<u>ARTICLE IV SATISFACTION AND DISCHARGE</u>	25
<u>Section 4.01 Satisfaction and Discharge of Indenture</u>	25
<u>Section 4.02 Application of Trust Money</u>	25
<u>ARTICLE V REMEDIES</u>	26
<u>Section 5.01 Events of Default</u>	26
<u>Section 5.02 Acceleration of Maturity; Rescission and Annulment</u>	27
<u>Section 5.03 Collection of Indebtedness and Suits for Enforcement by Trustee</u>	28
<u>Section 5.04 Trustee May File Proofs of Claim</u>	28
<u>Section 5.05 Trustee May Enforce Claims Without Possession of Securities</u>	28

<u>Section 5.06 Application of Money Collected</u>	29
<u>Section 5.07 Limitation on Suits</u>	29
<u>Section 5.08 Unconditional Right of Holders to Receive Principal, Premium and Interest</u>	29
<u>Section 5.09 Restoration of Rights and Remedies</u>	30
<u>Section 5.10 Rights and Remedies Cumulative</u>	30
<u>Section 5.11 Delay or Omission Not Waiver</u>	30
<u>Section 5.12 Control by Holders</u>	30
<u>Section 5.13 Waiver of Past Defaults</u>	30
<u>Section 5.14 Undertaking for Costs</u>	31
<u>Section 5.15 Waiver of Usury, Stay or Extension Laws</u>	31
 <u>ARTICLE VI THE TRUSTEE</u>	 31
<u>Section 6.01 Duties of Trustee</u>	31
<u>Section 6.02 Rights of Trustee</u>	32
<u>Section 6.03 Individual Rights of Trustee</u>	33
<u>Section 6.04 Trustee's Disclaimer</u>	34
<u>Section 6.05 Notice of Default</u>	34
<u>Section 6.06 Reports by Trustee to Holders</u>	34
<u>Section 6.07 Compensation and Indemnity</u>	34
<u>Section 6.08 Replacement of Trustee</u>	35
<u>Section 6.09 Successor Trustee by Merger, Etc.</u>	36
<u>Section 6.10 Eligibility; Disqualification</u>	36
<u>Section 6.11 Preferential Collection of Claims against Company</u>	36
 <u>ARTICLE VII HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY</u>	 36
<u>Section 7.01 Company to Furnish Trustee Names and Addresses of Holders</u>	36
<u>Section 7.02 Preservation of Information; Communications to Holders</u>	36
<u>Section 7.03 Reports by Trustee</u>	37
<u>Section 7.04 Reports by Company</u>	37
 <u>ARTICLE VIII CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE</u>	 37
<u>Section 8.01 When Company May Merge, Etc.</u>	37
<u>Section 8.02 Successor Corporation Substituted</u>	38
 <u>ARTICLE IX SUPPLEMENTAL INDENTURES</u>	 38
<u>Section 9.01 Supplemental Indentures Without Consent of Holders</u>	38
<u>Section 9.02 Supplemental Indentures with Consent of Holders</u>	39
<u>Section 9.03 Execution of Supplemental Indentures</u>	40
<u>Section 9.04 Effect of Supplemental Indentures</u>	40
<u>Section 9.05 Conformity with Trust Indenture Act</u>	40
<u>Section 9.06 Reference in Securities to Supplemental Indentures</u>	40
 <u>ARTICLE X COVENANTS</u>	 41
<u>Section 10.01 Payment of Principal, Premium and Interest</u>	41
<u>Section 10.02 Maintenance of Office or Agency</u>	41
<u>Section 10.03 Money for Securities Payments to Be Held in Trust</u>	41
<u>Section 10.04 Corporate Existence</u>	42
<u>Section 10.05 Statement by Officers as to Default</u>	42
<u>Section 10.06 Waiver of Certain Covenants</u>	42

<u>ARTICLE XI REDEMPTION OF SECURITIES</u>	43
<u>Section 11.01 Applicability of Article</u>	43
<u>Section 11.02 Election to Redeem; Notice to Trustee</u>	43
<u>Section 11.03 Selection by Trustee of Securities to Be Redeemed</u>	43
<u>Section 11.04 Notice of Redemption</u>	43
<u>Section 11.05 Deposit of Redemption Price</u>	44
<u>Section 11.06 Securities Payable on Redemption Date</u>	44
<u>Section 11.07 Securities Redeemed in Part</u>	44
<u>ARTICLE XII SINKING FUNDS</u>	45
<u>Section 12.01 Applicability of Article</u>	45
<u>Section 12.02 Satisfaction of Sinking Fund Payments with Securities</u>	45
<u>Section 12.03 Redemption of Securities for Sinking Fund</u>	45
<u>ARTICLE XIII REDEMPTION UPON A DESIGNATED EVENT AND A RATING DECLINE</u>	46
<u>Section 13.01 Redemption by Holders</u>	46
<u>Section 13.02 Redemption by Company</u>	47
<u>Section 13.03 Other Provisions</u>	47
<u>ARTICLE XIV DEFEASANCE AND COVENANT DEFEASANCE</u>	48
<u>Section 14.01 Company's Option to Effect Defeasance or Covenant Defeasance</u>	48
<u>Section 14.02 Defeasance and Discharge</u>	48
<u>Section 14.03 Covenant Defeasance</u>	48
<u>Section 14.04 Conditions to Defeasance or Covenant Defeasance</u>	49
<u>Section 14.05 Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions</u>	50
<u>Section 14.06 Reinstatement</u>	51
<u>ARTICLE XV CONVERSION OF SECURITIES</u>	51
<u>Section 15.01 Applicability; Conversion Privilege and Conversion Price</u>	51
<u>Section 15.02 Exercise of Conversion Privilege</u>	51
<u>Section 15.03 Fractions of Shares</u>	52
<u>Section 15.04 Adjustment of Conversion Price</u>	52
<u>Section 15.05 Notice of Adjustments of Conversion Price</u>	54
<u>Section 15.06 Notice of Certain Corporate Action</u>	55
<u>Section 15.07 Company to Reserve Common Stock</u>	56
<u>Section 15.08 Taxes on Conversions</u>	56
<u>Section 15.09 Covenant as to Common Stock</u>	56
<u>Section 15.10 Cancellation of Converted Securities</u>	56
<u>Section 15.11 Provisions in Case of Consolidation, Merger or Sale of Assets</u>	56
<u>Section 15.12 Responsibility of Trustee</u>	57
<u>ARTICLE XVI MISCELLANEOUS</u>	57
<u>Section 16.01 Patriot Act</u>	57

INDENTURE, dated as of April 23, 2019, between Aqua America, Inc., a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania (herein called the “Company”), having its principal office at 762 W. Lancaster Avenue, Bryn Mawr, Pennsylvania, and U.S. Bank N.A., as Trustee (herein called the “Trustee”).

RECITALS OF THE COMPANY

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured debentures, notes or other evidences of indebtedness (herein called the “Securities”), to be issued in one or more series as in this Indenture provided. All things necessary to make this Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Securities or of series thereof, as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01 Definitions.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;
- (2) all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;
- (3) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles, and, except as otherwise herein expressly provided, the term GAAP with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted at the date of such computation;
- (4) the words “Article” and “Section” refer to an Article and Section, respectively, of this Indenture;
- (5) the words “herein” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision; and
- (6) Certain terms used principally in Articles VI, X, XIII, and XIV, are defined in those Articles. “Act”, when used with respect to any Holder, has the meaning specified in Section 1.04.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Bankruptcy Law” means Title 11, U.S. Code or any similar Federal, state or foreign law for the relief of debtors.

“Board of Directors” means either the board of directors of the Company or any duly authorized committee of that board.

“Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“Business Day”, when used with respect to any Place of Payment, means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in that Place of Payment are authorized or obligated by law or executive order to close.

“Capital Lease Obligation” means, at any time any determination thereof is made, the amount of the liability in respect of a capital lease that would at such time be so required to be capitalized on the balance sheet in accordance with generally accepted accounting principles.

“Capital Stock”, as applied to the stock of any corporation, means the capital stock of every class whether now or hereafter authorized, regardless of whether such capital stock shall be limited to a fixed sum or percentage with respect to the rights of the holders thereof to participate in dividends and in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of such corporation.

“Commission” means the Securities and Exchange Commission, from time to time constituted, created under the Exchange Act or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“Company” means the Person named as the “Company” in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor Person.

“Company Request” or “Company Order” means a written request or order signed in the name of the Company by its Chairman of the Board, any Vice Chairman of the Board, its President or a Vice President, and by its Treasurer, an Assistant Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee.

“Corporate Trust Office” means the principal office of the Trustee in New York, New York at which at any particular time its corporate trust business shall be administered, which office as of the date hereof is located at 100 Wall Street, Suite 1600, New York, New York 10005.

“Corporation” means a corporation, association, company, joint-stock company or business trust.

“Covenant Defeasance” has the meaning specified in Section 14.03.

“Defaulted Interest” has the meaning specified in Section 3.07.

“Defeasance” has the meaning specified in Section 14.02.

“Defeasible Series” has the meaning specified in Section 14.01.

“Depository” means, with respect to Securities of any series issuable in whole or in part in the form of one or more Global Securities, a clearing agency registered under the Exchange Act that is designated to act as Depository for such Securities as contemplated by Section 3.01.

“Designated Event” has the meaning specified in Section 13.01.

“Disqualified Stock” means any Capital Stock which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the Holder thereof, in whole or in part, on or prior to the final date of maturity of the Securities.

“Event of Default” has the meaning specified in Section 5.01.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, and any statute successor thereto.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession in the United States of America.

“Global Security” means a Security that evidences all or part of the Securities of any series and is authenticated and delivered to, and registered in the name of, the Depository for such Securities or a nominee thereof.

“Guaranty” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including, without limitation, letters of credit and reimbursement agreements in respect thereof), or all or any part of any Indebtedness.

“Hedging Obligations” means, with respect to any Person, the Obligations of such Person under interest rate swap agreements, interest rate cap agreements, and interest rate collar agreements, and other agreements or arrangements designed to protect such Person against fluctuations in interest rates.

“Holder” means a Person in whose name a Security is registered in the Security Register.

“Indebtedness” means, with respect to any Person, any indebtedness of such Person, whether or not contingent, in respect of borrowed money or evidenced by bonds, notes, debentures of similar instruments or letters of credit (or reimbursement agreements in respect thereof) or representing Capital Lease Obligations or the balance deferred and unpaid of the purchase price of any property or representing any Hedging Obligations, except any such balance that constitutes an accrued expense or trade payable, if and to the extent any of the foregoing indebtedness (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, and also includes, to the extent not otherwise included, the Guaranty of any indebtedness of such Person or any other Person.

“Indenture” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument, and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this instrument and any such supplemental indenture, respectively. The term “Indenture” shall also include the terms of particular series of Securities established as contemplated by Section 3.01.

“Interest”, when used with respect to an Original Issue Discount Security which by its terms bears interest only after Maturity, means interest payable after Maturity.

“Interest Payment Date”, when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“Maturity”, when used with respect to any Security, means the date on which the principal of such Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

“Notice of Default” means a written notice of the kind specified in Section 5.01(4).

“Obligations” means any principal, premium, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing and Indebtedness.

“Officer’s Certificate” means a certificate signed by the Chairman of the Board, a Vice Chairman of the Board, the President or a Vice President, the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary, of the Company, and delivered to the Trustee.

“Opinion of Counsel” means a written opinion of counsel, who may be counsel for the Company.

“Original Issue Discount Security” means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02.

“Outstanding”, when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(1) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(2) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(3) Securities as to which Defeasance has been effected pursuant to Section 14.02; and

(4) Securities which have been paid pursuant to Section 3.06 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company; provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, (A) the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon acceleration of the Maturity thereof to such date pursuant to Section 5.02, (B) the principal amount of a Security denominated in one or more foreign currencies or currency units shall be the U.S. dollar equivalent, determined in the manner provided as contemplated by Section 3.01 on the date of original issuance of such Security, of the principal amount (or, in the case of an Original Issue Discount Security, the U.S. dollar equivalent on the date of original issuance of such Security of the amount determined as provided in Clause (A) above) of such Security, and (C) Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

"Paying Agent" means any Person authorized by the Company to pay the principal of or any premium or interest on any Securities on behalf of the Company.

"Person" means any individual, corporation, partnership, joint venture, limited liability company, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Place of Payment", when used with respect to the Securities of any series, means the place or places where the principal of and any premium and interest on the Securities of that series are payable as specified as contemplated by Section 3.01.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.06 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Rating Decline" has the meaning specified in Section 13.01.

"Redemption Date", when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Indenture.

"Redemption Price", when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to this Indenture.

"Regular Record Date" for the interest payable on any Interest Payment Date on the Securities of any series means the date specified for that purpose as contemplated by Section 3.01.

“Responsible Officer”, when used with respect to the Trustee, means any vice president, any assistant treasurer, any trust officer or assistant trust officer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Securities” has the meaning stated in the first recital of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

“Security Register” and “Security Registrar” have the respective meanings specified in Section 3.05.

“Special Record Date” for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.07.

“Stated Maturity”, when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable.

“Subject Securities” has the meaning specified in Section 13.01.

“Subsidiary” means a corporation more than 50% of the outstanding voting stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries. For the purposes of this definition, “voting stock” means stock which ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

“Trust Indenture Act” means the Trust Indenture Act of 1939 as in force at the date as of which this instrument was executed; provided, however, that in the event the Trust Indenture Act of 1939 is amended after such date, “Trust Indenture Act” means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series shall mean each Trustee with respect to Securities of that series.

“U.S. Government Obligations” has the meaning specified in Section 14.04.

“Vice President”, when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title “vice president”.

“Voting Stock” means any class or classes of Capital Stock pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of any Person (irrespective of whether or not at the time stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency).

Section 1.02 Compliance Certificates and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required under the Trust Indenture Act. Each such certificate or opinion shall be given in the form of an Officer's Certificate, if to be given by an officer of the Company, or an Opinion of Counsel, if to be given by counsel, and shall comply with the requirements of the Trust Indenture Act and any other requirements set forth in this Indenture.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

- (1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

Section 1.03 Form of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company or any subsidiary of the Company stating that the information with respect to such factual matters is in the possession of the Company or any subsidiary of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 1.04 Acts of Holders; Record Dates.

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “Act” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 6.01) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

The ownership of Securities shall be proved by the Security Register.

Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

The Company may, in the circumstances permitted by the Trust Indenture Act, set any day as the record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given or taken by Holders of Securities of such series. With regard to any record date set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date (or their duly appointed agents), and only such Persons, shall be entitled to give or take the relevant action, whether or not such Holders remain Holders after such record date. With regard to any action that may be given or taken hereunder only by Holders of a requisite principal amount of Outstanding Securities of any series (or their duly appointed agents) and for which a record date is set pursuant to this paragraph, the Company may, at its option, set an expiration date after which no such action purported to be given or taken by any Holder shall be effective hereunder unless given or taken on or prior to such expiration date by Holders of the requisite principal amount of Outstanding Securities of such series on such record date (or their duly appointed agents). On or prior to any expiration date set pursuant to this paragraph, the Company may, on one or more occasions at its option, extend such date to any later date. Nothing in this paragraph shall prevent any Holder (or any duly appointed agent thereof) from giving or taking, after any such expiration date, any action identical to, or, at any time, contrary to or different from, the action or purported action to which such expiration date relates, in which event the Company may set a record date in respect thereof pursuant to this paragraph. Nothing in this paragraph shall be construed to render ineffective any action taken at any time by the Holders (or their duly appointed agents) of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is so taken. Notwithstanding the foregoing or the Trust Indenture Act, the Company shall not set a record date for, and the provisions of this paragraph shall not apply with respect to, any notice, declaration or direction referred to in the next paragraph.

The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration referred to in Section 5.02, if an Event of Default with respect to Securities of such series has occurred and is continuing and the Trustee shall not have given such a declaration to the Company, (iii) any request to institute proceedings referred to in Section 5.07(2) or (iv) any direction referred to in Section 5.12, in each case with respect to Securities of such series. Promptly after any record date is set pursuant to this paragraph, the Trustee shall notify the Company and the Holders of Outstanding Series of such series of any such record date so fixed and the proposed action. The Holders of Outstanding Securities of such series on such record date (or their duly appointed agents), and only such Persons, shall be entitled to join in such notice, declaration or direction, whether or not such Holders remain Holders after such record date; provided that, unless such notice, declaration or direction shall have become effective by virtue of Holders of the requisite principal amount of Outstanding Securities of such series on such record date (or their duly appointed agents) having joined therein on or prior to the 90th day after such record date, such notice, declaration or direction shall automatically and without any action by any Person be cancelled and of no further effect. Nothing in this paragraph shall be construed to prevent a Holder (or a duly appointed agent thereof) from giving, before or after the expiration of such 90-day period, a notice, declaration or direction contrary to or different from, or, after the expiration of such period, identical to, the notice, declaration or direction to which such record date relates, in which event a new record date in respect thereof shall be set pursuant to this paragraph. Nothing in this paragraph shall be construed to render ineffective any notice, declaration or direction of the type referred to in this paragraph given at any time to the Trustee and the Company by Holders (or their duly appointed agents) of the requisite principal amount of Outstanding Securities of the relevant series on the date such notice, declaration or direction is so given.

Without limiting the foregoing, a Holder entitled hereunder to give or take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any different part of such principal amount.

Section 1.05 Notices, Etc., to Trustee and Company.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (which may be via facsimile) to or with the Trustee at its Corporate Trust Office, Attention: Corporate Trust Department, or

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to the Company addressed to it at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to the Trustee by the Company.

Section 1.06 Notice to Holders; Waiver.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Section 1.07 Conflict with Trust Indenture Act.

If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under such Act to be a part of and govern this Indenture, the latter provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be. Wherever this Indenture refers to a provision of the Trust Indenture Act, such provision is incorporated by reference in and made a part of this Indenture.

The following Trust Indenture Act terms used in this Indenture have the following meanings:

“commission” means the United States Securities and Exchange Commission.

“indenture securities” means the Securities.

“indenture security holder” means a Holder.

“indenture to be qualified” means this Indenture.

“indenture trustee” or “institutional trustee” means the Trustee.

“obligor on the indenture securities” means the Company and any other obligor on the Securities.

All other Trust Indenture Act terms used in this Indenture that are defined by the Trust Indenture Act, defined by the Trust Indenture Act referenced to another statute or defined by any Commission Rule and not otherwise defined herein have the meanings defined to them thereby.

Section 1.08 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.09 Successors and Assigns.

All covenants and agreements in this Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

Section 1.10 Separability Clause.

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.11 Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.12 Governing Law.

This Indenture and the Securities shall be governed by and construed in accordance with the law of the Commonwealth of Pennsylvania, but without regard to principles of conflicts of laws.

Section 1.13 Legal Holidays.

In any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Security shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Securities (other than a provision of the Securities of any series which specifically states that such provision shall apply in lieu of this Section)) payment of interest or principal (and premium, if any) need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Stated Maturity, provided that no interest shall accrue for the intervening period.

ARTICLE II

SECURITY FORMS

Section 2.01 Forms Generally.

The Securities of each series shall be in substantially the form set forth in this Article, or in such other form as shall be established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of the Securities. If the form of Securities of any series is established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 3.03 for the authentication and delivery of such Securities.

The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

Section 2.02 Form of Face of Security.

[Insert any legend required by the Internal Revenue Code and the regulations thereunder.]

No.

\$

Aqua America, Inc., a corporation duly organized and existing under the laws of Pennsylvania (herein called the “Company”, which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to , or registered assigns, the principal sum of Dollars on [if the Security is to bear interest prior to Maturity, insert —, and to pay interest thereon from or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually on and in each year, commencing at the rate of % per annum, until the principal hereof is paid or made available for payment [if applicable, insert —, and at the rate of % per annum on any overdue principal and premium and on any overdue installment of interest]. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the or (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture].

[If the Security is not to bear interest prior to Maturity, insert — The principal of this Security shall not bear interest except in the case of a default in payment of principal upon acceleration, upon redemption or at Stated Maturity and in such case the overdue principal of this Security shall bear interest at the rate of % per annum, which shall accrue from the date of such default in payment to the date payment of such principal has been made or duly provided for. Interest on any overdue principal shall be payable on demand. Any such interest on any overdue principal that is not so paid on demand shall bear interest at the rate of % per annum, which shall accrue from the date of such demand for payment to the date payment of such interest has been made or duly provided for, and such interest shall also be payable on demand.]

Payment of the principal of (and premium, if any) and [if applicable, insert — any such] interest on this Security will be made at the office or agency of the Company maintained for that purpose in , in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts [if applicable, insert —; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register].

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

AQUA AMERICA, INC.

By: _____
Name:
Title:

Section 2.03 Form of Reverse of Security.

This Security is one of a duly authorized issue of securities of the Company (herein called the “Securities”), issued and to be issued in one or more series under an Indenture, dated as of , 2002 (herein called the “Indenture”), between the Company and , as Trustee (herein called the “Trustee”, which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof [if applicable insert —, limited in aggregate principal amount to \$].

[If applicable insert — The Securities are subject to redemption at the election of the Holders thereof, in whole or in part, and in limited circumstances at the election of the Company, in whole, following the occurrence of a Designated Event and a Rating Decline. Such redemptions will be made at a Redemption Price equal to 100% of the principal amount, together with accrued interest to the Redemption Date, as provided for in Article XIII of the Indenture. [The Securities are not otherwise subject to redemption prior to maturity and no sinking fund is provided for the Securities.]]

[If applicable insert — The Securities of this series are subject to redemption upon not less than 30 days’ notice by mail, [if applicable, insert — (1) on in any year commencing with the year and ending with the year through operation of the sinking fund for this series at a Redemption Price equal to 100% of the principal amount, and (2)] at any time [if applicable insert on or after , 20], as a whole or in part, at the election of the Company, at the following Redemption Prices (expressed as percentages of the principal amount): If redeemed [if applicable insert — on or before , %, and if redeemed] during the 12-month period beginning of the years indicated,

Year	Redemption Price	Year	Redemption Price
_____	_____	_____	_____

and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption [if applicable, insert — (whether through operation of the sinking fund or otherwise)] with accrued interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.

[If applicable, insert — The Securities of this series are subject to redemption upon not less than 30 days' notice by mail, (1) on in any year commencing with the year and ending with the year through operation of the sinking fund for this series at the Redemption Prices for redemption through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below, and (2) at any time [if applicable, insert — on or after], as a whole or in part, at the election of the Company, at the Redemption Prices for redemption otherwise than through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below: If redeemed during the 12-month period beginning of the years indicated,

Year	Redemption Price For Redemption Through Operation of the Sinking Fund	Redemption Price For Redemption Otherwise Than Through Operation of the Sinking Fund
------	---	--

and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption (whether through operation of the sinking fund or otherwise) with accrued interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert — Notwithstanding the foregoing, the Company may not, prior to redeem any Securities of this series as contemplated by [if applicable, insert — Clause (2) of] the preceding paragraph as a part of, or in anticipation of, any refunding operation by the application, directly or indirectly, of moneys borrowed having an interest cost to the Company (calculated in accordance with generally accepted financial practice) of less than % per annum.]

[If applicable, insert — The sinking fund for this series provides for the redemption on in each year beginning with the year and ending with the year of [if applicable, insert — not less than \$ “mandatory sinking fund”) and not more than] \$ aggregate principal amount of Securities of this series. Securities of this series acquired or redeemed by the Company otherwise than through (if applicable, insert — mandatory] sinking fund payments may be credited against subsequent [if applicable, insert — mandatory] sinking fund payments otherwise required to be made [if applicable, insert — in the inverse order in which they become due).]

[If the Security is subject to redemption of any kind, insert — In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.]

[If applicable, insert — The Indenture contains provisions for defeasance at any time of (1) the entire indebtedness of this Security or (2) certain restrictive covenants and Events of Default with respect to this Security, in each case upon compliance with certain conditions set forth in the Indenture.]

[If the Security is not an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.]

[If the Security is an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, an amount of principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture. Such amount shall be equal to insert formula for determining the amount. Upon payment (i) of the amount of principal so declared due and payable and (ii) of interest on any overdue principal and overdue interest all of the Company's obligations in respect of the payment of the principal of and interest, if any, on the Securities of this series shall terminate.]

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Securities of this series, the Holders of not less than 25% in principal amount of the Securities of this series at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity and the Trustee shall not have received from the Holders of a majority in principal amount of Securities of this series at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or any premium or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registerable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of [\$1,000 and any integral multiple thereof]. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company or the Security Registrar may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

[If applicable, insert –

[FORM OF CONVERSION NOTICE]

To: AQUA AMERICA, INC.

The undersigned owner of this Security hereby irrevocably exercises the option to convert this Security, or portion hereof (which is \$1,000 or an integral multiple thereof) below designated, into shares of Common Stock of Aqua America, Inc., in accordance with the terms of the Indenture referred to in this Security, and directs that the shares issuable and deliverable upon the conversion, together with any check in payment for fractional shares and any Securities, representing any unconverted principal amount hereof, be issued and delivered to the registered holder hereof unless a different name has been indicated below. If shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto. Any amount required to be paid by the undersigned on account of interest accompanies this Security.

Dated:

Fill in for registration of shares of Common Stock and Securities if to be issued otherwise than to the registered holder.

Principal Amount to be converted (in an integral multiple of \$1,000, if less than all):

\$

Name

Address

(Please print name and address, including zip code number)

Signature

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFYING NUMBER

[SIGNATURE GUARANTEED — required only if Common Stock and Securities are to be issued and delivered to other than registered holder]

[]

Section 2.04 Form of Legend for Global Securities.

Unless otherwise specified as contemplated by Section 3.01 for the Securities evidenced thereby, every Global Security authenticated and delivered hereunder shall bear a legend in substantially the following form:

This Security is a Global Security within the meaning of the Indenture hereinafter referred to and is registered in the name of a Depositary or a nominee thereof. This Security may not be transferred to, or registered or exchanged for Securities registered in the name of, any Person other than the Depositary or a nominee thereof and no such transfer may be registered, except in the limited circumstances described in the Indenture. Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, this Security shall be a Global Security subject to the foregoing, except in such limited circumstances.

Section 2.05 Form of Trustee's Certificate of Authentication.

The Trustee's certificates of authentication shall be in substantially the following form:

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

U.S. BANK, N.A., as Trustee

By: _____
Authorized Signatory

Dated: _____

ARTICLE III

THE SECURITIES

Section 3.01 Amount Unlimited; Issuable in Series.

The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution and, subject to Section 3.03, set forth, or determined in the manner provided, in an Officer's Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series,

(1) the title of the Securities of the series, including CUSIP Numbers (which shall distinguish the Securities of the series from Securities of any other series);

(2) any limit upon the aggregate principal amount of the Securities of the series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 3.04, 3.05, 3.06, 9.06 or 11.07 and except for any Securities which, pursuant to Section 3.03, are deemed never to have been authenticated and delivered hereunder);

- (3) the Person to whom any interest on a Security of the series shall be payable, if other than the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest;
- (4) the date or dates on which the principal of the Securities of the series is payable;
- (5) the rate or rates at which the Securities of the series shall bear interest, if any, the date or dates from which such interest shall accrue, the Interest Payment Dates on which any such interest shall be payable and the Regular Record Date for any interest payable on any Interest Payment Date;
- (6) the place or places where the principal of and any premium and interest on Securities of the series shall be payable;
- (7) the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company;
- (8) the obligation, if any, of the Company to redeem or purchase Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;
- (9) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which Securities of the series shall be issuable;
- (10) the currency, currencies or currency units in which payment of the principal of and any premium and interest on any Securities of the series shall be payable if other than the currency of the United States of America and the manner of determining the equivalent thereof in the currency of the United States of America for purposes of the definition of “Outstanding” in Section 1.01;
- (11) if the amount of payments of principal of or any premium or interest on any Securities of the series may be determined with reference to an index, the manner in which such amounts shall be determined;
- (12) if the principal of or any premium or interest on any Securities of the series is to be payable, at the election of the Company or a Holder thereof, in one or more currencies or currency units other than that or those in which the Securities are stated to be payable, the currency, currencies or currency units in which payment of the principal of and any premium and interest on Securities of such series as to which such election is made shall be payable, and the periods within which and the terms and conditions upon which such election is to be made;
- (13) if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.02;
- (14) the applicability, nonapplicability, or variation, of Article XIII with respect to the Securities of such Series;

(15) if applicable, that the Securities of the series shall be subject to either or both of Defeasance or Covenant Defeasance as provided in Article XIV;

(16) if and as applicable, that the Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case, the Depositary or Depositaries for such Global Security or Global Securities and any circumstances other than those set forth in Section 3.05 in which any such Global Security may be transferred to, and registered and exchanged for Securities registered in the name of, a Person other than the Depositary for such Global Security or a nominee thereof and in which any such transfer may be registered;

(17) any addition of covenants contemplated by Article X which applies to Securities of the series; and

(18) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture, except as permitted by Section 9.01(5)).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 3.03) set forth, or determined in the manner provided, in the Officer's Certificate referred to above or in any such indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officer's Certificate setting forth the terms of the series.

The Company may, from time to time, by adoption of a Board Resolution and subject to compliance with any other applicable provisions of this Indenture, without the consent of the Holders, create and issue pursuant to this Indenture additional securities of any series of Securities ("Add On Securities") having terms and conditions identical to those of such series of Outstanding Securities, except that such Add On Securities:

- (i) may have a different issue date from such series of Outstanding Securities;
- (ii) may have a different amount of interest payable on the first Interest Payment Date after issuance than is payable on such series of Outstanding Securities; and
- (iii) may have terms specified in such Board Resolution for such Add On Securities making appropriate adjustments to this Article III applicable to such Add On Securities in order to conform to and ensure compliance with the Securities Act (or applicable securities laws) which are not adverse in any material respect to the Holder of any Outstanding Securities (other than such Add On Securities) and which shall not affect the rights or duties of the Trustee.

Section 3.02 Denominations.

The Securities of each series shall be issuable only in registered form without coupons in such denominations as shall be specified as contemplated by Section 3.01. In the absence of any such specified denomination with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of \$1,000 and any integral multiple thereof.

Section 3.03 Execution, Authentication, Delivery and Dating.

The Securities shall be executed on behalf of the Company by its Chairman of the Board, its Vice Chairman of the Board, its President, its Chief Financial Officer, one of its Vice Presidents, its Treasurer, its Secretary or one of its Assistant Secretaries. The signature of any of these officers on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any Series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee in accordance with the Company Order shall authenticate and deliver such Securities. If the form or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Sections 2.01 and 3.01, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Opinion of Counsel stating,

(1) if the form of such Securities has been established by or pursuant to Board Resolution as permitted by Section 2.01, that such form has been established in conformity with the provisions of this Indenture;

(2) if the terms of such Securities have been established by or pursuant to Board Resolution as permitted by Section 3.01, that such terms have been established in conformity with the provisions of this Indenture; and

(3) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

If such form or terms have been so established, the Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

Notwithstanding the provisions of Section 3.01 and of the preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Officer's Certificate otherwise required pursuant to Section 3.01 or the Company Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.09, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

Section 3.04 Temporary Securities.

Pending the preparation of definitive Securities of any series, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities of any series are issued, the Company will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of the same series, of any authorized denominations and of a like aggregate principal amount and tenor. Until so exchanged the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series and tenor.

Section 3.05 Registration, Registration of Transfer and Exchange.

The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the “Security Register”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed “Security Registrar” for the purpose of registering Securities and transfers of Securities as herein provided.

Upon surrender for registration of transfer of any Security of any series at the office or agency in a Place of Payment for that series, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of the same series, of any authorized denominations and of a like aggregate principal amount and tenor.

At the option of the Holder, Securities of any series may be exchanged for other Securities of the same series, of any authorized denominations and of a like aggregate principal amount and tenor, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company or Security Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.04, 9.06 or 11.07 not involving any transfer.

The Company shall not be required (1) to issue, register the transfer of or exchange Securities of any series during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Securities of that series selected for redemption under Section 11.03 and ending at the close of business on the day of such mailing, or (2) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

Notwithstanding any other provision in this Indenture, no Global Security may be transferred to, or registered or exchanged for Securities registered in the name of, any Person other than the Depositary for such Global Security or any nominee thereof, and no such transfer may be registered, unless (1) such Depositary (A) notifies the Company that it is unwilling or unable to continue as Depositary for such Global Security or (B) has ceased to be a clearing agency registered under the Exchange Act, (2) the Company executes and delivers to the Trustee a Company Order that such Global Security shall be so transferable, registrable and exchangeable, and such transfers shall be registrable, (3) there shall have occurred and be continuing an Event of Default with respect to the Securities evidenced by such Global Security or (4) there shall exist such other circumstances, if any, as have been specified for this purpose as contemplated by Section 3.01. Notwithstanding any other provision in this Indenture, a Global Security to which the restriction set forth in the preceding sentence shall have ceased to apply may be transferred only to, and may be registered and exchanged for Securities registered only in the name or names of, such Person or Persons as the Depositary for such Global Security shall have directed and no transfer thereof other than such a transfer may be registered.

Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security to which the restriction set forth in the first sentence of the preceding paragraph shall apply, whether pursuant to this Section, Section 3.04, 3.06, 9.06 or 11.07 or otherwise, shall be authenticated and delivered in the form of, and shall be, a Global Security.

Section 3.06 Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued under this Section shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 3.07 Payment of Interest; Interest Rights Preserved.

Except as otherwise provided as contemplated by Section 3.01 with respect to any series of Securities, interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

Any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security of such series and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Securities of such series at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest on the Securities of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

Section 3.08 Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of and any premium and (subject to Section 3.07) any interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 3.09 Cancellation.

All Securities surrendered for payment, redemption, registration of transfer or exchange or for credit against any sinking fund payment shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered shall be promptly cancelled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of by the Trustee in its customary manner.

Section 3.10 Computation of Interest.

Except as otherwise specified as contemplated by Section 3.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 3.11 CUSIP Numbers.

The Company in issuing the Securities may use “CUSIP” numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP” numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any changes in the “CUSIP” numbers.

ARTICLE IV

SATISFACTION AND DISCHARGE

Section 4.01 Satisfaction and Discharge of Indenture.

This Indenture, with respect to the Securities of any series (if all series issued under this Indenture are not to be affected), shall, upon Company Request, cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of such Securities herein expressly provided for), and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture as to such series, when

(1) either

(A) all Securities of such series theretofore authenticated and delivered (other than (i) Securities of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06 and (ii) Securities of such series for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 10.03) have been delivered to the Trustee for cancellation; or

(B) all Securities of such series not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company, and the Company, in the case of (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and any premium and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture with respect to such series have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture with respect to any series of Securities, the obligations of the Company to the Trustee with respect to the Securities of such series under Section 6.07, and, if money shall have been deposited with the Trustee pursuant to subclause (B) of Clause (1) of this Section, the obligations of the Trustee with respect to the Securities of such series under Section 4.02 and the last paragraph of Section 10.03 shall survive such satisfaction and discharge.

Section 4.02 Application of Trust Money.

Subject to the provisions of the last paragraph of Section 10.03, all money deposited with the Trustee pursuant to Section 4.01 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and any premium and interest for whose payment such money has been deposited with the Trustee.

ARTICLE V

REMEDIES

Section 5.01 Events of Default.

“Event of Default”, wherever used herein with respect to Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any interest upon any Security of that series when it becomes due and payable, and continuance of such default for a period of 30 days; or

(2) default in the payment of the principal of (or premium, if any, on) any Security of that series when due; or

(3) default in the deposit of any sinking fund payment, when and as due by the terms of a Security of that series, and continuance of such default for a period of 30 days; or

(4) default in the performance, or breach, of any covenant or warranty of the Company in this Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section specifically dealt with or which has expressly been included in this Indenture solely for the benefit of series of Securities other than that series), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in principal amount of the Outstanding Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder; or

(5) the entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or (B) a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or State law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(6) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action; or

- (7) any other Event of Default provided with respect to Securities of that series.

Section 5.02 Acceleration of Maturity; Rescission and Annulment.

If an Event of Default with respect to Securities of any series at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series may declare the principal amount (or, if any of the Securities of that series are Original Issue Discount Securities, such portion of the principal amount of such Securities as may be specified in the terms thereof) of all of the Securities of that series to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration such principal amount (or specified amount) shall become immediately due and payable.

At any time after such a declaration of acceleration with respect to Securities of any series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in principal amount of the Outstanding Securities of that series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if

- (1) the Company has paid or deposited with the Trustee a sum sufficient to pay

- (A) all overdue interest on all Securities of that series,

- (B) the principal of (and premium, if any, on) any Securities of that series which have become due otherwise than by such declaration of acceleration and any interest thereon at the rate or rates prescribed therefor in such Securities,

- (C) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate or rates prescribed therefor in such Securities, and

- (D) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

- (2) all Events of Default with respect to Securities of that series, other than the non-payment of the principal of Securities of that series which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 5.03 Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if:

(1) default is made in the payment of any interest on any Security when such interest becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and any premium and interest and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and premium and on any overdue interest, at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem necessary to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 5.04 Trustee May File Proofs of Claim.

In case of any judicial proceeding relative to the Company (or any other obligor upon the Securities), its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.07.

No provision of this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

Section 5.05 Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

Section 5.06 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or any premium or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 6.07;

SECOND: To the payment of the amounts then due and unpaid for principal of and any premium and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and any premium and interest, respectively; and

THIRD: To the Company.

Section 5.07 Limitation on Suits.

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

- (1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;
- (2) the Holders of not less than 25% in principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (3) such Holder or Holders have offered to the Trustee reasonable indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Securities of that series; it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders.

Section 5.08 Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and any premium and (subject to Section 3.07) interest on such Security on the respective Stated Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 5.09 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 5.10 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.06, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.11 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 5.12 Control by Holders.

The Holders of a majority in principal amount of the Outstanding Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Securities of such series, provided that

- (1) such direction shall not be in conflict with any rule of law or with this Indenture,
- (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and
- (3) subject to the provisions of Section 6.01, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or Officers of the Trustee, determine, that the proceedings so directed would involve the Trustee in personal liability.

Section 5.13 Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Securities of any series may on behalf of the Holders of all the Securities of such series waive any past default hereunder with respect to such series and its consequences, except a default

- (1) in the payment of the principal of or any premium or interest on any Security of such series, or
- (2) in respect of a covenant or provision hereof which under Article IX cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series affected.

Upon any such waiver, such default shall cease to exist and be deemed to not have occurred, and any Event of Default arising therefrom shall be deemed to have been cured and not have occurred, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 5.14 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant, in the manner and to the extent provided in the Trust Indenture Act; provided that neither this Section nor the Trust Indenture Act shall apply to any suit instituted by the Trustee, to any suit instituted by any Holders of the Securities, or group of Holders of the Securities, holding in the aggregate more than 10% of principal amount of the Outstanding Securities of any series, or to any suit instituted by any Holder of the Outstanding Securities for the enforcement of the payment of principal of or interest on any Outstanding Securities held by such Holder, on or after the respective due dates expressed in such Outstanding Securities, and provided, further, that neither this Section nor the Trust Indenture Act shall be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company.

Section 5.15 Waiver of Usury, Stay or Extension Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VI

THE TRUSTEE

The Trustee hereby accepts the trust imposed upon it by this Indenture and covenants and agrees to perform the same, as herein expressed.

Section 6.01 Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of an Event of Default:

(1) The Trustee need perform only those duties as are specifically set forth in this Indenture and no others, and no covenants or obligations shall be implied in or read into this Indenture.

(2) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they substantially conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) This paragraph does not limit the effect of paragraph (b) of this Section 6.01.

(2) The Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts.

(3) The Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 5.12.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or to take or omit to take any action under this Indenture.

(e) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), (c), (d) and (f) of this Section 6.01.

(f) The Trustee shall not be liable for interest on any assets received by it except as the Trustee may agree in writing with the Company. Assets held in trust by the Trustee need not be segregated from other assets except to the extent required by law.

Section 6.02 Rights of Trustee.

Subject to Section 6.01:

(a) The Trustee may conclusively rely on any document (whether in its original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in any document.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or opinion.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers.

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such investigation.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders, pursuant to the provisions of this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred therein or thereby.

(g) The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection of any action taken, suffered or omitted by in hereunder in good faith and in reliance thereon.

(h) The Trustee shall not be deemed to have notice of, or have actual knowledge of, any Event of Default unless a Responsible Officer of the Trustee has received written notice of any event which is in fact such a default at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture.

(i) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(j) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

(k) The Trustee shall not be liable for any indirect, punitive, special or consequential losses or damages (including but not limited to lost profits) whatsoever, even if it has been informed of the likelihood thereof and regardless of the form of action.

Section 6.03 Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company, its Subsidiaries, or their respective Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent or Security Registrar may do the same with like rights. However, the Trustee must comply with Sections 6.08, 6.09 and 6.10.

Section 6.04 Trustee's Disclaimer.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Securities and it shall not be accountable for the Company's use of the proceeds from the Securities, and it shall not be responsible for any statement in the Securities, other than the Trustee's certificate of authentication, or the use or application of any funds received by a Paying Agent other than the Trustee.

Section 6.05 Notice of Default.

If an Event of Default with respect to Securities of any series occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to each Holder of Securities of such series notice of the uncured Event of Default within 90 days after such Event of Default occurs. Except in the case of an Event of Default in payment of principal (or premium, if any) of, or interest on, any Security, the Trustee may withhold the notice if and so long as a Responsible Officer in good faith determines that withholding the notice is in the interest of the Holders of Securities of such series.

Section 6.06 Reports by Trustee to Holders.

Within 60 days after each February 15 beginning with the February 15 following the date of this Indenture, the Trustee shall mail to each Holder a brief report dated as of such February 15 that complies with Trust Indenture Act Section 313(a) if such report is required by such Trust Indenture Act Section 313(a). The Trustee also shall comply with Trust Indenture Act Sections 313(b) and 313(c).

The Company shall promptly notify the Trustee in writing if the Securities of any series become listed on any stock exchange or automatic quotation system.

A copy of each report at the time of its mailing to Holders shall be mailed to the Company and filed with the Commission and each stock exchange, if any, on which the Securities are listed.

Section 6.07 Compensation and Indemnity.

The Company shall pay to the Trustee from time to time such compensation for its services as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable disbursements, expenses and advances incurred or made by it. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents, accountants, experts and counsel.

The Company shall indemnify each of the Trustee (in its capacity as Trustee) and any predecessor Trustee and each of their respective officers, directors, attorneys-in-fact and agents for, and hold it harmless against, any claim, demand, expense (including but not limited to reasonable compensation, disbursements and expenses of the Trustee's agents and counsel), loss, charges (including taxes (other than taxes based upon the income of the Trustee)) or liability incurred by them without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust and their rights or duties hereunder including the reasonable costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Trustee shall notify the Company promptly of any claim asserted against the Trustee for which it may seek indemnity. At the request of the Trustee, the Company shall defend the claim and the Trustee shall provide reasonable cooperation at the Company's expense in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its written consent which consent shall not be unreasonably withheld. The Company need not reimburse any expense or indemnify against any loss or liability to the extent incurred by the Trustee as determined by a final, non-appealable, judgment of a court of competent jurisdiction to have been caused by its own negligence, bad faith or willful misconduct.

To secure the Company's payment obligations in this Section 6.07, the Trustee shall have a lien prior to the Securities on all assets held or collected by the Trustee, in its capacity as Trustee, except assets held in trust to pay principal and premium, if any, of or interest on particular Securities.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 5.01(5) or (6) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

The Company's obligations under this Section 6.07 and any lien arising hereunder shall survive the resignation or removal of the Trustee, the discharge of the Company's obligations pursuant to Article IV of this Indenture and any rejection or termination of this Indenture under any Bankruptcy Law.

Section 6.08 Replacement of Trustee.

The Trustee may resign at any time with respect to the Securities of one or more series by so notifying the Company in writing. The Holder or Holders of a majority in principal amount of the outstanding Securities of a series may remove the Trustee with respect to Securities of such series by so notifying the Company and the Trustee in writing and may appoint a successor trustee with respect to Securities of such series with the Company's consent. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 6.10;
- (2) the Trustee is adjudged bankrupt or insolvent;
- (3) a receiver, custodian, or other public officer takes charge of the Trustee or its property; or
- (4) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee, with respect to the Securities of one or more series, for any reason, the Company shall promptly appoint a successor Trustee, with respect to Securities of that or those series. Within one year after the successor Trustee with respect to a series of Securities takes office, the Holder or Holders of a majority in principal amount of the Securities of such series may appoint a successor Trustee with respect to such series to replace the successor Trustee appointed by the Company.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Immediately after that and provided that all sums owing to the Trustee provided for in Section 6.07 have been paid, the retiring Trustee shall transfer all property held by it as Trustee with respect to such series of Securities to the successor Trustee, subject to the lien provided in Section 6.07, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. A successor Trustee with respect to one or more series of Securities shall mail notice of its succession to each Holder of Securities of that or those series.

If a successor Trustee with respect to a series of Securities does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holder or Holders of at least 10% in principal amount of the outstanding Securities of that series may petition at the expense of the Company any court of competent jurisdiction for the appointment of a successor Trustee with respect to such series.

If the Trustee fails to comply with Section 6.10, any Holder of Securities of a series may petition any court of competent jurisdiction for the removal of the Trustee with respect to such series and the appointment of a successor Trustee with respect to such series.

Notwithstanding replacement of the Trustee pursuant to this Section 6.08, the Company's obligations under Section 6.07 shall continue for the benefit of the retiring Trustee.

Section 6.09 Successor Trustee by Merger, Etc.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the resulting, surviving or transferee corporation without any further act shall, if such resulting, surviving or transferee corporation is otherwise eligible hereunder, be the successor Trustee.

Section 6.10 Eligibility; Disqualification.

The Trustee shall at all times satisfy the requirements of Trust Indenture Act Section 310(a)(1) and Trust Indenture Act Section 310(a)(5). The Trustee shall have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition. The Trustee shall comply with Trust Indenture Act Section 310(b).

Section 6.11 Preferential Collection of Claims against Company.

The Trustee shall comply with Trust Indenture Act Section 311(a), excluding any creditor relationship listed in Trust Indenture Act Section 311(b). A Trustee who has resigned or been removed shall be subject to Trust Indenture Act Section 311(a) to the extent indicated.

ARTICLE VII

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

Section 7.01 Company to Furnish Trustee Names and Addresses of Holders.

The Company will furnish or cause to be furnished to the Trustee:

(1) semi-annually, not more than 15 days after each Regular Record Date, a list for each series of Securities, in such form as the Trustee may reasonably require, of the names and addresses of the Holders of Securities of such series as of the Regular Record Date, as the case may be, and

(2) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; excluding from any such list names and addresses received by the Trustee in its capacity as Security Registrar.

Section 7.02 Preservation of Information; Communications to Holders.

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.01 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.01 upon receipt of a new list so furnished.

The rights of the Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided by the Trust Indenture Act.

Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act.

Section 7.03 Reports by Trustee.

The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant thereto.

A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any Securities are listed, with the Commission and with the Company. The Company will notify the Trustee when any Securities are listed on any stock exchange or delisted therefrom.

Section 7.04 Reports by Company.

The Company shall file with the Trustee and the Commission, and transmit to Holders, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant to such Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 shall be filed with the Trustee within 15 days after the same is so required to be filed with the Commission. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

ARTICLE VIII

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 8.01 When Company May Merge, Etc.

The Company may not, in a single transaction or through a series of related transactions, consolidate with or merge with or into any other person, or, directly or indirectly, sell, lease, assign, transfer or convey its properties and assets as an entirety or substantially as an entirety (computed on a consolidated basis) to another person or group of affiliated persons, and another person or group of affiliated persons may not directly or indirectly sell, lease, assign, transfer or convey its properties and assets as an entity or substantially as an entity (computed on a consolidated basis) to the Company, unless:

(1) the Company shall be the continuing person, or the person (if other than the Company) formed by such consolidation or into which the Company is merged or to which all or substantially all of the properties and assets of the Company are transferred as an entirety or substantially as an entirety (the Company or such other person being hereinafter referred to as the "Surviving Person"), and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form and substance satisfactory to the Trustee, all the obligations of the Company under the Securities and this Indenture and the Indenture, so supplemented, shall remain in full force and effect;

(2) immediately after giving effect to such transaction and the assumption of the obligations as set forth in clause (1), above, no Event of Default shall have occurred and be continuing; and

(3) if a supplemental indenture is required in connection with such transaction, the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, assignment, or transfer and such supplemental indenture comply with this Article VIII and that all conditions precedent herein provided relating to such transaction have been satisfied.

Section 8.02 Successor Corporation Substituted.

Upon any consolidation or merger, or any transfer of assets in accordance with Section 8.01, the Surviving Person formed by such consolidation or into which the Company is merged or to which such transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such Surviving Person had been named as the Company herein. When a Surviving Person duly assumes all of the obligations of the Company pursuant hereto and pursuant to the Securities, the predecessor shall be relieved of the performance and observance of all obligations and covenants of this Indenture and the Securities, including but not limited to the obligation to make payment of the principal of and interest, if any, on all the Securities then outstanding, and the Company may thereupon or any time thereafter be liquidated and dissolved.

ARTICLE IX

SUPPLEMENTAL INDENTURES

Section 9.01 Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

- (1) to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants of the Company herein and in the Securities; or
- (2) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company; or
- (3) to add any additional Events of Default; or
- (4) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities in bearer form, registrable or not registrable as to principal, and with or without interest coupons, or to permit or facilitate the issuance of Securities in uncertificated form; or

- (5) to add to, change or eliminate any of the provisions of this Indenture in respect of one or more series of Securities, provided that any such addition, change or elimination (A) shall neither (i) apply to any Security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision nor (ii) modify the rights of the Holder of any such Security with respect to such provision or (B) shall become effective only when there is no such Security Outstanding; or
- (6) to secure the Securities pursuant to the requirements of Article X or otherwise; or
- (7) to establish the form or terms of Securities of any series as permitted by Sections 2.01 and 3.01; or
- (8) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series; or
- (9) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture, provided that such action pursuant to this clause (9) shall not adversely affect the interests of the Holders of Securities of any series in any material respect.

Section 9.02 Supplemental Indentures with Consent of Holders.

With the consent of the Holders of not less than a majority in principal amount of the Outstanding Securities of each series affected by such supplemental indenture, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or modifying in any manner the rights of the Holders of Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby,

- (1) change the Stated Maturity of the principal of, or any installment of principal of or interest on, any Security, or reduce the principal amount thereof or the rate of interest or the time of payment of interest thereon or any premium payable upon the redemption thereof, or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02, or change any Place of Payment where, or the coin or currency in which, any Security or any premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or
- (2) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture, or
- (3) modify any of the provisions of this Section or Section 5.13 or Section 10.06, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby,
- (4) change any obligation of the Company to maintain an office or agency, or

- (5) change any obligation of the Company to pay additional amounts, or
- (6) adversely affect the right of repayment or repurchase at the option of the Holder, or
- (7) reduce or postpone any sinking fund or similar provision.

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section 9.03 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Section 9.04 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 9.05 Conformity with Trust Indenture Act.

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act.

Section 9.06 Reference in Securities to Supplemental Indentures.

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities of such series.

ARTICLE X

COVENANTS.

Section 10.01 Payment of Principal, Premium and Interest.

The Company covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay the principal of and any premium and interest on the Securities of that series in accordance with the terms of the Securities and this Indenture.

Section 10.02 Maintenance of Office or Agency.

The Company will maintain in each Place of Payment for any series of Securities an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

Section 10.03 Money for Securities Payments to Be Held in Trust.

If the Company shall at any time act as its own Paying Agent with respect to any series of Securities, it will, on or before each due date of the principal of or any premium or interest on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and any premium and interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any series of Securities, it will, on or prior to each due date of the principal of or any premium or interest on any Securities of that series, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held as provided by the Trust Indenture Act, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent for any series of Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will (1) comply with the provisions of the Trust Indenture Act applicable to it as a Paying Agent and (2) during the continuance of any default by the Company (or any other obligor upon the Securities of that series) in the making of any payment in respect of the Securities of that series, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Securities of that series.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust hereunder by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of or any premium or interest on any Security of any series and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 10.04 Corporate Existence.

Subject to Article VIII, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 10.05 Statement by Officers as to Default.

The Company will deliver to the Trustee, on or before October 15 of each calendar year or on or before such other day in each calendar year as the Company and the Trustee may from time to time agree upon, an Officer's Certificate, stating whether or not to the best knowledge of the signers thereof the Company is in default in the performance and observance of any of the terms, provisions and conditions of this Indenture.

Section 10.06 Waiver of Certain Covenants.

Except as otherwise specified as contemplated by Section 3.01 for Securities of such series, the Company may, with respect to the Securities of any series, omit in any particular instance to comply with any term, provision or condition set forth in any covenant provided pursuant to Section 3.01(17) or 9.01(2) for the benefit of the Holders of such series if before the time for such compliance the Holders of not less than a majority in principal amount of the Outstanding Securities of such series shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

ARTICLE XI

REDEMPTION OF SECURITIES

Section 11.01 Applicability of Article.

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 3.01 for Securities of any series) in accordance with this Article.

Section 11.02 Election to Redeem; Notice to Trustee.

The election of the Company to redeem any Securities shall be evidenced by a Board Resolution. In case of any redemption at the election of the Company of less than all the Securities of any series, the Company shall, at least 60 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date, of the principal amount of Securities of such series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officer's Certificate evidencing compliance with such restriction.

Section 11.03 Selection by Trustee of Securities to Be Redeemed.

If less than all the Securities of any series are to be redeemed (unless all of the Securities of such series and of a specified tenor are to be redeemed), the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series not previously called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple authorized for Securities of that series) of the principal amount of Securities of such series of a denomination larger than the minimum authorized denomination for Securities of that series. If less than all of the Securities of such series and of a specified tenor are to be redeemed, the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series and specified tenor not previously called for redemption in accordance with the preceding sentence.

The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Securities redeemed or to be redeemed only in part, to the portion of the principal amount of such Securities which has been or is to be redeemed.

Section 11.04 Notice of Redemption.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at his address appearing in the Security Register.

All notices of redemption shall state:

(1) the Redemption Date,

(2) the Redemption Price,

(3) if less than all the Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption of any Securities, the principal amounts) of the particular Securities to be redeemed,

(4) that on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date,

(5) the place or places where such Securities are to be surrendered for payment of the Redemption Price,

(6) that the redemption is for a sinking fund, if such is the case, and

(7) applicable CUSIP Numbers.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company and shall be irrevocable.

Section 11.05 Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, the Company will segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date.

Section 11.06 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; provided, however, that, unless otherwise specified as contemplated by Section 3.01, installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.07.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal and any premium shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

Section 11.07 Securities Redeemed in Part.

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities of the same series and of like tenor, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

ARTICLE XII

SINKING FUNDS

Section 12.01 Applicability of Article.

The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 3.01 for Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment”, and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment”. If provided for by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 12.02. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

Section 12.02 Satisfaction of Sinking Fund Payments with Securities.

The Company (1) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (2) may apply as a credit Securities of a series which have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; provided that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 12.03 Redemption of Securities for Sinking Fund.

Not less than 60 days prior to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officer’s Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities of that series pursuant to Section 12.02 and will also deliver to the Trustee any Securities to be so delivered. Not less than 30 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 11.03 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 11.04. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 11.06 and 11.07.

ARTICLE XIII

REDEMPTION UPON A DESIGNATED EVENT AND A RATING DECLINE

Section 13.01 Redemption by Holders.

Subject to Section 3.01(14), in the event that there occurs (a) a Designated Event (as hereinafter defined) at any time on or prior to Maturity, and (b) a Rating Decline (as hereinafter defined), each Holder of a Security that is of a series to which this Article XIII is applicable (for purposes of this Article XIII, a “Subject Security”) shall have the right, at the Holder’s option, to require the Company to redeem all or any portion (which shall be \$1,000 or an integral multiple thereof) of such Subject Security on the date that is 90 days after the last to occur of public notice of the occurrence of the Designated Event and the Rating Decline, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the Redemption Date.

On or before the twenty-eighth day after the last to occur of public notice of the occurrence of the Designated Event and the Rating Decline, the Company is obligated to notify the Trustee of such events, and promptly thereafter to mail, or cause to be mailed first-class, postage prepaid, to each Holder of any Subject Securities, at the address of such Holder appearing in the Security Register, a notice regarding the Designated Event, the Rating Decline, and the redemption right. The notice shall include the Redemption Date, the date by which the redemption right must be exercised, the Redemption Price, and the procedure which the Holder must follow to exercise this right.

To exercise this right, the Holder of such Subject Securities must deliver on or before a date selected by the Company, which date shall be not more than 10 days prior to the Redemption Date, written notice to the Company (or an agent designated by the Company for such purpose) of the Holder’s exercise of such right, together with the Subject Securities with respect to which the right is being exercised, duly endorsed or assigned to the Company or in blank. Such written notice by a Holder shall, unless otherwise required by law, be irrevocable.

As used herein, a “Designated Event” shall be deemed to have occurred at such a time as any “person” or “group” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act, whether or not applicable) becomes the ‘beneficial owner’ (as the term is used in Rules 13d-3 and 13d-5 under the Exchange Act, whether or not applicable, except that a person shall be deemed to have ‘beneficial ownership’ of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 50% of the total voting power entitled to vote in the election of directors of the Company; provided, however, that a Designated Event shall not be deemed to have occurred (i) as a result of the formation of such a ‘group’ or the acquisition of shares of Capital Stock of the Company by such group if such group includes existing Affiliates and/or persons who beneficially own in the aggregate, as of the date of this Indenture, 20% or more of the outstanding shares of Capital Stock of the Company on the date of this Indenture, or (ii) by virtue of the Company, any Subsidiary, any employee stock ownership plan or any other employee benefit plan of the Company or any Subsidiary, or any other person holding Capital Stock of the Company for or pursuant to the terms of any such employee benefit plan, becoming a beneficial owner, directly or indirectly, of more than 50% of the total voting power entitled to vote in the election of directors of the Company.

As used herein, a “Rating Decline” shall be deemed to have occurred if on any date within the 90-day period following public notice of the occurrence of a Designated Event (which 90-day period shall be extended with respect to either Rating Agency (as hereinafter defined) for so long as the rating of the Securities is under publicly announced consideration for possible downgrade relating to such Designated Event by such Rating Agency) (i) in the event the Securities are rated by one Rating Agency or by both Rating Agencies on the Rating Date (as hereinafter defined) as Investment Grade (as hereinafter defined), the rating of the Securities by such Rating Agency or by either of such Rating Agencies (as the case may be) shall be below Investment Grade; or (ii) in the event the Securities are rated by both Rating Agencies on the Rating Date below Investment Grade, the rating of the Securities by either Rating Agency shall be at least one Full Rating Category (as hereinafter defined) below the rating of the Securities by such Rating Agency on the Rating Date.

As used herein, “Rating Agency” shall mean Standard & Poor’s Corporation and its successors (“S&P”), and Moody’s Investors Service and its successors (“Moody’s”), or if S&P or Moody’s or both shall not make a rating on the Securities publicly available, a nationally recognized statistical rating organization or organizations, as the case may be, selected by the Company which shall be substituted for S&P or Moody’s or both, as the case may be; “Investment Grade” shall mean BBB- or higher by S&P or Baa3 or higher by Moody’s or the equivalent of such ratings by S&P or Moody’s or by any other Rating Agency selected as provided above, and ‘Rating Date’ shall mean the date which is 121 days prior to public notice of the occurrence of a Designated Event.

As used herein, the term, “Full Rating Category” shall mean (i) with respect to S&P, any of the following categories BB, B, CCC, CC, and C; (ii) with respect to Moody’s, any of the following categories: Ba, B, Caa, Ca, and C; and (iii) with respect to any other Rating Agency, the equivalent of any such category of S&P or Moody’s used by such other Rating Agency. In determining whether the rating of the Securities has decreased by the equivalent of one Full Rating Category, gradation within Full Rating Categories (+ and - for S&P, 1, 2, and 3 for Moody’s; or the equivalent gradation for another Rating Agency) shall be taken into account (e.g., with respect to S&P, a decline in a rating from BB+ to BB-, or from BB to B+, will constitute a decrease of less than one Full Rating Category).

Section 13.02 Redemption by Company.

In the event the aggregate principal amount of the Subject Securities that are surrendered for redemption on any such Redemption Date is a least 90% of the aggregate principal amount of the Subject Securities Outstanding at the close of business on the day next preceding such Redemption Date, the remaining Subject Securities not so redeemed will be subject to redemption as a whole, at the Company’s option, upon not less than 30 days’ notice mailed to each Holder at the address of such Holder appearing in the Security Register, on a date of redemption selected by the Company that is within 60 days after such Redemption Date, at a Redemption Price equal to 100% of the principal amount, plus accrued interest to such date of redemption selected by the Company.

Section 13.03 Other Provisions.

With respect to any redemption at the option of the Holders of Securities, as hereinabove provided, (x) the first clause of Section 11.06 shall read as follows: “Notice by the Holder of such Holder’s exercise of the redemption right having been duly given,” and (y) if any Security delivered by the Holder upon exercise of the redemption right is, at the option of the Holder, to be redeemed in part only, the written notice delivered by the Holder to the Company as aforesaid shall state the principal amount of the Security which is to be redeemed.

Notwithstanding the foregoing, the Holders shall not have the redemption right described above if, prior to the occurrence of the Designated Event, the Company has effected a defeasance or covenant defeasance of the Securities as provided in Article XIV.

ARTICLE XIV

DEFEASANCE AND COVENANT DEFEASANCE

Section 14.01 Company's Option to Effect Defeasance or Covenant Defeasance.

The Company may elect, at its option by Board Resolution at any time, to have either Section 14.02 or Section 14.03 applied to the Outstanding Securities of any series designated pursuant to Section 3.01 as being defeasible pursuant to this Article XIV (hereinafter called a "Defeasible Series"), upon compliance with the conditions set forth below in this Article XIV.

Section 14.02 Defeasance and Discharge.

Upon the Company's exercise of the option provided in Section 14.01 to have this Section 14.02 applied to the Outstanding Securities of any Defeasible Series and subject to the proviso to Section 14.01, the Company shall be deemed to have been discharged from its obligations with respect to the Outstanding Securities of such series as provided in this Section on and after the date the conditions set forth in Section 14.04 are satisfied (hereinafter called "Defeasance"). For this purpose, such Defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Securities of such series and to have satisfied all its other obligations under the Securities of such series and this Indenture insofar as the Securities of such series are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), subject to the following which shall survive until otherwise terminated or discharged hereunder: (1) the rights of Holders of Securities of such series to receive, solely from the trust fund described in Section 14.04 and as more fully set forth in such Section, payments in respect of the principal of and any premium and interest on such Securities of such series when payments are due, (2) the Company's obligations with respect to the Securities of such series under Sections 3.04, 3.05, 3.06, 10.02 and 10.03, (3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (4) this Article XIV. Subject to compliance with this Article XIV, the Company may exercise its option provided in Section 14.01 to have this Section 14.02 applied to the Outstanding Securities of any Defeasible Series notwithstanding the prior exercise of its option provided in Section 14.01 to have Section 14.03 applied to the Outstanding Securities of such series. Following a Defeasance, payment of such Securities may not be accelerated because of an Event of Default.

Section 14.03 Covenant Defeasance.

Upon the Company's exercise of the option provided in Section 14.01 to have this Section 14.03 applied to the Outstanding Securities of any Defeasible Series, (1) the Company shall be released from its obligations under any covenants provided pursuant to Section 3.01(17) or Section 9.01(2) with respect to any Securities or any series of Securities for the benefit of the Holders of such Securities, Section 8.01 and Article XIII, as applicable, and (2) the occurrence of any event specified in Sections 5.01(3), 5.01(4) (with respect to Section 8.01, any such covenants provided pursuant to Section 3.01(17) or Section 9.01(2) and Article XIII), 5.01(7) shall be deemed not to be or result in an Event of Default, in each case with respect to the Outstanding Securities of such series as provided in this Section on and after the date the conditions set forth in Section 14.04 are satisfied (hereinafter called "Covenant Defeasance"). For this purpose, such Covenant Defeasance means that, with respect to such Securities, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any covenants added for the benefit of the Securities of such series pursuant to any such specified Section (to the extent so specified in the case of Section 5.01(4)), whether directly or indirectly by reason of any reference elsewhere herein to any such Section or by reason of any reference in any such Section to any other provision herein or in any other document, but the remainder of this Indenture and the Securities of such series shall be unaffected thereby.

The following shall be the conditions to application of either Section 14.02 or Section 14.03 to the Outstanding Securities of any Defeasible Series:

(1) The Company shall irrevocably have deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of Outstanding Securities of such series, (A) money in an amount, or (B) U.S. Government Obligations that through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount, or (C) a combination thereof, in each case sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or any such other qualifying trustee) to pay and discharge, the principal of and any premium and interest on the Securities of such series on the respective Stated Maturities, in accordance with the terms of this Indenture and the Securities of such series. As used herein, “U.S. Government Obligation” means (x) any security that is (i) a direct obligation of the United States of America for the payment of which full faith and credit of the United States of America is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (y) any depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act of 1933, as amended) as custodian with respect to any U.S. Government Obligation specified in Clause (x) and held by such custodian for the account of the holder of such depositary receipt, or with respect to any specific payment of principal of or interest on any such U.S. Government Obligation, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of principal or interest evidenced by such depositary receipt.

(2) In the case of an election under Section 14.02, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date first set forth hereinabove, there has been a change in the applicable Federal income tax law, in either case (A) or (B) to the effect that, and based thereon such opinion shall confirm that, the Holders of the Outstanding Securities of such series will not recognize gain or loss for Federal income tax purposes as a result of the deposit, Defeasance and discharge to be effected with respect to the Securities of such series and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit, Defeasance and discharge were not to occur.

(3) In the case of an election under Section 14.03, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Securities of such series will not recognize gain or loss for Federal income tax purposes as a result of the deposit and Covenant Defeasance to be effected with respect to the Securities of such series and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit and Covenant Defeasance were not to occur.

(4) The Company shall have delivered to the Trustee an Officer's Certificate to the effect that the Securities of such series, if then listed on any securities exchange, will not be delisted as a result of such deposit.

(5) No Event of Default or event that (after notice or lapse of time or both) would become an Event of Default shall have occurred and be continuing at the time of such deposit or, with regard to any Event of Default or any such event specified in Sections 5.01(5) and (6), at any time on or prior to the 90th day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until after such 90th day).

(6) Such Defeasance or Covenant Defeasance shall not cause the Trustee to have a conflicting interest within the meaning of the Trust Indenture Act (assuming all Securities are in default within the meaning of such Act).

(7) Such Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which the Company is a party or by which it is bound.

(8) The Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent with respect to such Defeasance or Covenant Defeasance have been complied with.

(9) Such Defeasance or Covenant Defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless such trust shall be qualified under such Act or exempt from regulation thereunder.

Section 14.05 Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 10.03, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee or other qualifying trustee (solely for purposes of this Section and Section 14.06, the Trustee and any such other trustee are referred to collectively as the "Trustee") pursuant to Section 14.04 in respect of the Securities of any Defeasible Series shall be held in trust and applied by the Trustee, in accordance with the provisions of the Securities of such series and this Indenture, to the payment, either directly or through any such Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of Securities of such series, of all sums due and to become due thereon in respect of principal and any premium and interest, but money so held in trust need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 14.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge that by law is for the account of the Holders of Outstanding Securities.

Anything in this Article XIV to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon Company Request any money or U.S. Government Obligations held by it as provided in Section 14.04 with respect to Securities of any Defeasible Series that, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Defeasance or Covenant Defeasance with respect to the Securities of such series.

Section 14.06 Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money in accordance with this Article XIV with respect to the Securities of any series by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Securities of such series shall be revived and reinstated as though no deposit had occurred pursuant to this Article XIV with respect to Securities of such series until such time as the Trustee or Paying Agent is permitted to apply all money held in trust pursuant to Section 14.05 with respect to Securities of such series in accordance with this Article XIV; provided, however, that if the Company makes any payment of principal of or any premium or interest on any Security of such series following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of Securities of such series to receive such payment from the money so held in trust.

ARTICLE XV

CONVERSION OF SECURITIES

Section 15.01 Applicability; Conversion Privilege and Conversion Price.

Securities of any series which are convertible into Common Stock of the Company shall be convertible in accordance with their terms and (except as otherwise specified as contemplated by Section 3.01 for Securities of any series) in accordance with this Article.

Subject to and upon compliance with the provisions of this Article, at the option of the Holder thereof, any Security or any portion of the outstanding principal amount thereof which is \$1,000 or an integral multiple of \$1,000 may be converted at the principal amount thereof, or of such portion thereof, into fully paid and nonassessable shares (calculated as to each conversion to the nearest 1/100 of a share) of Common Stock of the Company at the conversion price, determined as hereinafter provided, in effect at the time of conversion. Such conversion right shall expire at the close of business on the date specified for Securities of such series. In case a Security or portion thereof is called for redemption at the election of the Company, such conversion right in respect of the Security or portion so called shall expire at the close of business on the 10th calendar day before the Redemption Date, unless the Company defaults in making the payment due upon redemption.

The price at which shares of Common Stock shall be delivered upon conversion (herein called the "conversion price") shall be the price specified in relation to Securities of such series pursuant to Section 3.01, as it shall be adjusted in certain instances as provided in this Article.

Section 15.02 Exercise of Conversion Privilege.

In order to exercise the conversion privilege, the Holder of any Security to be converted shall surrender such Security, duly endorsed or assigned to the Company or in blank, at any office or agency of the Company maintained for that purpose, accompanied by written notice to the Company (which shall be substantially in the form set forth in Section 2.03) at such office or agency that the Holder elects to convert such Security or, if less than the entire principal amount thereof is to be converted, the portion thereof to be converted. Securities surrendered for conversion during the period from the close of business on any Regular Record Date next preceding any Interest Payment Date to the opening of business on such Interest Payment Date shall (except in the case of Securities or portions thereof which have been called for redemption on a Redemption Date within such period) be accompanied by payment in funds acceptable to the Company of an amount equal to the interest payable on such Interest Payment Date on the principal amount of Securities being surrendered for conversion. Subject to the provisions of Section 3.07 relating to the payment of Defaulted Interest by the Company, the interest payment with respect to a Security called for redemption on a Redemption Date during the period from the close of business on any Regular Record Date next preceding any Interest Payment Date to the opening of business on such Interest Payment Date shall be payable on such Interest Payment Date to the Holder of such Security at the close of business on such Regular Record Date notwithstanding the conversion of such Security after such Regular Record Date and prior to such Interest Payment Date, and the Holder converting such Security need not include a payment of such interest payment amount upon surrender of such Security for conversion. Except as provided in the preceding sentence and subject to the final paragraph of Section 3.07, no payment or adjustment shall be made upon any conversion on account of any interest accrued on the Securities surrendered for conversion or on account of any dividends on the Common Stock issued upon conversion.

Securities shall be deemed to have been converted immediately prior to the close of business on the day of surrender of such Securities for conversion in accordance with the foregoing provisions, and at such time the rights of the Holders of such Securities as Holders shall cease, and the Person or Persons entitled to receive the Common Stock issuable upon conversion shall be treated for all purposes as the record holder or holders of such Common Stock at such time. As promptly as practicable on or after the conversion date, the Company shall issue and shall deliver at such office or agency a certificate or certificates for the number of full shares of Common Stock issuable upon conversion, together with payment in lieu of any fraction of a share, as provided in Section 15.03.

In the case of any Security which is converted in part only, upon such conversion the Company shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the expense of the Company, a new Security or Securities of authorized denominations in aggregate principal amount equal to the unconverted portion of the principal amount of such Security.

Section 15.03 Fractions of Shares.

No fractional shares of Common Stock shall be issued upon conversion of Securities. If more than one Security shall be surrendered for conversion at one time by the same Holder, the number of full shares which shall be issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of the Securities (or specified portions thereof) so surrendered. Instead of any fractional share of Common Stock which would otherwise be issuable upon conversion of any Security or Securities (or specified portions thereof), the Company shall pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the daily closing price per share of Common Stock (consistent with Section 15.04(6) below) at the close of business on the day of conversion.

Section 15.04 Adjustment of Conversion Price.

(1) In case the Company shall pay or make a dividend or other distribution on any class of capital stock of the Company in Common Stock, the conversion price in effect at the opening of business on the day multiplying such conversion price by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such reduction to become effective immediately after the opening of business on the day following the date fixed for such determination. For the purposes of this paragraph (1), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock. The Company will not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company.

(2) In case the Company shall issue rights or warrants to all holders of its Common Stock entitling them to subscribe for or purchase shares of Common Stock at a price per share less than the current market price per share (determined as provided in paragraph (6) of this Section) of the Common Stock on the date fixed for the determination of stockholders entitled to receive such rights or warrants (other than pursuant to a dividend reinvestment plan), the conversion price in effect at the opening of business on the day following the date fixed for such determination shall be reduced by multiplying such conversion price by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock which the aggregate of the offering price of the total number of shares of Common Stock so offered for subscription or purchase would purchase at such current market price and the denominator shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock so offered for subscription or purchase, such reduction to become effective immediately after the opening of business on the day following the date fixed for such determination. For the purposes of this paragraph (2), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock. The Company will not issue any rights or warrants in respect of shares of Common Stock held in the treasury of the Company.

(3) In case outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock, the conversion price in effect at the opening of business on the day following the day upon which such subdivision becomes effective shall be proportionately reduced, and, conversely, in case outstanding shares of Common Stock shall each be combined into a smaller number of shares of Common Stock, the conversion price in effect at the opening of business on the day following the day upon which such combination becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision or combination becomes effective.

(4) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness or assets (including securities, but excluding any rights or warrants referred to in paragraph (2) of this Section, any dividend or distribution paid in cash out of the earned surplus of the Company and any dividend or distribution referred to in paragraph (1) of this Section), the conversion price shall be adjusted so that the same shall equal the price determined by multiplying the conversion price in effect immediately prior to the close of business on the date fixed for the determination of stockholders entitled to receive such distribution by a fraction of which the numerator shall be the current market price per share (determined as provided in paragraph (6) of this Section) of the Common Stock on the date fixed for such determination less the then fair market value (as determined by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution filed with the Trustee) of the portion of the assets or evidences of indebtedness so distributed applicable to one share of Common Stock and the denominator shall all be such current market price per share of the Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following the date fixed for the determination of stockholders entitled to receive such distribution.

(5) The reclassification of Common Stock into securities other than Common Stock (other than any reclassification upon a consolidation or merger to which Section 15.11 applies) shall be deemed to involve (a) a distribution of such securities other than Common Stock to all holders of Common Stock (and the effective date of such reclassification shall be deemed to be “the date fixed for the determination of stockholders entitled to receive such distribution” and the “date fixed for such determination” within the meaning of paragraph (4) of this Section), and (b) a subdivision or combination, as the case may be, of the number of shares of Common Stock outstanding immediately prior to such reclassification into the number of shares of Common Stock outstanding immediately thereafter (and the effective date of such reclassification shall be deemed to be “the day upon which such subdivision becomes effective” or “the day upon which such combination becomes effective”, as the case may be, such “the day upon which such subdivision or combination becomes effective” within the meaning of paragraph (3) of this Section).

(6) For the purpose of any computation under paragraphs (2) and (4) of this Section, the current market price per share of Common Stock on any day shall be deemed to be the average of the daily closing prices for the five consecutive trading days (i.e., Business Days on which the Common Stock is traded) selected by the Board of Directors commencing not more than 20 trading days before, and ending not later than, the earlier of the day in question and the day before the ‘ex’ date with respect to the issuance or distribution requiring such computation. For this purpose, the term “ex” date’, when used with respect to any issuance or distribution, shall mean the first date on which the Common Stock trades regular way on the applicable exchange or in the applicable market without the right to receive such issuance or distribution. The closing price for each day shall be the reported last sale price regular way or, in case no such reported sale takes place on such day, the average of the reported closing bid and asked prices regular way, in either case on the New York Stock Exchange or, if the Common Stock is not listed or admitted to trading on such Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the Nasdaq Stock Market or, if the Common Stock is not listed or admitted to trading on any national securities exchange or quoted on the Nasdaq Stock Market, the average of the closing bid and asked prices in the over-the-counter market as furnished by any New York Stock Exchange member firm selected from time to time by the Board of Directors for that purpose.

(7) The Company may make such reductions in the conversion price, in addition to those required by paragraphs (1), (2), (3) and (4) of this Section, as it considers to be advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes or for any other reasons. The Company shall have the power to resolve any ambiguity or correct any error in this paragraph (7) and its actions in so doing shall be final and conclusive.

(8) No adjustment in the conversion price shall be required unless such adjustment would require an increase or decrease of at least one percent in such conversion price; provided, however, that any adjustments which by reason of this paragraph (8) is not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Article shall be made to the nearest cent or to the nearest 1/100 of a share, as the case may be.

Section 15.05 Notice of Adjustments of Conversion Price.

Whenever the conversion price is adjusted as herein provided:

(A) the Company shall compute the adjusted conversion price in accordance with Section 15.04 and shall prepare a certificate signed by the Treasurer of the Company setting forth the adjusted conversion price and showing in reasonable detail the facts upon which such adjustment is based, and such certificate shall forthwith be filed at each office or agency maintained for the purpose of conversion of Securities; and

(B) a notice stating that the conversion price has been adjusted and setting forth the adjusted conversion price shall forthwith be required, and as soon as practicable after it is required, such notice shall be mailed by the Company to all Holders at their last addresses as they shall appear in the Security Register.

Section 15.06 Notice of Certain Corporate Action.

In case:

(A) the Company shall declare a dividend (or any other distribution) on its Common Stock payable otherwise than in cash out of its earned surplus; or

(B) the Company shall authorize the granting to the holders of its Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(C) of any reclassification of the Common Stock of the Company (other than a subdivision or combination of its outstanding shares of Common Stock), or of any consolidation, merger or share exchange to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

(D) of the voluntary or involuntary dissolution, liquidation or winding up of the Company; then the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of Securities, and shall cause to be mailed to all Holders at their last addresses as they shall appear in the Security Register, at least 20 days (or 10 days in any case specified in clause (A) or (B) above) prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, rights or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, rights or warrants are to be determined, or (y) the date on which such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding up. Neither the failure to give such notice nor any defect therein shall affect the legality or validity of the proceedings described in clauses (A) through (D) of this Section 15.06. If at the time the Trustee shall not be the conversion agent, a copy of such notice shall also forthwith be filed by the Company with the Trustee.

Not less than seven days prior to any date fixed for the determination of stockholders entitled to receive such distribution, the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of Securities, and shall cause to be mailed to all Holders at their last addresses as they shall appear in the Security Register, a notice stating the date on which the such determination is to be made, and briefly describing the import thereof. If at the time the Trustee shall not be the conversion agent, a copy of such notice shall also forthwith be filed by the Company with the Trustee.

Section 15.07 Company to Reserve Common Stock.

The Company shall at all times reserve and keep available out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of Securities, the full number of shares of Common Stock then issuable upon the conversion of all Outstanding Securities.

Section 15.08 Taxes on Conversions.

The Company will pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Securities pursuant hereto. The Company shall not, however, be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the Holder of the Security or Securities to be converted, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of any such tax, or has established to the satisfaction of the Company that such tax has been paid.

Section 15.09 Covenant as to Common Stock.

The Company covenants that all shares of Common Stock which may be issued upon conversion of Securities will upon issue be fully paid and nonassessable and, except as provided in Section 15.08, the Company will pay all taxes, liens and charges with respect to the issue thereof.

Section 15.10 Cancellation of Converted Securities.

All Securities delivered for conversion shall be delivered to the Trustee to be cancelled by or at the direction of the Trustee, which shall dispose of the same as provided in Section 3.09.

Section 15.11 Provisions in Case of Consolidation, Merger or Sale of Assets.

In case of any consolidation of the Company with, or merger of the Company into, any other Person, any merger of another Person into the Company (other than a merger which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock of the Company) or any sale or transfer of all or substantially all of the assets of the Company, the Person formed by such consolidation or resulting from such merger or which acquires such assets, as the case may be, shall execute and deliver to the Trustee a supplemental indenture providing that the Holder of each convertible Security then outstanding shall have the right thereafter, during the period such Security shall be convertible as specified in Section 15.01, to convert such Security only into the kind and amount of securities, cash and other property receivable upon such consolidation, merger, sale or transfer by a holder of the number of shares of Common Stock of the Company into which such Security might have been converted immediately prior to such consolidation, merger, sale or transfer, assuming such holder of Common Stock of the Company failed to exercise his rights of election, if any, as to the kind or amount of securities, cash and other property receivable upon such consolidation, merger, sale or transfer (provided that if the kind or amount of securities, cash and other property receivable upon such consolidation, merger, sale or transfer is not the same for each share of Common Stock of the Company in respect of which such rights of election shall not have been exercised ("non-electing share"), then for the purpose of this Section the kind and amount of securities, cash and other property receivable upon such consolidation, merger, sale or transfer by each non-electing share shall be deemed to be the kind and amount so receivable per share by a plurality of the non-electing shares). Such supplemental indenture shall provide for adjustments which, for events subsequent to the effective date of such supplemental indenture, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article.

The above provisions of this Section shall similarly apply to successive consolidations, mergers, sales or transfers.

Section 15.12 Responsibility of Trustee.

Neither the Trustee nor any conversion agent shall at any time be under any duty or responsibility to any Holder of Securities to determine whether any fact exists which may require any adjustment of the conversion price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. Neither the Trustee nor any conversion agent shall be accountable with respect to the registration, validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, which may at any time be issued or delivered upon the conversion of any Security; and neither the Trustee nor any conversion agent makes any representation with respect thereto. Neither the Trustee nor any conversion agent shall be responsible for any failure of the Company to issue or transfer or deliver any Common Stock or stock certificates or other securities or property or to make any cash payment upon the surrender of any Security for the purpose of conversion or to comply with any of the covenants of the Company contained in this Article XV.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

ARTICLE XVI

MISCELLANEOUS

Section 16.01 Patriot Act.

The parties hereto acknowledge that in accordance with Section 326 of the U.S.A Patriot Act (the “Patriot Act”), the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they shall provide the Trustee with such information as it they request in order for the Trustee to satisfy the requirements of the Patriot Act.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

AQUA AMERICA, INC.

By: /s/ Christopher P. Luning

Name: Christopher P. Luning

Title: Executive Vice President, General
Counsel and Secretary

U.S. BANK N.A

By: /s/ Gregory P. Gulm

Name: Gregory P. Gulm

Title: Vice President

[Signature Page to Senior Indenture]

AQUA AMERICA, INC.

AND

U.S. BANK N.A.,

as Trustee

FIRST SUPPLEMENTAL INDENTURE

April 23, 2019

Senior Securities

FIRST SUPPLEMENTAL INDENTURE, dated as of April 23, 2019 (this “**Supplemental Indenture**”), between Aqua America, Inc., a Pennsylvania corporation (the “**Company**”), and U.S. Bank N.A., as trustee (the “**Trustee**”), to the Indenture, dated as of April 23, 2019 (the “**Base Indenture**”), between the Company and the Trustee.

WHEREAS, Section 9.01(5) of the Base Indenture provides that, without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more supplemental indentures to, among other things, add to, change or eliminate any of the provisions of the Base Indenture in respect of one or more series of Securities, provided that such addition, change or elimination shall become effective only when there is no such Security Outstanding;

WHEREAS, as of the date of this Supplemental Indenture, no Securities are Outstanding under the Base Indenture;

WHEREAS, the Board of Directors of the Company by resolutions adopted on April 14, 2019 has duly authorized, on behalf of the Company, this Supplemental Indenture;

WHEREAS, in connection with the execution and delivery of this Supplemental Indenture, the Trustee has received an Opinion of Counsel as contemplated by Section 9.03 of the Base Indenture; and

WHEREAS, the Company has requested that the Trustee execute and deliver this Supplemental Indenture and has satisfied all requirements necessary to make this Supplemental Indenture a valid instrument in accordance with its terms.

WITNESSETH:

NOW THEREFORE, each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders:

ARTICLE I

AMENDMENT TO THE BASE INDENTURE

Section 1.1. Section 1.12 of the Base Indenture is hereby amended and restated in full to read as follows:

“Section 1.12. Governing Law. This Indenture and the Securities shall be governed by, and construed in accordance with, the law of the State of New York.”

Section 1.2. Article XVI of the Base Indenture is hereby amended to include the following:

“Section 16.02. WAIVER OF JURY TRIAL. EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE OR THE SECURITIES.”

ARTICLE II

MISCELLANEOUS

Section 2.1. *Operativeness of Amendment*. This Supplemental Indenture will become effective immediately upon its execution and delivery by the parties hereto.

Section 2.2. *Ratification of Indenture*. The Base Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed, and this Supplemental Indenture shall be deemed part of the Base Indenture in the manner and to the extent herein and therein provided.

Section 2.3. *Trustee Not Responsible for Recitals*. The recitals herein contained are made by the Company and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture. All of the provisions contained in the Base Indenture in respect of the rights, privileges, immunities, powers, and duties of the Trustee shall be applicable in respect of this Supplemental Indenture as fully and with like force and effect as though set forth in full herein.

Section 2.4. *Governing Law*. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 2.5. *Execution in Counterparts*. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 2.6. *Separability.* In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the day and year first above written.

AQUA AMERICA, INC.

By: /s/ Christopher P. Luning

Name: Christopher P. Luning

Title: Executive Vice President, General
Counsel and Secretary

U.S. BANK N.A., as Trustee

By: /s/ Gregory P. Gulm

Name: Gregory P. Gulm

Title: Vice President

[Signature Page to First Supplemental Indenture]

AQUA AMERICA, INC.,

as Issuer,

AND

U.S. BANK N.A.,

as Trustee

Second Supplemental Indenture

Dated as of April 23, 2019

to Indenture

Dated as of April 23, 2019

3.00% Senior Amortizing Notes due 2022

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1	
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION	
<u>Section 1.01. <i>Scope of Supplemental Indenture; General</i></u>	1
<u>Section 1.02. <i>Definitions</i></u>	2
ARTICLE 2	
THE SECURITIES	
<u>Section 2.01. <i>Title and Terms</i></u>	5
<u>Section 2.02. <i>Installment Payments</i></u>	6
<u>Section 2.03. <i>Maturity Date</i></u>	8
<u>Section 2.04. <i>Right to Exchange or Register a Transfer</i></u>	8
ARTICLE 3	
SATISFACTION AND DISCHARGE	
<u>Section 3.01. <i>Amendments to Article IV of the Base Indenture</i></u>	8
ARTICLE 4	
DEFAULTS AND REMEDIES	
<u>Section 4.01. <i>Amendments to Article V of the Base Indenture</i></u>	9
ARTICLE 5	
THE TRUSTEE	
<u>Section 5.01. <i>Amendments to Article VI of the Base Indenture</i></u>	15
ARTICLE 6	
SUCCESSOR CORPORATION	
<u>Section 6.01. <i>Amendments to Article VIII of the Base Indenture</i></u>	15
ARTICLE 7	
AMENDMENTS, SUPPLEMENTS AND WAIVERS	
<u>Section 7.01. <i>Amendments to Article IX of the Base Indenture</i></u>	16

ARTICLE 8	
COVENANTS	
<u>Section 8.01. Amendments to Article X of the Base Indenture.</u>	18
ARTICLE 9	
NO REDEMPTION	
<u>Section 9.01. Articles XI and XIII of the Base Indenture Inapplicable</u>	19
ARTICLE 10	
DEFEASANCE AND COVENANT DEFEASANCE	
<u>Section 10.01. Amendments to Article XIV of the Base Indenture</u>	19
ARTICLE 11	
REPURCHASE OF NOTES AT THE OPTION OF THE HOLDER	
<u>Section 11.01. Offer to Repurchase</u>	23
<u>Section 11.02. Early Mandatory Settlement Notice and Acquisition Redemption Notice</u>	23
<u>Section 11.03. Procedures for Exercise</u>	23
<u>Section 11.04. Withdrawal of Repurchase Notice</u>	24
<u>Section 11.05. Effect of Repurchase</u>	24
<u>Section 11.06. No Sinking Fund</u>	25
ARTICLE 12	
TAX TREATMENT	
<u>Section 12.01. Tax Treatment</u>	25
ARTICLE 13	
MISCELLANEOUS	
<u>Section 13.01. Conflict with Trust Indenture Act</u>	25
<u>Section 13.02. Effect of Headings and Table of Contents</u>	25
<u>Section 13.03. Successors and Assigns</u>	25
<u>Section 13.04. Separability</u>	25
<u>Section 13.05. Benefits of Supplemental Indenture</u>	25
<u>Section 13.06. Governing Law and Jury Trial Waiver</u>	25
<u>Section 13.07. Ratification of Indenture</u>	25

Exhibit A – Form of Note

SECOND SUPPLEMENTAL INDENTURE dated as of April 23, 2019 (this “**Supplemental Indenture**”) between AQUA AMERICA, INC., a Pennsylvania corporation (the “**Company**”), and U.S. BANK N.A., a national banking association, as trustee (the “**Trustee**”), supplementing the Indenture dated as of April 23, 2019, between the Company and the Trustee (such Indenture, as previously supplemented by the First Supplemental Indenture dated as of April 23, 2019 between the Company and the Trustee, the “**Base Indenture**”).

RECITALS OF THE COMPANY:

WHEREAS, the Company executed and delivered the Base Indenture to provide for, among other things, the issuance of unsecured debt securities in an unlimited aggregate principal amount to be issued from time to time in one or more series as provided in the Base Indenture;

WHEREAS, the Base Indenture provides that the Company may enter into an indenture supplemental to the Base Indenture to establish the form and terms of any series of Securities as provided by Section 3.01 and Section 9.01(7) of the Base Indenture;

WHEREAS, the Company desires and has requested the Trustee to join it in the execution and delivery of this Supplemental Indenture in order to establish and provide for the issuance by the Company of a series of Securities designated as its 3.00% Senior Amortizing Notes due 2022 (the “**Notes**”, and each \$8.62909 of initial principal amount of such Securities, a “**Note**”), substantially in the form attached hereto as Exhibit A, on the terms set forth herein;

WHEREAS, the Company now wishes to issue Notes in an aggregate initial principal amount of \$119,081,442, each Note initially to be issued as a component of the Units (as defined herein) being issued on the date hereof by the Company pursuant to the Purchase Contract Agreement, dated as of April 23, 2019, between the Company and U.S. Bank N.A., as Purchase Contract Agent, as Trustee and as attorney-in-fact for the holders of Purchase Contracts from time to time (the “**Purchase Contract Agreement**”); and

WHEREAS, the Company has requested that the Trustee execute and deliver this Supplemental Indenture, and all requirements necessary to make (i) this Supplemental Indenture a valid instrument in accordance with its terms and (ii) the Notes, when executed by the Company and authenticated and delivered by the Trustee, the valid obligations of the Company, have been performed, and the execution and delivery of this Supplemental Indenture have been duly authorized in all respects.

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH, for and in consideration of the premises and the purchases of the Notes by the Holders thereof, it is mutually agreed, for the benefit of the parties hereto and the equal and proportionate benefit of all Holders of the Notes, as follows:

ARTICLE 1

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01. *Scope of Supplemental Indenture; General.* The changes, modifications and supplements to the Base Indenture effected by this Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes (which shall be initially in the aggregate initial principal amount of \$119,081,442 and shall not apply to any other Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other Securities specifically incorporates such changes, modifications and supplements. This Supplemental Indenture shall supersede any corresponding provisions in the Base Indenture.

Section 1.02. *Definitions.* For all purposes of the Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(i) the terms defined in this Article I shall have the meanings assigned to them in this Article and include the plural as well as the singular;

(ii) all words, terms and phrases defined in the Base Indenture (but not otherwise defined herein) shall have the same meaning herein as in the Base Indenture;

(iii) all other terms used herein that are defined in the Trust Indenture Act, either directly or by reference therein, shall have the meanings assigned to them therein; and

(iv) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision.

“**Acquisition Redemption Notice**” has the meaning ascribed to it in the Purchase Contract Agreement.

“**Acquisition Redemption Settlement Date**” has the meaning ascribed to it in the Purchase Contract Agreement.

“**Acquisition Termination Redemption**” has the meaning ascribed to it in the Purchase Contract Agreement.

“**Agent Members**” has the meaning ascribed to such term in Section 2.01(d).

“**Base Indenture**” has the meaning ascribed to it in the preamble hereof.

“**Beneficial Holder**” means, with respect to a Global Note, a Person who is the beneficial owner of such Book-Entry Interest as reflected on the books of the Depositary or on the books of a Person maintaining an account with the Depositary (directly as a Depositary Participant or as an indirect participant, in each case in accordance with the rules of the Depositary).

“**Book-Entry Interest**” means a beneficial interest in a Global Note, registered in the name of a Depositary or a nominee thereof, ownership and transfers of which shall be maintained and made through book entries by such Depositary.

“**Business Day**” means any day other than a Saturday, Sunday or any day on which banking institutions in New York, New York are authorized or obligated by applicable law or executive order to close or be closed.

“**Certificated Note**” means a Note in definitive registered form without interest coupons.

“**close of business**” means 5:00 p.m. (New York City time).

“**Common Stock**” means the common stock, par value \$0.50 per share, of the Company or such other securities or assets as shall be deliverable in replacement thereof under the Purchase Contract Agreement pursuant to the terms thereof.

“**Company**” has the meaning ascribed to it in the preamble hereof and shall also refer to any successor obligor under the Indenture.

“**Component Note**” means a Note in global form and attached to a Global Unit that (a) shall evidence the number of Notes specified therein that are components of the Units evidenced by such Global Unit, (b) shall be registered on the Security Register for the Notes in the name of the Purchase Contract Agent, as attorney-in-fact of holder(s) of the Units of which such Notes form a part, and (c) shall be held by the Purchase Contract Agent as attorney-in-fact for such holder(s), together with the Global Unit, as custodian of such Global Unit for the Depositary.

“**Defaulted Installment Payment**” has the meaning ascribed to it in Section 2.02(d).

“**Depositary**” means The Depositary Trust Company until a successor Depositary shall have become such pursuant to the applicable provisions of the Indenture, and thereafter “**Depositary**” shall mean such successor Depositary.

“**Depositary Participant**” means a broker, dealer, bank, other financial institution or other Person for whom from time to time the Depositary effects book-entry transfers of securities deposited with the Depositary.

“**Early Mandatory Settlement Date**” has the meaning ascribed to it in the Purchase Contract Agreement.

“**Early Mandatory Settlement Notice**” has the meaning ascribed to it in the Purchase Contract Agreement.

“**Early Mandatory Settlement Right**” has the meaning ascribed to it in the Purchase Contract Agreement.

“**Fundamental Change**” has the meaning ascribed to such term in the Purchase Contract Agreement.

“**Global Note**” means any Note that is a Global Security.

“**Global Unit**” has the meaning ascribed to such term in the Purchase Contract Agreement.

“**Holder**” means the Person in whose name a Note is registered on the Security Registrar’s books.

“**Indenture**” means the Base Indenture, as supplemented by this Supplemental Indenture as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental thereto entered into pursuant to the applicable provisions thereof, including, for all purposes of this instrument and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern the Base Indenture, this Supplemental Indenture and any such supplemental indenture, respectively.

“**Initial Principal Amount**” means \$8.62909 initial principal amount per Note.

“**Installment Payment**” has the meaning ascribed to it in Section 2.02(a).

“**Installment Payment Date**” means each January 30, April 30, July 30 and October 30, commencing on July 30, 2019 and ending on the Maturity Date.

“Installment Payment Period” means (i) in the case of the first Installment Payment Date on July 30, 2019, the period from, and including, the Issue Date to, but excluding, such first Installment Payment Date and (ii) in the case of any subsequent Installment Payment Date, the quarterly period from, and including, the immediately preceding Installment Payment Date to, but excluding, such Installment Payment Date.

“Issue Date” means April 23, 2019.

“Maturity” when used with respect to any Note, means the date on which any Installment Payment becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration or otherwise.

“Maturity Date” means April 30, 2022.

“Note” and **“Notes”** have the respective meanings ascribed to such terms in the preamble hereof and include, for the avoidance of doubt, both Separate Notes and Notes that constitute part of a Unit.

“Paying Agent” means any Person (including the Company) authorized by the Company to pay the principal amount of or interest on any Notes on behalf of the Company. The Paying Agent shall initially be the Trustee.

“Prospectus Supplement” means the preliminary prospectus supplement dated April 15, 2019, as supplemented by the related pricing term sheet dated April 17, 2019, related to the offering and sale of the Notes.

“Purchase Contract” means a prepaid stock purchase contract obligating the Company to deliver shares of Common Stock on the terms and subject to the conditions set forth in the Purchase Contract Agreement.

“Purchase Contract Agent” means U.S. Bank N.A., as purchase contract agent under the Purchase Contract Agreement, until a successor Purchase Contract Agent shall have become such pursuant to the applicable provisions of the Purchase Contract Agreement, and thereafter **“Purchase Contract Agent”** shall mean such Person.

“Purchase Contract Agreement” has the meaning ascribed to it in the preamble hereof.

“Regular Record Date” means, with respect to any January 30, April 30, July 30 and October 30 Installment Payment Date, the immediately preceding January 15, April 15, July 15 or October 15, respectively.

“Repurchase Date” shall be a date specified by the Company in the Early Mandatory Settlement Notice or Acquisition Redemption Notice, as the case may be, which date shall be at least 20 but not more than 35 Business Days following the date of the Early Mandatory Settlement Notice or the date of the Acquisition Redemption Notice, as the case may be (and which may or may not fall on the Early Mandatory Settlement Date or Acquisition Redemption Settlement Date, as the case may be).

“Repurchase Notice” means a notice in the form entitled “Form of Repurchase Notice” attached to the Notes.

“**Repurchase Price**” means, (a) with respect to a Note to be repurchased pursuant to Article XI, an amount equal to the principal amount of such Note as of the Repurchase Date, *plus* accrued and unpaid interest, if any, on such principal amount from, and including, the immediately preceding Installment Payment Date (or, if none, from, and including, the Issue Date) to, but not including, such Repurchase Date, calculated at an annual rate of 3.00%; *provided* that, if the Repurchase Date falls after a Regular Record Date for any Installment Payment and on or prior to the immediately succeeding Installment Payment Date, the Installment Payment payable on such Installment Payment Date will be paid on such Installment Payment Date to the holder as of such Regular Record Date and will not be included in the Repurchase Price per Note or (b) with respect to a Note that has been accelerated pursuant to Article V, an amount equal to the principal amount of such Note as of the date of acceleration, plus accrued and unpaid interest, if any, on such principal amount from, and including, the last Installment Payment Date in respect of which the relevant Installment Payment was paid (or, if none, from, and including, the Issue Date) to, but not including, the date of acceleration.

“**Repurchase Right**” has the meaning ascribed to it in Section 11.01.

“**Separate Note**” means a Note that has been separated from a Unit in accordance with the terms of the Purchase Contract Agreement.

“**Separate Purchase Contract**” means a Purchase Contract that has been separated from a Unit in accordance with the terms of the Purchase Contract Agreement.

“**Stated Maturity**” when used with respect to any Note or any Installment Payment thereon, means the date specified in such Note as the fixed date on which the Repurchase Price of such Note or such Installment Payment is due and payable.

“**Supplemental Indenture**” has the meaning ascribed to it in the preamble hereof.

“**Surviving Person**” has the meaning ascribed to it in Section 6.01(a)

“**Trustee**” means the party named in the preamble hereof until a successor replaces such party in accordance with the applicable provisions of the Indenture and thereafter means the successor serving hereunder.

“**Unit**” means the collective rights of a holder of a 6.00% Tangible Equity Unit, with a stated amount of \$50.00 (representing an issue price of \$8.62909 for the Note included in each Unit and an issue price of \$41.37091 for the Purchase Contract included in each Unit), issued by the Company pursuant to the Purchase Contract Agreement, each consisting of a single Purchase Contract and a single Note prior to separation or subsequent to recreation thereof pursuant to the Purchase Contract Agreement.

ARTICLE 2

THE SECURITIES

Section 2.01. *Title and Terms.*

(a) There is hereby authorized a series of Securities designated the “3.00% Senior Amortizing Notes due 2022” limited in aggregate initial principal amount to \$119,081,442, which amount shall be as set forth in any written order of the Company for authentication and delivery of Notes pursuant to Section 3.03 of the Base Indenture.

(b) The Notes will initially be issued as Component Notes in substantially the form of Attachment 4 to the form of Global Unit attached as Exhibit A to the Purchase Contract Agreement, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by the Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the officers of the Company executing such Notes, as evidenced by their execution of the Notes. The Notes will initially be attached to the related Global Unit and registered in the name of U.S. Bank N.A., as attorney-in-fact of the holder(s) of such Global Unit.

(c) Holders of Units have the right to separate such Units into their constituent parts, consisting of Separate Purchase Contracts and Separate Notes, during the times, and under the circumstances, described in Section 2.03 of the Purchase Contract Agreement. Upon separation of any Unit into its constituent parts, (i) if such Unit is a Global Unit, the Separate Notes will initially be evidenced by a Global Note (the “**Global Note**”) in substantially the form of Exhibit A hereto, which is incorporated into and shall be deemed a part of this Supplemental Indenture, and deposited with the Trustee as custodian for the Depositary and registered in the name of the Depositary or its nominee, or (ii) if such Unit is in definitive, registered form, the Separate Notes will be evidenced by Certificated Notes in substantially the form of Exhibit A hereto, in each case, as provided in Section 2.03 of the Purchase Contract Agreement. Following separation of any Unit into its constituent Separate Note and Separate Purchase Contract, the Separate Notes are transferable independently from the Separate Purchase Contracts. In addition, Separate Notes can be recombined with Separate Purchase Contracts to recreate Units, as provided for in Section 2.04 of the Purchase Contract Agreement.

(d) The Global Note representing Separate Notes (which shall initially have a balance of zero Notes) shall be registered in the name of Cede & Co., as nominee of the Depositary and delivered to the Trustee, as custodian for the Depositary. Members of, or participants in, the Depositary (“**Agent Members**”) shall have no rights under the Indenture with respect to any Global Note (or any Global Unit in the case of Component Notes) held on their behalf by the Depositary, or the Trustee as its custodian, or under the Global Note (or such Global Unit), and the Depositary may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner of the Global Note (or such Global Unit) for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or impair, as between the Depositary and its Agent Members, the operation of customary practices governing the exercise of the rights of any Holder.

(e) The Notes shall be issuable in denominations of initial principal amounts equal to the Initial Principal Amount and integral multiples in excess thereof.

Section 2.02. *Installment Payments.* (a) The Company shall pay installments on the Notes (each such payment, an “**Installment Payment**”) in cash at the place, at the respective times and in the manner provided in the Notes. Installment Payments shall be paid to the Person in whose name a Note is registered at the close of business on the Regular Record Date corresponding to such Installment Payment Date. The Company has initially designated the Trustee as its Paying Agent and Security Registrar in respect of the Notes and its agency in New York, New York as a place where Notes may be presented for payment or for registration of transfer. The Company may, however, change the Paying Agent or Security Registrar for the Notes without prior notice to the Holders thereof, and the Company may act as Paying Agent or Security Registrar.

(b) On the first Installment Payment Date occurring on July 30, 2019, the Company shall pay, in cash, an Installment Payment with respect to each Note in an amount equal to \$0.80833 per Note, and on each Installment Payment Date thereafter, the Company shall pay, in cash, equal quarterly Installment Payments with respect to each Note in an amount equal to \$0.75000 per Note; *provided* that, in respect of any Certificated Note, the final Installment Payment shall be made only against surrender of such Certificated Note to the Paying Agent.

(c) Each Installment Payment shall constitute a payment of interest (at a rate of 3.00% per annum) and a partial repayment of principal on the Notes, allocated with respect to each Note as set forth in the schedule below:

Scheduled Installment Payment Date	Amount of Principal	Amount of Interest
July 30, 2019	\$ 0.73858	\$ 0.06975
October 30, 2019	\$ 0.69082	\$ 0.05918
January 30, 2020	\$ 0.69600	\$ 0.05400
April 30, 2020	\$ 0.70122	\$ 0.04878
July 30, 2020	\$ 0.70648	\$ 0.04352
October 30, 2020	\$ 0.71178	\$ 0.03822
January 30, 2021	\$ 0.71712	\$ 0.03288
April 30, 2021	\$ 0.72250	\$ 0.02750
July 30, 2021	\$ 0.72792	\$ 0.02208
October 30, 2021	\$ 0.73337	\$ 0.01663
January 30, 2022	\$ 0.73888	\$ 0.01112
April 30, 2022	\$ 0.74442	\$ 0.00558

(d) Each Installment Payment for any Installment Payment Period shall be computed on the basis of a 360-day year of twelve 30-day months. If an Installment Payment is payable for any period shorter or longer than a full Installment Payment Period, such Installment Payment shall be computed on the basis of the actual number of days elapsed per 30-day month. Furthermore, if any date on which an Installment Payment is payable is not a Business Day, then payment of the Installment Payment on such date shall be made on the next succeeding day that is a Business Day, and without any interest or other payment in respect of any such delay.

Any Installment Payment on any Note which is payable, but is not punctually paid or duly provided for, on any Installment Payment Date (herein called “**Defaulted Installment Payment**”) shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Installment Payment may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Installment Payment to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Installment Payment, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Installment Payment proposed to be paid on each Note and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Installment Payment or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Installment Payment as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Installment Payment which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Installment Payment and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Notes at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Installment Payment and the Special Record Date therefor having been so mailed, such Defaulted Installment Payment shall be paid to the Persons in whose names the Notes (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Installment Payment on the Notes in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

Section 2.03. *Maturity Date.* The date on which the final Installment Payment on the Notes shall be due, unless the Notes are accelerated pursuant to the terms hereof or otherwise paid prior to maturity in connection with a Holder's exercise of the Repurchase Right, shall be the Maturity Date.

Section 2.04. *Right to Exchange or Register a Transfer.* (a) The Company shall not be required to exchange or register a transfer of any Note if the Holder thereof has exercised his, her or its right, if any, to require the Company to repurchase such Note in whole or in part, except the portion of such Note not required to be repurchased.

(b) For purposes of any Note that constitutes part of a Unit, Section 3.05 of the Base Indenture (as modified by this Supplemental Indenture) shall be subject to the provisions of the Purchase Contract Agreement.

ARTICLE 3

SATISFACTION AND DISCHARGE

Section 3.01. *Amendments to Article IV of the Base Indenture.* For purposes of the Notes, Article IV of the Base Indenture shall be amended and restated in its entirety with the following:

“Section 4.01 Satisfaction and Discharge of Indenture.

This Indenture shall upon Company Request cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Notes herein expressly provided for), and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when

(1) either

(A) all Notes theretofore authenticated and delivered (other than (i) Notes which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06 and (ii) Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 10.03) have been delivered to the Trustee for cancellation; or

(B) all such Notes not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, and the Company, in the case of (i) or (ii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation, for Installment Payments to the date of such deposit (in the case of Notes which have become due and payable) or to the Stated Maturity;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 6.07, and, if money shall have been deposited with the Trustee pursuant to subclause (B) of Clause (1) of this Section, the obligations of the Trustee under Section 4.02 and the last paragraph of Section 10.03 shall survive such satisfaction and discharge.

Section 4.02 Application of Trust Money.

Subject to the last paragraph of Section 10.03, all money deposited with the Trustee pursuant to Section 4.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the Installment Payments for whose payment such money has been deposited with the Trustee."

ARTICLE 4

DEFAULTS AND REMEDIES

Section 4.01. *Amendments to Article V of the Base Indenture.* For purposes of the Notes, Article V of the Base Indenture shall be amended and restated in its entirety by the following:

"Section 5.01 Events of Default.

"Event of Default", wherever used herein with respect to Notes, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of any Installment Payment on any Notes as and when the same shall become due and payable and continuance of such failure for a period of 30 days; or

(2) default in the payment of the Repurchase Price of any Notes when the same shall become due and payable; or

(3) failure by the Company to give notice of a Fundamental Change pursuant to Section 4.07 of the Purchase Contract Agreement when due and continuance of such failure for a period of five Business Days; or

(4) default in the performance, or breach, of any covenant or warranty of the Company in this Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section specifically dealt with or which has expressly been included in this Indenture solely for the benefit of series of Notes other than the Notes), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in principal amount of the Outstanding Notes a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder; or

(5) the entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or (B) a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or State law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(6) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

Section 5.02 Acceleration of Maturity; Rescission and Annulment.

If an Event of Default with respect to Notes at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes may declare the Notes to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration the Repurchase Price shall become immediately due and payable. If an Event of Default described in Section 5.01(5) or Section 5.01(6) occurs and is continuing, the Repurchase Price on all the Notes will become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders.

At any time after such a declaration of acceleration with respect to Notes has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in principal amount of the Outstanding Notes, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company has paid or deposited with the Trustee a sum sufficient to pay

(A) all overdue Installment Payments on all Notes,

(B) the Repurchase Price on any Notes which have become due otherwise than by such declaration of acceleration and any interest thereon at the rate or rates prescribed therefor in such Notes,

(C) to the extent that payment of such interest is lawful, interest upon overdue Repurchase Price and Installment Payments at the rate or rates prescribed therefor in such Notes, and

(D) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

(2) all Events of Default with respect to Notes, other than the non-payment of the Repurchase Price of Notes which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 5.03 Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if:

(1) default is made in the payment of any Installment Payments on any Note when such Installment Payment becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the Repurchase Price of any Note at the Maturity thereof,

the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Notes, the whole amount then due and payable on such Notes for the Repurchase Price and Installment Payments and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue Repurchase Price or Installment Payments, at the rate or rates prescribed therefor in such Notes, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If an Event of Default with respect to the Notes occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Notes by such appropriate judicial proceedings as the Trustee shall deem necessary to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 5.04 Trustee May File Proofs of Claim.

In case of any judicial proceeding relative to the Company (or any other obligor upon the Notes), its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.07.

No provision of this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

Section 5.05 Trustee May Enforce Claims Without Possession of Notes.

All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes in respect of which such judgment has been recovered.

Section 5.06 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of Repurchase Price or any Installment Payment, upon presentation of the Notes and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 6.07;

SECOND: To the payment of the amounts then due and unpaid for Repurchase Price and Installment Payments on the Notes, ratably, without preference or priority of any kind, according to the amounts due and payable on such Notes for Repurchase Price and Installment Payments; and

THIRD: To the Company.

Section 5.07 Limitation on Suits.

No Holder of any Note shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

- (1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Notes;
- (2) the Holders of not less than 25% in principal amount of the Outstanding Notes shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (3) such Holder or Holders have offered to the Trustee reasonable indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Outstanding Notes; it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders.

Section 5.08 Unconditional Right of Holders to Receive Repurchase Price and Installment Payments.

Notwithstanding any other provision in this Indenture, the Holder of any Note shall have the right, which is absolute and unconditional, to receive payment of the Repurchase Price and Installment Payments (subject to Section 3.07) on such Note on the respective Stated Maturities expressed in such Note and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 5.09 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 5.10 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in the last paragraph of Section 3.06, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.11 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Notes to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 5.12 Control by Holders.

The Holders of a majority in principal amount of the Outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Notes, provided that

(1) such direction shall not be in conflict with any rule of law or with this Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(3) subject to the provisions of Section 6.01, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or Officers of the Trustee, determine that the proceedings so directed would involve the Trustee in personal liability.

Section 5.13 Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Notes may on behalf of the Holders of all the Notes waive any past default hereunder with respect to such Notes and its consequences, except a default

(1) in the payment of the Repurchase Price or any Installment Payment on any Note, or

(2) in respect of a covenant or provision hereof which under Article IX cannot be modified or amended without the consent of the Holder of each Outstanding Note affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 5.14 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant, in the manner and to the extent provided in the Trust Indenture Act; provided that neither this Section nor the Trust Indenture Act shall apply to any suit instituted by the Trustee, to any suit instituted by any Holders of the Notes, or group of Holders of the Notes, holding in the aggregate more than 10% of principal amount of the Outstanding Notes, or to any suit instituted by any Holder of the Outstanding Notes for the enforcement of the payment of the Installment Payments on any Outstanding Notes held by such Holder, on or after the respective due dates expressed in such Outstanding Notes, and provided, further, that neither this Section nor the Trust Indenture Act shall be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company.

Section 5.15 Waiver of Usury, Stay or Extension Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.”

ARTICLE 5

THE TRUSTEE

Section 5.01. *Amendments to Article VI of the Base Indenture.*

(a) For purposes of the Notes, Section 6.05 of the Base Indenture shall be amended and restated in its entirety with the following:

“If an Event of Default with respect to Notes occurs and is continuing and if it is known to the Trustee, the Trustee shall mail to each Holder of Notes notice of the uncured Event of Default within 90 days after such Event of Default occurs. Except in the case of an Event of Default in payment of Repurchase Price or any Installment Payment on any Note, the Trustee may withhold the notice if and so long as a Responsible Officer in good faith determines that withholding the notice is in the interest of the Holders of Notes.”

(b) For purposes of the Notes, the third paragraph of Section 6.07 of the Base Indenture shall be amended and restated in its entirety with the following:

“To secure the Company’s payment obligations in this Section 6.07, the Trustee shall have a lien prior to the Notes on all assets held or collected by the Trustee, in its capacity as Trustee, except assets held in trust to pay Repurchase Price or Installment Payments on particular Notes.”

ARTICLE 6

SUCCESSOR CORPORATION

Section 6.01. *Amendments to Article VIII of the Base Indenture.*

(a) For purposes of the Notes, Article VIII of the Base Indenture shall be amended and restated in its entirety to the following:

“Section 8.01 When Company May Merge, Etc. The Company shall not consolidate or merge with or into any other entity, or sell, transfer, lease or otherwise convey its properties and assets as an entirety or substantially as an entirety to any entity, unless:

(1) (i) the Company is the continuing entity (in the case of a merger) or (ii) the successor entity formed by such consolidation or into which it is merged or which acquires by sale, transfer, lease or other conveyance of its properties and assets, as an entirety or substantially as an entirety (any such other entity being referred to herein as the “**Surviving Person**”), is a corporation organized and existing under the laws of the United States of America or any State thereof or the District of Columbia, and expressly assumes, by supplemental indenture, the due and punctual payment of the Installment Payments on the Notes and the performance of all of the covenants under this Indenture;

(2) immediately after giving effect to the transaction, no Event of Default, and no event which after notice or lapse of time or both would become an Event of Default under this Indenture, has or will have occurred and be continuing; and

(3) if a supplemental indenture is required in connection with such transaction, the Company has delivered to the Trustee an Officers’ Certificate and an Opinion of Counsel, each stating that such consolidation, merger, assignment, or transfer and such supplemental indenture comply with this Article VIII and that all conditions precedent herein provided relating to such transaction have been satisfied.

Section 8.02 Successor Corporation Substituted. Upon any consolidation or merger, or any transfer of assets in accordance with Section 8.01, the Surviving Person formed by such consolidation or into which the Company is merged or to which such transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such Surviving Person had been named as the Company herein. When a Surviving Person duly assumes all of the obligations of the Company pursuant hereto and pursuant to the Notes, the predecessor shall be relieved of the performance and observance of all obligations and covenants of this Indenture and the Notes, including but not limited to the obligation to make payment of the Installment Payments on all the Notes then outstanding, and the Company may thereupon or any time thereafter be liquidated and dissolved.”

ARTICLE 7

AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 7.01. *Amendments to Article IX of the Base Indenture.*

(a) For purposes of the Notes, Section 9.01 and 9.02 of the Base Indenture shall be amended and restated in its entirety with the following:

“Section 9.01 Supplemental Indentures Without Consent of Holders. Without the consent of any Holders, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to cure any ambiguity, omission, defect or inconsistency in this Indenture; or

(2) to provide for the assumption by a successor corporation as set forth in Article VIII; or

(3) to comply with any requirements of the Commission in connection with the qualification of this Indenture under the Trust Indenture Act; or

(4) to evidence and provide for the acceptance of appointment with respect to the Notes by a successor Trustee in accordance with this Indenture, and add or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts under this Indenture by more than one Trustee; or

(5) to secure the Notes; or

(6) to add guarantees with respect to the Notes; or

(7) to add covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred upon the Company; or

(8) to make any change that does not adversely affect the rights of any Holder in any material respect; or

(9) to conform the provisions of this Indenture or the Notes to any provision of the “Description of the Amortizing Notes” section in the Prospectus Supplement.

Section 9.02 Supplemental Indentures With Consent of Holders. With the consent of the Holders of not less than a majority in principal amount of the Outstanding Notes, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or modifying in any manner the rights of the Holders of Notes under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Note affected thereby,

(1) (a) change any Installment Payment Date or reduce the amount owed on any Installment Payment Date, or (b) change any Place of Payment where, or the coin or currency in which, any Note or any principal or Installment Payment thereon is payable, or (d) impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof, or

(2) reduce the Repurchase Price or amend or modify in any manner adverse to the Holders of the Notes the obligation of the Company to make such payment, or

(3) reduce the percentage in principal amount of the Outstanding Notes, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver provided for in this Indenture, or

(4) modify any of the provisions of this Section or Section 5.13 or Section 10.06, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby, provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to “the Trustee” and concomitant changes in this Section, or the deletion of this proviso, in accordance with the requirements of Sections 6.11 and 9.01(8),

- (5) change any obligation of the Company to maintain an office or agency, or
- (6) modify in any manner adverse the right of repayment or repurchase at the option of the Holder, or
- (7) reduce or postpone any sinking fund or similar provision.

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities other than the Notes, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Notes.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.”

ARTICLE 8

COVENANTS

Section 8.01. *Amendments to Article X of the Base Indenture.*

- (a) For purposes of the Notes, Section 10.01 of the Base Indenture shall be amended and restated in its entirety with the following:

“The Company covenants and agrees for the benefit of the Notes that it will duly and punctually pay the Repurchase Price and Installment Payments on the Notes in accordance with the terms of the Notes and this Indenture.”

- (b) For purposes of the Notes, Section 10.03 of the Base Indenture shall be amended and restated in its entirety with the following:

“If the Company shall at any time act as its own Paying Agent with respect to the Notes, it will, on or before each due date of the Repurchase Price and Installment Payments on the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the Repurchase Price and Installment Payments so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for the Notes, it will, on or prior to each due date of the Repurchase Price and Installment Payments on the Notes, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held as provided by the Trust Indenture Act, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent for the Notes other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will (1) comply with the provisions of the Trust Indenture Act applicable to it as a Paying Agent and (2) during the continuance of any default by the Company (or any other obligor upon the Notes) in the making of any payment in respect of the Notes, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Notes.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust hereunder by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the Repurchase Price and Installment Payments on any Note and remaining unclaimed for two years after such Repurchase Price and Installment Payment has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.”

ARTICLE 9

NO REDEMPTION

Section 9.01. *Articles XI and XIII of the Base Indenture Inapplicable.* The Notes shall not be redeemable at the option of the Company and Articles XI and XIII of the Base Indenture shall not apply to the Notes.

ARTICLE 10

DEFEASANCE AND COVENANT DEFEASANCE

Section 10.01. *Amendments to Article XIV of the Base Indenture.* For purposes of the Notes, Article XIV of the Base Indenture shall be amended and restated in its entirety with the following:

“Section 14.01 Company’s Option to Effect Defeasance or Covenant Defeasance.

The Company may elect, at its option by Board Resolution at any time, to have either Section 14.02 or Section 14.03 applied to the Outstanding Notes, upon compliance with the conditions set forth below in this Article XIV.

Section 14.02 Defeasance and Discharge.

Upon the Company’s exercise of the option provided in Section 14.01 to have this Section 14.02 applied to the Outstanding Notes, the Company shall be deemed to have been discharged from its obligations with respect to the Outstanding Notes as provided in this Section on and after the date the conditions set forth in Section 14.04 are satisfied (hereinafter called “Defeasance”). For this purpose, such Defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Notes and to have satisfied all its other obligations under the Notes and this Indenture insofar as the Notes are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), subject to the following which shall survive until otherwise terminated or discharged hereunder: (1) the rights of Holders of Notes to receive, solely from the trust fund described in Section 14.04 and as more fully set forth in such Section, payments in respect of the principal and Installment Payments on such Notes when payments are due, (2) the Company’s obligations with respect to the Notes under Sections 3.04, 3.05, 3.06, 10.02 and 10.03, (3) the rights, protections, powers, trusts, duties and immunities of the Trustee hereunder and (4) this Article XIV. Subject to compliance with this Article XIV, the Company may exercise its option provided in Section 14.01 to have this Section 14.02 applied to the Outstanding Notes notwithstanding the prior exercise of its option provided in Section 14.01 to have Section 14.03 applied to the Outstanding Notes. Following a Defeasance, payment of such Notes may not be accelerated because of an Event of Default.

Section 14.03 Covenant Defeasance.

Upon the Company’s exercise of the option provided in Section 14.01 to have this Section 14.03 applied to the Outstanding Notes, (1) the Company shall be released from its obligations under any covenants provided pursuant to Section 3.01(17) or Section 9.01(2) with respect to the Notes, Section 8.01 and Article XIII, as applicable, and (2) the occurrence of any event specified in Section 5.01(4) (with respect to Section 8.01, any such covenants provided pursuant to Section 3.01(17) or Section 9.01(2) and Article XIII), shall be deemed not to be or result in an Event of Default, in each case with respect to the Outstanding Notes as provided in this Section on and after the date the conditions set forth in Section 14.04 are satisfied (hereinafter called “Covenant Defeasance”). For this purpose, such Covenant Defeasance means that the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any covenants added for the benefit of the Notes pursuant to any such specified Section (to the extent so specified in the case of Section 5.01(4)), whether directly or indirectly by reason of any reference elsewhere herein to any such Section or by reason of any reference in any such Section to any other provision herein or in any other document, but the remainder of this Indenture and the Notes shall be unaffected thereby.

Section 14.04 Conditions to Defeasance or Covenant Defeasance.

The following shall be the conditions to application of either Section 14.02 or Section 14.03 to the Outstanding Notes:

(1) The Company shall irrevocably have deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of Outstanding Notes, (A) U.S. Dollars in an amount, or (B) U.S. Government Obligations that through the scheduled payment of Installment Payments in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount, or (C) a combination thereof, in each case sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or any such other qualifying trustee) to pay and discharge, the principal of and Installment Payments on the Notes on the respective Stated Maturities, in accordance with the terms of this Indenture and the Notes. As used herein, “U.S. Government Obligation” means (x) any security that is (i) a direct obligation of the United States of America for the payment of which full faith and credit of the United States of America is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (y) any depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act of 1933, as amended) as custodian with respect to any U.S. Government Obligation specified in Clause (x) and held by such custodian for the account of the holder of such depositary receipt, or with respect to any specific payment of Installment Payment on any such U.S. Government Obligation, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of Installment Payment evidenced by such depositary receipt.

(2) In the case of an election under Section 14.02, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date first set forth hereinabove, there has been a change in the applicable Federal income tax law, in either case (A) or (B) to the effect that, and based thereon such opinion shall confirm that, the Holders of the Outstanding Notes will not recognize gain or loss for Federal income tax purposes as a result of the deposit, Defeasance and discharge to be effected with respect to the Notes and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit, Defeasance and discharge were not to occur.

(3) In the case of an election under Section 14.03, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Notes will not recognize gain or loss for Federal income tax purposes as a result of the deposit and Covenant Defeasance to be effected with respect to the Notes and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit and Covenant Defeasance were not to occur.

(4) The Company shall have delivered to the Trustee an Officer’s Certificate to the effect that the Notes, if then listed on any securities exchange, will not be delisted as a result of such deposit.

(5) No Event of Default or event that (after notice or lapse of time or both) would become an Event of Default shall have occurred and be continuing at the time of such deposit or, with regard to any Event of Default or any such event specified in Sections 5.01(5) and (6), at any time on or prior to the 90th day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until after such 90th day).

(6) Such Defeasance or Covenant Defeasance shall not cause the Trustee to have a conflicting interest within the meaning of the Trust Indenture Act (assuming all Notes are in default within the meaning of such Act).

(7) Such Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which the Company is a party or by which it is bound.

(8) The Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent with respect to such Defeasance or Covenant Defeasance have been complied with.

(9) Such Defeasance or Covenant Defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless such trust shall be qualified under such Act or exempt from regulation thereunder.

Section 14.05 Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 10.03, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee or other qualifying trustee (solely for purposes of this Section and Section 14.06, the Trustee and any such other trustee are referred to collectively as the "Trustee") pursuant to Section 14.04 in respect of the Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any such Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of Notes, of all sums due and to become due thereon in respect of principal or Installment Payments, but money so held in trust need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 14.04 or the principal or Installment Payments received in respect thereof other than any such tax, fee or other charge that by law is for the account of the Holders of Outstanding Notes.

Anything in this Article XIV to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon Company Request any money or U.S. Government Obligations held by it as provided in Section 14.04 with respect to Notes that, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Defeasance or Covenant Defeasance with respect to the Notes.

Section 14.06 Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money in accordance with this Article XIV with respect to the Notes by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to this Article XIV with respect to Notes until such time as the Trustee or Paying Agent is permitted to apply all money held in trust pursuant to Section 14.05 with respect to Notes in accordance with this Article XIV; provided, however, that if the Company makes any payment of principal or any Installment Payment on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of Notes to receive such payment from the money so held in trust."

ARTICLE 11

REPURCHASE OF NOTES AT THE OPTION OF THE HOLDER

Section 11.01. *Offer to Repurchase.* If the Company elects to exercise its Early Mandatory Settlement Right with respect to, or causes an Acquisition Termination Redemption of, the Purchase Contracts pursuant to the terms of the Purchase Contract Agreement, then each Holder of Notes (whether any such Note is a Separate Note or constitutes part of a Unit) shall have the right (the “**Repurchase Right**”) to require the Company to repurchase some or all of its Notes for cash at the Repurchase Price per Note to be repurchased on the Repurchase Date, pursuant to Section 11.03. The Company shall not be required to repurchase a portion of a Note. Holders shall not have the right to require the Company to repurchase any or all of such Holders’ Notes in connection with any Early Settlement (as such term is defined in the Purchase Contract Agreement) of such Holders’ Purchase Contracts at the Holders’ option pursuant to the terms of the Purchase Contract Agreement.

Section 11.02. *Early Mandatory Settlement Notice and Acquisition Redemption Notice.* If the Company elects to exercise its Early Mandatory Settlement Right with respect to, or causes an Acquisition Termination Redemption of, the Purchase Contracts pursuant to the terms of the Purchase Contract Agreement, the Company shall provide the Trustee and the Holders of the Notes with a copy of the Early Mandatory Settlement Notice or Acquisition Redemption Notice, as the case may be, delivered pursuant to the Purchase Contract Agreement.

Section 11.03. *Procedures for Exercise.*

(a) To exercise the Repurchase Right, a Holder must deliver, on or prior to the close of business on the Business Day immediately preceding the Repurchase Date, the Notes to be repurchased (or the Units that include the Notes to be repurchased, if (x) the Early Mandatory Settlement Date or Acquisition Redemption Settlement Date, as the case may be, occurs on or after the Repurchase Date and (y) the relevant Notes have not been separated from the Units), together with a duly completed written Repurchase Notice, in each case, subject to and in accordance with applicable procedures of the Depositary, unless the Notes are not in the form of a Global Note (or the Units are not in the form of Global Units, as the case may be), in which case such Holder must deliver the Notes to be repurchased (or the Units that include the Notes to be repurchased, if (i) the Early Mandatory Settlement Date or Acquisition Redemption Settlement Date, as the case may be, occurs on or after the Repurchase Date and (ii) the Notes have not been separated from the Units), duly endorsed for transfer to the Company, together, in either case, with a Repurchase Notice, to the Paying Agent.

(b) The Repurchase Notice must state the following:

(i) if Certificated Notes (or Units) have been issued, the certificate numbers of the Notes (or Units), or if the Notes (or Units) are in the form of a Global Note (or a Global Unit), the Repurchase Notice must comply with appropriate procedures of the Depositary;

(ii) the number of Notes to be repurchased; and

(iii) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Article XI.

(c) In the event that the Company exercises its Early Mandatory Settlement Right or in the event that an Acquisition Termination Redemption occurs with respect to Purchase Contracts that are a component of Units and the Early Mandatory Settlement Date or Acquisition Redemption Settlement Date, as the case may be, occurs prior to the Repurchase Date, upon such Early Mandatory Settlement Date or Acquisition Redemption Settlement Date, as the case may be, the Company shall execute and the Trustee shall authenticate on behalf of the holder of the Units and deliver to such holder, at the expense of the Company, Separate Notes in the same form and in the same number as the Notes comprising part of the Units.

Section 11.04. *Withdrawal of Repurchase Notice.*

(a) A Holder may, subject to and in accordance with applicable procedures of the Depositary, in the case of a Global Note or Global Unit, withdraw any Repurchase Notice (in whole or in part) by a written, irrevocable notice of withdrawal delivered to the Paying Agent, with a copy to the Trustee and the Company, on or prior to the close of business on the Business Day immediately preceding the Repurchase Date.

(b) The notice of withdrawal must state the following:

(i) if Certificated Notes (or Units) have been issued, the certificate numbers of the withdrawn Notes (or Units), or if the Notes (or Units) are in the form of a Global Note (or a Global Unit), the notice of withdrawal must comply with appropriate Depositary procedures;

(ii) the number of the withdrawn Notes; and

(iii) the number of Notes, if any, that remain subject to the Repurchase Notice.

Section 11.05. *Effect of Repurchase.* (a) The Company shall be required to repurchase the Notes with respect to which the Repurchase Right has been validly exercised and not withdrawn on the Repurchase Date. To effectuate such repurchase, the Company shall deposit immediately available funds with the Paying Agent, on or prior to 11:00 a.m., New York City time, on the Repurchase Date, in an amount or amounts sufficient to pay the Repurchase Price with respect to those Notes for which the Repurchase Right has been exercised. A Holder electing to exercise the Repurchase Right shall receive payment of the Repurchase Price on the later of (i) the Repurchase Date and (ii) the time of book-entry transfer or the delivery of the Notes (or Units, as applicable).

(b) If the Paying Agent holds money on the Repurchase Date sufficient to pay the Repurchase Price with respect to those Notes for which the Repurchase Right has been exercised, then (i) such Notes shall cease to be outstanding and interest shall cease to accrue thereon (whether or not book-entry transfer of the Notes or Units, as applicable, is made or whether or not the Notes or Units, as applicable, are delivered as required herein), and (ii) all other rights of the Holder shall terminate (other than the right to receive the Repurchase Price and, if the Repurchase Date falls between a Regular Record Date and the corresponding Installment Payment Date, the related Installment Payment).

(c) In connection with any repurchase offer pursuant to this Article XI, the Company shall, if required, comply with the provisions of the tender offer rules under the Exchange Act that may then be applicable.

(d) Notwithstanding anything to the contrary herein, no Notes may be repurchased at the option of Holders if the principal amount thereof has been accelerated, and such acceleration has not been rescinded, on or prior to the Repurchase Date (except in the case of an acceleration resulting from a default by the Company of the payment of the Repurchase Price with respect to such Notes).

Section 11.06. *No Sinking Fund.* The Notes are not entitled to the benefit of any sinking fund.

ARTICLE 12

TAX TREATMENT

Section 12.01. *Tax Treatment.* The Company and each Beneficial Holder agree, for United States federal income tax purposes, to treat the Notes as indebtedness of the Company.

ARTICLE 13

MISCELLANEOUS

Section 13.01. *Conflict with Trust Indenture Act.* If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under such Act to be a part of and govern this Supplemental Indenture, the latter provision shall control. If any provision of this Supplemental Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Supplemental Indenture as so modified or to be excluded, as the case may be. Wherever this Supplemental Indenture refers to a provision of the Trust Indenture Act, such provision is incorporated by reference in and made a part of this Supplemental Indenture.

Section 13.02. *Effect of Headings and Table of Contents.* The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 13.03. *Successors and Assigns.* All covenants and agreements in this Supplemental Indenture by the Company shall bind its successors and assigns, whether so expressed or not.

Section 13.04. *Separability.* In case any provision in this Supplemental Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 13.05. *Benefits of Supplemental Indenture.* Nothing in this Supplemental Indenture or in the Notes, express or implied, shall give to any Persons, other than the parties hereto and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

Section 13.06. *Governing Law and Jury Trial Waiver.* (a) THIS SUPPLEMENTAL INDENTURE AND THE NOTES AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED THERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY AND THE TRUSTEE, HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE OR THE SECURITIES.

Section 13.07. *Ratification of Indenture.* The Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed, and this Supplemental Indenture shall be deemed part of the Indenture in the manner and to the extent herein and therein provided. The provisions of this Supplemental Indenture shall, subject to the terms hereof, supersede the provisions of the Base Indenture to the extent the Base Indenture is inconsistent herewith.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

[Remainder of the page intentionally left blank]

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

AQUA AMERICA, INC.,
as the Company

By: /s/ Christopher P. Luning
Name: Christopher P. Luning
Title: Executive Vice President, General Counsel and
Secretary

U.S. BANK N.A., as
Trustee

By: /s/ Gregory P. Gulm
Name: Gregory P. Gulm
Title: Vice President

[FORM OF FACE OF NOTE]

[THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN CERTIFICATED FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TRUST COMPANY (THE “DEPOSITARY”) TO A NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]^{*}

* Include only if a Global Note.

AQUA AMERICA, INC.
3.00% SENIOR AMORTIZING NOTES DUE 2022

CUSIP No.: 03836W AA1
ISIN No.: US03836WAA18

No. [] [Initial]* Number of Notes: []

AQUA AMERICA, INC., a Pennsylvania corporation (the “**Company**”, which term includes any successor under the Indenture hereinafter referred to), for value received, hereby promises to pay to [CEDE & CO., as nominee of The Depository Trust Company]* [] **, or registered assigns (the “**Holder**”), the initial principal amount of \$8.62909 for each of the number of Notes set forth above[, which number of Notes may from time to time be reduced or increased as set forth in Schedule A hereto, as appropriate, in accordance with the terms of the Indenture]*, in equal quarterly installments (except for the first such payment) (each such payment, an “**Installment Payment**”), constituting a payment of interest (at a rate of 3.00% per annum) and a partial repayment of principal, payable on each January 30, April 30, July 30 and October 30, commencing on July 30, 2019 (each such date, an “**Installment Payment Date**”, and the period from, and including, April 23, 2019 to, but excluding, the first Installment Payment Date and thereafter each quarterly period from, and including, the immediately preceding Installment Payment Date to, but excluding, the relevant Installment Payment Date, an “**Installment Payment Period**”) with the final Installment Payment due and payable on April 30, 2022, all as set forth on the reverse hereof and in the Indenture referred to on the reverse hereof. To the extent that payment of interest shall be legally enforceable, interest shall accrue and be payable on any overdue Installment Payments or principal at a rate of 3.00% per annum.

Each Installment Payment for any Installment Payment Period shall be computed on the basis of a 360-day year of twelve 30-day months. If an Installment Payment is payable for any period shorter or longer than a full Installment Payment Period, such Installment Payment shall be computed on the basis of the actual number of days elapsed per 30-day month. Furthermore, if any date on which an Installment Payment is payable is not a Business Day, then payment of the Installment Payment on such date shall be made on the next succeeding day that is a Business Day, and without any interest or other payment in respect of any such delay. Installment Payments shall be paid to the Person in whose name the Note is registered, with limited exceptions as provided in the Indenture, at the close of business on January 15, April 15, July 15 and October 15 immediately preceding the relevant Installment Payment Date, as applicable (each, a “**Regular Record Date**”). Installment Payments shall be payable (x) in the case of any Certificated Note, at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York; *provided, however*, that payment of Installment Payments may be made at the option of the Company by check mailed to the registered Holder at such address as shall appear in the Security Register or (y) in the case of any Global Note, by wire transfer in immediately available funds to the account of the Depository or its nominee or otherwise in accordance with applicable procedures of the Depository.

This Note shall not be entitled to any benefit under the Indenture hereinafter referred to or be valid or obligatory for any purpose until the Certificate of Authentication shall have been manually signed by or on behalf of the Trustee.

* Include only if a Global Note.

** Include only if not a Global Note.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

AQUA AMERICA, INC.,

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

U.S. Bank N.A., as Trustee, certifies
that this is one of the Securities of the series
designated herein referred to in the within
mentioned Indenture.

Dated:

U.S. BANK N.A., as
Trustee

By: _____
Authorized Signatory

[REVERSE OF NOTE]

AQUA AMERICA, INC.

3.00% Senior Amortizing Notes due 2022

This Note is one of a duly authorized series of Securities of the Company designated as its 3.00% Senior Amortizing Notes due 2022 (herein sometimes referred to as the “**Notes**”), issued under the Indenture, dated as of April 23, 2019, between the Company and U.S. Bank N.A., as trustee (the “**Trustee**,” which term includes any successor trustee under the Indenture) (including any provisions of the Trust Indenture Act that are deemed incorporated therein) (the “**Base Indenture**”), as supplemented by the First Supplemental Indenture, dated as of April 23, 2019 (the “**First Supplemental Indenture**”), and the Second Supplemental Indenture, dated as of April 23, 2019 (the “**Second Supplemental Indenture**” and, together with the First Supplemental Indenture, the “**Supplemental Indentures**”), between the Company and the Trustee (the Base Indenture, as supplemented by the Supplemental Indentures, the “**Indenture**”), to which Indenture reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders. The terms of other series of Securities issued under the Base Indenture may vary with respect to interest rates, issue dates, maturity, redemption, repayment, currency of payment and otherwise as provided in the Base Indenture. The Base Indenture further provides that securities of a single series may be issued at various times, with different maturity dates and may bear interest at different rates. This series of Securities is limited in aggregate initial principal amount as specified in the Second Supplemental Indenture.

Each Installment Payment shall constitute a payment of interest (at a rate of 3.00% per annum) and a partial repayment of principal on the Notes, allocated with respect to each Note as set forth in the schedule below:

Scheduled Installment Payment Date	Amount of Principal	Amount of Interest
July 30, 2019	\$ 0.73858	\$ 0.06975
October 30, 2019	\$ 0.69082	\$ 0.05918
January 30, 2020	\$ 0.69600	\$ 0.05400
April 30, 2020	\$ 0.70122	\$ 0.04878
July 30, 2020	\$ 0.70648	\$ 0.04352
October 30, 2020	\$ 0.71178	\$ 0.03822
January 30, 2021	\$ 0.71712	\$ 0.03288
April 30, 2021	\$ 0.72250	\$ 0.02750
July 30, 2021	\$ 0.72792	\$ 0.02208
October 30, 2021	\$ 0.73337	\$ 0.01663
January 30, 2022	\$ 0.73888	\$ 0.01112
April 30, 2022	\$ 0.74442	\$ 0.00558

Any Installment Payment on any Note which is payable, but is not punctually paid or duly provided for, on any Installment Payment Date (herein called “**Defaulted Installment Payment**”) shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Installment Payment may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Installment Payment to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date for the payment of such Defaulted Installment Payment, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Installment Payment proposed to be paid on each Note and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Installment Payment or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Installment Payment as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Installment Payment which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Installment Payment and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Notes at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Installment Payment and the Special Record Date therefor having been so mailed, such Defaulted Installment Payment shall be paid to the Persons in whose names the Notes (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Installment Payment on the Notes in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

The Notes shall not be subject to redemption at the option of the Company. However, a Holder shall have the right to require the Company to repurchase some or all of its Notes for cash at the Repurchase Price per Note and on the Repurchase Date, upon the occurrence of certain events and subject to the conditions set forth in the Indenture.

This Note is not entitled to the benefit of any sinking fund. The Indenture contains provisions for satisfaction and discharge, legal defeasance and covenant defeasance of this Note upon compliance by the Company with certain conditions set forth therein, which provisions apply to this Note.

If an Event of Default with respect to the Notes shall occur and be continuing, then either the Trustee or the Holders of not less than 25% in principal amount of the Notes then outstanding may declare the Repurchase Price and all Installment Payments on this Note, to be due and payable immediately, in the manner, subject to the conditions and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the Company and the Trustee, with the consent of the Holders of not less than a majority in principal amount of the Notes at the time outstanding, to execute supplemental indentures for certain purposes as described therein.

No provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the Repurchase Price, if applicable, of and all Installment Payments on this Note at the time, place and rate, and in the coin or currency, herein and in the Indenture prescribed.

The Notes are originally being issued as part of the 6.00% Tangible Equity Units (the “Units”) issued by the Company pursuant to that certain Purchase Contract Agreement, dated as of April 23, 2019, between the Company and U.S. Bank N.A., as Purchase Contract Agent, as Trustee and as attorney-in-fact for the holders of Purchase Contracts from time to time (the “**Purchase Contract Agreement**”). Holders of the Units have the right to separate such Units into their constituent parts, consisting of Separate Purchase Contracts (as defined in the Purchase Contract Agreement) and Separate Notes, during the times, and under the circumstances, described in the Purchase Contract Agreement. Following separation of any Unit into its constituent Separate Note and Separate Purchase Contract, the Separate Notes are transferable independently from the Separate Purchase Contracts. In addition, Separate Notes can be recombined with Separate Purchase Contracts to recreate Units, as provided for in the Purchase Contract Agreement. Reference is hereby made to the Purchase Contract Agreement for a more complete description of the terms thereof applicable to the Units.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note shall be registered on the Security Register of the Company, upon due presentation of this Note for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder hereof or by his attorney duly authorized in writing, and thereupon the Company shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Note or Notes in authorized denominations and for a like aggregate principal amount.

The Notes are initially issued in registered, global form without coupons in denominations equal to \$8.62909 initial principal amount and integral multiples in excess thereof.

The Company or Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer of this Note. No service charge shall be made for any such transfer or for any exchange of this Note as contemplated by the Indenture.

The Company, the Trustee and any agent of the Company or the Trustee may deem and treat the Person in whose name this Note is registered upon the Security Register for the Notes as the absolute owner of this Note (whether or not this Note shall be overdue and notwithstanding any notice of ownership or writing thereon made by anyone other than the Registrar) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of the Indenture, interest on this Note and for all other purposes; and neither the Company nor the Trustee nor any agent of the Company or the Trustee shall be affected by any notice to the contrary.

This Note and the Indenture and any claim, controversy or dispute arising under or related thereto shall be governed by and construed in accordance with the laws of the State of New York.

Capitalized terms used but not defined in this Note shall have the meanings ascribed to such terms in the Indenture.

No recourse shall be had for the payment of any Installment Payment on this Note, or for any claim based hereon, or upon any obligation, covenant or agreement of the Company in the Indenture, against any incorporator, stockholder, officer or director, past, present or future of the Company or of any predecessor or successor, either directly or through the Company or any predecessor or successor, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment of penalty or otherwise; and all such personal liability is expressly released and waived as a condition of, and as part of the consideration for, the issuance of this Note.

The Company and each Beneficial Holder agrees, for United States federal income tax purposes, to treat the Notes as indebtedness of the Company.

In the event of any inconsistency between the provisions of this Note and the provisions of the Indenture, the Indenture shall prevail.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Note to:

(Insert assignee's social security or tax identification number)

(Insert address and zip code of assignee)

and irrevocably appoints

agent to transfer this Note on the books of the Company. The agent may substitute another to act for him or her.

Date:

Signature:

Signature Guarantee:

(Sign exactly as your name appears on the other side of this Note)

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

By: _____
Name:
Title:

as Trustee

By: _____
Name:
Title:

Attest

By: _____
Name:
Title:

FORM OF REPURCHASE NOTICE

TO: AQUA AMERICA, INC.

U.S. BANK N.A., as Trustee

The undersigned registered Holder hereby irrevocably acknowledges receipt of a notice from Aqua America, Inc. (the “**Company**”) regarding the right of Holders to elect to require the Company to repurchase the Notes and requests and instructs the Company to pay, for each Note designated below, the Repurchase Price for such Notes (determined as set forth in the Indenture), in accordance with the terms of the Indenture and the Notes, to the registered holder hereof. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture. The Notes shall be repurchased by the Company as of the Repurchase Date pursuant to the terms and conditions specified in the Indenture.

Dated:

Signature

NOTICE: The above signature of the Holder hereof must correspond with the name as written upon the face of the Notes in every particular without alteration or enlargement or any change whatever.

Notes Certificate Number (if applicable): _____

Number of Notes to be repurchased (if less than all, must be one Note or integral multiples in excess thereof): _____

Social Security or Other Taxpayer Identification Number: _____

SCHEDULE A

[SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE]*

The initial number of Notes evidenced by this Global Note is . The following increases or decreases in this Global Note have been made:

<u>Date</u>	<u>Amount of decrease in number of Notes evidenced hereby</u>	<u>Amount of increase in number of Notes evidenced hereby</u>	<u>Number of Notes evidenced hereby following such decrease (or increase)</u>	<u>Signature of authorized officer of Trustee</u>

* Include only if a Global Note.

Simpson Thacher & Bartlett LLP

425 LEXINGTON AVENUE
NEW YORK, NY 10017-3954TELEPHONE: +1-212-455-2000
FACSIMILE: +1-212-455-2502

Direct Dial Number

E-mail Address

April 23, 2019

Aqua America, Inc.
762 W. Lancaster Avenue
Bryn Mawr, Pennsylvania 19010-3489

Ladies and Gentlemen:

We have acted as counsel to Aqua America, Inc., a Pennsylvania corporation (the “Company”), in connection with the Registration Statement on Form S-3 (File No. 333-223306) (the “Registration Statement”) filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended, relating to the issuance by the Company from time to time of an indeterminate initial offering price of, among other securities, shares of common stock of the Company, par value \$0.50 per share (the “Common Stock”), and units consisting of one or more of the Company’s securities (the “Units”).

Each Unit initially consists of (i) a prepaid stock purchase contract (each a “Purchase Contract,” and collectively, the “Purchase Contracts”) issued by the Company which shall be settled by the Company against delivery of a number of shares of Common Stock to be determined pursuant to the Purchase Contract Agreement (as defined below), or redeemed by the Company under certain circumstances in cash and/or shares of Common Stock and (ii) a senior amortizing note (each, an “Amortizing Note,” and collectively, the “Amortizing Notes”) issued by the Company, which has an initial principal amount of \$8.62909 per Amortizing Note, bears interest at an annual rate of 3.00% and has a final installment payment date of April 30, 2022.

BEIJING HONG KONG HOUSTON LONDON LOS ANGELES PALO ALTO SÃO PAULO TOKYO WASHINGTON, D.C.

We have examined the Registration Statement; the Underwriting Agreement dated April 17, 2019 (the “Underwriting Agreement”), between the Company and the underwriters named therein pursuant to which such underwriters have agreed to purchase up to 13,800,000 6.00% Tangible Equity Units, including 1,800,000 Units pursuant to the option granted to the underwriters; the Purchase Contract Agreement dated as of April 23, 2019 (the “Purchase Contract Agreement”), by and among the Company, U.S. Bank N.A., as purchase contract agent (the “Purchase Contract Agent”), U.S. Bank N.A., as attorney-in-fact for the holders of the Purchase Contracts from time to time (the “Holders”), and U.S. Bank N.A., as Trustee (as defined below) under the Indenture (as defined below); a copy of the global certificate representing the Units; a copy of the registered certificate representing the Purchase Contracts initially annexed to the Units; a copy of the registered certificate representing the Amortizing Notes initially annexed to the Units; a copy of a specimen certificate representing the Common Stock; and the Indenture dated as of April 23, 2019 (the “Base Indenture”), between the Company and U.S. Bank N.A., as trustee (the “Trustee”), as supplemented by the First Supplemental Indenture dated as of April 23, 2019 (the “First Supplemental Indenture”) and the Second Supplemental Indenture dated as of April 23, 2019 (the “Second Supplemental Indenture,” and together with the Base Indenture and the First Supplemental Indenture, the “Indenture”), between the Company and the Trustee. In addition, we have examined, and have relied as to matters of fact upon, originals, or duplicates or certified or conformed copies, of such records, agreements, documents and other instruments and such certificates or comparable documents of public officials and of officers and representatives of the Company and have made such other investigations as we have deemed relevant and necessary in connection with the opinions hereinafter set forth.

In rendering the opinions set forth below, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies and the authenticity of the originals of such latter documents. We also have assumed that the Indenture is the valid and legally binding obligation of the Trustee, and the Purchase Contract Agreement is the valid and legally binding obligation of the Purchase Contract Agent and the Trustee.

In rendering the opinions set forth below, we have assumed further that (1) the Company is validly existing and in good standing under the law of the Commonwealth of Pennsylvania and has duly authorized, executed, issued and delivered the Underwriting Agreement, the Purchase Contract Agreement, the Indenture, the Purchase Contracts, the Notes and the Units, as applicable, in accordance with its organizational documents and the law of the Commonwealth of Pennsylvania, (2) the execution, issuance, delivery and performance by the Company of the Underwriting Agreement, the Purchase Contract Agreement, the Indenture, the Purchase Contracts, the Notes and the Units, as applicable, do not constitute a breach or violation of its organizational documents or violate the law of the Commonwealth of Pennsylvania or any other jurisdiction (except that no such assumption is made with respect to the law of the State of New York) and (3) the execution, issuance, delivery and performance by the Company of the Underwriting Agreement, the Purchase Contract Agreement, the Indenture, the Purchase Contracts, the Notes and the Units, as applicable, do not constitute a breach or default under any agreement or instrument which is binding upon the Company.

Based upon the foregoing, and subject to the qualifications, assumptions and limitations stated herein, we are of the opinion that:

1. Assuming the due authentication of the Purchase Contracts by the Purchase Contract Agent and the due execution and delivery of the Purchase Contracts by the Purchase Contract Agent as attorney-in-fact for the Holders and upon payment and delivery of the Units in accordance with the Underwriting Agreement, the Purchase Contracts will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms.

2. Assuming due authentication of the Amortizing Notes by the Trustee and upon payment and delivery of the Units in accordance with the Underwriting Agreement, the Amortizing Notes will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms.

3. Assuming the due authentication of the Units by the Purchase Contract Agent and the Trustee and the due execution and delivery of the Units by the Purchase Contract Agent as attorney-in-fact for the Holders and upon payment and delivery of the Units in accordance with the Underwriting Agreement, the Units will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms.

Our opinions set forth above are subject to (i) the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, (ii) general equitable principles (whether considered in a proceeding in equity or at law) and (iii) an implied covenant of good faith and fair dealing. In addition, we express no opinion as to the validity, legally binding effect or enforceability of (A) Section 1.06 of the Purchase Contract Agreement, (B) Section 1.10 of the Base Indenture, (C) Section 2.6 of the First Supplemental Indenture and (D) Section 13.04 of the Second Supplemental Indenture, in each case relating to the separability of provisions of the relevant document.

For purposes of our opinions set forth in paragraphs 1 and 3 above, we assume that any increase in the number of shares of Common Stock deliverable upon settlement in connection with a Fundamental Change (as defined in the Purchase Contract Agreement) or upon redemption pursuant to an Acquisition Termination Redemption (as defined in the Purchase Contract Agreement) pursuant to the provisions of the Purchase Contract Agreement and any related provisions of the Units or Purchase Contracts represents reasonable compensation for the lost value of the Units or Purchase Contracts, as the case may be, as a result of the occurrence of a Fundamental Change or Acquisition Termination Redemption.

We do not express any opinion herein concerning any law other than the law of the State of New York.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Current Report on Form 8-K of the Company filed with the Commission in connection with the offer and sale of the Units and component Purchase Contracts and Amortizing Notes and to the use of our name under the caption “Legal Matters” in the prospectus included in the Registration Statement.

Very truly yours,

/s/ Simpson Thacher & Bartlett LLP

SIMPSON THACHER & BARTLETT LLP

Ballard Spahr LLP

1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
TEL 215.665.8500
FAX 215.864.8999
www.ballardspahr.com

April 23, 2019

Aqua America, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010

RE: Aqua America, Inc.

Ladies and Gentlemen:

We have acted as counsel to Aqua America, Inc., a Pennsylvania corporation (the “Company”), in connection with the offering by the Company of 13,800,000 6.00% tangible equity units (the “Units”), pursuant to the Company’s Registration Statement on Form S-3 (File-No. 333-223306) (the “Registration Statement”) which became effective upon filing, on February 28, 2018, by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”). Each Unit has a stated amount of \$50.00 and is comprised of (i) a prepaid stock purchase contract (each, a “Purchase Contract”) issued by the Company and (ii) a senior amortizing note due April 30, 2022 (each, a “Note”) issued by the Company.

The Units are being sold by the Company pursuant to an Underwriting Agreement dated April 17, 2019 (the “Underwriting Agreement”) entered into by and between the Company and RBC Capital Markets, LLC and Goldman Sachs & Co. LLC., as representatives of the several underwriters named therein (collectively, the “Underwriters”), which has been filed as Exhibit 1.2 to the Company’s Current Report on Form 8-K, to which this opinion is attached as Exhibit 5.2.

We have examined originals or copies (certified or otherwise identified to our satisfaction) of (i) the Amended and Restated Articles of Incorporation of the Company; (ii) the Amended and Restated Bylaws of the Company; (iii) the Registration Statement and the exhibits thereto; (iv) the prospectus contained within the Registration Statement; (v) the prospectus supplement relating to the Units filed with the Commission pursuant to Rule 424(b) promulgated under the Securities Act (the “Prospectus Supplement”); (vi) the Underwriting Agreement; (vii) the Purchase Contract Agreement, dated as of April 23, 2019 (the “Purchase Contract Agreement”), by and among the Company, U.S. Bank N.A., as purchase contract agent and attorney-in-fact for the holders of Purchase Contracts from time to time, and U.S. Bank N.A., as trustee (the “Trustee”), under the Indenture described below, pursuant to which the Purchase Contracts and Units will be issued; (viii) the Indenture between the Company and the Trustee, dated as of April 23, 2019, and the related First Supplemental Indenture, between the Company and the Trustee, dated as of April 23, 2019, and the related Second Supplemental Indenture, between the Company and the Trustee, dated as of April 23, 2019 (as supplemented, the “Indenture”), pursuant to which the Notes will be issued; (ix) such other corporate records, agreements, documents and instruments; and (x) such certificates or comparable documents of public officials and other sources, believed by us to be reliable, staff lend of officers and representatives of the Company, and have made such inquiries of such officers and representatives, as we have deemed relevant and necessary as a basis for the opinions hereinafter set forth.

In such examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed or photostatic copies and the authenticity of the originals of such latter documents. As to all questions of fact material to this opinion that have not been independently established, we have relied upon certificates or comparable documents of officers and representatives of the Company.

Based on the foregoing, and subject to the qualifications stated herein, we are of the opinion that:

1. The Company is a corporation presently subsisting under the laws of the Commonwealth of Pennsylvania.
 2. The shares of the Company's common stock par value \$0.50 per share ("Common Stock") initially issuable by the Company pursuant to the Purchase Contract Agreement and the Purchase Contracts upon settlement (calculated at the "maximum settlement rate" or, if higher, the maximum "fundamental change early settlement rate," in each case as defined in the Prospectus Supplement) or, if applicable, redemption of the Purchase Contracts, have been duly authorized and reserved for issuance by the Company, and, when issued and delivered in accordance with the provisions of the Purchase Contract Agreement and the Purchase Contracts, will be validly issued, fully paid and non-assessable.
 3. The Underwriting Agreement and the execution and delivery thereof has been duly authorized by all necessary corporate action on the part of the Company. The Underwriting Agreement has been duly executed and delivered by the Company in accordance with the law of the Commonwealth of Pennsylvania.
 4. The Purchase Contract Agreement and the execution and delivery thereof has been duly authorized by all necessary corporate action on the part of the Company.
 5. The Indenture and the execution and delivery thereof has been duly authorized by all necessary corporate action on the part of the Company.
 6. The Purchase Contracts and the execution and issuance thereof have been duly authorized by all necessary corporate action on the part of the Company.
 7. The Notes and the execution and issuance thereof have been duly authorized by all necessary corporate action on the part of the Company.
 8. The Units and the execution and issuance thereof have been duly authorized by all necessary corporate action on the part of the Company.
 9. The issuance, sale and delivery of the Units by the Company and the execution, delivery and performance by the Company of the Underwriting Agreement and the execution and delivery of the Indenture, the Purchase Contract Agreement, the Units, the Purchase Contracts and the Notes will not (i) violate the Amended and Restated Articles of Incorporation or the Amended and Restated Bylaws or the Pennsylvania Business Corporation Law or (ii) violate any rule or regulation that has been issued pursuant to the Pennsylvania Business Corporation Law which in our experience is normally applicable to business corporations and to transactions of the type contemplated by the Underwriting Agreement.
-

Aqua America, Inc.

April 23, 2019

Page 3

We express no opinion as to the laws of any jurisdiction other than the federal laws of the United States of America and the laws of the Commonwealth of Pennsylvania.

We hereby consent to the filing of this opinion with the Commission as an exhibit to a Current Report on Form 8-K (and its incorporation by reference into the Registration Statement and the Prospectus Supplement) in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and to the use of this firm's name therein and in the Prospectus Supplement under the caption "Legal Matters." In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act and the rules and regulations promulgated thereunder.

Sincerely yours,

/s/ Ballard Spahr LLP

Ballard Spahr LLP

1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
TEL 215.665.8500
FAX 215.864.8999
www.ballardspahr.com

April 23, 2019

Aqua America, Inc.
762 W. Lancaster Avenue
Bryn Mawr, PA 19010

RE: Aqua America, Inc.

Ladies and Gentlemen:

We have acted as counsel to Aqua America, Inc., a Pennsylvania corporation (the “Company”), in connection with the offering (the “Offering”) by the Company of 37,370,017 shares of the common stock, par value \$0.50 per share, of the Company (the “Shares”), pursuant to the Company’s Registration Statement on Form S-3 (File-No. 333-223306) (the “Registration Statement”) which became effective upon filing, on February 28, 2018, by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”).

The Shares are to be issued by the Company pursuant to an Underwriting Agreement dated April 17, 2019 (the “Underwriting Agreement”) entered into by and between the Company and Goldman Sachs & Co. LLC and RBC Capital Markets, LLC., as representatives of the several underwriters named therein (collectively, the “Underwriters”), which has been filed as Exhibit 1.1 to the Company’s Current Report on Form 8-K, to which this opinion is attached as Exhibit 5.3.

We have examined originals or copies (certified or otherwise identified to our satisfaction) of (i) the Amended and Restated Articles of Incorporation of the Company; (ii) the Amended and Restated Bylaws of the Company; (iii) the Registration Statement and the exhibits thereto; (iv) the prospectus contained within the Registration Statement; (v) the prospectus supplement relating to the Shares filed with the Commission pursuant to Rule 424(b) promulgated under the Securities Act (the “Prospectus Supplement”); (vi) the Underwriting Agreement; (vii) such other corporate records, agreements, documents and instruments; and (viii) such certificates or comparable documents of public officials and other sources, believed by us to be reliable, staff and officers and representatives of the Company, and have made such inquiries of such officers and representatives, as we have deemed relevant and necessary as a basis for the opinions hereinafter set forth.

In such examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed or photostatic copies and the authenticity of the originals of such latter documents. As to all questions of fact material to this opinion that have not been independently established, we have relied upon certificates or comparable documents of officers and representatives of the Company.

Aqua America, Inc.

April 23, 2019

Page 2

Based on the foregoing, and subject to the qualifications stated herein, we are of the opinion that the Shares to be issued and sold by the Company in the Offering have been duly authorized for issuance and, when issued and paid for in accordance with the terms and conditions of the Underwriting Agreement, will be validly issued, fully paid and non-assessable.

We express no opinion as to the laws of any jurisdiction other than the federal laws of the United States of America and the laws of the Commonwealth of Pennsylvania.

We hereby consent to the filing of this opinion with the Commission as an exhibit to a Current Report on Form 8-K (and its incorporation by reference into the Registration Statement and the Prospectus Supplement) in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and to the use of this firm's name therein and in the Prospectus Supplement under the caption "Legal Matters." In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act and the rules and regulations promulgated thereunder.

Sincerely yours,

/s/ Ballard Spahr LLP
