
AMENDMENT AND RESTATEMENT

Dated as October 1, 2012 of
FACILITY LEASE AGREEMENT

Dated as of July 1, 1995

Between

AQUARION WATER CAPITAL OF MASSACHUSETTS, INC.

and

AQUARION WATER COMPANY OF MASSACHUSETTS INC.

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ATTACHMENTS TO FACILITY LEASE AGREEMENT:

EXHIBIT A	-	Description of Water Treatment Plant
EXHIBIT B	-	Description of Facility Site
EXHIBIT C	-	Intentionally Left Blank
SCHEDULE I	-	Lessee and Lessor Approvals
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FACILITY LEASE AGREEMENT

This AMENDMENT AND RESTATEMENT OF FACILITY LEASE AGREEMENT is dated as of the 1st day of October, 2012, by and between Aquarion Water Capital of Massachusetts, Inc. (f/k/a/ Massachusetts Capital Resources Company), a Delaware corporation (as defined below, the “*Lessor*”) and Aquarion Water Company of Massachusetts Inc. (f/k/a Massachusetts-American Water Company), a Massachusetts corporation (as defined below, the “*Lessee*”).

WITNESSETH:

WHEREAS, the Lessor and Lessee are parties to that certain Facility Lease Agreement dated as of July 1, 1995, as amended by the First Amendment to Facility Lease Agreement dated August 26, 1996, the Second Amendment to Facility Lease Agreement dated December 27, 1996, the Third Amendment to Facility Lease Agreement dated as of July 12, 2001, and the Fourth Amendment to Facility Lease Agreement dated December 1, 2004 (the “*Original Facility Lease*”), pursuant to which the Lessee leases from the Lessor a water treatment plant located at 900 Main Street, Hingham, Massachusetts, which is more fully described on Exhibit A hereto (the Water Treatment Plant together with the rights of the Lessor under the Site Lease hereinafter described, being the “*Facility*”);

WHEREAS, simultaneously with the execution of this lease, the Lessor and Lessee are entering into an Amendment and Restatement of Ground Lease dated as of the date hereof (as defined below, the “*Site Lease*”) pursuant to which the Lessor is leasing from the Lessee the site on which the Facility is located, the legal description for which is set forth in Exhibit B hereto (the “*Facility Site*”);

WHEREAS, the cost of acquiring, constructing, equipping and installing the Facility was financed through the sale of certain Water Treatment Revenue Bonds (Massachusetts American Hingham Project) Series 1995 in the principal amount of \$37,700,000 issued by the Massachusetts Industrial Finance Agency;

WHEREAS, the Bonds are being refinanced and redeemed through a \$21,000,000 senior secured loan (the “*Loan*”) to the Lessor from People’s United Bank pursuant to a Credit Agreement dated as of the date hereof between the Lessor and People’s United Bank (as defined below, the “*Credit Agreement*”);

WHEREAS, the Lessor shall evidence and secure its obligation to repay the Loan by a mortgage of the Facility pursuant to the Leasehold Mortgage, Security Agreement and Financing Statement Filing dated as of the date hereof (as defined below, the “*Mortgage*”) from the Lessor to People’s United Bank and by the Security Agreement dated as of the date hereof (as defined below, the “*Security Agreement*”) between the Lessor and People’s United Bank;

WHEREAS, the refinancing provided by the Loan will permit the Lessor to reduce the rent charged to the Lessee under the Original Facility Lease, as further set forth herein; and

WHEREAS, in connection with the Loan and the Mortgage, the Lessor and the Lessee have agreed to amend, restate, replace and supersede in its entirety the Original Facility Lease as set forth herein;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration and of the mutual benefits, covenants, and agreements herein expressed, the Lessor and the Lessee hereby agree to amend and restate the Original Facility Lease in its entirety as follows:

ARTICLE I

DEFINITIONS

Capitalized terms not otherwise defined herein shall have the following meanings:

“*Additional Fixed Basic Rent*” shall have the meaning set forth in Section 4.3(a)(i) of this Agreement.

“*Additional Rent*” shall have the meaning set forth in Section 4.3(c) of this Agreement.

“*Adjustment Date*” shall have the meaning set forth in Section 4.3(b) of this Agreement.

“*Affiliate*” with respect to any Person, means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise. No individual shall be deemed to be an Affiliate of a Person solely by reason of his or her being a director, committee member, officer or employee of such Person.

“*Agreement*” means this Amendment and Restatement of Facility Lease Agreement further amended, supplemented and/or restated from time to time in accordance with the terms hereof.

“*AWC-MA*” shall have the meaning set forth in Section 4.4(d)(iii) of this Agreement.

“*Bank*” means (a) so long as any PUB Obligations remain Outstanding, People’s United Bank or its successor or permitted assign under the PUB Loan Documents and (b) after the PUB Obligations are no longer Outstanding, any Institutional Lender (as defined in the Site Lease) providing Debt financing to the Lessor or, if applicable, the trustee or agent for any such Institutional Lender.

“*Basic Rent Payment Date*” shall mean the 25th day of each month; provided that if the 25th day of any month is not a Business Day, the Basic Rent Payment Date shall be the next succeeding Business Day.

“*Basic Rent Payments*” shall have the meaning set forth in Section 4.3(a) of this Agreement.

“*Basic Rent*” shall have the meaning set forth in Section 4.3(a) of this Agreement.

“*Business Day*” means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in any city in which the principal office of the Bank is located are authorized or required to be closed.

“*Capitalized Lease*” shall mean any lease of (or other arrangements conveying the right to use) property (whether real, personal or a combination thereof) the obligation for Rentals with respect to which is required to be capitalized on a balance sheet of the lessee in accordance with GAAP.

“*Capitalized Rentals*” of any Person shall mean as of the date of any determination thereof the amount at which the aggregate Rentals due or to become due under all Capitalized Leases under which such Person is a lessee would be reflected as a liability on a balance sheet of such Person.

“*Casualty*” shall mean loss or damage to the Facility by fire or other casualty, excluding, however, any Governmental Authority Acquisition.

“*Closing Date*” means August 17, 1995.

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

“*Collateral*” means all of the collateral pledged and assigned to the Lessor by the Lessee pursuant to Section 4.5 hereof.

“*Commencement Date*” means August 1, 1996.

“*Commonwealth*” means the Commonwealth of Massachusetts.

“*Company Representative*” means a person at the time designated to act on behalf of the Lessor for purposes of this Agreement by a written instrument furnished to the Lessee. The instrument may designate an alternate or alternates.

“*Coverage Ratio*” means at the time of reference, for the Period consisting of the four immediately preceding fiscal quarters of the Lessee, the ratio of (a) EBITDA of the Lessee for such Period, *plus* scheduled Basic Rent Payments during such Period, *minus* cash income tax paid in respect of the operations of the Lessee, determined in accordance with GAAP to (b) the sum (without duplication) of (i) Current Maturity of Long-Term Debt of the Lessee for such Period, *plus* (ii) Interest Expense paid in cash during such Period, *plus* (iii) scheduled payments for any Capitalized Rentals for such Period, *plus* scheduled Basic Rent Payments during such Period.

“*CPI*” or “*CPI Index*” means the Consumer Price Index for the Boston, Massachusetts, Standard Metropolitan Statistical Area, All-Items for all Urban Consumers, 1982-1984 Base,

published by the United States Department of Labor, or, if such index is no longer published or its method of computation is substantially modified, a substitute index published by the United States Government or by a reputable publisher of financial or economic statistics that will fairly and reasonably reflect the same or substantially the same information as the discontinued or modified index selected by the Lessee.

“*Credit Agreement*” means the Credit Agreement dated as of the date hereof between the Lessor and People’s United Bank, as it may be supplemented, amended or modified from time to time in accordance with its terms.

“*Current Maturity of Long-Term Debt*” means for each applicable Period with respect to the aggregate amount of all Debt of the Lessee that may be properly classified as long-term debt in accordance with GAAP, the portion of such Debt which was due and payable (whether or not paid) during such period, including, but not limited to, Capitalized Rentals payable during such period.

“*Debt*” of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money or which has been incurred in connection with the acquisition of property or assets, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, (iv) all obligations under Capitalized Leases of such Person, (v) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person and (vi) all Debt of others to the extent Guaranteed by such Person.

“*Default*” means any event which would constitute an “*Event of Default*” as such term is defined in Section 7.1 of this Agreement with the giving of notice or the lapse of time, or both.

“*DPU*” means the Massachusetts Department of Public Utilities and any successor thereto.

“*EBITDA*” means, for any Period, as determined without duplication in accordance with GAAP, the sum of net income (or loss) of the Lessee for such Period, (a) plus, without duplication, and to the extent deducted in determining such net income (or loss), the sum of (i) Interest Expense for such period, (ii) income tax expense for such Period, (iii) all amounts attributable to depreciation and amortization for such Period and (iv) any non-cash charges for such Period (provided, that any cash payment made with respect to any such non-cash charge shall be subtracted in computing EBITDA during the period in which such cash payment is made), and (b) minus, without duplication, and to the extent included in determining such net income, any non-cash gains for such period.

“*Economic Abandonment Determination*” shall have the meaning set forth in Section 9.1 of this Agreement.

“*Economic Abandonment Proceeds*” shall have the meaning set forth in Section 9.2 of this Agreement.

“*Eligible Successors*” means (i) with respect to the Independent Engineer, such nationally recognized engineering firm that is mutually acceptable to the Lessee and the Lessor, or (ii) with

respect to the Independent Insurance Advisor, such nationally recognized insurance consultant that is mutually acceptable to the Lessee, the Lessor and, so long as any PUB Obligations are Outstanding, the Bank.

“*Eminent Domain Taking*” shall mean, whether directly or indirectly, the title in and to, or the temporary use of, all or any part of or interest in the Facility and/or any material part of or interest in any of the Facility Site or all or any portion of (x) the water supply system for the Facility or (y) the water distribution system served by the Facility, shall be taken under the exercise of the power of eminent domain, condemnation or similar right by any Governmental Authority, or all or any part of or interest in the Facility and/or any material part of or interest in any of the Facility Site or all or any portion of (x) the water supply system for the Facility or (y) the water distribution system served by the Facility, is sold in lieu of such exercise of the power of eminent domain, condemnation or similar right, excluding, however, any Hingham Lessee Succession.

“*Environmental Discharge*” means any release of any Hazardous Materials in violation of any applicable Environmental Law or that would create a liability under any applicable Environmental Law.

“*Environmental Law*” means any Law relating to pollution or the environment, including laws relating to noise or to emissions, discharges, releases or threatened releases of Hazardous Materials into the workplace or the environment, or otherwise relating to the presence of Hazardous Materials.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“*Event of Default*” means any occurrence or event specified in and defined by Section 7.1 hereof.

“*Facility*” shall have the meaning set forth in the Recitals.

“*Facility Documents*” means each of this Agreement, the Site Lease, the Management Services Agreement and the PUB Loan Documents.

“*Facility Modification*” shall have the meaning set forth in Section 10.1 of this Agreement.

“*Facility Sale Agreement*” shall have the meaning set forth in Section 12.3 of this Agreement.

“*Facility Site*” means the approximately 46-acre site located in the Town of Hingham, Massachusetts, upon which the Facility is located which is more particularly described on Exhibit B to this Agreement

“*Federal Bankruptcy Code*” means Title 11 of the United States Code or any other federal bankruptcy code hereafter in effect.

“*Fiscal Quarter*” means any calendar quarter.

“*Fiscal Year*” means the period beginning January 1 and ending December 31 of the same year.

“*Fixed Basic Rent for Debt Service*” shall have the meaning set forth in Section 4.3(a)(i) of this Agreement.

“*Fixed Basic Rent*” shall have the meaning set forth in Section 4.3(a)(i) of this Agreement.

“*GAAP*” means generally accepted accounting principles in the United States as in effect from time to time subject, however, to the rules and regulations of any governmental body or agency under the jurisdiction of which the Lessee may be operating.

“*Good Faith Contest*” means the contest of an item if: (i) the item is diligently contested in good faith by appropriate proceedings timely instituted and (A) adequate reserves are established in accordance with GAAP with respect to the contested item and held by or for the benefit of the Lessee in cash or Permitted Investments and (B) during the period of such contest, the enforcement of any contested item is effectively stayed; or (ii) the failure to pay or comply with the contested item during the period of such Good Faith Contest could not reasonably be expected to result in a Material Adverse Effect.

“*Governmental Approvals*” means any authorization, consent, approval, license, franchise, lease, ruling, permit, tariff, rate, certification, exemption, filing or registration by or with any Governmental Authority (including, without limitation, zoning variances, special exceptions and non-conforming uses) relating to the construction, ownership, operation or maintenance of the Facility or to the execution, delivery or performance of any Facility Document.

“*Governmental Authority Acquisition*” shall mean (A) any Hingham Lessee Succession and (B) any Eminent Domain Taking.

“*Governmental Authority*” means the federal government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any other governmental entity with authority over any aspect of construction or operation of the Facility.

“*Guaranty*” by any Person shall mean any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing in any manner any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, bonds or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), *provided*, that the term “*Guaranty*” shall not include (x) endorsements for

collection or deposit in the ordinary course of business, or (y) indemnity or hold harmless provisions included in contracts entered into in the ordinary course of business. The term “*Guaranty*” or “*Guaranteed*” used as a verb has a correlative meaning.

“*Hazardous Materials*” means any toxic or hazardous pollutant, emissions, contaminants, chemicals, materials, wastes or substances, as any of those terms are defined from time to time in or for the purposes of any relevant Environmental Law, specifically including, but not limited to, asbestos, polychlorinated biphenyls, and any petroleum or hydrocarbon-based products or derivatives.

“*Hingham Lessee Succession*” shall mean the succession by the Town of Hingham to Aquarion Water Company of Massachusetts Inc. as Lessee under this Agreement as a result of the exercise by the Town of Hingham of its right to purchase the corporate property located in the Towns of Hingham and Hull of Aquarion Water Company of Massachusetts Inc., as successor to the Hingham Water Company, pursuant to the provisions of the charter of Hingham Water Company which charter was enacted by the Massachusetts legislature in 1879, provided that, at the time of such succession, the Town of Hingham will have not less than an investment grade rating from a nationally recognized credit rating agency.

“*Independent Engineer*” means an engineer selected by the Lessee and approved by the Lessor and, so long as any PUB Obligations remain Outstanding, the Bank from time to time meeting the definition of “Eligible Successor” for the Independent Engineer described above; provided that no Independent Engineer shall be retained under this Agreement unless and until one of the functions of the Independent Engineer hereunder arises.

“*Independent Insurance Advisor*” an insurance consultant selected by the Lessee and approved by the Lessor and, so long as any PUB Obligations remain Outstanding, the Bank from time to time meeting the definition of “Eligible Successor” for the Independent Insurance Advisors described above; provided that no Independent Insurance Advisor shall be retained under this Agreement unless and until one of the functions of the Independent Insurance Advisor hereunder arises.

“*Interest Expense*” means, for each applicable Period, the total interest expense in respect of all Debt of the Lessee in accordance with GAAP.

“*Law*” means any statute, law, rule, regulation, ordinance, order, code, policy or rule of common law, now or hereafter in effect, and any judicial or administrative interpretation thereof having precedential value by a Governmental Authority or otherwise, including any judicial or administrative order, consent decree or judgment.

“*Lease Term*” is defined in Section 4.2 hereof.

“*Lessee*” means Aquarion Water Company of Massachusetts Inc., a Massachusetts corporation, its successors and assigns.

“*Lessee Indenture of Mortgage*” means the Indenture of Mortgage dated as of March 1, 1971 from the Lessee to U.S. Bank National Association as successor The Fidelity Bank, as trustee, as amended and supplemented from time to time.

“*Lessee Representative*” means a person at the time designated to act on behalf of the Lessee for purposes of this Agreement by a written instrument furnished to the Lessor. The instrument may designate an alternate or alternates.

“*Lessor*” means Aquarion Water Capital of Massachusetts, Inc., a Delaware corporation, and its successors and assigns.

“*Lessor’s Return on Equity*” shall have the meaning set forth in Section 7.2(d) hereof.

“*Lien*” means any mortgage, pledge, security interest, hypothecation, collateral assignment, lien (statutory or other), or preference, priority or other security agreement, preferential arrangement or encumbrance which has the practical effect of constituting a security interest (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction).

“*Loan*” shall have the meaning set forth in the Recitals.

“*Maintenance Plan*” shall have the meaning set forth in Section 5.5 of this Agreement.

“*Management Services Agreement*” means the Management Services Agreement dated as of July 1, 1995 between the Lessor and the Lessee, as it may be supplemented or amended from time to time in accordance with its terms.

“*Material Adverse Effect*” means a materially adverse effect on (i) the Facility (including the acquisition, construction, timely completion, operation or maintenance of the Facility as contemplated by the Facility Documents), (ii) the operations, results of operations or property of the Lessee, (iii) the ability of the Lessee or the Lessor to perform its respective obligations under any of the Facility Documents to which it is a party, or the ability of the Lessee or the Lessor to obtain performance under the Facility Documents to which either one is a party in accordance with the terms thereof, (iv) the value of the Facility Site, (v) the timely payment of the principal of, or premium, if any, or interest on the Loan or other amounts due under the PUB Loan Documents, (vi) the availability of any material Governmental Approval as shall now or hereafter be necessary to be obtained in connection with the acquisition, construction, completion, operation or maintenance of the Facility, (vii) compliance by the Lessee or the Lessor with any material Governmental Approval in whole or in part, or (viii) the financial condition of the Lessee or the Lessor.

“*Mortgage*” means the Leasehold Mortgage, Security Agreement and Financing Statement dated as of the date hereof from the Lessor to People’s United Bank, as it may be supplemented or amended from time to time in accordance with its terms.

“*Officer’s Certificate*” means (i) with respect to the Lessor, a certificate executed by a Company Representative and (ii) with respect to the Lessee, a certificate executed by a Lessee Representative.

“*Original Facility Lease*” shall have the meaning set forth in the Recitals.

“*Outstanding*” when used as of a particular time, means the amount of all PUB Obligations as of such time.

“*Percentage Rent*” shall have the meaning set forth in Section 4.3(a)(ii) of this Agreement.

“*Period*” means, as the context requires, a calendar year or specified portion thereof, a Fiscal Year, fiscal quarter or specified number of fiscal quarters of the Lessee.

“*Permitted Encumbrances*” means, as of any particular time, with respect to the Facility (a) as of any particular time while any PUB Obligations are outstanding, liens permitted under the PUB Loan Documents and, solely as it pertains to the Facility Site, liens granted by the Lessee under the Lessee Indenture of Mortgage, and (b) as of any particular time after all PUB Obligations have been fully and finally paid in cash, (i) liens thereon for taxes, assessments and governmental charges which are either not yet due, are due but payable without penalty or are the subject of a Good Faith Contest, (ii) such minor defects, irregularities, encumbrances, utility, access and other easements and rights of way, mineral rights, restrictions and exceptions, statutory liens and clouds on title as normally exist with respect to properties similar in character to the Facility that will not in the aggregate materially interfere with or impair the operations being conducted at the Facility (or, if no operations are being conducted thereat, the operations for which the Facility was designed or last modified) or that will not in the aggregate result in a Material Adverse Effect, or which are under contract to be removed or altered in the normal course of constructing the Facility, (iii) the Site Lease, this Agreement, the Mortgage and the Security Agreement, (iv) any mechanic’s, laborer’s, materialmen’s, suppliers, vendors, construction or other like liens or rights arising in the ordinary course of business or incident to the construction or improvement of any property in respect of obligations which are not yet past due or which are the subject of a Good Faith Contest, (v) any exceptions to title which are contained in the Title Policy or leasehold insurance policy delivered to the Bank under the Credit Agreement, (vi) all deposits or pledges to secure: statutory obligations or appeals; releases of attachments, stays of execution or injunctions; performance of bids, tenders, contracts (other than for the repayment of borrowed money), permits or leases; or for purposes of like general nature in the ordinary course of business; (vii) liens in connection with workers’ compensation, unemployment insurance or other social security or pension obligations, and (viii) legal or equitable encumbrances deemed to exist by reason of the existence of any litigation or other legal proceeding if the same is the subject of a Good Faith Contest (excluding any attachment prior to judgment, judgment lien or attachment in aid of execution on a judgment).

“*Person*” means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company, trust, unincorporated association, institution, Governmental Authority or any other entity.

“*Placed in Service Date*” shall have the meaning set forth in Section 10.2 of this Agreement.

“*PUB Loan Documents*” means, the Credit Agreement, the Security Documents and any other loan or security agreements evidencing or securing the Loan.

“*PUB Obligations*” means any and all indebtedness, liabilities or other obligations of the Lessor to the Bank arising under or in connection with any of the PUB Loan Documents (including, without limitation, all prepayment premiums and other fees, costs and expenses).

“*Prudent Engineering and Operating Practices*” means the practices, methods and acts generally engaged in or adopted by the water utility industry that at a particular time for water treatment facilities of similar design and construction as the Facility, in the exercise of reasonable judgment in light of the facts known or that reasonably should have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, reliability, safety, environmental protection, economy and expedition.

“*Release*”, when used in connection with any Environmental Discharge or Hazardous Materials, means and includes any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration, where such release is either regulated by applicable Environmental Law or may serve as a basis for liability of the Lessor, the Lessee or the Bank under any applicable Environmental Law.

“*Renewal Date*” shall have the meaning set forth in Section 12.1 of this Agreement.

“*Renewal Notice*” shall have the meaning set forth in Section 12.2 of this Agreement.

“*Renewal Notice Date*” shall have the meaning set forth in Section 12.2 of this Agreement.

“*Renewal Option*” shall have the meaning set forth in Section 12.1 of this Agreement.

“*Renewal Term*” shall have the meaning set forth in Section 12.1 of this Agreement.

“*Rent*” shall mean Basic Rent and Additional Rent.

“*Rentals*” shall mean and include as of the date of any determination thereof (i) in the case of this Agreement, all Fixed Basic Rent payable by the Lessee (excluding all other Rent payable hereunder) and (ii) in the case of any other lease or sublease of real or personal property (other than office leases, automobile leases, office equipment leases and other leases of property used primarily for administrative purposes), all fixed payments (including all payments due, other than solely by reason of acceleration, on termination or surrender of the property) payable by the Lessee thereunder, but exclusive of any amounts required to be paid by the Lessee (whether or not designated as rents or additional rents) on account of maintenance, repairs, insurance, taxes and similar charges, and fixed charges under any so-called “percentage leases” shall be computed solely on the basis of the minimum rents, if any, required to be paid by the Lessee regardless of sales volume or gross revenues.

“*Requirement of Law*” means, as to any Person, any Law applicable to or binding upon such Person or any of its properties or to which such Person or any of its properties is subject, and, as to the Lessor, the Lessee or the Facility, any Law applicable to or binding on the Facility or any of its properties or to which the Facility or any of its properties is subject, including,

without limitation, relevant Environmental Laws, restrictive land use covenants and zoning, use and building codes, laws, regulations and ordinances.

“Restatement Effective Date” means October 1, 2012.

“Sale Offer” shall have the meaning set forth in Section 12.3 of this Agreement.

“Security Agreement” means the Security Agreement dated as of the date hereof between the Lessor and People’s United Bank, as it may be supplemented or amended in accordance with its terms.

“Security Documents” means, collectively, the Mortgage, the Security Agreement, this Agreement and any financing statements relating thereto.

“Site Lease” means the Amendment and Restatement dated as of October 1, 2012 of the Ground Lease dated as of July 1, 1995, between the Lessor and the Lessee, as the same may be further restated, supplemented or amended in accordance with its terms.

“Stipulated Loss Value” shall mean the amount determined in accordance with Schedule V hereto.

“Substantial Loss” shall have the meaning set forth in Section 4.4(d) of this Agreement.

“Substantial Loss Amount” shall have the meaning set forth in Section 4.4(d) of this Agreement.

“Taxes” means any and all current and future taxes, assessments, levies, imposts, duties, charges, fees, deductions, withholdings, liabilities, compulsory loans, restrictions or conditions of any nature now or hereafter imposed or levied by any Governmental Authority.

“Termination Date” shall have the meaning set forth in Section 9.1 of this Agreement.

“Termination Notice” shall have the meaning set forth in Section 4.4(d) of this Agreement.

“Uniform Commercial Code” shall mean the Uniform Commercial Code as in effect from time to time in the Commonwealth.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE LESSOR

The Lessor represents and warrants as follows:

(a) *Organization and Authority of the Lessor.* The Lessor (1) is a corporation duly organized and validly existing under the laws of the State of Delaware, (2) is a single purpose entity organized for the purposes set forth in its Articles of Incorporation, (3) has all the requisite power and authority and all necessary licenses and permits to own the Facility and to

carry on its business as now conducted and as presently proposed to be conducted, (4) has full power and authority to enter into the transactions contemplated by the Facility Documents and to carry out its obligations under the Facility Documents, (5) is not in violation of any provisions of any Laws or any agreement or instrument to which the Lessor is a party or by which it is bound that could reasonably be expected to result in a Material Adverse Effect and (6) by proper corporate action has duly authorized the execution and delivery of the Facility Documents.

(b) *No Conflicts; Laws and Contracts; No Default.* Neither the execution, delivery and performance by the Lessor of this Agreement and the other Facility Documents nor the consummation of any of the transactions contemplated hereby or thereby nor performance of or compliance with the terms and conditions hereof or thereof by the Lessor (i) contravenes any Requirement of Law applicable to the Lessor or the Facility which contravention could reasonably be expected to result in a Material Adverse Effect, (ii) conflicts with or constitutes a default under or results in the violation of the provisions of any Facility Document, the Articles of Incorporation of the Lessor or any other agreement to which the Lessor is a party that could reasonably be expected to result in a Material Adverse Effect or (iii) results in the creation or imposition of any Liens (other than Permitted Encumbrances) on the Facility.

(c) *Authorization; Execution and Delivery; Enforceability.* Each of the Facility Documents has been duly authorized, executed and delivered by the Lessor and each constitutes the legal, valid and binding obligation of the Lessor enforceable against the Lessor in accordance with its terms, except as such enforceability (A) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights and remedies generally and (B) is subject to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(d) *Litigation.* There is no litigation or proceeding pending, or to the knowledge of the Lessor threatened, against the Lessor, or to the knowledge of the Lessor affecting it, which would adversely affect the validity or enforceability of the Facility Documents, or the ability of the Lessor to comply with its obligations under the Facility Documents, or the transactions contemplated thereby.

(e) *Indebtedness.* The Lessor upon execution and delivery of the Facility Documents and the completion of the transactions contemplated to occur at the "Closing" under the Credit Agreement will have no Debt outstanding other than the Loan and other Debt which may be permitted under the PUB Loan Documents.

(f) *Government Approvals.* To the knowledge of the Lessor, upon the performance of reasonable diligence in connection therewith, all material Governmental Approvals which are required to be obtained in the name of the Lessor in connection with the (i) leasing of the Facility to the Lessee and (ii) the execution, delivery and performance by the Lessor of the Facility Documents are set forth in Schedule I hereto. To the knowledge of the Lessor, each of such Governmental Approvals set forth in Schedule I has been obtained or made, was validly issued on the basis of an application and submission in respect thereof which was complete and accurate in all material respects, and is in full force and effect.

(g) *Taxes.* The Lessor has filed, or caused to be filed, all tax and information returns that are required to be filed by it in any jurisdiction, and has paid all taxes shown to be due and payable on such returns and all other taxes and assessments payable by it, to the extent the same have become due and payable.

(h) *Title to Facility Site.* The Lessor has acquired good and clear record leasehold title to the Facility Site through the Site Lease, subject only to Permitted Encumbrances.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE LESSEE

The Lessee represents and warrants as follows:

(a) *Organization, Power and Status of the Lessee.* The Lessee (i) is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth and (ii) is duly authorized to do business in the Commonwealth. The Lessee is a water utility which is subject to regulations under the laws of the Commonwealth as a public service corporation. The Lessee has all requisite power and authority to lease and operate the property it purports to lease and to carry on its business as now being conducted and as proposed to be conducted in respect of the Facility.

(b) *Authorization; Enforceability; Execution and Delivery.* (i) The Lessee has all necessary power and authority to execute, deliver and perform under this Agreement and each other Facility Document to which it is a party.

(ii) All action on the part of the Lessee that is required for the authorization, execution and delivery of this Agreement and each other Facility Document to which the Lessee is a party has been duly and effectively taken; and the execution and delivery of this Agreement and each such other Facility Document does not require the approval or consent of any holder or trustee of any Debt of the Lessee which has not been obtained.

(iii) Each of this Agreement and each other Facility Document to which the Lessee is a party constitutes the legal, valid and binding obligation of the Lessee enforceable against it in accordance with the terms thereof, except as such enforceability (A) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights and remedies generally and (B) is subject to general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

(c) *No Conflicts; Laws and Contracts; No Default.* (i) Neither the execution, delivery and performance by the Lessee of this Agreement nor of each other Facility Document to which the Lessee is a party nor the consummation of any of the transactions contemplated hereby or thereby nor performance of or compliance with the terms and conditions hereof or thereof by the Lessee (A) contravenes any Requirement of Law applicable to the Lessee which contravention could reasonably be expected to result in a Material Adverse Effect, (B) constitutes a default under or results in the violation of the provisions of the Articles of

Incorporation of the Lessee or of any other Facility Documents that could reasonably be expected to result in a Material Adverse Effect or (C) results in the creation or imposition of any Liens (other than Permitted Encumbrances and the Lien imposed by Section 4.5 of this Agreement) on any of the assets of the Lessee, or (D) results in the acceleration of any obligation of the Lessee under any of the Facility Documents.

(ii) The Lessee and the Facility are in compliance with and not in default under any and all Requirements of Law applicable to the Lessee or the Facility and all terms and provisions of all Facility Documents to which the Lessee is a party, unless such noncompliance or such default could not reasonably be expected to result in a Material Adverse Effect.

(d) *Governmental Approvals.* To the knowledge of the Lessee, upon the performance of reasonable diligence in connection therewith, all material Governmental Approvals which are required to be obtained in the name of the Lessee in connection with (i) the operation and maintenance of the Facility and (ii) the execution, delivery and performance by the Lessee of the Facility Documents are set forth in Schedule I hereto. To the knowledge of the Lessee, upon the performance of reasonable diligence in connection therewith, each of the Governmental Approvals set forth in Schedule I hereto, has been duly obtained or made, was validly issued on the basis of an application and submission in respect thereof which was complete and accurate in all material respects, and is in full force and effect. The Lessee, and to the knowledge of the Lessee upon the performance of reasonable diligence in connection therewith, the Lessor is in compliance with all Governmental Approvals listed in Schedule I hereto, unless such noncompliance could not reasonably be expected to have a Material Adverse Effect.

(e) *Litigation.* Except as set forth on Schedule VI, there are no actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending against the Lessee or to the best of the Lessee's knowledge, threatened against the Lessee or any property or other assets or rights of the Lessee with respect to this Agreement or any other Facility Document or the Facility that could reasonably be expected to result in a Material Adverse Effect.

(f) *Collateral.* (i) The Lessee has valid leasehold rights or good title to the Collateral purported to be covered by the Security Documents to which it is a party, subject only to Permitted Encumbrances.

(ii) With respect to the personal property forming a part of the Collateral, all filings, recordings, registrations and other actions have been made, obtained and taken in all relevant jurisdictions that are necessary to create and perfect the Liens in favor of the Lessor in all right, title, estate and interest of the Lessee in the Collateral covered thereby subject to no prior, equal or junior Liens other than Permitted Encumbrances.

(iii) To the best knowledge of the Lessee after due inquiry, the Lessee has obtained and holds in full force and effect, or has the right to obtain, all patents, trademarks, copyrights and other such rights or adequate licenses therein, free from restrictions which could

reasonably be expected to result in a Material Adverse Effect, which are necessary for the leasing, construction, operation and maintenance of the Facility.

(g) *Taxes.* The Lessee has filed, or caused to be filed, all tax and information returns that are required to have been filed by it in any jurisdiction, and has paid all taxes shown to be due and payable on such returns and all other taxes and assessments payable by it, to the extent the same have become due and payable, except to the extent there is a Good Faith Contest thereof by the Lessee.

(h) *Environmental Matters.* To the best knowledge of the Lessee, after due inquiry, the Site does not contain any Hazardous Materials or underground storage tanks that, under any Environmental Law currently in effect (A) could reasonably be expected to result in a Material Adverse Effect or (B) could reasonably be expected to result in the imposition of a Lien other than a Permitted Encumbrance on the Facility or the Site.

ARTICLE IV

LEASE OF THE FACILITY AND RENTAL PROVISIONS

Section 4.1. *Lease of the Facility; Commencement Date.* The Lessor will lease to the Lessee and the Lessee will lease from the Lessor the Facility for and during the Lease Term provided and on and subject to the terms and conditions set forth in this Agreement. The Lessee agrees during the term of this Agreement beginning with the Commencement Date to use and occupy the Facility in accordance with the Facility Documents to which it is a party.

Section 4.2. *Duration of Term.* The term of this Agreement shall commence as of the Closing Date, and unless terminated as provided in this Agreement, shall expire 40 years and 6 months after the Commencement Date (the "*Lease Term*").

The Lessor agrees to permit the Lessee to have and remain in sole and exclusive possession of the Facility immediately on the Commencement Date. Except as otherwise expressly provided in this Agreement or in PUB Loan Documents, neither the Lessor nor any person claiming through or under it shall enter on the premises demised hereby for any purpose without the prior written consent of the Lessee. The Lessor covenants and represents that it has full right and lawful authority to enter into this Agreement for its full term, including any extension of the term. As long as the Lessee shall duly perform all its obligations under this Agreement, the Lessee shall have the right to have, hold, and enjoy peaceful, quiet and undisputed possession of the Facility during the Lease Term, subject only to the matters specifically herein excepted, and the Lessor shall take all appropriate action requested by the Lessee to enforce such possession.

Section 4.3. *Rental Provisions.*

(a) *Basic Rent.* Effective as of the Restatement Effective Date, the Lessee covenants to pay to the Lessor as basic rent ("*Basic Rent*") the following amounts:

(i) on each Basic Rent Payment Date, the Lessee will pay for the month in which such Basic Rent Payment Date occurs the amount specified on Schedule III

hereto under the heading "Fixed Basic Rent" for such month (such amount being the "*Fixed Basic Rent*" for such month) which will equal the sum of the following two amounts:

(A) the amount specified on Schedule III hereto under the heading "Fixed Basic Rent - Debt Service Portion" for such month (such amount being the "Fixed Basic Rent for Debt Service" for such month) which amount, when aggregated with the other payments of Fixed Basic Rent for Debt Service, equals the aggregate amount of principal and interest scheduled to be paid on the Loan; and

(B) the amount specified on Schedule III hereto under the heading "Fixed Basic Rent Non-Debt Service Portion for such month (such amount being the "*Additional Fixed Basic Rent*" for such month).

(ii) on each Basic Rent Payment Date, the Lessee will pay an amount, if any, which constitutes a variable processing charge based upon the quantity of water treated by Lessee for the prior month, with an adjustment every five years to the charge based upon the Lessor's return on equity, all as calculated pursuant to the provisions set forth in Schedule III under the heading "Percentage Rent" (such amount being the "*Percentage Rent*").

All such payments of Basic Rent are sometimes referred to as "*Basic Rent Payments*". In the event that any payment by the Lessee of Basic Rent for a Basic Rent Payment Date is less than the amount due on such Basic Rent Payment Date, such payment shall be applied to the payment of Basic Rent then due in the following order: first, to Fixed Basic Rent for Debt Service then due, second, to Additional Fixed Basic Rent then due and third, to Percentage Rent then due.

(b) *Adjustment to Basic Rent.* Beginning on the date of the repayment in full of all PUB Obligations (the "*Adjustment Date*"), the Basic Rent will be adjusted as follows:

(i) the Fixed Basic Rent – Debt Service Portion due on each Basic Rent Payment Date after the Adjustment Date shall be increased or decreased proportionately to reflect any increase or decrease in principal and interest due on any loan or other financing incurred by the Lessor in connection with a refinancing of the Loan at maturity or sooner; and

(ii) the Fixed Basic Rent Non Debt Service Portion due on each Basic Rent Payment after the Adjustment Date shall be increased or decreased proportionately to reflect the amortization of any unamortized transaction costs associated with the Loan, the First Mortgage Bonds issued by the Lessor pursuant to the Indenture of Mortgage and Security Agreement dated as of July 1, 1995 between the Lessor and U.S. Bank National Association, as successor trustee, as amended and supplemented, and any transaction costs incurred by the Lessor in connection with a refinancing of the Loan.

The Lessor will provide the Lessee with written notice of such adjustments by not later than fifteen (15) days prior to the Adjustment Date, which notice shall include reasonably detailed calculations showing how the Lessor arrived at such adjustments and, absent manifest error, such adjustments shall be binding (effective as of the Adjustment Date) for the remaining Lease Term.

(c) *Additional Rent.* All amounts and liabilities which the Lessee is required to pay under this Agreement other than Basic Rent, together with any penalty, interest and cost

which may be added for nonpayment or late payment thereof shall constitute additional rent hereunder ("*Additional Rent*"). If the Lessee shall fail to pay such Additional Rent when the same shall become due, the Lessor shall have all the rights, powers and remedies with respect thereto as are provided herein or by law in the case of nonpayment of Basic Rent and shall, except as provided herein, have the right to pay the same on behalf of the Lessee.

(d) *Intentionally Left Blank.*

(e) *Net Lease.* This Agreement is a net lease commencing on the Commencement Date and, any present or future Law to the contrary notwithstanding, shall not terminate except as otherwise specifically provided herein, nor shall the Lessee be entitled to any abatement or reduction, set-off, counterclaim, defense or deduction with respect to any Basic Rent or Additional Rent, nor shall the obligations of the Lessee hereunder be affected except as otherwise expressly provided herein. The Lessee shall remain obligated under this Agreement in accordance with its terms and shall not take any action to terminate, rescind or avoid this Agreement, notwithstanding any bankruptcy, insolvency, reorganization, liquidation, dissolution or other proceeding affecting the Lessor, or any action with respect to this Agreement which may be taken by any trustee, receiver or liquidator or by any court.

(f) *Payment of Basic Rent.* Any Basic Rent Payments shall be made in immediately available funds as directed by the Lessor; provided, however, that for so long as any PUB Obligations remain Outstanding, the Lessee shall comply with all such directions as may be given by Bank.

Section 4.4. *Casualty and Governmental Authority Acquisition.* (a) Subject to the provisions of Section 4.4(d) hereof, if prior to the end of the Lease Term, there shall be a loss or damage to the Facility by reason of the occurrence of a Casualty or a Governmental Authority Acquisition, the Lessee shall be obligated to continue to make the payments required to be made by the Lessee under this Agreement.

(b) *Intentionally Left Blank.*

(c) *Intentionally Left Blank.*

(d) (i) If an occurrence of the character referred to in Section 4.4(a) other than a Hingham Lessee Succession, involves a loss or damage exceeding an amount which is equal to 10% of the Stipulated Loss Value determined as of the next Basic Rent Payment Date (the "*Substantial Loss Amount*") and the Lessee concludes that the loss or damage is such that the restoration of the Facility or the continued use of the Facility is impossible or materially uneconomic (any such loss or damage being a "*Substantial Loss*"), the Lessee shall, not later than 30 days after the occurrence thereof, deliver to the Lessor, the Independent Engineer and the Bank a notice in writing (a "*Termination Notice*") describing the event which took place causing such loss or damage, setting forth the reasons why the Lessee is of the opinion that it is a Substantial Loss and declaring the intention of the Lessee to terminate this Agreement as a result of the Substantial Loss. Within 30 days following its receipt of a Termination Notice, the Independent Engineer shall deliver its report to the Lessee, the Lessor and the Bank as to whether the Independent Engineer concurs with the opinion of the Lessee that the loss or damage

is a Substantial Loss. If the report of the Independent Engineer concurs that the loss or damage is a Substantial Loss, the Lessee on the Basic Rent Payment Date next following the date of delivery of such report or the date of such determination, as the case may be, shall prepay the Fixed Basic Rent in an amount equal to the Stipulated Loss Value as of such Basic Rent Payment Date and pay any other unpaid rent which is due and payable on such Basic Rent Payment Date, and upon such payment by the Lessee this Agreement shall terminate; *provided, however*, that in the event that subsequent to such termination the Lessor shall sell or lease the Facility, the Lessor shall mitigate the damages suffered by the Lessee in paying the Stipulated Loss Value to the same extent the Lessor would be required to mitigate damages under Section 9.2 in the event of a prepayment of Fixed Basic Rent due to an Economic Abandonment Determination.

(ii) If an occurrence of the character referred to in Section 4.4(a) other than a Hingham Lessee Succession, involves a loss or damage which is less than the Substantial Loss Amount, or, if the amount of such loss or damage equals or exceeds the Substantial Loss Amount and either (A) the Lessee shall not have delivered a Termination Notice as required by Section 4.4(d)(i) or (B) such Termination Notice was delivered by the Lessee as required by Section 4.4(d)(i) but the requirements set forth in Section 4.4(d)(i) to terminate this Agreement shall not have been met, then this Agreement shall continue in full effect and the Lessee shall proceed promptly to restore the Facility as hereinafter provided. The Lessee shall have the obligation to restore the Facility in all material respects to its condition immediately prior to the occurrence which caused the loss or damage referred to in the preceding sentence and in the event that the proceeds of any insurance or payment upon any Governmental Authority Acquisitions are insufficient to complete such restoration, the Lessee shall be required to furnish such additional amounts as shall be necessary in order to complete such restoration; provided, that (i) the additions and replacements which constitute such restoration shall be considered to be Facility Modifications, and (ii) the Lessee shall not be entitled to be repaid under Article X for its expenditure of such additional amounts.

(iii) Upon the occurrence of a Hingham Lessee Succession, this Agreement shall continue in full force and effect and (A) the Town of Hingham shall become obligated to perform all of the duties and obligations of the Lessee under this Agreement (except that, with respect to Sections 5.1(a) and Section 5.1(b) of this Agreement, the Town of Hingham will provide financial statements that are comparable to those described therein for a municipal government), and shall become entitled to substantially all rights, privileges and benefits of, the Lessee under this Agreement and (B) Aquarion Water Company of Massachusetts Inc. (“*AWC-MA*”) shall have no further duties or obligations under this Agreement, except that:

(y) in the event that an Event of Default occurs, the Town of Hingham shall be primarily liable for the payment of all amounts due the Lessor under Article VII, *provided*, that AWC-MA shall also remain liable for such payments and if and to the extent that AWC-MA shall make any such payments, upon the repayment in full of all PUB Obligations, AWC-MA shall be subrogated to the rights of the Lessor against the Town of Hingham for such payments, and

(z) the Town of Hingham shall not succeed to any right of AWC-MA as Lessee with respect to the rights of the Lessee in Article XII.

Section 4.5. *Security Interest in Collateral.* So long as any of the PUB Obligations remain Outstanding, in order to (x) provide for the operation and maintenance of the Facility, (y) secure the prompt payment of all amounts due under this Agreement, to the extent provided herein and in the PUB Loan Documents and (z) secure the due performance and observance by the Lessee of all covenants, agreements and provisions of this Agreement, for the uses and purposes and subject to the terms hereof and of the PUB Loan Documents, the Lessee does hereby mortgage, grant, assign, transfer, convey, pledge and confirm unto the Lessor, its successors and assigns, in trust, a security interest in all right, title and interest of the Lessee in and to the following collateral (the "*Collateral*"):

- (a) this Agreement;
- (b) all Governmental Approvals, to the extent assignable; and
- (c) any and all proceeds of any public liability insurance, automobile liability insurance, insurance covering a loss due to an interruption in the operation of any portion of the Facility (including business interruption and use and occupancy insurance or any other insurance), casualty insurance and insurance for the repair or replacement of any portion of the Facility maintained by the Lessee in connection with the Facility.

ARTICLE V

LESSEE COVENANTS AND AGREEMENTS

The Lessee hereby covenants and agrees:

Section 5.1. *Reporting Requirements.* The Lessee shall furnish (i) to the Lessor and (ii) to the Bank:

(a) as soon as practicable and in any event within 45 days after the end of the first, second and third quarterly accounting periods of each Fiscal Year of the Lessee, an unaudited balance sheet of the Lessee as of the last day of such quarterly period and the related statements of income and cash flows for the portion of the Fiscal Year ending with the last day of such quarterly period, setting forth in each case in comparative form the unaudited figures for the corresponding period from the preceding Fiscal Year and accompanied by an Officer's Certificate to the effect that such financial statements fairly represent the Lessee's financial condition and results of operations at and as of their respective dates;

(b) as soon as practicable and in any event within 120 days after the end of each Fiscal Year, a balance sheet of the Lessee as of the end of such Fiscal Year and the related statements of income and cash flow during such Fiscal Year setting forth in each case in comparative form the figures from the preceding Fiscal Year, accompanied by an audit report thereon of a firm of independent public accountants of recognized regional stature selected by the Lessee;

(c) at the same time as the annual financial statements are delivered pursuant to clause (b) above, an Officer's Certificate (i) confirming that all insurance policies required pursuant to Section 5.8 are in full force and effect on the date thereof, (ii) confirming the names of the companies issuing such policies, (iii) confirming the amounts and expiration dates of such policies, (iv) stating that payment of premiums on such policies has been made, (v) stating that such policies comply with the requirements, of Section 5.8 and (vi) including a summary of all claims against insurance and the status of each during the preceding Fiscal Year,

(d) at the same time as the financial statements are delivered pursuant to clauses (a) and (b) above, an Officer's Certificate to the effect that (i) no Event of Default exists under this Agreement and (ii) to the knowledge of the Lessee, no Default by the Lessee which could not reasonably be expected to be cured within the applicable cure period or, in either case, if such statement cannot be so certified, specifying in reasonable detail the exceptions to such statement and the actions to be taken with respect to such exceptions; and

(e) each of the following items:

(i) promptly after the Lessee learns of the occurrence thereof, written notice of the occurrence of any Default or Event of Default under this Agreement, specifically stating that such event or condition has occurred and describing it and any action being or proposed to be taken with respect thereto;

(ii) written notice of the occurrence of any Governmental Authority Acquisition or any Casualty and an Officer's Certificate setting forth the details thereof and the action which the Lessee is taking or proposes to take with respect thereto; and

(f) written notice of the occurrence of any event giving rise to a claim under any insurance policy which might be expected to be in an amount greater than \$500,000 (escalating at the CPI from June, 1995) together with copies of any document relating thereto (including copies of any such claim) in possession or control of the Lessee or any agent thereof.

Section 5.2. *Intentionally Left Blank.*

Section 5.3. *Operating Disclosure.* So long as any PUB Obligations are Outstanding, no later than 60 days after the end of each Fiscal Year, the Lessee will provide the Lessor with projections and forecasts which specify: (i) the estimated Rent payments for such Fiscal Year (broken out on a month by month basis) and (ii) the estimated quantity of water to be treated at the Facility in such Fiscal Year (broken out on a month by month basis).

Section 5.4. *Intentionally Left Blank.* .

Section 5.5. *Maintenance Plan.* Not less than 60 days prior to the first day of each Fiscal Year, the Lessee shall prepare for such Fiscal Year, and shall submit to the Lessor a maintenance plan which forecasts major maintenance of the Facility for the next five years (the "*Maintenance Plan*"), but only if the Lessor requests that such a Maintenance Plan be prepared more than 60 days prior to the first day of such Fiscal Year. The Lessor shall provide its comments, if any, to the Lessee on any proposed Maintenance Plan within 30 days of its receipt thereof and the Lessee shall incorporate the Lessor's reasonable suggestions into a final

Maintenance Plan, which, so long as any PUB Obligations remain Outstanding, shall then be provided to the Bank and the Lessor.

Section 5.6. Maintenance of Existence, Properties, Maintenance of Property, Facility Status, Governmental Approvals.

(a) The Lessee shall preserve and maintain (i) its legal existence as a corporation and its good standing under the laws of the Commonwealth and its qualification to do business in the Commonwealth and (ii) all of its rights, privileges and franchises necessary for the operation of the Facility and the maintenance of its existence.

(b) The Lessee shall perform in all material respects all of its covenants and agreements contained in any of the then existing Facility Documents to which it is a party, the nonperformance of which could reasonably be expected to result in a Material Adverse Effect.

(c) The Lessee will maintain and operate the Facility, or cause the Facility to be maintained and operated (i) in good order and repair, (ii) in compliance with the provisions of the Facility Documents, the noncompliance with which could reasonably be expected to result in a Material Adverse Effect, and (iii) substantially in accordance with Prudent Engineering and Operating Practices. The Lessee will pay or cause to be paid all charges for utilities supplied to the Facility. The Lessor shall have the sole right to direct the sale of any property or assets from the Facility subject to the provisions of Section 5.16 hereof and other provisions of the Facility Documents.

(d) The Lessee agrees that it will not use any plant or water treatment facilities other than this Facility to provide treated water to the ratepayers in the towns of Hingham, Hull, Norwell and Cohasset.

(e) The Lessee shall use all reasonable efforts to obtain and to maintain in full force and effect all Governmental Approvals that are necessary from time to time (i) to conduct its business as currently conducted and as proposed to be conducted, (ii) for the Facility to treat water in accordance with and as contemplated by the Facility Documents and (iii) to perform its obligations under the Facility Documents to which it is a party, unless the failure to so obtain or maintain any such Governmental Approval could not reasonably be expected to result in a Material Adverse Effect.

(f) The Lessee shall preserve and maintain good title or valid leasehold rights to the Facility Site, subject only to Permitted Encumbrances and the terms of the then existing Facility Documents, unless such failure could not reasonably be expected to result in a Material Adverse Effect.

Section 5.7. Compliance with Laws. The Lessee shall comply in all material respects with all Requirements of Law applicable to the Lessee or the Facility (a) in conducting its business as currently conducted and as proposed to be conducted pursuant to the then existing Facility Documents and (b) in performing its material obligations under the Facility Documents except for any Requirements of Law the noncompliance with which could not reasonably be expected to result in a Material Adverse Effect.

Section 5.8. *Insurance.* (a) To the extent available on commercially reasonable terms, the Lessee shall at all times during the Lease Term effect, maintain and keep in force, or cause to be effected, maintained and kept in force, the insurance listed in Schedule IV. Insurance required pursuant to Schedule IV shall be with responsible insurance carriers which are authorized to do business in the Commonwealth and have a Best's Rating of "A-XII" or as agreed upon by the Lessor and the Lessee.

(b) So long as any PUB Obligations remain Outstanding, the Bank shall be named as a joint loss payee and mortgagee under all required property and business interruption/extra expense insurance, and shall be named as an additional insured as its interest may appear with respect to the insurance required by Schedule IV and as may otherwise be required pursuant to the PUB Loan Documents. The Lessor and the Bank (so long as any PUB Obligations remain Outstanding) shall also be named as additional insureds with respect to General Liability, Excess Liability and Automobile Liability insurance required by Schedule IV, as to claims based upon or relating to the acts or omissions of the Lessee, in connection with the Facility.

(c) So long as any PUB Obligations remain Outstanding, the insurance carried in accordance with Schedule IV shall include, with limitation of the provisions in the PUB Loan Documents, the following provisions:

(i) To the extent permitted by Law, all insurers shall waive all rights of subrogation against the Bank and its respective officers, employees, agents, successors and assigns, and shall waive any right of set-off and counterclaim and any other right to deduction whether by attachment or otherwise;

(ii) Such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the Bank, with respect to its interest as such in the Facility and each policy shall contain a severability-of-interests or cross liability provision; and

(iii) If, at any time, such insurance is canceled, or any material change is made in the coverage which affects the interests of the Bank, such cancellation or change shall not be effective as to the Bank for 60 days, except for nonpayment of premium, which shall be ten days, after receipt by the Bank of written notice from such insurer of such cancellation or change.

(d) Upon procurement by the Lessee of the insurance set forth in Schedule IV, the Lessee shall furnish to the Bank certification of all required insurance. Such certification shall be executed by each insurer or by an authorized representative of each insurer. Such certification shall identify insurers, the type of insurance, the insurance limits, a description of the Facility and/or operations, the risks covered thereby and the policy term. The Lessee shall certify that the premiums on all such policies have been paid in full for the current year or will be paid when due. Upon request by the Bank, the Lessee will promptly furnish to the Bank copies of all insurance policies, binders and cover notes or other evidence of such insurance relating to the Facility.

(e) If at any time any of the insurance required pursuant to this Section 5.8 shall no longer be available on commercially reasonable terms, the Lessee shall procure substitute insurance coverage that is the most equivalent to the required coverage and available on commercially reasonable terms. The Lessee shall deliver to the Bank a certificate of the Independent Insurance Advisor stating that the required insurance coverage is no longer available on commercially reasonable terms and that the proposed substitute insurance coverage is the most equivalent to the required coverage available on commercially reasonable terms.

(f) The loss, if any, under any property and/or business interruption/extra expense insurance required to be carried under Schedule IV shall be adjusted with the insurance companies or otherwise collected, including the filing in a timely manner of appropriate proceedings, by the Lessee. In addition, the Lessee shall take all other steps necessary or requested by the Bank to collect from insurers any loss covered by any of the insurance policies in Schedule IV. All such policies shall provide that the loss, if any, under such insurance shall be adjusted and paid as provided in this Section 5.8.

(g) The Lessor, the Lessee and the Bank shall cooperate and consult with each other in all matters pertaining to the settlement or adjustment of any and all claims and demands for damages on account of any taking or condemnation of the Facility or pertaining to the settlement, compromise or arbitration of any claim on account of any damage or destruction of the Facility or any portion thereof.

(h) No provision of this Section or any other provision of this Agreement shall impose on the Bank any duty or obligation to verify the existence or adequacy of the insurance coverage maintained by the Lessee, nor shall the Bank be responsible for any representations or warranties made by or on behalf of the Lessee to any insurance company or underwriter.

Section 5.9. *Payment of Taxes and Claims.* The Lessee shall, prior to the time penalties shall attach thereto, pay and discharge or cause to be paid and discharged all taxes, assessments and governmental charges or levies lawfully imposed upon it or upon its income or profits or upon the Facility or the Facility Site and all lawful claims or obligations which either constitute a Lien upon, or, if unpaid, would become a Lien upon the Facility or the Facility Site, or upon any part thereof; *provided* the Lessee shall not be required to pay any such tax, assessment, charge, levy, claim or obligation if there is a Good Faith Contest thereof by the Lessee. The Lessee shall promptly pay or cause to be paid any valid, final judgment enforcing any such tax, assessment, charge, levy or claim and cause the same to be satisfied of record unless such judgment is then the subject of a Good Faith Contest.

Section 5.10. *Books and Records.* The Lessee shall at all times keep proper books and records of all of its business and financial affairs and all of the business and financial affairs of the Facility in accordance with GAAP. The Lessee shall keep books of account or records concerning its accounts, inventory, contract rights, equipment and proceeds at its offices located on the Facility Site or at its principal offices in Hingham, Massachusetts.

Section 5.11. *Right of Inspection.* Subject to requirements of applicable Law and safety requirements and upon reasonable notice from the Lessor or the Bank, the Lessee shall permit the Lessor, the Bank or any agents or representatives thereof, from time to time during normal

business hours to conduct reasonable inspections and examinations at all reasonable times of the Facility and the records of the Lessee relating to the Facility.

Section 5.12. *Intentionally Left Blank* .

Section 5.13. *Compliance with Environmental Laws*. The Lessee (i) shall comply in all material respects with all Environmental Laws applicable to the leasing, operation or use of the Facility Site or the Facility, and shall cause any persons occupying the Facility Site or the Facility to comply in all material respects with all such Environmental Laws except, in all events, where the failure to comply with such Environmental Laws would not result in a Material Adverse Effect, (ii) shall immediately pay or cause to be paid all costs and expenses incurred in connection with such compliance as such costs and expenses become due and payable (unless the payment of any such costs or expenses is the subject of a Good Faith Contest by the Lessee) and (iii) shall keep or cause to be kept the Facility Site and the Facility free and clear of any Liens imposed pursuant to such Environmental Laws other than Permitted Encumbrances (unless any such Lien is stayed or bonded). The Lessee shall not generate, use, treat, store, release, dispose of, or transport or permit the generation, use, treatment, storage, release, disposal or transportation of Hazardous Materials on, at, from, or to the Facility Site or the Facility except, in all events, in material compliance with all applicable Environmental Laws.

Section 5.14. *Intentionally Left Blank*

Section 5.15. *Liens*. So long as any PUB Obligations remain Outstanding, the Lessee shall not create or suffer to exist or permit any Lien upon or with respect to the Facility except for Permitted Encumbrances.

Section 5.16. *Prohibition on Disposition of Assets; Replacement Property*. Except as contemplated by the Facility Documents (and, while any PUB Obligations are Outstanding, only if otherwise specifically permitted by the PUB Loan Documents), the Lessee shall not sell, lease (as lessor) or transfer (as transferor) (i) any property or assets of the Facility except in the ordinary course of business to the extent that such property is worn out or is no longer useful or necessary in connection with the operation of the Facility or to the extent that such property is replaced with property of equal value and utility to the Lessee or (ii) any other property or assets of the Facility unless the Independent Engineer shall certify (which certification shall not be unreasonably withheld or delayed) that such sale, lease or transfer will not result in a Material Adverse Effect. Any proceeds received by the Lessee from the sale of property or assets of the Facility (A) under clause (i) of the preceding sentence which exceed the cost of the replacement property or (B) under clause (ii) of the preceding sentence may be applied within the one-year period following the receipt thereof by the Lessee to the purchase of other property which is useful in connection with the operation of the Facility with the prior written approval of the Lessor (which approval shall not be unreasonably withheld or delayed).

Section 5.17. *Consolidation, Merger*. The Lessee will not consolidate or merge with or into any other Person unless (i) the Person which results from such consolidation or merger (the “*surviving entity*”) either (A) is the Lessee or (B) if not, (y) is a corporation organized under the laws of any state of the United States or the District of Columbia, and (z) the due and punctual

performance and observance of all of the covenants in this Agreement to be performed or observed by the Lessee are expressly assumed in writing by the surviving entity and the surviving entity shall furnish to the Lessor an opinion of counsel to that effect that the instrument of assumption has been duly authorized, executed and delivered and constitutes the legal, valid and binding contract and agreement of the surviving entity enforceable in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and similar laws affecting the enforcement of creditors' rights generally and by general equitable principles, (ii) no Default or Event of Default would exist either immediately before or immediately after giving effect to such consolidation or merger, and (iii) the Coverage Ratio of the surviving entity as Lessee immediately after giving effect to such consolidation or merger shall not be less than 1.25 to 1.00.

Section 5.18. *Amendments; Additional Agreements.* For so long as any PUB Obligations are Outstanding, the Lessee shall not terminate the Site Lease or this Agreement for any reason whatsoever or enter into any agreement, whether orally or in writing, to amend, modify or supplement the Site Lease or this Agreement. Once the PUB Obligations have been paid in full in cash, the Lessee may enter into any amendment or modification of any of the then existing Facility Documents to which it is a party or enter into additional agreements with respect to the Facility only if a Lessee Representative certifies to the Lessor, and the Independent Engineer confirms (which confirmation shall not be unreasonably withheld or delayed) that (i) such amendment, modification or additional agreement could not reasonably be expected to result in a Material Adverse Effect, and (ii) such amendment or modification would not reasonably be expected to materially increase the likelihood of the occurrence of a future Material Adverse Effect; *provided*, that such certificate and confirmation shall not be required for any amendment to this Agreement entered into pursuant to Section 14.1(b)(i), 14.1(b)(ii) or 14.1(b)(iii) of this Agreement.

Section 5.19. *Intentionally Left Blank*

Section 5.20. *Financing Statements.* The Lessee will, at its own expense, take all necessary action to maintain and preserve the liens and security interests created by this Agreement.

Section 5.21. *Assignment and Subletting.* The Lessee agrees that it will not sublet the Facility or assign its interest hereunder, nor shall the Lessee, except as provided in this Agreement and in the Lessee Indenture of Mortgage, mortgage, pledge or otherwise encumber its interest hereunder.

ARTICLE VI

LESSOR COVENANTS

Section 6.1. *Maintenance of Existence.* The Lessor shall preserve and maintain (i) its legal existence as a corporation, (ii) its good standing under the laws of the Commonwealth and the State of Delaware and its qualification to do business in the Commonwealth and (iii) all of its rights, privileges and franchises necessary for ownership of the Facility and the maintenance of its existence.

Section 6.2. *Compliance with Certain Agreements and Performance of General Covenants.* (a) The Lessor shall perform in all material respects all of its obligations under the Facility Documents, the non-performance of which could reasonably be expected to result in a Material Adverse Effect.

(b) The Lessor shall comply in all material respects with all Requirements of Law applicable to the Lessor and the Facility in performing its obligations under the Facility Documents, except any thereof the noncompliance with which could not reasonably be expected to result in a Material Adverse Effect.

(c) The Lessor further covenants that, to the extent permitted by Law, it shall take no action nor enter into any agreement which could reasonably be expected to result in a Material Adverse Effect.

Section 6.3. *Changes to Facility.* (a) The Lessor shall not make any change or amendment in the components of the Facility if such change or amendment causes the economic life of the Facility to be reduced unless the Lessor shall have received the prior approval of the Independent Engineer and, so long as any PUB Obligations remain Outstanding, the Bank.

(b) The Lessor shall use all reasonable efforts to obtain and to maintain in full force and effect all Governmental Approvals applicable to the Lessor that are necessary from time to time (i) to conduct its business as currently conducted and as proposed to be conducted and (ii) to perform its obligations under the Facility Documents to which it is a party, unless the failure to so obtain or maintain any such Governmental Approval could not reasonably be expected to result in a Material Adverse Effect.

Section 6.4. *Intentionally Left Blank.*

Section 6.5. *Intentionally Left Blank.*

Section 6.6. *Intentionally Left Blank.*

Section 6.7. *Intentionally Left Blank.*

Section 6.8. *Use of Loan Proceeds.* The Lessor will apply all of the proceeds from the Loan in accordance with the provisions hereof and of the Credit Agreement, to the extent it is within the power of the Lessor to do so.

Section 6.9. *Intentionally Left Blank.*

Section 6.10. *Intentionally Left Blank.*

Section 6.11. *Intentionally Left Blank.*

Section 6.12. *Intentionally Left Blank.*

Section 6.13. *Amendments; Additional Agreements.* So long as any PUB Obligations remain Outstanding, the Lessor may not enter into any amendment or modification of any of the

then existing Facility Documents to which it is a party or enter into any additional agreement unless otherwise permitted under the PUB Loan Documents or consented to by the Bank.

Section 6.14. *Prohibition on Fundamental Changes.* So long as any PUB Obligations remain Outstanding, the Lessor shall not enter into any transaction of merger or consolidation, change its form of organization or its business, liquidate or dissolve itself (or suffer any liquidation or dissolution) or amend or modify its Articles of Incorporation unless otherwise permitted under the PUB Loan Documents or consented to by the Bank. So long as any PUB Obligations remain Outstanding, the Lessor shall not purchase or otherwise acquire all or substantially all of the assets of any Person unless otherwise permitted under the PUB Loan Documents or consented to by the Bank.

Section 6.15. *Intentionally Left Blank.*

Section 6.16. *Nature of Business.* So long as any PUB Obligations remain Outstanding, the Lessor shall not engage in any business other than the owning, development, acquisition, construction, leasing, mortgaging, pledging and financing of the Facility and related activities as contemplated by the Facility Documents unless otherwise permitted under the PUB Loan Documents or consented to by the Bank.

Section 6.17. *Employee Plans.* So long as any PUB Obligations remain Outstanding, the Lessor shall not become a party to, participate in or assume any liability with respect to any “pension plan” as defined in ERISA unless otherwise permitted under the PUB Loan Documents or consented to by the Bank.

Section 6.18. *Intentionally Left Blank.*

Section 6.19. *Intentionally Left Blank.*

Section 6.20. *Intentionally Left Blank.*

Section 6.21. *Intentionally Left Blank.*

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. *Events of Default.* The term “*Event of Default*”, whenever used herein, shall mean any of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or come about or be affected by operation of law, or be pursuant to or in compliance with any applicable Law), and any such event shall continue to be an Event of Default if and for so long as it shall not have been remedied:

(a) The Lessee shall fail to pay any Fixed Basic Rent for Debt Service due hereunder within three days of when the same becomes due and payable;

(b) The Lessee shall fail to pay any other Basic Rent Payment due hereunder within ten days of when the same becomes due and payable; or

(c) The Lessee shall fail to maintain insurance as required by Sections 5.8(a) and (b) and such failure shall continue uncured for 10 days after the Lessee has actual knowledge of such failure; or

(d) The Lessee shall fail to perform or observe its covenant or agreement contained in Sections 4.3(c) (Additional Rent), 5.6(a) (Maintenance of Existence), 5.6(e) (Governmental Approvals), 5.15 (Liens), 5.16 (Disposition of Assets), 5.17 (Consolidation; Merger) or 5.18 (Amendments; Additional Agreements) and such failure shall continue uncured for 30 days after the Lessee has actual knowledge of such failure; or

(e) The Lessee shall fail to perform or observe any of its covenants contained in any other provision of this Agreement (other than those referred to in paragraphs (a) through (d) of this Section 7.1) and such failure shall continue uncured for 30 or more days after the Lessee has actual knowledge of such failure; *provided* that if the Lessee commences efforts to cure such default within such 30 day period, the Lessee may continue to effect such cure of the default (and such default shall not be deemed an "Event of Default" hereunder) for an additional 60 days after such 30 day period so long as a Lessee Representative provides an Officer's Certificate to the Lessor stating that the Lessee is diligently pursuing the cure; or

(f) Any representation or warranty made by the Lessee herein shall prove to have been false or misleading in any respect as of the time made, confirmed or furnished and the inaccuracy of such representation or warranty has resulted or would reasonably be expected to result in a Material Adverse Effect; or

(g) The Lessee shall be in default under any agreement or document evidencing or securing Debt of the Lessee which has an aggregate principal amount outstanding in excess of \$500,000 and as a result of such default the maturity of such Debt shall have been accelerated; or

(h) With respect to any Facility Document: (A) such Facility Document is declared unenforceable by a Governmental Authority of competent jurisdiction in a final, non-appealable judgment, or (B) any party thereto denies it is required to comply with any material obligation under such Facility Document and such event would reasonably be expected to result in a Material Adverse Effect; *provided, however*, that neither of the events described in clause (A) or (B) above shall be an Event of Default if within 180 days after the occurrence of such event (x) the party which made the denial described in clause (B) above, resumes performance or (y) the parties to the Facility Document declared unenforceable enter into an alternative agreement (x) which contains, as certified by the Lessee to the Lessor and as confirmed (such confirmation not to be unreasonably withheld or delayed) by the Independent Engineer, substantially equivalent terms and conditions; or

(i) A final and non-appealable judgment or judgments for the payment of money in excess of \$500,000 shall be rendered against the Lessee or any of the property or assets of the Lessee, and the same shall remain unpaid, unvacated or unstayed by appeal or consent for a period of 30 or more consecutive days from the date of entry thereof; or

(j) The Lessee or the Lessor shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code, (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or readjustment of debts, (vi) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against such Person in an involuntary case under the Federal Bankruptcy Code, or (vii) take any corporate or other action for the purpose of effecting any of the foregoing; or

(k) A proceeding or case shall be commenced against the Lessee or Lessor without its application or consent in any court of competent jurisdiction, seeking (i) its liquidation, reorganization, dissolution, winding-up, or the composition or readjustment of debts, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of such Person under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of 90 or more consecutive days, or any order for relief against such Person shall be entered in an involuntary case under the Federal Bankruptcy Code; or

(l) The Lessee shall fail to operate the Facility for a period greater than thirty (30) consecutive days; or

(m) The Lessor shall fail to observe or perform any material covenant, condition or agreement contained in this Agreement on the part of the Lessor to be performed and such failure shall continue for 30 days after written notice specifying such failure and requiring the same to be remedied shall have been given to the Lessor by the Lessee; *provided, however,* that if said default is such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Lessor (or the Lessee on behalf of the Lessor) within the applicable period and diligently pursued until the default is corrected; *provided, further,* however, such default must be curable.

Section 7.2. *Remedies.* (a) Upon the occurrence of an Event of Default described in Section 7.1(b) above, the Lessor may initiate an action against the Lessee to collect the unpaid Basic Rent referred to in Section 7.1(b) but the Lessor shall not have the right to accelerate any Basic Rent Payments or initiate (i) any foreclosure or other collection action against the Collateral or (ii) any bankruptcy, insolvency, reorganization, liquidation, dissolution or other similar proceeding against the Lessee, *provided, however,* that if any action or proceeding described in clause (i) or (ii) of this Section 7.2(a) shall be initiated as a result of another Event of Default with respect to which such action or proceeding is permitted hereunder, the Lessor may include in such action or proceeding the collection of such unpaid Basic Rent on a *pari passu* basis.

(b) Upon the occurrence of the Event of Default described in Section 7.1(m), the Lessee may initiate an action or proceeding against the Lessor for specific performance or money damages resulting from such Event of Default but shall not have any right to terminate or

modify any provisions of this Agreement and notwithstanding the occurrence of such Event of Default or the institution of any such action or proceeding by the Lessee, this Agreement shall continue in full effect.

(c) Upon the occurrence of an Event of Default described in Section 7.1(j) or (k) above, all Basic Rent Payments shall become automatically due and payable. Upon the occurrence of any other Event of Default under Section 7.1 (other than Sections 7.1(b) and 7.1(m)), the Lessor may, by notice in writing delivered to the Lessee, declare all Basic Rent Payments immediately due and payable; *provided*, that, so long as the any PUB Obligations are Outstanding, the Lessor shall not declare all Basic Rent Payments to be due and payable unless (a) the principal of and accrued interest on the Loan shall have been declared to be due and payable or (b) otherwise permitted by the Bank.

(d) In payment of the Basic Rent Payments which have been declared due and payable pursuant to Section 7.2(c) above, the Lessee shall pay to the Lessor as liquidated damages for the loss of a bargain and not as a penalty an amount equal to the Stipulated Loss Value as of the immediately preceding Basic Rent Payment Date and, in addition, shall pay any unpaid rent as of the immediately preceding Basic Rent Payment Date; *provided*, that if and to the extent that the Stipulated Loss Value shall be paid by Lessee and upon the repayment in full of all PUB Obligations, the Lessor shall mitigate the damages paid by the Lessee in the event that (x) it shall sell the Facility, by paying to the Lessee proceeds from such sale remaining after payment to the Lessor of (I) all of the Lessor's expenses incurred in connection with such sale and (II) an amount equal to the sum of (A) the Lessor's expected residual interest in the Facility at the end of the Lease Term plus (B) the Lessor's expected return on equity during the Lease Term which would have remained if this Agreement had not been terminated (the amount in subclause (B) being "*Lessor's Return on Equity*"), but not in excess of the Stipulated Loss Value so paid by the Lessee or (y) it shall lease the Facility, by paying to the Lessee a portion of the rent payable thereunder during the remainder of the Lease Term but only after first retaining amounts therefrom sufficient to compensate the Lessor for (I) all of the Lessor's expenses incurred in connection with the leasing of the Facility and (II) the Lessor's Return on Equity, in an aggregate amount which is not in excess of such Stipulated Loss Value so paid by the Lessee. In no event shall any of the mitigation requirements set forth herein limit or otherwise effect any amounts paid by or on behalf of the Lessor to the Bank and in no event shall the Lessee bring any claim or action against the Lessor or the Bank to disgorge any such amounts that may have been paid to the Bank from the proceeds of any Basic Rent Payments or any Stipulated Loss Value payments.

Section 7.3. *Additional Remedies on Default; Obtaining the Collateral upon Default.* Whenever any Event of Default under this Agreement shall have occurred and be continuing and all Basic Rent Payments have been declared to be due and payable pursuant to Section 7.2 and such acceleration has not been rescinded, the Lessor shall have all the rights and remedies of a secured party under the Uniform Commercial Code to enforce this Agreement and the security interests contained herein, and, in addition, subject to any requirements of applicable Law then in effect and the provisions hereof, the Lessor may, in addition to its other rights and remedies hereunder, do any of the following to the extent permitted by applicable Law and the provisions hereof:

(i) personally, or by trustees or attorneys, immediately take possession of the Collateral or any part thereof, from the Lessee or any other Person who then has possession of any part thereof with or without notice or process of law, and for that purpose may enter upon the premises where any of the Collateral is located and remove the same and use in connection with such removal any and all services, supplies, aids and other facilities of the Lessee;

(ii) instruct the obligor or obligors on any agreement, instrument or other obligation constituting the Collateral to make any payment required by the terms of such instrument, agreement or obligation directly to the Lessor;

(iii) take possession of the Collateral or any part thereof, by directing the Lessee in writing to deliver the same to the Lessor at any place or places designated by the Lessor, in which event the Lessee shall at its own expense:

(A) forthwith cause the same, to the extent reasonably feasible, to be moved to the place or places so designated by the Lessor and there be delivered to the Lessor;

(B) store, keep and safeguard any Collateral so delivered to the Lessor at such place or places pending further action by the Lessor as provided in Section 7.4; and

(C) while the Collateral shall be so stored, kept and safeguarded, provide such guards and maintenance services as shall be necessary to protect the same and to preserve and maintain them in good condition.

To the extent permitted by law, the Lessee's obligation to deliver the Collateral is of the essence of this Agreement and, accordingly, upon application to a court of equity having jurisdiction, the Lessor shall be entitled to obtain a decree requiring specific performance by the Lessee of said obligation.

Section 7.4. *Remedies; Disposition of the Collateral.* If an Event of Default has occurred and is continuing and pursuant to Section 7.2 all Basic Rent Payments have been declared to be due and payable and such acceleration has not been rescinded, any Collateral repossessed by the Lessor under or pursuant to Section 7.3 and any other Collateral, whether or not so repossessed by the Lessor, may, to the extent permitted by any contract terms governing such Collateral, be sold, leased or otherwise disposed of under one or more contracts or as an entirety, and without the necessity of gathering at the place of sale of the property to be sold, and in general in such manner, at such time or times, at such place or places and on such terms as the Lessor may, in compliance with any requirements of applicable law, determine to be commercially reasonable. Any such disposition shall be made upon not less than 30 days' written notice to the Lessee specifying the time such disposition is to be made and, if such disposition shall be a public sale, specifying the place of such sale. Any such sale may be adjourned by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Any of the Collateral

may be sold, leased or otherwise disposed of, in the condition in which the same existed when taken by the Lessor or after any overhaul or repair which the Lessor shall determine to be commercially reasonable. To the extent permitted by law, the Lessor or its assigns may itself bid for and become the purchaser of the Collateral or any item thereof offered for sale at a public auction.

Section 7.5. *Waiver.* (i) Except as otherwise provided in this Agreement, if an Event of Default shall have occurred and be continuing and Basic Rent Payments shall have been declared due and payable pursuant to Section 7.2 and such acceleration has not been rescinded, the Lessee hereby waives, to the extent permitted by applicable law, notice or judicial hearing in connection with the Lessor's taking possession or the Lessor's disposition of any of the Collateral, including, without limitation, any and all prior notice and hearing for any prejudgment remedy or remedies and any such right which the Lessee would otherwise have under the constitution or any statute of the United States or of any state, and the Lessee, for itself and all who may claim under it, hereby further waives, to the fullest extent permitted by applicable law:

(A) all damages occasioned by such taking of possession of any Collateral;

(B) all other requirements as to the time, place and terms of sale or other requirements with respect to the enforcement of the Lessor's rights hereunder; and

(C) all rights of redemption, appraisalment, valuation, stay, extension or moratorium now or hereafter in force under any applicable Law in order to prevent or delay the enforcement of this Agreement or the absolute sale of the Collateral or any portion thereof.

(ii) Without limiting the generality of the foregoing and to the extent permitted by Law and subject to the provisions hereof, if an Event of Default shall have occurred and be continuing and all Basic Rent Payments have been declared to be due and payable and such acceleration has not been rescinded, the Lessee hereby: authorizes the Lessor, in its sole discretion and without notice to or demand upon the Lessee and without otherwise affecting the obligations of the Lessee hereunder from time to time, to take and hold other collateral (in addition to the Collateral) for payment of any Basic Rent and to exchange, enforce or release such other collateral or any part thereof, and to accept and hold any endorsement or guarantee of payment of Basic Rent or any part thereof.

(iii) To the extent permitted by Law, any sale of, or the grant of options to purchase, or any other realization upon, any Collateral shall operate to divest all right, title, interest, claim and demand, either at Law or in equity, of the Lessee therein and thereto.

Section 7.6. *Application of Proceeds.* The proceeds of any Collateral obtained pursuant to Section 7.3 or disposed of pursuant to Section 7.4 shall be applied to the payment and satisfaction of the amounts payable to the Lessor pursuant to Section 7.2(c).

Section 7.7. *Remedies Cumulative; No Waiver.* Each and every right, power and remedy hereby specifically given to the Lessor shall be in addition to every other right, power and remedy specifically given under this Agreement or now or hereafter existing at Law or in

equity, or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time or simultaneously and as often and in such order as may be deemed expedient by the Lessor. All such rights, powers and remedies shall be cumulative, and the exercise or the partial exercise of one shall not be deemed a waiver of the right to exercise of any other. No delay or omission of the Lessor in the exercise of any of its rights, remedies, powers and privileges hereunder or partial or single exercise thereof, and no renewal or extension of any Basic Rent Payment, shall impair any such right, remedy, power or privilege or shall constitute a waiver thereof.

Section 7.8. *Discontinuance of Proceedings.* In case the Lessor shall have instituted any proceeding to enforce any right, power or remedy under this Agreement by foreclosure, sale, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Lessor, then, in every such case, the Lessee and the Lessor shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Lessor shall continue as if no such proceeding had been instituted.

ARTICLE VIII

LEASE TERMINATION

Section 8.1. *Facility Pipe Easement.* Upon the termination of this Agreement for any reason including any Event of Default, the Lessee shall forthwith convey to the Lessor an easement through the water pipes owned by the Lessee and located on the Facility Site which the Lessor shall be permitted to assign to any subsequent owner or lessee of the Facility so that such subsequent owner or lessee may transport water to and from the Facility through such pipes.

ARTICLE IX

ECONOMIC ABANDONMENT

Section 9.1. *Economic Abandonment Determination; Notice.* If at any time during the Lease Term, the Lessee shall determine that the Facility is obsolete or uneconomic to the Lessee and to terminate this Agreement (an "*Economic Abandonment Determination*") the Lessee shall deliver written notice (an "*Economic Abandonment Notice*") to the Lessor, the Independent Engineer and the Bank (i) stating the reasons for such determination, (ii) specifying a Basic Rent Payment Date (the "*Termination Date*") for the termination of this Agreement which is at least 12 months after the date of the delivery of such notice and (iii) agreeing to prepay on the Termination Date Fixed Basic Rent under this Agreement in an amount determined pursuant to the provisions of Section 9.2 hereof. Within 30 days after the date of delivery of the Economic Abandonment Notice, the Independent Engineer shall deliver a certificate to the Lessee, the Lessor, and the Bank certifying whether in its opinion the Facility is obsolete or uneconomic to the Lessee. In connection with any determination by the Lessee or the Independent Engineer as to whether the Facility is obsolete or uneconomic to the Lessee, interest rates payable by the Lessee or Lessor for borrowed money and finance charges payable in connection therewith for such purpose shall be disregarded. If the Independent Engineer's Certificate confirms the

Economic Abandonment Determination of the Lessee, the Lessee shall be obligated to make payments to the Lessor as provided in Section 9.2. If the Economic Abandonment Determination of the Lessee is not confirmed by the Independent Engineer, the aforesaid Economic Abandonment Notice shall be deemed to have been canceled.

Section 9.2. *Fixed Basic Rent Prepayment; Mitigation of Damages.* If an Economic Abandonment Determination shall be confirmed by the Independent Engineer, the Lessee, on the Termination Date specified in such Economic Abandonment Notice, shall pay to the Lessor an amount equal to the sum of (i) any unpaid Rent which is due and payable as of the Termination Date, plus (ii) the Stipulated Loss Value as of such Termination Date and upon payment of such amounts by the Lessee, this Agreement shall terminate (the aggregate of the amounts due under clause (ii) being “*Economic Abandonment Proceeds*”); *provided, however,* that upon the repayment in full of all PUB Obligations, the Lessor shall mitigate the damages suffered by the Lessee in paying the Stipulated Loss Value in the event that (x) it shall sell the Facility, by paying to the Lessee proceeds from such sale remaining after payment to the Lessor of (i) all of the Lessor’s expenses incurred in connection with such sale, and (ii) an amount equal to the sum of (A) the Lessor’s expected residual interest in the Facility at the end of the Lease Term or Renewal Term, as the case may be, plus (B) the Lessor’s Return on Equity, but not in excess of the Stipulated Loss Value so paid by the Lessee, or (y) it shall lease the Facility, by paying to the Lessee a portion of the rent payable thereunder during the remainder of the Lease Term or Renewal Term, as the case may be, but only after first retaining amounts therefrom sufficient to compensate the Lessor for (I) all of the Lessor’s expenses incurred in connection with the leasing of the Facility, and (II) the Lessor’s Return on Equity, in an amount which is not in excess of such Stipulated Loss Value so paid by the Lessee.

Section 9.3. *Intentionally Left Blank*

ARTICLE X

FACILITY MODIFICATIONS

Section 10.1. *Facility Modifications.* The Lessee, at its own expense except as provided in Section 10.2, shall make any addition, alteration, improvement or modification to the property constituting the Facility (hereinafter, a “*Facility Modification*”) which is required by Law or Governmental Authority, whether or not the cost thereof may be capitalized or charged to maintenance and repairs under GAAP. In addition, the Lessee, at its expense except as provided in Section 10.2, from time to time may make any Facility Modification it may deem desirable in the conduct of its business provided that the Lessee shall not have the right to make any such Facility Modification that will materially diminish the value or utility of the Facility or reduce its remaining useful life. Prior to making any Facility Modification other than a Facility Modification which the Lessee certifies to the Lessor and the Bank (which shall be confirmed by the certificate of an Independent Engineer) is required by Law or Governmental Authority, the Lessee shall certify to the Lessor and the Bank, which will be confirmed in a certificate of the Independent Engineer, that (i) the proposed Facility Modification enhances the value of the Facility or maintains the current value of the Facility, and (ii) installing the Facility Modification will not result in any Material Adverse Effect.

Section 10.2. *Title to Modifications; Facility Subordinated Debt.* Title to each Facility Modification made pursuant to Section 10.1 shall initially vest in the Lessee, whether or not the cost of such Facility Modification is paid for by the Lessee, upon the first date on which such Facility Modification shall have been completed and placed in service (the “*Placed in Service Date*”); provided, however that (i) such Facility Modification shall become a fixture within the Facility and subject to the Mortgage and (ii) upon the soonest of (A) the Lessee's full depreciation of the expense related to the Facility Modification or (B) the Termination Date or (C) the end of the Lease Term or any Renewal Terms, title to all Facility Modifications shall vest in the Lessor without any additional payment to Lessee therefor.

ARTICLE XI

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ARTICLE XII

LEASE RENEWAL; RIGHT OF FIRST REFUSAL

Section 12.1. *Acknowledgment; Option to Renew Agreement.* Subject to the notice requirement set forth in Section 12.2 and so long as no Event of Default shall have occurred which shall be continuing on the Renewal Notice Date or the Renewal Date, the Lessee shall have the option to renew (the “*Renewal Option*”) the term of this Agreement at the end of the Lease Term for one period as determined by the Lessee in its Renewal Notice (the “*Renewal Term*”) which Renewal Term shall commence on the date following the end of the Lease Term (the “*Renewal Date*”) and be at least two years but not more than a term which when added to the Lease Term equals 74% of the estimated useful life of the Facility determined as of the Commencement Date by the Independent Engineer as set forth in a certificate delivered to the Lessee and the Lessor; *provided, however*, that if at any time the Independent Engineer shall deliver a certificate to the Lessee and the Lessor in which it certifies that the estimated useful life of the Facility is longer than previously certified pursuant to this Section 12.1, then the Renewal Term may be extended to a term which when added to the Lease Term equals 74% of the estimated useful life of the Facility so certified by the Independent Engineer in such certificate. All of the provisions of this Agreement shall apply during the Renewal Term except (i) the Fixed Basic Rent shall be 30% of the Fixed Basic Rent which shall be in effect at the end of the Lease Term, as the same may be adjusted from time to time on or after the commencement of the Renewal Term and there shall be no Percentage Rent, (ii) the Event of Default in Section 7.1(a) which arises from a failure to pay Fixed Basic Rent for Debt Service shall be changed as of the Renewal Date so that the Event of Default arises for a failure to pay any Fixed Basic Rent, and (iii) if any PUB Obligations shall then be Outstanding, the Stipulated Loss Value shall be calculated in order to pay principal and interest thereon as the same become due and payable and if all of the PUB Obligations have been paid in full and all commitments of the Bank to extend credit to the Lessor under the PUB Loan Documents, if any shall have been terminated, the Stipulated Loss Value shall be zero.

Section 12.2. *Renewal Notice.* Not later than six months prior to the expiration date of the Lease Term, the Lessee, if it intends to exercise its option to renew the term of this Agreement pursuant to Section 12.1, shall deliver written notice (a “*Renewal Notice*”) to the

Lessor stating (i) that the Lessee shall exercise such option to renew, and (ii) the Renewal Term selected by the Lessee (the date on which such notice is delivered being the “*Renewal Notice Date*”). Concurrently with its delivery of the Renewal Notice the Lessee shall furnish an appraisal by an independent appraiser selected by the Lessee and reasonably acceptable to the Lessor as to the estimated fair market value of the Facility as of the Renewal Date and as of the end of the Renewal Term.

Section 12.3. *Right of First Refusal.* In the event that the Lessor shall enter into an agreement to sell the Facility to a third party at any time within the two year period following the expiration of the Lease Term or, if the Renewal Option is exercised, at any time within the two year period following the expiration of the Renewal Term (a “*Facility Sale Agreement*”), the Lessor, prior to consummating the Facility Sale Agreement shall first offer in a written notice to the Lessee to sell the Facility to the Lessee (a “*Sale Offer*”) on the same terms and conditions as are contained in the Facility Sale Agreement. Within 90 days after the receipt by the Lessee of a Sale Offer, the Lessee shall notify the Lessor in writing if it shall accept or reject the Sale Offer and if no such notice is received from the Lessee, the Lessee shall be deemed to have rejected the Sale Offer. If the Sale Offer shall be rejected by the Lessee, the Lessor may consummate the sale of the Facility in accordance with the Facility Sale Agreement. If the Sale Offer is accepted by the Lessee, the Lessor and Lessee shall consummate the sale of the Facility to the Lessee pursuant to the Sale Offer; provided, that the period during which the sale shall be consummated may be extended if necessary for the purpose of obtaining any required DPU approval.

ARTICLE XIII

MISCELLANEOUS COVENANTS

Section 13.1. *No Warranty of Condition or Suitability by the Lessor.* The Lessor makes no warranty, either expressed or implied, as to the condition of the Facility or that it will be suitable for the Lessee’s purposes or needs.

Section 13.2. *Release and Indemnification Covenants with Respect to the Lessor.* To the extent permitted by Law, the Lessee will, at its expense, indemnify and save harmless the Lessor and its directors, officers, employees and agents against and from any and all claims, damages, demands, expenses, liabilities of every kind (other than the gross negligence or willful, wrongful acts of the Lessor, its directors, officers, agents, servants, and employees) asserted by or on behalf of any person, firm, corporation or Governmental Authority arising out of, resulting from the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation, financing or ownership of the Facility. To the extent permitted by Law, the Lessee will also, at its expense, indemnify and save harmless the Lessor against and from all costs, counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any such claim or demand. If any proceeding is brought against the Lessor by reason of any such claim or demand, the Lessee will, upon notice from the Lessor, defend such proceeding on behalf of the Lessor. Notwithstanding the foregoing, the Lessee shall not be obligated to indemnify the Lessor or any of its directors, officers, employees or agents or hold any of them harmless against or from or in respect of any claim, damage, demand, expense, liability or loss arising from the intentional or willful misconduct or gross

negligence of the Lessor or any of its directors, officers, employees or agents. The Lessor shall not be liable for any settlement of any claim, suit, action or proceeding made without its consent (which consent shall not be unreasonably withheld). This Section shall survive the termination or expiration of this Agreement for any reason.

Section 13.3. *Intentionally Left Blank.*

Section 13.4. *Intentionally Left Blank.*

Section 13.5. *Intentionally Left Blank.*

Section 13.6. *Intentionally Left Blank.*

Section 13.7. *Intentionally Left Blank.*

Section 13.8. *Intentionally Left Blank.*

Section 13.9. *Expenses of the Lessor.* The Lessee shall pay the reasonable out-of-pocket expenses of the Lessor (including reasonable counsel fees) in connection with the performance of the duties of the Lessor under the Facility Documents, and the authorization, execution, delivery of the Credit Agreement and the Security Documents. This Section shall survive the termination or expiration of this Agreement for any reason.

Section 13.10. *Restrictions on Sale of the Facility by the Lessor.* Except as contemplated or permitted by the Facility Documents, the Lessor agrees that it will not sell, assign, convey, mortgage, encumber, or otherwise dispose of any part of the Facility during the Lease Term.

Section 13.11. *Intentionally Left Blank.*

Section 13.12. *Performance of Independent Engineer.* References herein to the performance of actions by the Independent Engineer, when modified by the phrase “which shall not be unreasonably withheld or delayed” or similar language shall require the Independent Engineer to render its written decision with respect to the test, plan, report, certificate, consent, budget, determination or other matter within 10 Business Days after receipt of written notice from the Lessee or such longer period as the Independent Engineer may reasonably request (which additional period shall in no event exceed 30 days).

Section 13.13. *Resignation or Removal of Engineers.* The Independent Engineer may at any time resign and be discharged of the duties created by this Agreement by giving not less than 90 days’ written notice to the Lessee and, so long as any PUB Obligations remain Outstanding, the Bank. The Lessee may remove the Independent Engineer in the event that the Independent Engineer breaches any of the duties imposed on it under this Agreement or such agreement as may at the time be in effect between the Lessee and the Independent Engineer pursuant to which the Independent Engineer has undertaken to act in such capacity by giving not less than 30 days’ notice to the Independent Engineer, the Lessor and, so long as any PUB Obligations remain Outstanding, the Bank. Any such notice shall specify the date when such resignation or removal shall take effect. Such resignation or removal shall take effect upon the date specified in such notice unless previously an Eligible Successor shall be appointed by the

Lessee, in which event such resignation or removal shall take effect immediately upon the appointment and acceptance of such Eligible Successor; provided, however, that no such resignation or removal may take effect until an Eligible Successor has been so appointed and has accepted. Upon the receipt of any such notice of resignation or removal, the Lessor and the Lessee shall promptly appoint an Eligible Successor.

Section 13.14. *Assignment; Successors and Assigns.* Except for the Hingham Lessee Succession, so long as any PUB Obligations are Outstanding, this Agreement may not be assigned in whole or in part by the Lessee without the prior written consent of the Bank. The Lessor may assign its rights hereunder to the Bank, its successors and assigns, pursuant to the terms of the PUB Loan Documents. Any other assignment by the Lessor of its rights hereunder shall require the prior written consent of a Lessee Representative. This Agreement and all covenants, promises and agreements made by or on behalf of the Lessor or the Lessee herein shall inure to the benefit of, and shall be binding upon the Lessor, the Lessee and their respective successors and assigns.

ARTICLE XIV

AMENDMENTS

Section 14.1. *Amendments.* (a) This Agreement and the rights and obligations of the Lessor and the Lessee hereunder may, to the extent otherwise specifically permitted hereunder, be amended by an amendment hereof in writing which has been executed by the Lessor and the Lessee, in accordance with the provisions hereof.

(b) The Lessee and Lessor may also enter into a written amendment for any one or more of the following purposes without the written confirmation of the Independent Engineer (but still with the consent of the Bank so long as any PUB Obligations are Outstanding), so long as such amendment shall not result in a Material Adverse Effect:

(i) to add to the conditions, covenants and terms contained herein required to be observed or performed by the Lessor or the Lessee, other conditions, covenants and terms thereafter to be observed or performed by the Lessor or the Lessee, or to surrender any right reserved herein to or conferred herein on the Lessor or the Lessee, and which in either case shall not have a Material Adverse Effect;

(ii) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or amending any defective provision contained herein or in regard to questions arising hereunder which the Lessor or the Lessee may deem desirable or necessary, and which shall not have a Material Adverse Effect;

(iii) to make any other change that does not have a Material Adverse Effect; or

(iv) to extend the Lease Term as provided in Article XII.

ARTICLE XV

MISCELLANEOUS

Section 15.1. *Notices.* All notices, requests, demands, claims, and other communications hereunder shall be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly delivered four business days after it is sent by registered or certified mail, return receipt requested, postage prepaid, or one business day after it is sent for next business day delivery via a reputable nationwide overnight courier service, in each case to the intended recipient as set forth below:

<u>If to the Lessor:</u>	<u>Copy (which shall not constitute notice) to:</u>
Aquarion Water Capital of Massachusetts, Inc. 835 Main Street Bridgeport, CT 06604 Attn: Chief Financial Officer Fax: (203) 336-5639 Email: dmorrissey@aquarionwater.com	Day Pitney LLP 242 Trumbull Street Hartford, CT 06103-1212 Attn: Paul N. Belval, Esq. Fax: (860) 881-2509 Email: pnbelval@daypitney.com

<u>If to the Lessee:</u>	<u>Copy (which shall not constitute notice) to:</u>
Aquarion Water Company of Massachusetts Inc. 900 Main Street Hingham, MA 02043-3504 Attn: Chief Financial Officer Fax: (203) 336-5639 Email: dmorrissey@aquarionwater.com	Day Pitney LLP 242 Trumbull Street Hartford, CT 06103-1212 Attn: Paul N. Belval, Esq. Fax: (860) 881-2509 Email: pnbelval@daypitney.com

<u>If to the Bank:</u>	<u>Copy (which shall not constitute notice) to:</u>
People's United Bank 265 Church Street, Suite 701 New Haven, CT 06510 Attn: David Ferretti, VP Fax: (203) 786-2647 Email: david.ferretti@peoples.com	Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 Attn: Eileen P. Baldwin, Esq. Fax: (860) 275-8299 Email: ebaldwin@rc.com

Any party may give any notice, request, demand, claim, or other communication hereunder using any other means (including personal delivery, nationally recognized overnight courier, messenger service, facsimile, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the party for whom it is intended. Any party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other parties notice in the manner herein set forth.

Section 15.2. *Binding Effect.* This Agreement shall inure to the benefit of and shall be binding upon the Lessor, the Lessee and their respective successors and assigns, subject, however, to the limitations contained in Section 13.14.

Section 15.3. *Severability.* If any provision of this Agreement shall be determined to be unenforceable at any time, that shall not affect any other provision of this Agreement or the enforceability of that provision at any other time.

Section 15.4. *Amendments.* This Agreement may not be effectively amended or terminated except in accordance with the provisions hereof.

Section 15.5. *Intentionally Left Blank.*

Section 15.6. *Right of Lessor to Perform Lessee's Agreements.* In the event the Lessee shall fail to (a) pay any tax, charge, assessment or imposition pursuant hereto, (b) remove any lien, encumbrance or charge pursuant hereto, (c) maintain the Facility in repair pursuant hereto, (d) procure the insurance required hereby, in the manner herein described or (e) fail to make any other payment or perform any other act required to be performed hereunder, and the Lessee is not contesting the same, then and in each such case the Lessor may (but shall not be obligated to) remedy such failure for the account of the Lessee and make advances for that purpose. No such performance or advance shall operate to release the Lessee from any such failure and any sums so advanced by the Lessor shall be repayable by the Lessee on demand and shall bear interest at the rate of 1% per annum over the prime rate of the Bank, to the extent permitted by Law. The Lessor shall have the right of entry on the Facility Site or any portion thereof in order to effectuate the purposes of this Section 15.6, subject to the permission of a court of competent jurisdiction, if required by Law.

Section 15.7. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth.

Section 15.8. *Captions; References to Sections.* The captions in this Agreement are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Agreement. References to Articles and Sections are to the Articles and Sections of this Agreement, unless the context otherwise requires.

Section 15.9. *Complete Agreement.* This Agreement represents the entire agreement between the Lessor and the Lessee with respect to its subject matter. This Agreement amends, restates, replaces and supersedes in its entirety the Original Facility Lease as set forth herein, and the Lessor and the Lessee acknowledge that neither has any rights, obligations or liabilities under the Original Facility Lease that are not set forth in this Agreement.

Section 15.10. *Acknowledgment of Assignment.* The Lessee hereby acknowledges that the Lessor is assigning its rights under this Agreement to the Bank pursuant to the provisions of the Security Documents.

Section 15.11. *Counterparts.* This Agreement may be signed in several counterparts. Each will be an original, but all of them together constitute the same instrument.

Section 15.12. *Recording of Agreement.* Notice of this Agreement and every modification and assignment hereof shall be recorded in the Office of the Register of Deeds for Plymouth County, Massachusetts, or in such other office as may be at the time by Law as the proper place for such recording.

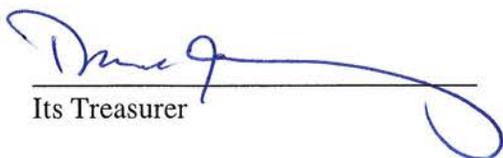
[Signature Page Follows]

IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Agreement to be signed in their behalf by their duly authorized representatives as of the date first written above.

AQUARION WATER CAPITAL OF
MASSACHUSETTS, INC.

By 
Its President

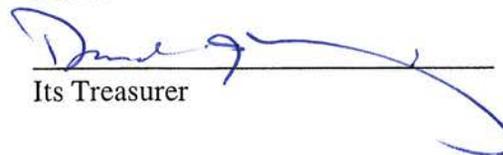
Attest:


Its Treasurer

AQUARION WATER COMPANY OF
MASSACHUSETTS, INC.

By 
Its President

Attest:


Its Treasurer

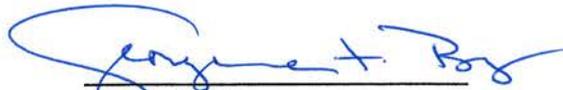
STATE OF CONNECTICUT

)
) SS Bridgeport
)

COUNTY OF FAIRFIELD

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Charles V. Firlotte, who acknowledged to me that he is the President, of Aquarion Water Capital of Massachusetts, Inc., a Delaware corporation (the "Lessor"), and that for and on behalf of said corporation and as its act and deed, he signed and delivered the foregoing instrument on the 28 day of September, 2012, he having been first duly authorized so to do by said Lessor.

WITNESS MY HAND AND OFFICIAL SEAL, this the 28 day of September 2012.



Notary Public

My Commission Expires 11/30/16

(SEAL)

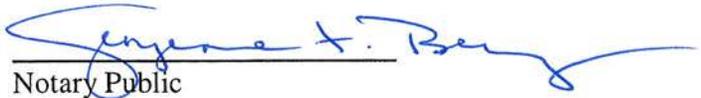
GEORGEANNE F. BERG
NOTARY PUBLIC
MY COMMISSION EXPIRES NOV. 30, 2016

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD

)
) SS Bridgeport
)

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Charles V. Firlotte, who acknowledged to me that he is the President, of Aquarion Water Company of Massachusetts, Inc., a Massachusetts corporation (the "Lessee"), and that for and on behalf of said corporation and as its act and deed, he signed and delivered the foregoing instrument on the 28 day of September, 2012, he having been first duly authorized so to do by said Lessee.

WITNESS MY HAND AND OFFICIAL SEAL, this the 28 day of September, 2012.


Notary Public

My Commission Expires 11/30/16

(SEAL)

GEORGEANNE F. BERG
NOTARY PUBLIC
MY COMMISSION EXPIRES NOV. 30, 2016

EXHIBIT A

DESCRIPTION OF WATER TREATMENT PLANT

The potable water filtration plant in a building of approximately 34,000 square feet, together with appurtenances thereto, constructed on the Facility Site (described in Exhibit B) to service the customers of Aquarion Water Company of Massachusetts Inc. in the Massachusetts municipalities of Hingham, Hull, Norwell and Cohasset, having the capability of producing 7.0 MGD for sale to such customers and having the following features: (i) granular activated carbon to remove chemicals, (ii) four large filters for the removal of solids, (iii) a superpulvator for clarification of the water supply, (iv) tanks for disinfecting the water by means of liquid sodium hypochlorite, (v) two centrifuges for processing of residuals from the treatment process and (vi) a clearwell of approximately 10,000 square feet for storage and distribution of treated water.

EXHIBIT B

DESCRIPTION OF FACILITY SITE

LEGAL DESCRIPTION

PARCEL I: A parcel of land in Hingham, Plymouth County, Massachusetts, situated on the Easterly side of Main Street,

Beginning at a stone bound, at the Northwest corner of the described parcel, in the Easterly sideline of Main Street, said stone bound lies North 2°-28'-39" West, a distance of 375.32 feet from an angle point in said sideline.

Thence, North 86°-32'-57" East, by land of Hingham Water Company, 571.38 feet to a point.

Thence, North 83°-41'-25" East, by land of Hingham Water Company, 769.19 feet to a point.

Thence, South 8°-52'-42" East, by land of Hingham Water Company and by land of M. J. Hall Realty Trust, 1497.87 feet to a stone bound in the Northerly sideline of Huntley Road.

Thence, South 84°-41'-48" West, along said Northerly sideline of Huntley Road, the Northerly end of Hope Road and by land of Theodore and Cecile D. Paquette, 578.43 feet to a stone bound.

Thence, South 85°-08'-42" West, by land of House of Prayer Lutheran Church, Inc., 714.29 feet to a point in the Easterly sideline of Main Street.

Thence, North 21°-00'-49" West, along said Easterly sideline of Main Street, 138.88 feet to a point.

Thence, North 11°-15'-59" West, along said Easterly sideline of Main Street, 190.65 feet to a point.

Thence, North 47°-48'-11" East, along said Easterly sideline of Main Street, 18.83 feet to a point.

Thence, North 33°-05'-39" West, along said Easterly sideline of Main Street, 92.69 feet to a point.

Thence, North 11°-38'-49" West, along said Easterly sideline of Main Street, 130.28 feet to a point.

Thence, North 7°-48'-29" West, along said Easterly sideline of Main Street, 282.40 feet to a point.

Thence, North 15°-31'-29" West, along said Easterly sideline of Main Street, 236.32 feet to a point.

Thence, North 10°-17'-09" West, along said Easterly sideline of Main Street, 58.89 feet to a point.

Thence, North 2°-28'-39" West, along said Easterly sideline of Main Street, 375.32 feet to a stone bound and point of beginning.

The above-described parcel contains 2,008,133 sq. ft, or 46.10 Acres.

The above-described parcel is shown on a plan entitled "Plan of Land in Hingham, Massachusetts, Prepared for Metcalf & Eddy, Inc.," dated August 2, 1995, by Perkins Engineering, Inc., Rockland, Massachusetts, recorded August 15, 1995 with the Plymouth County Registry of Deeds as Plan No. 583 of 1995 (the "1995 Plan").

PARCEL II: The non-exclusive perpetual right and easement, appurtenant to Parcel I described above, over, through, in and under the nominally fifty foot wide "Permanent Access and Utility Easement Area" shown on the Easement Plan (defined below) to be used for all purposes for which ways are commonly used in the Town of Hingham in connection with the construction of improvements and use of Parcel I for water treatments purposes and for other related purposes described in Chapter 139 of the Acts of 1879 as the same has been or may be amended from time to time, and to be used to locate, construct, install, use, operate, maintain, inspect, repair, replace and relocate underground electric, telephone, gas, sewer, water, cable television, fire alarm and other utilities and all necessary conduits, fittings, and appurtenances related thereto, as created by and set forth in, that certain Easement Agreement dated August 4, 1994 between Massachusetts-American Water Company and House of Prayer Lutheran Church, Inc., recorded in Book 13068, Page 170. The Easement Plan is that certain plan entitled "Easement Plan, 916 Main Street, Hingham, Massachusetts" dated August 4, 1994 by Perkins Engineering, Inc. and recorded as Plan No. 543 of 1994 and recorded with said Easement Agreement. Said easement is also shown on the 1995 Plan as "Water Company Access and Utility Easement. See Book 10368, Page 170".

EXHIBIT C

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SCHEDULE I

LESSEE AND LESSOR APPROVALS

I. Town of Hingham

1. Conservation Commission Determination of Non-Applicability under Wetlands Protection By-Law, which was issued July 16, 1991
2. Zoning Board of Appeals Special Permits - These were issued October 16, 1991 and extended, modified and/or otherwise affected by Board of Appeals Decisions dated June 19, 1995 (modifying chemical storage, Special Permit #2), August 9, 1996 (modifying parking, Special Permit #4), January 10, 2002 (modifying fencing) and February 17, 2005 (modifying the number of employees at site).
3. Building Permit No. 94-466 and Certificates of Occupancy
4. Board of Health Disposal Works Permit which was issued July 11, 1991, as amended to cover redesign/relocation of Facility. The Certificate of Compliance being issued June 21, 1996;
5. Fire Department Flammables Fuel Oil Storage Permit;
6. ZBA Approval of Evacuation Plan
7. Wireless Communication Facility Special Permit see ZBA decision dated January 31, 2006 recorded in Book 37613 Page 222, regarding Wireless Communication Facility and Building Department Certificate of Occupancy was issued on May 13, 2010, regarding same.

II. Commonwealth of Massachusetts

1. Executive Office of Environmental Affairs MEPA determination see Certification issued October 31, 1991, as amended to cover redesign/relocation of Facility;
2. Massachusetts Department of Environmental Protection ("**MASS DEP**") Approval Letters dated May 12, 1993 (Construction) and July 3, 2008 (Registration Statement)
4. Massachusetts Department of Public Utilities ("DPU") Approval. See the DPU Advisory Rulings issued on May 3, 1995, authorizing project financing of the Facility to proceed without further DPU Proceedings.

III. Miscellaneous

1. Massachusetts Historical Commission Determination. See Review and Letter of Compliance issued June 29, 1994.
2. Massachusetts Division of Fish & Wildlife Determination. See Negative Finding of Endangered Species, issued July 29, 1991.

SCHEDULE II

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SCHEDULE III

BASIC RENT PAYMENTS

FIXED BASIC RENT

Monthly Fixed Basic Rent equals the sum of the following:

(a) Monthly Fixed Basic Rent – Debt Service Portion which, from the Restatement Effective Date until August 25, 2022, equals \$129,284.94, and from August 26, 2022 until September 25, 2022, equals \$12,769,995.99, plus

(b) Monthly Fixed Basic Rent – Non-Debt Service Portion which equals \$10,194.00 (subject to adjustment, with the consent of the Lessor, the Lessee and the Bank, upon the determination of the final transaction costs for the Loan).

(c) The Fixed Basic Rent may be adjusted effective on the Adjustment Date as described in Section 4.3.

PERCENTAGE RENT

Percentage Rent for any month equals (i) the Base Percentage Rent, as defined below, for such month, minus (ii) the Adjustment Factor, *provided* if the Adjustment Factor causes the monthly Percentage Rent to fall below 20% of monthly Fixed Basic Rent, the Adjustment Factor for such month shall be reduced (but not below zero) to provide monthly Percentage Rent to equal 20% of monthly Fixed Basic Rent.

The Base Percentage Rent for any month is the product of (a) “*Percentage Rent Rate*” from the following table for the respective year and (b) the number of million gallons of water treated by the Facility which exceed 30 million gallons in such month. The Base Percentage Rent must always be a positive number.

Year	Percentage Rent Rate	Year	Percentage Rent Rate
2012	\$1,092.90	2024	\$1,749.80
2013	\$1,136.60	2025	\$1,819.80
2014	\$1,182.10	2026	\$1,892.60
2015	\$1,229.10	2027	\$1,968.30
2016	\$1,278.60	2028	\$2,047.00
2017	\$1,329.70	2029	\$2,128.90
2018	\$1,382.90	2030	\$2,214.10
2019	\$1,438.20	2031	\$2,302.60
2020	\$1,495.70	2032	\$2,394.70
2021	\$1,555.60	2033	\$2,490.50
2022	\$1,617.80	2034	\$2,590.20
2023	\$1,682.50	2035	\$2,693.80

The Adjustment Factor:

For the period 1996 through 1998, equals 0.

For the period 1999 through 2003, equals the total Base Percentage Rent calculated for the period 1996 through 1998 less \$1,293,000, divided by 60.

For the period 2004 through 2008, equals the total Base Percentage Rent calculated for the period 1999 through 2003 less \$3,044,000, divided by 60.

For the period 2009 through 2013, equals the total Base Percentage Rent calculated for the period 2004 through 2008 less \$3,773,000, divided by 60.

For the period 2014 through 2018, equals the total Base Percentage Rent calculated for the period 2009 through 2013 less \$4,676,000, divided by 60.

For the period 2019 through 2023, equals the total Base Percentage Rent calculated for the period 2014 through 2018 less \$5,793,000, divided by 60.

For the period 2024 through 2028, equals the total Base Percentage Rent calculated for the period 2019 through 2023 less \$7,178,000, divided by 60.

For the period 2029 through 2033, equals the total Base Percentage Rent calculated for the period 2024 through 2028 less \$8,892,000, divided by 60.

For the period 2034 through 2035, equals the total Base Percentage Rent calculated for the period 2029 through 2033 less \$11,015,000, divided by 60.

SCHEDULE IV

REQUIRED INSURANCE

The Lessee shall maintain or cause to be maintained the following insurance in accordance with the provisions of Section 5.8:

1. *Employer's Liability Insurance* – with limits of \$500,000 per accident, \$500,000 disease per employee, \$500,000 bodily injury by disease policy aggregate or as required by law.
2. *Commercial General Liability Insurance* – including coverage on a Facility specific basis for premises/operations, independent contractors, product/completed operations and contractual liability, XCU (no exclusions for explosion collapse, or underground exposures) and personal injury with limits as follows: (i) \$1,000,000 per occurrence BI/PD, (ii) \$1,000,000 aggregate products/completed operations, (iii) \$2,000,000 general aggregate (per project basis), and (iv) \$1,000,000 per occurrence personal and advertising injury liability.
3. *Automobile Liability Insurance* – including owned, non-owned, hired with limits of \$1,000,000 per occurrence BI/PD CSL, and no deductible.
4. *Excess or Umbrella Liability Insurance* – having limits of \$10,000,000 per occurrence/aggregate BI/PD.
5. *"All Risk" Property Damage Insurance.* Insurance for loss, damage, or destruction of the Facility on an "all risk" basis including the perils of flood and earthquake (and boiler and machinery coverage) in an amount at all times equal to the full replacement value of the Facility. The deductibles on each separate and unrelated loss shall be:
 - a) \$100,000 on all losses, except:
 - b) Flood, where the deductible shall be \$500,000 maximum per occurrence if the Facility is in Flood Zone A whether or not National Flood Insurance is purchased, or \$100,000 maximum per occurrence if the Facility is in any other flood zone or is ineligible for National Flood Insurance;
 - c) Earthquake, where the deductible shall be 5% of the Total Insured Values per occurrence at each location in High and Moderate Hazard Zones, subject to a minimum of \$250,000 per occurrence, or a \$100,000 maximum deductible for earthquake for locations outside High and Moderate Hazard Zones.
6. *Business Interruption and Extra Expense Insurance.* Business interruption and extra expense insurance covering one year of continuing costs, lost profits and extra expenses due to business interruptions caused by an insured peril described in Item 5 of this Schedule IV.
7. *Workers' Compensation* – within statutory limits as required by Law. All policies shall be on reasonable and customary terms, conditions and exclusions which conform to reasonably accepted industry standards for the insured risks.

SCHEDULE V

STIPULATED LOSS VALUE

For so long as any PUB Obligations are Outstanding, the Stipulated Loss Value shall be equal to the aggregate amount of all PUB Obligations (including, without limitation, any outstanding principal, accrued and unpaid interest, prepayment premiums and other outstanding fees, costs and expenses). After the PUB Obligations have been paid in full in cash, the Stipulated Loss Value shall be recalculated in manner that is consistent with the recalculation of Basic Rent on the Adjustment Date. For avoidance of doubt, the Stipulated Loss Value shall include, without limitation, all prepayment premiums that may be due after giving effect to a prepayment of the Loan which is made as a result of the occurrence of the event that gave rise to the payment of the Stipulated Loss Value. For so long as any PUB Obligations are Outstanding, the calculation of the Stipulated Loss Value shall be made by the Bank and shall be deemed to be conclusively binding on the Lessor and the Lessee absent manifest error.

SCHEDULE VI

LITIGATION

At the Hingham Town Meeting in April of 2012, the town Board of Selectmen was authorized to form a committee to study the feasibility of acquiring the Lessee's water system serving the towns of Hingham, Hull and Cohasset pursuant to the terms of the 1879 charter purchase option. The Town last considered the purchase of the water system in 1985 and elected to not proceed with acquisition. While the Lessee is not interested in selling the system, it is working cooperatively with the Town's committee charged with studying the feasibility issue. The committee has not retained outside financial or legal counsel at this point to evaluate the reports prepared by the Lessee's experts. As of this date, the committee has not made a recommendation regarding the feasibility of acquiring the water system pursuant to the charter provisions.