

10.12 **Remedies.** In the event that either party fails to timely comply with the conditions, covenants and obligations hereunder, such failure shall be an event of default and the other party shall have the option (i) to terminate this Agreement by providing written notice thereof and the parties hereto shall have no further liabilities or obligations one unto the other; (ii) to waive any defect or requirement and close this Agreement; or (iii) to sue for specific performance or for actual damages; ~~except, if a party violates its obligations pursuant to this Agreement and the Closing does not occur as a result thereof, the other party's right to obtain any damages hereunder shall be limited to the recovery of the party's out-of-pocket expenses, and~~ ^{with} in no event shall the party have the right to sue for any other damages, including consequential damages, lost profits or punitive damages. P2

ARTICLE 11 POST CLOSING OBLIGATIONS

11.01 **Permit Transfers.** To the extent any Permits are non-transferable to Purchaser or can not be transferred in a timely manner prior to Closing, Seller shall, at the option of Purchaser, either (i) request cancellation of such Permit or (ii) continue to hold such Permit in trust, to the extent permitted by law, on behalf of Purchaser, subject to the indemnification of Seller by Purchaser in respect thereof and Purchaser and Seller agree to cooperate and use reasonable efforts to promptly effect the transfer of such Permits to the Purchaser or the issuance of a new Permit to Purchaser, as the case may be.

11.02 **INDEMNIFICATION.** EACH PARTY SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER AND ITS REPRESENTATIVE OFFICERS, DIRECTORS, SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, LOSSES, DAMAGES, FINES, PENALTIES OR LIABILITIES (INCLUDING WITHOUT LIMITATION INTEREST THAT MAY BE IMPOSED IN RESPECT THEREOF, COURT COSTS, REASONABLE ATTORNEYS' FEES AND ACCOUNTING FEES) ACTUALLY INCURRED OR ARISING OUT OF, IN RESPECT TO, IN CONNECTION WITH, OR ARISING FROM (I) ANY BREACH OF ANY REPRESENTATION OR WARRANTY IN THIS AGREEMENT; OR (II) A BREACH OF ANY COVENANT, RESTRICTION OR AGREEMENT IN THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING OR ANYTHING TO THE CONTRARY CONTAINED HEREIN, IT IS UNDERSTOOD AND AGREED THAT THE REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN SHALL SURVIVE THE CLOSING OF THIS AGREEMENT ONLY FOR A PERIOD OF ONE (1) YEAR FOLLOWING THE DATE OF CLOSING, BUT NOT THEREAFTER, AND NEITHER PARTY WILL HAVE ANY LIABILITY OF ANY KIND WHATSOEVER FOR ANY BREACH THEREOF EXCEPT TO THE EXTENT A CLAIM IS ASSERTED WITHIN SUCH ONE (1) YEAR PERIOD.

11.03 **Record Retention By Purchaser.** For a period of ten (10) years after the Closing Date (or until the closing of the examination of Seller's federal income tax returns for all periods prior to and including the Closing Date, if later) Buyer shall not dispose of any books, records, documents, or information relating to Seller's business prior to the Closing Date without first giving notice to Seller's representatives identified in Section 10.02 Notices and permitting Seller to retain or copy such books and records as it may select. During such period, Buyer shall also permit representatives of Seller to examine and make copies, at Seller's expense, of such books,

EXECUTION VERSION

SELLER:

NOEL WATER CO., INC.

By: Dan M. Harmon

Name: Dan M. Harmon

Title: President

PURCHASER:

ALGONQUIN WATER RESOURCES OF
MISSOURI, LLC. dba LIBERTY WATER

By: Ian E. Robertson

Name: Ian E. Robertson

Title: President