

FINAL

WATER SUPPLY AGREEMENT

by and between

CITY OF ALICE

and

SEVEN SEAS WATER SOLUTIONS USA LLC

dated as of

September 22, 2021

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WATER SUPPLY AGREEMENT

PREAMBLE

This WATER SUPPLY AGREEMENT (this "Agreement") is made and entered into as of September [●], 2021 ("Contract Date") by and between the City of Alice, a Texas home rule city ("Client"), and Seven Seas Water Solutions USA LLC, a Delaware limited liability company ("Seven Seas"). Each of Client and Seven Seas may also be referred to in this Agreement as a "Party" and collectively as the "Parties".

RECITALS

- A. Client issued a Request for Proposals No. 2020-0001 related to Alternative Groundwater Delivery on January 1, 2020, Seven Seas submitted a proposal to Client on January 28, 2020, and Client selected the proposal submitted by Seven Seas on August 18, 2020.
- B. In accordance with its proposal, Seven Seas desires to construct, own and operate a water production facility (as more fully described in Exhibit A hereto, the "Facility") to be located at the Site.
- C. Seven Seas desires to sell and deliver to Client, and Client desires to purchase and accept from Seven Seas, Water produced by the Facility.
- D. Seven Seas desires to transfer ownership of the Facility to Client, and Client desires to have the ownership of the Facility so transferred, upon the expiration or termination of this Agreement in consideration of the payment by Client of the applicable Transfer Fee or Early Termination Fee.
- E. Concurrently with the execution and delivery of this Agreement, Client and Seven Seas have executed and delivered to one another a lease agreement in the form set forth as Exhibit F (the "Lease Agreement"), pursuant to which Client is leasing a portion of the Site to Seven Seas.
- F. Client has authority to enter into this Agreement and perform all promises and covenants hereunder pursuant to Applicable Law of the State of Texas, including Texas Local Government Code § 552.018.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants of each Party to the other contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

The following terms have the meanings set forth below:

“Affiliate” of a Party means any other person directly or indirectly controlling, directly or indirectly controlled by, or under direct or indirect common control with, such Party. For this purpose, “controlling” means having fifty percent (50%) or greater ownership of the economic and voting interests of the entity controlled (or, without such ownership, having the right by contract or otherwise to direct the management and policies of the entity controlled).

“Agreement” has the meaning set forth in the Preamble.

“Applicable Interest Rate” means the lesser of (i) seven and one-half percent (7.5%) per annum or (ii) the maximum rate of interest then permitted under the laws of the State of Texas, including Texas Government Code § 2251.025.

“Applicable Law” means any and all federal, state, or local statutes, laws, municipal charter provisions, regulations, ordinances, rules, mandates, judgments, orders, decrees, Permits and Approvals, codes or license requirements,, or other governmental requirements or restrictions, or any interpretation or administration of any of the foregoing by any Governmental Authority, that apply to the services or obligations of either Party under this Agreement, in each case, whether now or hereafter in effect.

“Billing Period” means each calendar month commencing on the Commercial Operation Date and ending on the last Day of the Contract Term; provided, that the first Billing Period shall commence on the Commercial Operation Date and shall end at 12:00 midnight at the end of the last Day of the calendar month in which the Commercial Operation Date occurs and the last Billing Period shall end at 12:00 midnight at the end of the last Day of the Contract Term.

“Business Day” means a Day, other than Saturday, Sunday or a legal holiday observed by Client.

“Change in Law” means the enactment, adoption, promulgation, modification, repeal, or change following the Setting Date of any Applicable Law (including, but not limited to, any change in the interpretation or administration thereof by any Governmental Authority).

“Client” has the meaning set forth in the Preamble.

“Client Breach” means any failure by Client to fully and timely perform any of its obligations in Section 3.5, Exhibit B or elsewhere in this Agreement or the Lease Agreement.

“Client Default Investment Value” means at the relevant Termination Date the sum of: (a) the aggregate amount of all outstanding Permitted Debts and any outstanding liabilities of Seven Seas

under any of the Contracts; and (b) the Equity at that time; and (c) a sum in respect of the net present value calculated at a ten percent (10%) discount rate of the future revenue calculated at the prevailing Water Charge in respect of the outstanding Contract Term of this Agreement after the Termination Date.

“Client Fiscal Year” means the fiscal year of Client, which as of the Contract Date is the twelve-month period beginning each January 1st and concluding on December 31st, as such fiscal year may be changed from time to time by Client upon reasonable written notice to Seven Seas.

“Client Indemnified Party” has the meaning set forth in Section 14.2.

“Client’s Water System” means the storage and distribution facilities operated and maintained by Client for the transmission, storage, and distribution of Water, including, but not limited to, the Interconnection Facilities beyond the Delivery Point, and all tanks, pumps, pipes, valves, fittings, and other appurtenances related thereto.

“Commercial Operation Date” or “COD” has the meaning set forth in Section 3.3.

“Company Default Investment Value” means at the relevant Termination Date the aggregate amount of all outstanding Permitted Debts and any outstanding liabilities of Seven Seas under any of the Contracts.

“Confidential Information” means all confidential information, trade secret information, or proprietary information, in written or electronic form, which is disclosed by the Disclosing Party to the Receiving Party, and which is marked or designated in writing at the time of disclosure as “proprietary” or “confidential”; provided, that Confidential Information shall exclude (i) information that, at the time of disclosure hereunder, is in the public domain, other than information that entered the public domain by breach of this or any other agreement, or in violation of any Applicable Law; (ii) information that, after disclosure hereunder, enters the public domain, other than information that entered the public domain by breach of this or any other agreement, or in violation of any Applicable Law; (iii) information that, prior to disclosure hereunder, was already in the Receiving Party’s possession, either without limitation on disclosure to others or subsequently becoming free of such limitation; (iv) information obtained by the Receiving Party from a third party having an independent right to disclose the information; or (v) information that is available through independent research without use of or access to Confidential Information.

“Contract Capacity” means the capacity of the Facility to produce Water as described in Exhibit A.

“Contract Date” has the meaning set forth in the Preamble.

“Contract Term” has the meaning set forth in Section 2.2.

“Contracts” means all contracts of whatsoever nature entered into by Seven Seas whose objects are related to the Facility or the transactions contemplated by this Agreement.

“Cure Period” has the meaning set forth in Section 13.3(a).

“Day” means a calendar day, as measured in Central United States Time.

“Delay Event” means any (i) Uncontrollable Circumstance, (ii) any Client Breach, (iii) Governmental Occurrence or (iv) the unavailability of Utilities, materials or supplies necessary for Seven Seas to build, operate and maintain the Facility.

“Delivery Point” means the physical point on the Interconnection Facilities where Seven Seas’ ownership and maintenance responsibility ends, and beyond which the Client’s ownership and maintenance responsibility begins. The location of the Delivery Point shall be as described in Exhibit A. For purposes of clarity, the Water Meters shall be on Seven Seas’ side of the Delivery Point, and the Delivery Point shall be at the downstream edge of the Water Meters.

“Demand for Arbitration” has the meaning set forth in Section 16.3.

“Designated Senior Officers” are the senior officers of each Party as designated in Exhibit E.

“Direct Agreement” has the meaning set forth in Section 6.4(a).

“Disclosing Party” has the meaning set forth in Section 17.5(a).

“Disclosure Order” shall mean a judgment or final order from a court of competent jurisdiction, which orders the Receiving Party to disclose Confidential Information.

“Dispute” has the meaning set forth in Section 16.1.

“Dispute Notice” has the meaning set forth in Section 16.2.

“Dollars” or “\$” means United States Dollars.

“Early Termination Fee” means the applicable fee payable by Client upon any termination of this Agreement prior to the Expiration Date, as set forth in Schedule 11.

“Environmental Law” means any federal, state, local or foreign statute, law, ordinance, regulation, rule, code, order or common law, and enforceable judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to pollution or protection of the environment, health, safety or natural resources, including, without limitation, to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

“Environmental Permit” means any permit, approval, identification number, license, consent, agreement, requirements, certificate or other authorization required under any applicable Environmental Law.

“Equity” means the invested capital in the Facility.

“Expiration Date” has the meaning set forth in Section 2.2.

“Facility” has the meaning set forth in the Recitals.

“Feed Water” means the supply of water provided by the Client, whether from groundwater wells or from existing water treatment plants, that meets the requirements set forth in Exhibit D.

“Feed Water Delivery Point” means the physical point where Client’s ownership and maintenance responsibility ends, and beyond which Seven Seas’ ownership and maintenance responsibility begins. The location of the Feed Water Delivery Point shall be as described in Exhibit A.

“Force Majeure Event” means any act, event or condition, that is not caused by the negligence or lack of due diligence of a Party relying thereon as justification for any failure of performance hereunder, that is beyond the reasonable control of such Party, including any: (a) naturally occurring events, including any weather or climate event or circumstance, underground movement, hurricane, tornado, lightning, hail, earthquake or earth movement, flood, fire, pandemic, epidemic or other acts of God; (b) nuclear or other explosion, extortion, act of public enemy, blockade, insurrection, riot or civil disturbance, sabotage, or acts of terror; (c) war, civil war or armed conflict and related causes; (d) nuclear explosion or nuclear, radioactive, chemical or biological contamination; (e) aircraft crash or forced landing; or (f) strike or labor disturbance.

“Gallon” means a unit of measurement for volume equal to 231 cubic inches.

“Good Management Practice” means the methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good operation, maintenance, repair, replacement and management practices for the transmission, treatment, storage and distribution of water, and for water treatment, interconnection, pumping facilities and pipeline facilities, in each case, in the State of Texas.

“Governmental Authority” means (a) the United States of America, (b) the State of Texas and any agency, department or political subdivision thereof, (c) any municipal or local government, or (d) any other governmental, quasi-governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory, or taxing authority or power having jurisdiction over either Party, the Site, the Facility, the Interconnection Facilities, or Client’s Water System, whether acting under actual or assumed authority.

“Governmental Occurrence” means any: (a) Change in Law; (b) Regulatory Event; (c) introduction or effective increase in Taxes following the Contract Date, which establishes requirements or imposes burdens that adversely impact Seven Seas financially or operationally in the performance of its obligations under this Agreement; (d) exercise of the power of eminent domain, condemnation or other taking by or on behalf of any public, quasi-public or private Person; (e) quarantine restriction, stop-work order or injunction issued by a Governmental Authority; or (f) issuance by any Governmental Authority of a decision in litigation or other administrative or adjudicative legal proceeding, which could reasonably be expected to have a material and adverse impact on the Facility or Seven Seas. Without limiting the foregoing, a Regulatory Event shall not be deemed to be a Governmental Occurrence if it is the result of any failure by Seven Seas to comply with Applicable Law in effect as of the Contract Date or any other material breach by Seven Seas of its obligations under this Agreement.

“Guaranteed Minimum Purchase” has the meaning set forth in Section 1.1(a)(i).

“Hazardous Materials” means any (a) toxic substances, pollutants, contaminants, hazardous wastes, petroleum, petroleum products, petroleum by-products, petroleum breakdown products, radioactive materials, asbestos-containing materials, polychlorinated biphenyls, per- or polyfluoroalkyl substances or radioactive substances or (b) materials or substances defined or regulated as toxic or hazardous or as a pollutant, contaminant or waste pursuant to Applicable Law.

“Installed Capacity” means the maximum capacity of Water which the Facility is designed to produce daily as described in Exhibit A.

“Interconnection Facilities” means the facilities and equipment necessary to connect the Facility to Client’s Water System, as described in Exhibit G.

“Interruption” has the meaning set forth in Section 4.4(c).

“Investment Value” means at the relevant Termination Date the sum of: (a) the aggregate amount of all outstanding Permitted Debts and any outstanding liabilities of Seven Seas under any of the Contracts; and (b) the Equity at that time.

“Invoice” has the meaning set forth in Section 5.2(a).

“kgal” means thousand Gallons.

“KGD” means thousand Gallons per Day.

“Lease Agreement” has the meaning set forth in the Recitals.

“Liability” means any fine, penalty, damage, loss, cost, claim, expense or other liability, including any related attorney fees and expenses.

“Loan Agreement” means any loan agreement, note, bond, credit facility, certificate of deposit, certificate of participation, debt instrument or related document entered into or assumed by Seven Seas in connection with financing of the Facility or the performance obligations of Seven Seas under this Agreement.

“MGD” means million Gallons per Day.

“Notice of Amounts Due” has the meaning set forth in Section 5.3.

“Operating Costs” means all costs and expenses of Seven Seas to operate, manage and maintain the Facility at Contract Capacity as reasonably determined by Seven Seas including, but not limited to, (a) design and construction costs, (b) financing costs, (c) costs of repair and maintenance, including the cost of replacing, restoring and rebuilding equipment, filters, media, pressure vessels, membranes, and components of the Facility, (d) wages, salaries and benefits, (e) costs of utilities, chemicals and other consumables, (f) costs of insurance, (g) Taxes, (h) costs, fees and expenses of obtaining and maintaining in effect any Approvals and Permits (to the extent the responsibility of Seven Seas under this Agreement), (i) costs of water analyses and laboratory tests and (j) legal, administrative, professional and other customary costs, fees and expenses.

“Operating Representatives” has the meaning set forth in Section 9.2.

“Party” or “Parties” has the meaning set forth in the Preamble.

“Permits and Approvals” means the permits, approvals, consents, authorizations, agreements, licenses, requirements, and certificates issued by any Governmental Authority, as required for Seven Seas to construct, own, operate and maintain the Facility for the distribution of Water to Client.

“Person” means any legal or natural person, including any individual, corporation, partnership, limited liability company, joint stock company, association, joint venture, trust, governmental body, Governmental Authority or other entity.

“Proceeding” means any claim, suit, demand, cause of action, lawsuit, arbitration, mediation, inquiry, audit, notice of violation, litigation, citation, summons, subpoena, investigation, complaint, allegation or dispute, whether actual or threatened, whether at law or in equity, and whether in an administrative or court forum.

“Public Request” has the meaning set forth in **Error! Reference source not found.**

“Public Utility” has the meaning set forth in Section 17.6.

“Receiving Party” has the meaning set forth in Section 17.5(a).

“Regulatory Event” means (i) any attempt to regulate or regulation by a Governmental Authority of Seven Seas or any of its Affiliates as a Public Utility or (ii) the non-renewal or termination of, or imposition of any conditions in respect of, any Permits or Approvals required for Seven Seas to perform its obligations under this Agreement.

“Request” shall mean any demand, application, freedom of information or public information act request, claim, lawsuit or inquiry sent to or served upon the Receiving Party, in any form, that seeks Confidential Information.

“Required Disclosure” has the meaning set forth in Section 17.5(b).

“Required Insurances” has the meaning set forth in Section 11.4.

“Secured Lender” has the meaning set forth in Section 6.4(a).

“Security Interest” has the meaning set forth in Section 6.4(a).

“Seven Seas” has the meaning set forth in the Preamble.

“Seven Seas Indemnified Party” has the meaning set forth in Section 14.3.

“Site” means that certain parcel of land with a street address of [●] Commerce Road, Alice, Texas 78332, on which the City of Alice water treatment plant is located, as more particularly described on Exhibit A and identified in the Lease Agreement, where the Facility will be situated.

“Target Commercial Operation Date” has the meaning set forth in Section 3.3.

“Taxes” means any and all applicable taxes, fees, charges, assessments, and other levies in respect of the Facility and the performance obligations under this Agreement, including without limitation any new property, sales, value added, excise, extraction or similar taxes.

“Termination Date” means the date on which this Agreement terminates in accordance with Section 3.4, Section 5.3, Article 12 or Article 13.

“Third Party Claim” means notice of the assertion or commencement of any Proceeding made or brought by any Person who is not a Party to this Agreement or an Affiliate of a Party to this Agreement or a representative of the foregoing.

“Transaction Documents” has the meaning set forth in Section 15.1(a).

“Transfer Date” has the meaning set forth in Schedule 7.

“Transfer Fee” has the meaning set forth in Section 2.3.

“Uncontrollable Circumstance” means (a) any Force Majeure Event and (b) any deviation of feed water quality by greater than ten percent (10%) of any of the parameters set forth in Exhibit D.

“Utilities” means any and all utility services, including electricity, gas, fuel, power, water, sewer, telephone, telecommunications, broadband and transportation of persons and materials.

“Water” means water produced by the Facility and delivered to Client at the Delivery Point.

“Water Capacity Test” has the meaning set forth in Schedule 3.2.

“Water Charge” means the amount in Dollars payable by Client per kgal of Water, as calculated pursuant to Schedule 2.

“Water Enterprise Fund” means that fund designated by Client for deposit of revenues derived from, and payment of all obligations related to or arising from, ownership and operation of Client’s Water System.

“Water Meters” means the integrated water meters installed by Seven Seas at the Delivery Point pursuant to Schedule 6.

“Water Quality Standards” has the meaning set forth in Section 4.3(a) and Exhibit I.

“Water Quality Test” has the meaning set forth in Schedule 3.2.

“Water System Emergency” means the existence of a physical or operational condition or the occurrence of an event on Client’s Water System which is: (a) imminently likely to endanger life, health, property, or the environment; or (b) impairs or imminently is reasonably likely to impair (i) Client’s ability to meet its obligation to provide safe, adequate and proper service to its water customers or (ii) the safety or reliability of the Client’s Water System.

“Water Test” has the meaning set forth in Section 7.2.

ARTICLE 2

CONDITIONS PRECEDENT, TERM AND EARLY TERMINATION

Section 2.1 Conditions Precedent

The Parties shall be obliged to consummate the transactions contemplated hereby, in accordance with the terms hereof, only if each of the following conditions has been satisfied to the reasonable satisfaction of the other Party in full at or before two hundred and seventy (270) days after the Contract Date, unless waived in writing, in the case of conditions set forth in sub-clause (a) by Seven Seas, or in the case of conditions set forth in sub-clause (b) by Client:

- (a) Client shall have delivered to Seven Seas: (i) a duly approved resolution of the City Council approving the execution of this Agreement and the Lease Agreement; (ii) a legal opinion of counsel to the Client, covering the matters set forth in Exhibit K (Opinion of Counsel to Client) or otherwise in form and substance satisfactory to Seven Seas; (iii) the Lease Agreement in the form set forth in Exhibit F (Lease Agreement) duly executed by Client; (iv) evidence that the insurances that Client is required to maintain pursuant to Section 11.2 are in full force and effect; (v) Exhibit D (Feed Water Characteristics); and (vi) Exhibit I (Water Quality Standards); and
- (b) Seven Seas shall have delivered to Client: (i) a certificate of an authorized officer of Seven Seas to the effect that the representations of Seven Seas set forth in Section 15.1 (Representations and Warranties of Seven Seas) are true and correct in all material respects as if made on and as of the Contract Date and attaching authorizing resolutions and incumbency certificates in respect of this Agreement and the Lease Agreement; (ii) a legal opinion of counsel to Seven Seas, covering the matters set forth in Exhibit L (Opinion of Counsel to Seven Seas) or otherwise in form and substance satisfactory to Client; (iii) the Lease Agreement in the form set forth in Exhibit F (Lease Agreement) duly executed by Seven Seas; (iv) evidence that the insurances that Seven Seas is required to maintain pursuant to Section 11.2 are in full force and effect; (v) Exhibit A (Description of the Facility and Site); (vi) Exhibit B (Scope of Works); and (vii) any adjustment under Schedule 2.2.

Section 2.2 Contract Term

The term of this Agreement shall commence on the Contract Date and shall expire on the last day of the Billing Period containing the fifteenth (15th) anniversary of the Commercial Operation Date (“Expiration Date”), unless terminated earlier in accordance with Section 3.4, Section 5.3, Article 12 or Article 13 or extended in accordance with Section 5.2(d) (“Contract Term”).

Section 2.3 Transfer Fee; Early Termination Fee

A transfer fee in the amount of ten Dollars (\$10.00) (the “Transfer Fee”) shall be due and payable by Client to Seven Seas within five (5) Days following the Expiration Date in accordance with Schedule 7. Upon any termination of the Contract Term prior to the Expiration Date, an Early Termination Fee shall be payable by Client to Seven Seas as set forth in Schedule 11. The process for transferring ownership of the Facility to Client following the Expiration Date or the earlier termination of the Contract Term in consideration of the payment by Client of the Transfer Fee or Early Termination Fee, as the case may be, is set forth in Schedule 7.

ARTICLE 3

CONSTRUCTION OF THE FACILITY

Section 3.1 Description and Location of the Facility

The Facility shall be as described in Exhibit A, which provides a more detailed description of the Facility and the Site, including identification of the equipment and components which make up the Facility and a drawing and a map identifying the anticipated location of such equipment.

Section 3.2 Design of the Facility

Seven Seas shall proceed with due diligence to design, engineer, procure, and construct the Facility in accordance with this Agreement and Applicable Law. The Facility shall adhere to the specifications set forth in Schedule 1.

Section 3.3 Commercial Operation Date

- (a) The “Commercial Operation Date” (or “COD”) of the Facility shall be the actual date when Seven Seas has satisfied all of the conditions set forth on Schedule 3. Subject to Client fully and timely performing all of its obligations in Section 3.5, Exhibit B and elsewhere in this Agreement and the Lease Agreement, Seven Seas shall use commercially reasonable efforts to cause the Facility to achieve the Commercial Operation Date by no later than the target date set forth in Schedule 4, as adjusted in accordance with Section 3.4 and Schedule 3.2 (the “Target Commercial Operation Date”).
- (b) Seven Seas shall prepare and submit to Client, no later than three months prior to the expected Commercial Operation Date, a protocol for the conduct of the procedures required to evidence satisfaction of the conditions set forth in Schedule 3, including the expected date of performance of any tests and the expected date of any submittals to Client.
- (c) Seven Seas shall notify Client promptly following the achievement of the Commercial Operation Date. Within two Business Days after receipt by Client of such notice, Client shall (i) deliver its written acknowledgment that the Commercial Operation Date has occurred, or (ii) notify Seven Seas that it does not agree that the Commercial Operation Date has occurred, stating in detail the reasons therefor, in which case the matter shall be resolved in accordance with Article 16. If Client does not provide timely notice of disagreement pursuant to Section 3.3(c)(ii), the Commercial Operation Date shall be conclusively deemed to have been achieved.

Section 3.4 Project Milestones and Delay Events

- (a) If the Commercial Operation Date is delayed due to any Delay Event and the occurrence of such Delay Event causes a material increase in the Operating Costs, Seven Seas may, at

its election and upon written notice to Client, terminate this Agreement upon thirty (30) Days' prior written notice. Upon any such termination prior to the Commercial Operation Date in accordance with the preceding sentence, this Agreement shall become null and void, with each Party thereby released from all further obligations and liabilities to the other Party, other than any Early Termination Fee.

- (b) Except in connection with the termination of this Agreement pursuant to Section 3.4(a), the Parties shall use their respective commercially reasonable efforts to find a solution to any Delay Event and to achieve the Commercial Operation Date in a commercially reasonable timeframe.
- (c) As an alternative to termination of this Agreement pursuant to Section 3.4(a), the Parties may confer and agree upon terms and conditions under which Seven Seas shall continue to design, engineer, procure and construct the Facility in order to achieve the Commercial Operation Date, which agreement shall include the setting of a replacement Target Commercial Operation Date to that contained in Schedule 4.

Section 3.5 Responsibilities of Client

- (a) Client agrees to comply with the following obligations, including all costs and expenses relating thereto, at the times and in the manner, necessary for construction and operation of the Facility in accordance with the requirements of this Agreement:
 - (i) Provide Seven Seas' personnel with 24-hour access, including access via land and/or water, if necessary, to the Site as necessary for the design, installation, operation, inspection, maintenance, repair and removal, if necessary, of the Facility, and logistical and other support as reasonably requested by Seven Seas in connection with the foregoing, and for any other purposes consistent with Seven Seas' rights or obligations under this Agreement.
 - (ii) Provide to Seven Seas a reasonable material lay down area for the construction of the Facility as outlined in Exhibit A, along with 24-hour accessibility for Seven Seas' personnel and facilitate the storage and placement of any related equipment and materials.
 - (iii) Procure uninterrupted supply of electric Utilities to the Facility from the Contract Date through the termination of the Lease Agreement, including interconnection to the grid.
 - (iv) Provide, maintain and operate any desired chemical post-treatment of the Water beyond the Water Quality Standards for the Water supplied by the Facility,

including chemical injection stations and those related to chlorine after the Delivery Point and any additional post-treatment equipment required by Client.

- (v) Provide and maintain capacity in Client's Water System to receive Water from the Facility.
- (vi) File reports required by Governmental Authorities to be filed by Client and pay for all related water tests required of Client by Governmental Authorities.
- (vii) Provide authorization to Seven Seas to obtain access to high-speed internet with the cost of such connection and access to be paid by Seven Seas.
- (viii) Comply with the terms and conditions of the Lease Agreement as set forth in Exhibit F.
- (ix) Maintain the Site and any facilities and structures enclosing the Facility and all utility systems serving the Facility in good condition and repair and in a manner sufficient to provide reasonable security to restrict access to the Site and the Facility by anyone other than the authorized personnel and agents of Seven Seas.
- (x) Operate, maintain and clean the Client's Water System, including the storage cisterns and tanks for the Water, pumps, pipes, and fixtures, all in accordance with Good Management Practice and as necessary to enable the operation and maintenance of the Facility in accordance with this Agreement.
- (xi) Maintain and modify the rights of way and easements required for any pipelines outside of the Facility and keep such pipelines in good repair.
- (xii) Obtain and maintain each of the Permits and Approvals listed in Exhibit C, following preparation by Seven Seas of the applications therefor in accordance with Section 3.6.
- (xiii) Deliver Feed Water meeting the parameters set forth in Exhibit D to the Delivery Point in the amounts necessary to enable Seven Seas to perform its obligations under this Agreement.
- (xiv) Use best efforts to comply with all Applicable Law.
- (xv) Cooperate with Seven Seas to mitigate all Taxes in respect of the Facility; provided, however, that any Change in Law that results in an increase in Taxes after the Contract Date (excluding Seven Seas employee payroll and corporate income taxes including the Texas Franchise Tax) may be passed on to Client by Seven Seas under Section 5.2(e).

- (xvi) Comply with Client's responsibilities under Exhibit B;
- (xvii) From time to time, upon request by Seven Seas, provide written notice to Seven Seas that Client has completed all items required under this Section 3.5 to be done by Client as of the date of such notice.

Section 3.6 Permits and Approvals

- (a) Seven Seas and the Client shall jointly develop, to the best of their knowledge, a list of all Permits and Approvals necessary under Applicable Law to enable Seven Seas to construct, own and operate the Facility and said list shall be attached to this Agreement as Exhibit C.
- (b) Seven Seas shall prepare at Seven Seas' expense all applications for Permits and Approvals, with assistance and support from the Client as reasonably requested, which will be required from the relevant Governmental Authorities with jurisdiction over Seven Seas, the Facility or the Site and which are necessary for the construction, completion, operation and maintenance of the Facility or the Site and for Seven Seas to perform its other obligations under this Agreement. Such Permits and Approvals will be obtained by the Parties in the name of either Client or Seven Seas, as legally required; provided, that if any of the Permits and Approvals may be legally issued in the name of either Client or Seven Seas, such Permits and Approvals will be sought by the Parties in the name of Client. Both Client and Seven Seas shall comply with all terms and conditions of the Permits and Approvals throughout the term of this Agreement once same are obtained.
- (c) Client's Designated Senior Officer shall cooperate and ensure the preparation and execution of all completed Permit and Approval applications, as reasonably requested by Seven Seas, and assist Seven Seas with its application and presentation of any completed permit applications, approvals or requests to all necessary Governmental Authorities.
- (d) For Permits and Approvals to be issued by Client, Client will promptly review any application received from Seven Seas according to the process established by Client for such Permits and Approvals. Client shall review such applications on the same basis as other, non-Facility related applications, and shall not use the permitting process as a means to obtain any additional advantage or benefit concerning the Facility or the transactions contemplated by this Agreement.

ARTICLE 4 WATER PURCHASE AND SALE

Section 4.1 Sale and Purchase of Water

Commencing on the Commercial Operation Date and continuing throughout the Contract Term and subject to the terms and conditions of this Agreement, Seven Seas shall sell and deliver to

Client, and Client shall purchase and accept from Seven Seas, the Water as provided in Section 4.4.

Section 4.2 Water Charge

Promptly following the end of each Billing Period, Seven Seas shall determine the amount of Water delivered to Client during such Billing Period as provided in Article 10. Client shall pay to Seven Seas, in respect of such Billing Period and in accordance with Article 5, the amounts determined in accordance with Schedule 2.

Section 4.3 Water Quality Standards

- (a) The Water to be delivered by Seven Seas to Client shall meet the quality standards set forth in Exhibit I ("Water Quality Standards") (it being understood and agreed that the ability and obligation of Seven Seas to comply with the Water Quality Standards is contingent upon the feed water meeting the specifications set forth in Exhibit D).
- (b) Changes in Water Quality Standards: In the event of any change to the Water Quality Standards, from those in effect on the Contract Date, (including any adoption, promulgation, modification or repeal of a Water Quality Standard or any change in the interpretation or administration thereof) such that the purchase of additional equipment, or the making of other capital investments, by Seven Seas and/or otherwise are necessitated to enable Seven Seas to comply with such a change, or, as a result of the change, the Operating Costs of the Facility are reasonably expected to increase, Seven Seas will consult with Client in order to explore cost efficient approaches to comply with such changes and, provided the costs to address the changes are commercially reasonable, Seven Seas shall make such expenditures, and the Water Charges to be paid by Client as specified in Schedule 2 will be increased to recover such expenditures in accordance with Section 5.2(d). Any such increases will be reflected in the Water Charges to be paid by Client, as specified in Schedule 2, over the then remaining Contract Term. Seven Seas will not be required to incur any increased Operating Costs in connection with, and shall be relieved from compliance with, any change in Water Quality Standards, to the extent such Operating Costs are not recovered.

Section 4.4 Delivery and Acceptance Obligations

- (a) Commencing on the Commercial Operation Date and continuing throughout the Contract Term and subject to the terms and conditions of this Agreement, for each Billing Period:
 - (i) Seven Seas shall make available at the Delivery Point and sell to Client at least the amount of Water determined in accordance with Schedule 5 ("Guaranteed Minimum Purchase") and

- (ii) Client shall accept and purchase from Seven Seas the greater of: (i) the Guaranteed Minimum Purchase; or (ii) the amount of Water actually delivered by Seven Seas during such Billing Period; provided, that Client shall not be obligated to pay for deliveries during any Billing Period greater than the Installed Capacity of the Facility as set forth in Schedule 1.1, calculated on an average basis across the Billing Period.
- (b) Notwithstanding the provisions of Section 4.4(a), Client shall not be responsible for payments related to the Guaranteed Minimum Purchase, if for any reason other than a Client Breach or any of the reasons set forth in Section 4.4(c), Seven Seas is incapable of delivering the Guaranteed Minimum Purchase, calculated on an average basis across the Billing Period, and in such circumstance Client shall pay for the amount of Water actually delivered by Seven Seas.
- (c) Notwithstanding anything to the contrary in this Agreement, Seven Seas shall not be responsible for Water delivery in the event of: (i) planned or unplanned maintenance activities at the Facility, up to seven (7) Days per year; (ii) a decrease in the amount of Feed Water; (iii) a change in the quality of the Feed Water, including any failure to satisfy the Water Quality Standards caused by any reason; or (iv) any Delay Event. In the event of any of the foregoing, ("Interruption"), Seven Seas shall notify Client of such Interruption within three (3) Days of such event and Client shall still be required to pay the Guaranteed Minimum Purchase during the Interruption to Seven Seas; unless, solely due to Seven Seas' own fault and not due to any Delay Event, the actual daily production of the Facility averaged over the thirty (30) Day period immediately prior to the Interruption was lower than the Guaranteed Minimum Purchase, in which case such lower average actual daily production will apply. If any of the events described in this Section 4.4(c) should occur and result in an Interruption, Client and Seven Seas shall use their respective commercially reasonable efforts to find a solution to such Interruption.

Section 4.5 Risk of Loss

As between the Parties, Seven Seas shall be deemed to be in control of the Water output from the Facility up to and until delivery and receipt at the Delivery Point, and Client shall be deemed to be in control of Water from and after delivery and receipt at the Delivery Point. Risk of loss related to the Water shall transfer from Seven Seas to Client at the Delivery Point.

Section 4.6 Responsibility for Water by Location

- (a) **Upstream of Feed Water Delivery Point.** Client shall own, hold, possess and control all Feed Water located upstream of the Feed Water Delivery Point and shall bear all responsibility and Liability therefore.

- (b) **In the Facility.** Between the Feed Water Delivery Point and Delivery Point, i.e., within the Facility, Seven Seas shall hold, possess and control all water and shall bear all responsibility and Liability therefore; provided, that Client shall retain ownership of all water within the Facility.
- (c) **Downstream of Delivery Point.** Client shall own, hold, possess and control all Water located downstream of the Delivery Point and shall bear all responsibility and Liability therefore.

Section 4.7 Water Rights

The Parties acknowledge and agree that all groundwater rights used to produce Feed Water from aquifers below the Site shall be owned by Client at all times during the effective period of this Agreement and thereafter, and Seven Seas shall not gain any interest in such groundwater rights based on its actions pursuant to this Agreement or otherwise. Client shall take all actions deemed appropriate by Client in its discretion to exercise and protect such groundwater rights, including any actions related to Brush Country Groundwater Conservation District, Groundwater Management Area 16 or the Texas Legislature.

ARTICLE 5 BILLING AND PAYMENT

Section 5.1 Meter Reading

The Water Meters shall be read in accordance with Schedule 6.

Section 5.2 Invoicing

- (a) **Invoices.** Promptly following the end of each Billing Period, Seven Seas shall prepare and deliver to Client an invoice (each an “Invoice”) for the total Water Charges for such Billing Period as determined in accordance with this Agreement.
- (b) **Itemization.** Each Invoice shall be itemized substantially in the manner set forth in Schedule 9, and shall state:
 - (i) the amount of Water purchased by Client pursuant to (ii) during the Billing Period in kgal;
 - (ii) the Water Charges with respect to such amount of Water;
 - (iii) any adjustment for costs and expenses for meter calibration, as provided in Schedule 6;

- (iv) any adjustment for excess energy consumption above the performance levels as set forth in Schedule 10; and
 - (v) any adjustment for additional equipment and increased Operating Costs required to meet changes in Water Quality Standards as determined in accordance with Section 5.2(d).
- (c) **Test Water.** Test Water delivered by Seven Seas to the Delivery Point in accordance with the terms of this Agreement, in each calendar month or portion thereof prior to and including the Commercial Operation Date, shall be invoiced by Seven Seas and paid by Client in accordance with the procedures set forth in Schedule 2 and Schedule 3.2.
- (d) **Increased Costs.** If at any time following the Contract Date Seven Seas incurs a material increase in Operating Costs resulting from a Delay Event or any other cause, Seven Seas (without limiting any of the other remedies available to Seven Seas under Article 3, Article 13 or Article 14), at its election and upon written notice to Client, shall be authorized to pass on all such costs to Client either by: (i) billing increased Operating Costs, or Delay Event costs, to Client as a pass-through expense or increasing the Water Charge payable by Client as specified in Schedule 2; or (ii) extending the Contract Term by the number of Days necessary for Seven Seas to recover such increased Operating Costs under the Water Charge payable by Client as specified in Schedule 2. Seven Seas shall substantiate all increases in costs passed through to Client pursuant to this Section 5.2(d), including copies of such documentation as shall be necessary to demonstrate the reasonableness of such costs. For purposes of this Section 5.2(d), a material increase in Operating Costs shall mean an increase of at least two percent (2%) of total Operating Costs per Billing Period, as projected by Seven Seas in determining the Water Charges; such increases shall be cumulative, so that if an increase in Operating Costs resulting from one event is not material, such increase will be included in determining the materiality of future increases. Notwithstanding the preceding sentences of this Section 5.2(d), Seven Seas shall not be entitled to recover from Client any increase in costs that has been recovered by Seven Seas based on business interruption or other insurance.
- (e) Any applicable Taxes identified in (xv) shall be invoiced by Seven Seas and paid by Client in accordance with the procedure set forth in Schedule 2.

Section 5.3 Payment of Invoices

Each Invoice shall be due and payable, and Client shall pay each Invoice delivered by Seven Seas pursuant to Section 5.2, within thirty (30) Days following the date that the Invoice is received by Client, subject to the provisions of Section 5.5. An Invoice will be overdue, and Client shall be in default under Section 13.2, on the thirty-first (31st) Day following the date that the Invoice is received by Client, pursuant to Texas Government Code § 2251.021(a). If any Invoice becomes

overdue, then Seven Seas will provide written notice to Client of the amounts so due ("Notice of Amounts Due"). Amounts not paid within thirty (30) Days following receipt of an Invoice will bear interest at the Applicable Interest Rate from the due date until the date paid.

Section 5.4 Suspension of Water Deliveries

Notwithstanding Section 16.1, if any undisputed Invoice becomes overdue, in its discretion Seven Seas may suspend the delivery of Water to Client pursuant to Article 4; provided, that Seven Seas shall be entitled to continue delivering Water to Client and invoicing Client for such delivered Water, and any decision by Seven Seas to continue delivering Water to Client during any period in which Client is in default pursuant to Section 5.3 shall not act as a waiver of any right or remedy of Seven Seas pursuant to this Agreement, including the right of termination, the remedies under Section 13.3(b) and any breach of contract claim. Seven Seas shall not suspend deliveries of Water to Client under this Section 5.4 until a Notice of Amounts Due has been provided to Client, including the information required by Texas Government Code § 2251.051(a). For purposes of clarification, Seven Seas may not suspend the delivery of Water to Client based on an overdue Invoice for which Client has notified Seven Seas of a dispute pursuant to Section 5.5.

Section 5.5 Invoice Disputes

Client shall notify Seven Seas of any perceived error or inaccuracy regarding an Invoice within twenty-one (21) Days of receipt of such Invoice. In the event of a dispute about the accuracy of an Invoice, Client shall pay the undisputed amount in accordance with Section 5.3 pending resolution of the dispute. If the dispute is resolved in favor of Seven Seas, Seven Seas shall be entitled to receive interest at the Applicable Interest Rate on the unpaid balance of the Invoice beginning on the date that payment on the Invoice was due through the date that payment is made by Client, which for this purpose shall mean the date that Client initiated a transfer of funds or mailed a check to Seven Seas. The Parties acknowledge and agree that any dispute regarding an Invoice shall be subject to the provisions of Texas Government Code, Chapter 2251, Subchapter C, as amended.

Section 5.6 Client Covenants

- (a) **Operating Expenses.** Client represents and covenants that all payments to be made by Client to Seven Seas pursuant to Section 5.2 shall constitute reasonable and necessary "operating expenses" (as defined in Texas Local Government Code § 552.018 and Texas Government Code, Chapter 1502) of Client's Water System, and that all such payments will be made solely from the Water Enterprise Fund. Client has determined and represents that the Water is absolutely necessary and essential to Client's present and future operation of Client's Water System, and that Client's entering into this Agreement represents a long-term plan for supplying potable water to meet the current and projected needs of present and future customers of Client's Water System. Accordingly, the payments required by this Agreement to be made by Client to Seven Seas shall constitute reasonable and

necessary operating expenses of Client's Water System as described above, with the effect that such payments from the Water Enterprise Fund (i) shall be deducted from gross revenues of Client's Water System in the same manner as other operating expenses of Client's Water System for the purpose of determining net revenues available to pay bonds or other similar obligations issued by Client before or after the Contract Date, which obligations are secured by a pledge of the revenues of Client's Water System after deduction of its operating expenses, and (ii) shall be taken into account in establishing and maintaining rates and charges for water services provided by Client to customers of Client's Water System.

- (b) **Limited Source of Payment.** The sole source of any payment made or to be made by Client in satisfaction of any obligations assumed by Client under this Agreement shall be limited solely and exclusively to the Water Enterprise Fund. Seven Seas shall never have the right to demand payment from any other source of revenue or fund of Client, including funds raised by, or to be raised by, ad valorem, sales, excise or other taxes on the properties, businesses or residents within the city limits of Client. The obligations of Client under this Agreement shall not be construed as a debt of any kind or for any purpose, including the purpose of requiring that Client levy and collect a tax to discharge any such obligation.
- (c) **Water Rates.** The obligation of Client to pay an Invoice, delivered by Seven Seas to Client pursuant to Section 4.2 and Section 5.3, shall be conditioned on a best efforts attempt by the governing body of Client to obtain and appropriate funds for payment of such Invoice. The governing body of Client shall set rates and charges for the provision of water services to the customers of Client's Water System at a level that will generate revenues sufficient to meet the payment obligations of Client to Seven Seas under this Agreement, in addition to any obligations Client may have to creditors and vendors other than Seven Seas. During the Contract Term, Client will not transfer monies from the Water Enterprise Fund to the general fund or another fund, in any manner that would have the effect of limiting the ability of Client to meet its payment obligations under this Agreement. During the Contract Term, Client will not incur any debts or other obligations that would have the effect of limiting the ability of Client to meet its payment obligations under this Agreement.

ARTICLE 6

PROJECT FINANCING

Section 6.1 Financing by Seven Seas

Seven Seas is solely responsible for obtaining and repaying all financing necessary for the design, permitting and construction of the Facility, at Seven Seas' own cost and risk and without recourse to Client. Seven Seas may obtain financing or refinancing from any source, and on such terms as Seven Seas determines in its discretion to be appropriate. Seven Seas exclusively bears the risk of (i) the availability or unavailability of financing for the Facility and (ii) any changes in the interest

rate, payment provisions or other terms and conditions of any of its financings. Client shall have no obligation to provide financing for the Facility.

Section 6.2 Non-Recourse to Client

All Permitted Debt or other obligations issued or incurred by Seven Seas in connection with this Agreement or the Facility shall be issued or incurred only in the name of Seven Seas.

Section 6.3 Compliance with Financing Terms

Seven Seas shall comply with all terms and conditions of any Permitted Debt to the extent necessary to perform its obligations under this Agreement. If at any time Seven Seas receives a notice of the occurrence of an event of default, an event that entitles any Permitted Debt Creditor to enforce any security in the Facility or its revenues, or a similar event, Seven Seas shall promptly deliver a copy of such notice to Client.

Section 6.4 Security

- (a) Seven Seas may execute such agreements, liens and financing statements deemed by Seven Seas to be necessary or convenient to create, establish or perfect any security interest (each a "Security Interest") in the Facility and its revenues for any Permitted Debt, including by a collateral assignment of this Agreement; provided that any Security Interest and all rights acquired under it shall be subject to each and all of the covenants, conditions and restrictions stated in this Agreement and to all rights and interests of Client. Without limiting the foregoing, upon the election and written notice of Seven Seas to Client, Client shall enter into a direct agreement with any Permitted Debt Creditor to whom Seven Seas grants such a Security Interest (a "Secured Lender"), confirming its consent to such Security Interest, granting customary notice and cure rights and other provisions and protections reasonably requested by the Secured Lender (the "Direct Agreement"). Such Direct Agreement shall be in form and substance reasonable acceptable to such Secured Lender.
- (b) Without limiting the generality of the foregoing, nothing contained in any such Security Interest shall release or be deemed to relieve Seven Seas from full and faithful observance and performance of the terms, covenants and conditions herein contained to be observed and performed by Seven Seas or from any liability for the non-observance or non-performance of any of the terms and conditions hereof, nor be deemed to constitute a waiver of any rights of Client hereunder, except as expressly provided for herein.

Section 6.5 Step-In Rights

Client acknowledges and agrees that Seven Seas may obtain financing through agreements, notes, bonds or other instruments that include a right for the Permitted Debt Creditors thereunder

(including any trustee or administrative agent on behalf of such creditors) to step into and assume the rights and obligations of Seven Seas to Client pursuant to this Agreement. If Seven Seas provides Client with notice of any such step-in rights in favor of a Permitted Debt Creditor, Client shall provide notice to such Permitted Debt Creditor of any declaration by Client of the default or potential default of Seven Seas pursuant to Section 13.1 of this Agreement, and such Permitted Debt Creditor shall have the right to cure any such default on the same terms and conditions as Seven Seas in accordance with Section 13.3(a).

ARTICLE 7

WATER MEASUREMENT AND FACILITY SPECIFICATIONS RATING

Section 7.1 Water Measurement

Water shall be measured in Gallon increments and invoiced in kgal increments and as set forth in Schedule 2 and Schedule 9.

Section 7.2 Water Test

The initial water capacity of the Facility shall be as set out in Schedule 1 and confirmed by the Water Capacity Test. The quality of water supplied by the Facility shall be determined by the Water Quality Test (collectively, with the Water Capacity Test, the “Water Test”, all as described in Schedule 3.2).

Section 7.3 Facility Expansion

Each Party shall have the right to request a Facility Expansion subject to, and in accordance with the terms of, Schedule 1.

ARTICLE 8

FACILITY LOCATION AND WATER SYSTEM INTERCONNECTION

Section 8.1 Facility Location

The Facility shall be located at the City of Alice water treatment plant site on Commerce Road, Alice, Texas, as more specifically described on Exhibit A, which Site Seven Seas agrees to lease from Client pursuant to the Lease Agreement.

Section 8.2 Interconnection Facilities

Client shall, at its sole cost and expense, complete the design, construction and installation of the Interconnection Facilities beyond the Delivery Point within the time frames set forth in Schedule 4, in accordance with the specifications as specified in Exhibit G.

Section 8.3 Seven Seas' Obligations

Seven Seas shall be responsible for the design, construction, installation, maintenance and ownership of the Facility, which includes the design, construction, installation, operation and maintenance of the Interconnection Facilities, from Seven Seas' Facility up to and including the Delivery Point.

Section 8.4 Client's Obligations

Client shall be responsible for the operation, maintenance and ownership of the Interconnection Facilities beyond the Delivery Point.

Section 8.5 Technical Requirements and Operations

- (a) The Parties agree that the interconnection with, and delivery of Water into, Client's Water System shall be accomplished in accordance with the standards set forth in Exhibit G.
- (b) Client shall notify Seven Seas, or Seven Seas shall notify Client, promptly by telephone, or as may be agreed to by the Parties, when such Party becomes aware of a Water System Emergency that may reasonably be expected to affect Seven Seas' operation of the Facility, the Interconnection Facilities, or Client's Water System. To the extent such information is known, the notification shall describe the Water System Emergency, the extent of the damage or deficiency, the expected effect on the operation of Seven Seas' Facility, the Interconnection Facilities or Client's Water System and operations, its anticipated duration and the corrective action taken or to be taken. The initial notice shall be followed as soon as practicable with written notice. Each Party agrees to take promptly reasonable appropriate corrective action as is necessary to correct any hazardous or unsafe conditions associated with such Water System Emergency.

Section 8.6 Site Access

Client shall grant Seven Seas throughout the term of this Agreement the right of ingress and egress to the Site and the Seven Seas' Facility, including the Interconnection Facilities from Seven Seas' Facility up to and including the Delivery Point all in accordance with the Lease Agreement. Ingress and egress to Seven Seas' Facility shall be as depicted in Exhibit A.

Section 8.7 Ownership of Facility

During the Contract Term, Seven Seas shall be the sole legal and beneficial owner and the operator of the Facility, free and clear of any liens or other interests in favor of Client. The Facility shall be the personal property of Seven Seas and shall not attach to or be deemed a part of, or become a fixture to, the Site regardless of the manner of affixation to the Site. Without limiting the generality of the foregoing, Client hereby waives any statutory or common law lien that it might otherwise

have in or to the Facility or any part thereof and agrees that Seven Seas shall maintain ownership of the Facility until transferred to Client pursuant to Section 8.9. Client shall execute and furnish any instrument (including, without limitation, any financing statements or similar public documents) and/or take any action reasonably requested by Seven Seas to perfect, confirm or maintain Seven Seas' right, title and interest in the Facility. Client acknowledges and agrees that, neither by the execution of nor by reason of performance under this Agreement, does it obtain any title to the Facility or any of their components, nor any property right or interest, legal or equitable, in the Facility or any of their components, whether or not affixed or attached to the realty or any structure thereon. Seven Seas acknowledges that the Site on which the Facility will be located is not part of the Facility.

Section 8.8 Assignment of Ownership of Facility

During the Contract Term, Seven Seas may assign, convey, transfer or sell the Facility, in whole or in part, to any of its Affiliates, without the prior consent of Client; provided, that such Affiliate assignee shall be bound by the terms and conditions of this Agreement. Seven Seas may not assign, convey, transfer or sell any interest in the Facility, in whole or in part, to any Person other than an Affiliate, without the prior written approval of Client, which approval shall not be unreasonably withheld, conditioned or delayed; provided, that such limitation shall not apply to a Security Interest allowed pursuant to Section 6.4 or Section 6.5.

Section 8.9 Transfer of Facility

Upon expiration of the Contract Term or earlier termination, Seven Seas, without any warranty whatsoever, shall transfer the ownership, free and clear of any liens or other interests in favor of Seven Seas, of the Facility to the Client in consideration of the Client's payment of the Transfer Fee or the applicable Early Termination Fee, as the case may be, as set forth in Section 2.3 and Schedule 11, respectively, in accordance with the process set forth in Schedule 7.

ARTICLE 9 OPERATION AND MAINTENANCE

Section 9.1 Operation and Maintenance

Seven Seas shall operate and maintain the Facility in accordance with Applicable Law. Without limiting the foregoing, Client shall at any and all times be responsible for compliance with all Applicable Law pertaining to operations at the Site, other than those operations at the Site conducted by Seven Seas. Client shall at any and all times be responsible for compliance with all Applicable Law covering Hazardous Materials at the Site, including any requirements pertaining to the clean-up, removal, remediation and/or encapsulation of any Hazardous Materials that may now be or at any time in the future may be in, on, at, under or about the Site, including any Hazardous Materials which may have emanated therefrom or migrated thereto, but excluding any

Hazardous Materials contamination or conditions caused by Seven Seas. In no event will Seven Seas be liable for any environmental cleanup, costs or remediation at the site, caused by, stemming from, arising out of, or resulting from Client's ownership and or operations at the site, or Client's violation of any Applicable Law. Notwithstanding anything provided herein to the contrary, Client shall indemnify, defend, and hold Seven Seas and any Seven Seas Indemnified Party harmless from any and all demands, losses, damages, liabilities, judgments, costs, claims, liens, expenses, penalties, permits and reasonable attorney's and consultant's fees caused by, stemming from, arising out of, or resulting from (a) any breach of the Client's covenants, representations or warranties in this Section 9.1, (b) any Hazardous Material present, released, stored, disposed of, placed, used, or discharged at, about or from the Site, or (c) any violation of or noncompliance with any Environmental Law or Environmental Permit, in each case not caused by Seven Seas' affirmative acts, whether or not such presence, release, storage, placement, use, discharge or disposal of Hazardous Material or violation of or noncompliance with Environmental Laws or Environmental Permits occurs or exists before, during or after the Contract Term of this Agreement. Client represents and warrants to Seven Seas that (x) there are no Hazardous Materials at, on, in or under the Site in violation of Applicable Law and (y) the operations at the Site have been in compliance in all respects with all Environmental Laws and Environmental Permits. The provisions of this Section 9.1 shall survive the expiration or earlier termination of the Contract Term of this Agreement.

Client acknowledges that, notwithstanding anything contained in Articles 3, 4 or 11, this Section 9.1 is the sole and exclusive provision in this Agreement concerning compliance with or liability under Environmental Laws or with respect to any environmental, health or safety matter, including natural resources, related in any way to the Facility, the Site, this Agreement or its subject matter. Notwithstanding anything herein provided to the contrary, Client waives, on its own behalf and on behalf of its Affiliates, predecessors, successors and assigns, officers, directors, employees, agents and partners, any common law and statutory action, claim or remedy against Seven Seas now or hereafter available under any Environmental Law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., as amended, and the rules and regulations promulgated thereunder, and similar international, foreign, federal, regional or state law, whether or not in existence on the date hereof.

Section 9.2 Operating Representatives

At least thirty (30) Days prior to the scheduled Commercial Operation Date, each Party shall appoint a member and two (2) alternate members as operating representatives and provide written notice of such appointments to the other Party (the "Operating Representatives"). Such appointments may be changed at any time by similar written notice. The respective Operating Representatives shall meet as necessary at a mutually agreeable time and place upon prior written notice. Each Operating Representative and alternate shall be a responsible person working with

the day-to-day operations - in the case of Client – of Client's Water System and - in the case of Seven Seas - of the Facility.

- (a) The duties of the Operating Representatives shall include those specifically identified elsewhere in this Agreement, and the following:
 - (i) Coordinate operation schedules;
 - (ii) Establish control and operating procedures consistent with the provisions of this Agreement;
 - (iii) Provide a list of Operating Representatives of each Party; and
 - (iv) Such other duties as may be delegated to them by mutual agreement of the Parties; provided, that such Operating Representatives shall not have the authority to amend this Agreement.
- (b) Each Party shall cooperate in providing to the Operating Representatives all information required in the performance of their duties. If the Operating Representatives are unable to agree on any matter that is delegated to them in accordance with this Agreement, such matter shall be referred by the Operating Representatives to their Designated Senior Officers for decision. All decisions and agreements made by the Operating Representatives or Designated Senior Officers shall be evidenced in writing.

Section 9.3 Operations Upon Bankruptcy of Seven Seas

Upon the institution by or against Seven Seas of insolvency or bankruptcy proceedings, Client may, upon providing three (3) days' notice, assume responsibility for operation and maintenance of the Facility. During any period of operations by Client, Client shall operate and maintain the Facility in substantially similar manner as performed by Seven Seas prior to the assumption by Client, and in accordance with all operational instructions, guidelines or manuals provided with, and equipment specifications and limitations of, each component of the Facility. At the conclusion of such period of operations by Client, Client shall return the Facility to the exclusive possession and control of Seven Seas in substantially similar condition as when Client assumed operations. During the period of operations, Client shall pay all expenses incurred by it in operation and maintenance of the Facility, and Client shall pay Seven Seas all amounts owed pursuant to this Agreement, less any costs that were avoided by Seven Seas based on the assumption of operations by Client. The period of operations by Client shall end upon the earliest of: (i) assumption, assumption and assignment, or rejection of the Agreement in the insolvency or bankruptcy proceeding; (ii) the effective date of a plan of reorganization or liquidation (except as otherwise provided in such plan); (iii) dismissal of the insolvency or bankruptcy proceeding; or (iv) agreement by the Parties, based on adequate assurances being provided by Seven Seas to

Client regarding the ability of Seven Seas to provide uninterrupted operation and maintenance of the Facility.

ARTICLE 10 METERING

Section 10.1 Installation of Meter

Seven Seas shall obtain, install, calibrate and test the meters as provided for in Schedule 6.

Section 10.2 Measurement and Invoicing of Water Delivered; Testing of Water Meters

The quantity, quality, and pressure of the Water delivered to Client shall be measured, monitored, tested and recorded by the Parties in accordance with the methods specified in Schedule 6.

Section 10.3 Facility's Electrical Consumption

Electrical consumption of the Facility shall be metered as set forth in Schedule 10.

ARTICLE 11 INSURANCE

Section 11.1 Seven Seas' Insurance Requirements

Seven Seas shall carry and maintain the insurance as set out in Schedule 8.1.

Section 11.2 Client's Insurance Requirements

Client shall carry and maintain the insurance as set out in Schedule 8.2.

Section 11.3 Proof of Insurances

Each Party shall, from time to time, upon the reasonable written request of the other Party, provide proof that the insurances required to be maintained pursuant to this Section 11 are in full force and effect.

Section 11.4 Unavailability of Insurance

To the extent that any of the insurance terms or coverages required to be maintained by Seven Seas pursuant to Section 11.1 ("Required Insurances") are not available on a commercially reasonable basis or on commercially reasonable terms, Seven Seas shall obtain insurance as comparable to the Required Insurances as is available on a commercially reasonable basis or on commercially reasonable terms.

Section 11.5 Lenders Insurance Requirements

If, under the terms of any funding agreement entered into by Seven Seas to fund its obligations under this Agreement, it is obligated to carry, or procure the carrying of, insurance coverage with higher limits, lower deductibles or self-insured retentions, or broader coverage than required under this Agreement or to procure customary lender endorsements for such insurance, the Party's agree to make corresponding adjustments to Schedule 8 of this Agreement and the provision of such insurance shall satisfy the applicable requirements of this Agreement.

ARTICLE 12 UNCONTROLLABLE CIRCUMSTANCES

Section 12.1 Effect of Uncontrollable Circumstances

Neither Party shall be liable to the other Party for failure to perform any obligation hereunder, when such failure is the result of the occurrence of an Uncontrollable Circumstance which arises after the Contract Date; provided that neither Party shall be excused from any obligation to pay amounts due under this Agreement for services rendered or products delivered before the occurrence of the Uncontrollable Circumstance or as otherwise provided in Section 4.4(c). Upon becoming aware of the occurrence of an Uncontrollable Circumstance, or that any such event is reasonably expected to occur, the affected Party shall promptly notify the other Party of such event, or such pending event, as the case may be. The suspension of performance shall be of no greater scope and of no longer duration than is reasonably required as a result of the Uncontrollable Circumstance. The affected Party shall use commercially reasonable efforts to mitigate the impact of the Uncontrollable Circumstance, including commercially reasonable efforts to mitigate any delay or interruption to design, construction operation or maintenance of the Facility. The affected Party shall provide weekly progress reports to the other Party describing actions taken to implement such mitigation. When the non-performing Party is able to resume performance of its obligations under this Agreement, said Party shall give the other Party three (3) Days' prior written notice to that effect.

Section 12.2 Changes Due to Uncontrollable Circumstance

As soon as practicable following the initial written notice of the Uncontrollable Circumstance by the Party seeking to suspend performance due to the Uncontrollable Circumstance, such Party shall provide the other Party with a written preliminary evaluation of the extent of the adverse effect upon the performance obligations under this Agreement. Upon completion of the notifying Party's final analysis of such adverse impact, including completion of engineering estimates, if necessary, and of any necessary modifications or repairs to the Facility, the Interconnection Facilities and Client's Water System or other remedial action, the notifying Party shall provide the other Party with a final written report of the overall impact on the operation of this Agreement.

Section 12.3 Delay Due to Uncontrollable Circumstance

In the event that Seven Seas' performance is delayed by an Uncontrollable Circumstance, and such delay continues for an uninterrupted period of six (6) months, either Party may terminate this Agreement upon written notice to the other Party. In the event that Client's performance is delayed by an Uncontrollable Circumstance, and such delay continues uninterrupted for a period of six (6) months, either Party may terminate this Agreement upon written notice to the other Party. Prior to exercising its termination right set forth in the prior two sentences, a Party will meet and confer with the other Party and use reasonable commercial efforts to achieve an alternative to termination, including any repair, rehabilitation, rebuilding or replacement of the Facility, in whole or in part, so that commercial operations may resume. If despite such efforts the Agreement is terminated pursuant to this Section 12.3, neither Party shall have any further obligations hereunder, except as to the payment of amounts that were incurred, accrued, due or payable prior to the effective date of such termination, and the applicable Early Termination Fee as set forth in Schedule 11, and except as to provisions expressly surviving termination pursuant to Section 17.8.

ARTICLE 13 DEFAULT AND TERMINATION

Section 13.1 Seven Seas Default

Client may declare Seven Seas in default of the Agreement if any of the following shall occur and continue for the time specified:

- (a)** Seven Seas is unable to deliver from the Facility to the applicable Delivery Points the Guaranteed Minimum Purchase for an aggregate of one hundred and eighty (180) Days in any rolling period of twelve (12) consecutive Billing Periods.
- (b)** Any of the following events occur in respect of Seven Seas:
 - (i)** entry into an arrangement with or for the benefit of all or substantially all of its creditors or consent to or acquiescence in the appointment of a receiver, trustee, or liquidator for all or substantially all of Seven Seas' assets;
 - (ii)** bankruptcy, winding up, reorganization, insolvency, arrangement, or similar proceeding, in each case for relief of Seven Seas' debts, instituted by or against Seven Seas under the laws of any jurisdiction, which proceeding is not dismissed within ninety (90) Days;
 - (iii)** any action or answer in a bankruptcy, winding up, reorganization, insolvency, arrangement, or similar proceeding, in each case for relief of Seven Seas' debts, in which Seven Seas approves of, consents to, or acquiesces in, any such proceeding; or

- (iv) the levy of any distress, execution, or attachment upon Seven Seas' property which shall substantially interfere with Seven Seas' performance hereunder; unless such event is caused primarily by Client's failure to make any payment due pursuant to this Agreement within sixty (60) Days of when it becomes due and payable.
- (c) Any inaccuracy in or breach of any of the representations and warranties of Seven Seas contained in this Agreement or any Transaction Document, as of the date such representation or warranty was made.
- (d) Any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seven Seas pursuant to this Agreement or any Transaction Document.
- (e) Seven Seas fails to maintain the Required Insurances in accordance with Article 11.
- (f) A Tenant Default (as defined the Lease Agreement) has occurred and said default remains uncured as specified by the Lease Agreement.

Provided that, Seven Seas shall not be in default pursuant to Section 13.1(a), (c), (d) or (e) to the extent such circumstance is the result of any Delay Event. During the pendency of any declaration by Client of default by Seven Seas, Seven Seas shall continue to perform all actions required under this Agreement, including the delivery of Water pursuant to Article 4.

Section 13.2 Client Default

Seven Seas may declare Client in default of the Agreement if any of the following shall occur and continue for the time specified:

- (a) Client fails to pay any amounts due to Seven Seas pursuant to Section 5.3.
- (b) Any of the following events occur in respect of Client:
 - (i) entry into an arrangement with or for the benefit of all or substantially all of its creditors or consent to or acquiescence in the appointment of a receiver, trustee, or liquidator for all or substantially all of Client's assets;
 - (ii) bankruptcy, winding up, reorganization, insolvency, arrangement, or similar proceeding, in each case for relief of Client's debts, instituted by or against Client under the laws of any jurisdiction, which proceeding is not dismissed within ninety (90) Days;
 - (iii) any action or answer in a bankruptcy, winding up, reorganization, insolvency, arrangement, or similar proceeding, in each case for relief of Client's debts, in which Client approves of, consents to, or acquiesces in, any such proceeding; or

- (iv) the levy of any distress, execution, or attachment upon Client's property which shall substantially interfere with Client's performance hereunder.
- (c) Any inaccuracy in or breach of any of the representations and warranties of Client contained in this Agreement or any Transaction Document, as of the date such representation or warranty was made.
- (d) Any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Client pursuant to this Agreement or any Transaction Document.
- (e) Client fails to accept and purchase the Guaranteed Minimum Purchase of Water for any Billing Period in accordance with Section 1.1(a)(ii).
- (f) Any Landlord Default (as defined the Lease Agreement) has occurred and said default remains uncured as specified by the Lease Agreement or, without limiting the foregoing, the Lease Agreement ceases to be in full force and effect (other than due to a Seven Seas default).

Section 13.3 Termination for Seven Seas or Client Default

- (a) If Seven Seas shall default under and pursuant to Section 13.1 of this Agreement and such default shall be continuing for sixty (60) Days after written notice thereof (with such notice describing in reasonable detail the nature of the failure) by Client to Seven Seas, then Client, at its option, by written notice to Seven Seas may immediately terminate this Agreement. If the default however is of such nature that it cannot, with reasonable diligence, be cured within sixty (60) Days, Client's right to terminate shall be suspended during an additional sixty day (60) Day period (collectively with the initial 60-day period, the "Cure Period") as Seven Seas effectuates a cure. Upon successfully curing any default within the Cure Period, Client's right to terminate will be waived and this Agreement will continue without interruption. If a termination of this Agreement pursuant to the terms and conditions of this Section 13.3(a) shall occur, Seven Seas shall cease to provide Water to Client, and Client shall be responsible for the payment to Seven Seas of Invoices for Water supplied under the terms of this Agreement up to and through the termination date and any and all other amounts payable under Article 4, together with the applicable Early Termination Fee as set forth in Schedule 11, within five (5) Days of such termination date.
- (b) If Client shall default under and pursuant to Section 13.2 of this Agreement and such default shall be continuing for sixty (60) Days after written notice thereof (with such notice describing in reasonable detail the nature of the failure) by Seven Seas to Client (except as otherwise provided in Section 5.3 in the case of a payment default), then Seven Seas, at its option, by written notice to Client may immediately terminate this Agreement. If the default however is of such nature that it cannot, with due diligence and adequate resources,

be cured within sixty (60) Days, Seven Seas' right to terminate shall be suspended during an additional sixty day (60) Day period (collectively with the initial 60-day period, the "Cure Period") as Client is diligently and continuously engaged with adequate resources in effecting a cure. If Client successfully cures any default within the Cure Period, then Seven Seas' right to terminate will be waived and this Agreement will continue without interruption. If a termination of this Agreement pursuant to the terms and conditions of this Section 13.3(b) shall occur or otherwise in connection with any actual or constructive termination of this Agreement by Client other than as expressly authorized under Section 13.3(a), in addition to all other available remedies, Seven Seas shall cease to provide Water to Client and Client shall be responsible for the payment to Seven Seas of Invoices for Water supplied under the terms of this Agreement through the termination date and any other amounts payable under Article 4, together with the applicable Early Termination Fee as set forth in Schedule 11, within five (5) Days of such termination date.

Section 13.4 Remedies Cumulative

EXCEPT AS PROVIDED IN ERROR! REFERENCE SOURCE NOT FOUND., EACH RIGHT OR REMEDY OF THE PARTIES UNDER THIS AGREEMENT SHALL BE CUMULATIVE OF AND SHALL BE IN ADDITION TO EVERY OTHER RIGHT OR REMEDY PROVIDED HEREIN, AND THE EXERCISE, OR THE BEGINNING OF THE EXERCISE, BY A PARTY OF ANY ONE OR MORE OF THE RIGHTS OR REMEDIES PROVIDED FOR HEREIN SHALL NOT PRECLUDE THE SIMULTANEOUS OR LATER EXERCISE BY SUCH PARTY OF ANY OR ALL OTHER RIGHTS OR REMEDIES PROVIDED FOR HEREIN.

ARTICLE 14

LIMITATION ON LIABILITY AND INDEMNIFICATION

Section 14.1 Exclusion of Consequential Damages

Without limiting any obligation to pay damages or any other express remedy otherwise specifically provided for in this Agreement, in no event, whether because of a breach of any provision contained in this Agreement or any other cause, whether based upon contract, negligence, including tort or strict liability, warranty, or otherwise, shall either Party be liable for or obligated in any manner to pay incidental, special, punitive, consequential, exemplary, or indirect damages of any nature whatsoever incurred by either Party.

Section 14.2 Indemnification by Seven Seas

Seven Seas shall indemnify, defend and hold harmless Client and its officials, employees and agents (each an "Client Indemnified Party") from and against any Liability or Proceeding based upon, arising out of or with respect to: (i) any inaccuracy in or breach of any of the representations

or warranties of Seven Seas contained in this Agreement or the Lease Agreement; (ii) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seven Seas pursuant to this Agreement or the Lease Agreement; (iii) any Third Party Claim based upon, resulting from, or arising out of the ownership or operation of the Facility or the water owned by Seven Seas pursuant to Section 4.6(b); or (iv) any actual or alleged injury or death of persons or damage to property arising out of the negligence, willful misconduct, or breach of this Agreement by Seven Seas. Notwithstanding the foregoing, Seven Seas shall have no indemnification obligation in connection with any third party Proceeding arising from or otherwise in connection with: (w) the operation or management of the Site or Client's other real property by Client or any Client Indemnified Party; (x) a breach by Client of any of its covenants, obligations, representations or warranties set forth in this Agreement or the Lease Agreement; (y) the negligence or willful misconduct of Client or any Client Indemnified Party; or (z) the consumption or use of the Water by customers of Client after the delivery of such Water by Seven Seas to Client at the Delivery Point.

Section 14.3 Indemnification by Client

Client shall indemnify, defend and hold harmless Seven Seas and its directors, officers, employees and agents (each a "Seven Seas Indemnified Party") from and against any Liability or Proceeding based upon, arising out of or with respect to: (i) any inaccuracy in or breach of any of the representations or warranties of Client contained in this Agreement or the Lease Agreement; (ii) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Client pursuant to this Agreement or the Lease Agreement; (iii) any Third Party Claim based upon, resulting from, or arising out of any action or inaction on the Site unrelated to the Facility, the Feed Water owned by Client pursuant to Section 4.6(a) or the Water owned by Client pursuant to Section 4.6(c); or (iv) any actual or alleged injury or death of persons or damage to property arising out of the negligence, willful misconduct, or breach of this Agreement by Client. Notwithstanding the foregoing, Client shall have no indemnification obligation in connection with any third party Proceeding arising from or otherwise in connection with: (w) the operation or management of the Facility by Seven Seas or any Seven Seas Indemnified Party; (x) a breach by Seven Seas of any of its covenants, obligations, representations or warranties set forth in this Agreement or the Lease Agreement; or (y) the negligence or willful misconduct of Seven Seas or any Seven Seas Indemnified Party.

Section 14.4 Subrogation

Client specifically waives all rights of subrogation and recovery against Seven Seas and any Seven Seas Indemnified Party to the extent of any loss or damage to Client's property situated at Commerce Road, Alice, Texas. Seven Seas waives all rights of subrogation and recovery against Client to the extent of any loss or damage to Seven Seas' property, which is situated at Commerce Road, Alice, Texas.

Section 14.5 Indemnification Process

Each Party's indemnification obligations under this Article 14 shall be conditioned on (a) the other Party promptly notifying the indemnifying Party, in writing, of the filing of any third party claim, suits or proceeding for which indemnification is sought hereunder, (b) the indemnifying Party having sole control and authority with respect to the defense or settlement of any such claim, suit or proceeding, and (c) the other Party cooperating fully with the indemnifying Party, at the indemnifying Party's sole cost and expense, in the defense of any such claim, suit or proceeding. The indemnifying Party shall not accept any settlement which imposes liability not covered by its indemnification obligations hereunder or restrictions on the other Party without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed. The indemnified Party may participate in the defense of any claim, suit or proceeding through its own counsel, and at its own expense.

ARTICLE 15 REPRESENTATIONS AND WARRANTIES

Section 15.1 Representations and Warranties of Seven Seas

Seven Seas represents and warrants as of the date hereof as follows:

- (a)** Seven Seas is a limited liability company duly organized and validly existing under the laws of Delaware, is duly qualified to conduct business in the State of Texas, and has full legal right, power and authority to enter into and perform its obligations under this Agreement and the Lease Agreement (together the "Transaction Documents").
- (b)** Seven Seas has duly authorized the execution and delivery of each Transaction Document. Each Transaction Document has been duly executed and delivered by Seven Seas and constitutes the legal, valid and binding obligation of Seven Seas in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.
- (c)** Neither the execution nor the delivery by Seven Seas of any Transaction Document nor the performance by Seven Seas of its obligations hereunder or thereunder, assuming all Permits and Approvals are obtained and remain in effect: (i) conflicts with, violates, or results in a breach of any Applicable Law; or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, franchise, material agreement, including the certificate of formation of Seven Seas, or material instrument to which Seven Seas is a party or by which Seven Seas or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, material agreement or material instrument.

- (d) There is no action, suit or other proceeding as of the date hereof at law or in equity, before or by any Governmental Authority, pending or, to its knowledge, threatened against Seven Seas, which is likely to result in an unfavorable decision, ruling, or finding which, in each case, would materially and adversely affect the validity or enforceability of any Transaction Document, or which would materially and adversely affect the performance by Seven Seas of its obligations hereunder or thereunder.

Section 15.2 Representations and Warranties of Client

Client represents and warrants as of the date hereof as follows:

- (a) Client is a home rule city duly established and validly existing under the constitution and laws of the State of Texas, is duly qualified to conduct business in the State of Texas, and has full legal right, power and authority to enter into and perform its obligations under the Transaction Documents.
- (b) The governing body of Client has duly authorized the execution and delivery of the Transaction Documents. Each Transaction Document has been duly executed and delivered by Client and constitutes a legal, valid and binding obligation of Client enforceable against Client in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.
- (c) Neither the execution nor the delivery by Client of any Transaction Document nor the performance by Client of its obligations thereunder: (i) conflicts with, violates, or results in a breach of any Applicable Law; or (ii) conflicts with, violates, or results in a breach of any term or condition of any judgment, decree, franchise, material agreement or material instrument to which Client is a party or by which Client or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, material agreement or material instrument.
- (d) There is no action, suit or other proceeding as of the date hereof at law or in equity, before or by any Governmental Authority, pending or, to its knowledge, threatened against Client, which is likely to result in an unfavorable decision, ruling, or finding which would materially and adversely affect the validity or enforceability of any Transaction Document entered into by Client in connection with the transactions contemplated hereby, or which would materially and adversely affect the performance by Client of its obligations hereunder or thereunder.

ARTICLE 16

DISPUTE RESOLUTION

Section 16.1 Continued Performance

Each Party shall continue to perform its obligations under this Agreement pending resolution of any dispute, controversy or claim arising under or related to this Agreement or the breach, termination or validity thereof (the "Dispute") pursuant to this Article 16. Neither Party shall be required to make any disputed payment(s) to the other Party so long as such Dispute has been referred to the resolution process set out in this Article 16; provided that to the extent any amounts owed to either Party by the other Party are not disputed and can be segregated from amounts with respect to which there is a dispute, such undisputed amounts shall be identified by the Parties and paid as required by this Agreement. To the extent that any disputed amount was withheld from a Party, and such Party is ultimately found to be entitled to all or any portion of such disputed amount pursuant to this Article 16, then such Party shall be entitled to the payment of interest on any withheld amount, at the Applicable Interest Rate, from the original due date for payment of such amount until the payment of such disputed amount.

Section 16.2 Negotiations

In the event of any Dispute, such Dispute shall be referred by each Party to its Designated Senior Officer for resolution upon five (5) Days' written notice from either Party (the "Dispute Notice"). If the Designated Senior Officers of the Parties are unable to reach an agreement within thirty (30) Days of the Dispute Notice, upon the request of either Party, such Dispute shall be referred to arbitration in accordance with Section 16.3. The Parties agree to attempt to resolve all Disputes promptly and to provide each other with reasonable access during regular business hours to any and all non-privileged records, information and data pertaining to any such Dispute.

Section 16.3 Arbitration

- (a) **Submission to Arbitration.** If a dispute under this Agreement is not resolved by the Parties pursuant to Section 16.2 within thirty (30) days from the date on which a Party first requested mediation, or if the Parties agree that the dispute is to be resolved through arbitration, then such dispute shall be finally settled by arbitration, which shall be initiated by either Party providing the other Party a written demand for arbitration (the "Demand for Arbitration"), specifying the matter to be arbitrated.
- (b) **Arbitration Proceedings.** The seat of the arbitration shall be Nueces County, Texas and the arbitration shall be governed by the American Arbitration Association ("AAA") Commercial Arbitration Rules, then in effect, except as otherwise agreed by the Parties. If the amount in Dispute (including claims and counterclaims) is one million Dollars (\$1,000,000) or less, the arbitration shall be decided by one arbitrator chosen by agreement

of the Parties within thirty (30) Days of receipt by respondent of a copy of the Demand for Arbitration. If the amount in Dispute is greater than one million Dollars (\$1,000,000), the arbitration shall be decided by three (3) arbitrators, one chosen by the initiating Party in the Demand for Arbitration, the second chosen by respondent within thirty (30) Days of its receipt of a copy of the Demand for Arbitration and the third, who shall act as chairperson, chosen by the Parties within thirty (30) Days of the appointment of the second arbitrator. If any arbitrator is not timely chosen, at the request of any Party such arbitrator shall be appointed by a court of competent jurisdiction in accordance with the above-designated rules.

- (c) **Award.** Unless otherwise agreed, the arbitrator(s) shall render the award no later than ninety (90) Days from the date of the completion of the hearing or, if applicable, the date when post-hearing briefs were received by the arbitrator(s). Such award shall be conclusive, final, and binding on the Parties, and each Party hereby waives to the fullest extent permitted by any Applicable Law any right that it may otherwise have under the laws of any jurisdiction to any form of appeal or collateral attack. The arbitrator(s) shall be empowered to decide any challenges with respect to its (their) jurisdiction. To the extent that an award includes an amount of money, such award shall include interest at the Applicable Interest Rate, and such interest shall accrue from the date(s) on which such money was originally due to have been paid or was incorrectly paid by the relevant Party. The arbitrator(s) are not empowered to award punitive damages, and each Party hereby waives any right to seek or recover punitive damages with respect to any Dispute resolved by arbitration. The arbitrator(s) shall have the authority to order specific performance and injunctive relief or any other remedy available under the terms of this Agreement as if the arbitrator(s) were a court. Judgment on an award may be enforced in any court of competent jurisdiction.
- (d) **Allocation of Costs.** The costs and expenses of the arbitration shall be paid by the Party that the arbitrators deem the non-prevailing Party. Each Party shall pay for its own costs of pursuing the proceedings including attorneys' fees.
- (e) **Provisional remedies.** Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the Parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any Party to respect the arbitral tribunal's orders to that effect.

Section 16.4 Governing Law

This Agreement shall be governed by, and construed in accordance with, the laws of the State of the Texas, without regard to the conflicts of law rules of the forum in which suit is initiated pertaining to this Agreement.

Section 16.5 Jurisdiction; Waiver of Sovereign Immunity

Each Party irrevocably and unconditionally agrees that the courts of the State of Texas in Jim Wells County shall have exclusive jurisdiction to hear and decide any Proceeding relating to this Agreement or the Lease Agreement to enforce a decision rendered in a Proceeding described in Section 16.3, and, for these purposes, each Party irrevocably submits to the jurisdiction and venue of such courts. Each Party hereby irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that such Party may have now or hereafter to the laying of the venue or the jurisdiction or the convenience of the forum of any such Proceeding. The defense of immunity (sovereign or otherwise) is not available to Client in any Proceeding by Seven Seas to enforce any of the obligation of Client under this Agreement or the Lease Agreement, and, to the fullest extent permitted by Applicable Law, Client consents to the initiation of any such Proceeding in any state court of competent jurisdiction located in the State of Texas in Jim Wells County.

Section 16.6 Waiver

No waiver of any provision of this Agreement shall be effective against a Party except as expressly set forth in a writing signed by such Party. The waiver by either Party of a default or a breach by the other Party of any provision of this Agreement shall not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either Party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

ARTICLE 17 MISCELLANEOUS

Section 17.1 Seven Seas' Assignment Rights

Seven Seas may assign or otherwise transfer this Agreement without Client's consent, (i) to an Affiliate, (ii) in connection with a merger, consolidation, division, or reorganization involving Seven Seas, (iii) in connection with a sale of all or substantially all of the assets or voting interests of Seven Seas, (iv) in connection with an initial public offering by Seven Seas or its Affiliate, or (v) in connection with the issuance of any Permitted Debt in respect of the Facility by Seven Seas or its Affiliate. However, nothing herein shall relieve Seven Seas, its successor, its assignee, or any new entity formed as a result of clauses (i) through (iv) above, of its obligations to Client under this Agreement. Seven Seas agrees to provide prompt written notice to Client of any assignment covered by this 0. Client shall not assign or otherwise transfer this Agreement without Seven Seas' prior written consent.

Section 17.2 Further Assurances

Each Party agrees to, and shall use all reasonable efforts to, provide such information, execute and deliver any instruments and documents and take such action as may be necessary or reasonably requested or required by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement in order to give full force and effect to this Agreement and to carry out its intent.

Section 17.3 Relationship of Parties

Except as otherwise explicitly provided herein, no Party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by any other Party and nothing in this Agreement shall be deemed to constitute any Party a partner, agent or legal representative of any other Party or to create any fiduciary relationship between or among the Parties.

Section 17.4 Notices

Any notices required to be given hereunder shall be deemed delivered when deposited in the United States mail, certified and return receipt requested, by nationally recognized express courier, or by personal delivery, addressed to the following persons or such other persons as the Parties may designate in writing:

If to Client:

Michael Esparza
City Manager
City of Alice
500 E Main Street
Alice, TX 78332

If to Seven Seas:

Chad Schafer
Chief Financial Officer
Seven Seas Water Solutions USA LLC
14400 Carlson Circle
Tampa, FL 33626

Section 17.5 Confidential Information

- (a) Any Confidential Information of a transferring Party (the “Disclosing Party”) that is disclosed to or otherwise received or obtained by the other Party (the “Receiving Party”) incident to this Agreement shall be held in confidence, and the Receiving Party shall not publish or otherwise disclose such Confidential Information to any Person or use any such

Confidential Information, except as reasonably may be required in connection with the transactions contemplated by this Agreement or as required by the Texas Public Information Act, Texas Government Code, Chapter 552.. Without limiting the generality of the foregoing, each Party shall observe the same safeguards and precautions with regard to Confidential Information of the Disclosing Party which such Party observes with respect to its own information of the same or similar kind (but no less a standard than reasonable care).

- (b) If the Receiving Party receives a Request from any Person and such Request is made pursuant to Applicable Law (in each case, a “Potentially Required Disclosure”), prior to making any Potentially Required Disclosure to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall promptly notify the Disclosing Party of the Request and provide the Disclosing Party with a copy of the Request, so that the Disclosing Party, at its own expense, may seek a decision of the Attorney General, protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement.
- (c) The Receiving Party shall not disclose any Confidential Information requested pursuant to a Potentially Required Disclosure until the earlier to occur of (i) the provision by the Disclosing Party of its written consent to the disclosure of Confidential Information in response to the Potentially Required Disclosure; (ii) the Receiving Party is served with a determination from the Attorney General requiring disclosure, or a similar order under Applicable Law; or (iii) the Disclosing Party fails to take the required action after notice from the Receiving Party at least one (1) Day prior to a statutory or legal deadline applicable to the Receiving Party’s response period.
- (d) If disclosure is required pursuant to this Section 17.5, the Receiving Party shall limit such disclosure only to the Confidential Information explicitly requested in the Request.
- (e) The obligation to retain Confidential Information in confidence shall continue in full force and effect until the earlier of (i) the third (3rd) anniversary of the disclosure of such information, or (ii) the third (3rd) anniversary of the expiration or earlier termination of this Agreement, with respect to any information obtained by any Party prior to such termination.

Section 17.6 Public Utility

Nothing in this Agreement shall be construed to mean that Seven Seas is, or will be at any point during the Contract Term, a “retail public utility”, “water utility”, “public utility” or “utility” or similar Person (collectively a “Public Utility”), as those terms are defined in Texas Water Code § 13.002, and as such terms are used to define the regulatory jurisdiction of the Public Utility Commission of Texas or Client, acting in accordance with Texas Water Code § 13.042, and no Party shall argue for such a finding or conclusion in any public forum. If, nonetheless, any attempt

or effort is made by any Governmental Authority to regulate Seven Seas as a Public Utility or declares it to be a Public Utility due to its activities under this Agreement, without limiting the remedy available pursuant to **Error! Reference source not found.** hereof, Seven Seas may, at its sole discretion, upon thirty (30) Days prior written notice, terminate this Agreement and remove the Facility from the Site. In such an event, Client will be responsible for monies due for Water delivered prior to the date of termination of this Agreement and any other amounts payable under Article 4, the applicable Early Termination Fee, and any indemnification or damages, costs or fees arising out of any attempt to regulate Seven Seas as a Public Utility.

Section 17.7 Subcontracting

Seven Seas shall have the right to subcontract work to be performed but shall remain liable for full performance hereunder. Seven Seas shall instruct the subcontractors to abide by the same standards which are required of Seven Seas under this Agreement.

Section 17.8 Survivals

The expiration of the Term, whether by lapse of time, termination or otherwise, shall not relieve either party of any obligations which accrued prior to or which may continue to accrue after the expiration or termination of this Lease. Notwithstanding anything provided herein to the contrary, Section 2.3, **Error! Reference source not found.**, Section 8.6, Article 14, Article 16 and Article 17 shall survive the expiration or termination of this Agreement.

Section 17.9 Headings

The headings or titles of the sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Agreement. Words importing the singular only also include the plural and reference to any gender includes all genders.

Section 17.10 Third Party Rights

Nothing herein is intended to or should be construed to create any rights of any kind whatsoever in third persons not parties to this Agreement.

Section 17.11 Severability

In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith and agree to such amendments, modifications, or supplements to this Agreement, or such other appropriate actions, as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, supplemented, or otherwise affected by such action, remain in full force and effect.

Section 17.12 Terms Generally

Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.” Reference to an Applicable Law shall include such Applicable Law as may be amended from time to time by appropriate legal authorities.

Section 17.13 Entire Document

This Agreement, each Exhibit and Schedule as hereinafter specified and the Lease Agreement shall constitute the entire agreement between the Parties with respect to the development, financing, design, construction and operation of the Facility and the other transactions contemplated hereby, and all prior agreements, negotiations, representations, and understandings with respect thereto, are expressly superseded. No amendment, modification, or change to this Agreement, its Exhibits, or its Schedules shall be effective unless the same shall be in writing, duly executed, authorized and approved by the Parties. In the event of any conflict between the terms and conditions of this Agreement and that of any exhibit, schedule or other document referenced herein, this Agreement shall govern and control. The following Schedules and Exhibits are incorporated herein by reference as if set forth in full, whether or not attached hereto:

Exhibit A - Description of Facility and Site

Exhibit B - Scope of Works

Exhibit C - List of Permits and Approvals

Exhibit D – Feed Water Characteristics

Exhibit E – Designated Senior Officers

Exhibit F – Lease Agreement

Exhibit G – Interconnection Facilities Specifications

Exhibit H –Description of Facility Metering

Exhibit I – Water Quality Standards

Exhibit J – [Reserved]

Exhibit K – Opinion of Counsel to Client

Exhibit L – Opinion of Counsel to Seven Seas

Schedule 1 – Facility Capacity

Schedule 2 – Charges For Water

Schedule 3 – Requirements For Commercial Operation Date

Schedule 4 – Project Milestones

Schedule 5 – Delivery and Acceptance Obligations

Schedule 6 – Metering

Schedule 7– Facility Transfer Process

Schedule 8 Insurance Requirements

Schedule 9 Form of Invoice

Schedule 10 Excess Electrical Consumption

Section 17.14 Amendment of Exhibits and Schedules

The Parties acknowledge that certain content of the Exhibits and Schedules is technical in nature and may require amendment based on discovery of additional information, including but not limited to permitting requirements of the Texas Commission on Environmental Quality ("TCEQ") or other Governmental Authority. To the extent amendment of the contents of the Exhibits or Schedules is necessary or desirable, the Parties shall meet and confer regarding such amendment, and the resulting amendment shall be memorialized in one or more contract administration memoranda executed by representatives of the Parties. The Parties agree to exercise commercially reasonable efforts and good faith to prepare final versions of the Exhibits and Schedules to completion within two hundred and seventy (270) Days of the Contract Date.

Section 17.15 Counterparts

This Agreement and any amendment hereto may be executed and delivered in one or more counterparts and by different Parties in separate counterparts. All of such counterparts shall constitute one and the same agreement and shall become effective (unless otherwise therein provided) when one or more counterparts have been signed by each Party and delivered to the other Party. The executed copies of this Agreement may be delivered by facsimile or other electronic transmission.

[Signatures on following pages]

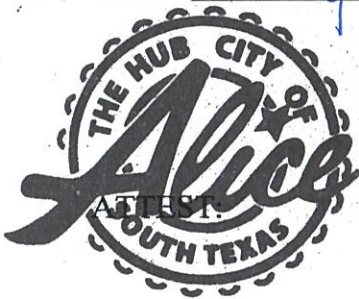
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives as of the date first set forth above.

CITY OF ALICE

By: Michael Espanza 9/23/2021

Name: Michael Espanza

Title: City Manager



By: Edilia Rodriguez

Name: Edilia Rodriguez

Title: City Clerk

SEVEN SEAS WATER SOLUTIONS USA LLC

By:

Michael Noone 9/22/2021

Name: Michael Noone _____

Title: SVP and General Counsel _____

Exhibit A Description of Facility and Site

Summary Description

1. Feed Water
2. Pre-treatment
3. Reverse Osmosis (RO)
4. Clean in Place (CIP) System
5. Instrumentation and Electrical Control
6. Post-Treatment
7. Outfall
8. Construction Site
9. Environmental Requirements
10. Building and Landscaping
11. Receiving and Loading
12. Other Utilities

1. Feed Water Source

The Feed Water source will be from two (2) deep wells located on City of Alice property, extracting water from the Jasper Aquifer and delivering directly to the Pre-Treatment system. The operation of the wells will be controlled by the SCADA system within the RO plant. The well pumps will be operated on VFDs.

2. Pre-treatment

The pretreatment will consist of Cartridge Filters (CF) housings and chemical dosing. The Cartridge Filters are arranged in an array of filter housings such that one can be out of service during filter changes while the others remain in service. The Cartridge Filter housings will be of fiberglass construction with PVC internals for corrosion resistance and will be rated for 100 psig service. The cartridge filters will be 40-inch-long spun wound polypropylene design rated at 5 micron nominal filtration.

Chemical feed pumps will be provided to inject chemicals into the feedwater depending on pretreatment and BWRO process requirements.

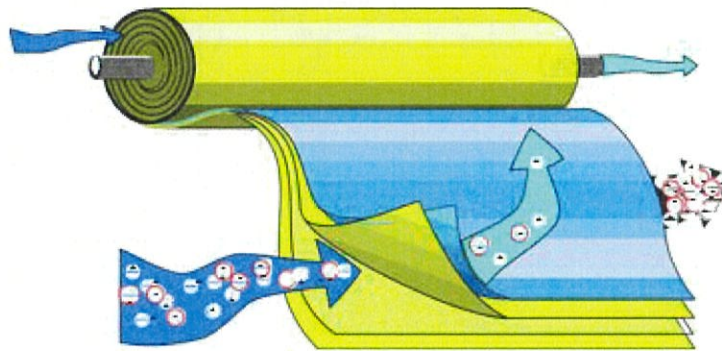
3. Reverse Osmosis (RO) Equipment

The core desalination operation is Reverse Osmosis (RO). The process elements of the desalination plant are the cartridge filters, the RO feed pump (wells), the RO membrane unit, and the auxiliary systems for cleaning and chemical addition. This RO plant is designed to be the most energy efficient utilizing individual trains with multiple pass/stage design. This allows for the

most optimal operation while providing the ability to schedule preventative maintenance of the equipment.

In Reverse Osmosis, water under pressure is forced across a membrane element with a portion of the feed permeating the membrane and the balance of the feed water sweeping along the membrane surface and exiting without passing through the membrane. In the case of brackish water, the membrane will freely pass water but will reject most of the dissolved minerals as well as any small particles. An illustration of an RO membrane element is given as Figure 1.

Figure 1: RO Membrane Element



RO has been chosen as the core technology for the plant based on its proven ability to produce high quality water in an energy efficient manner with the ability to withstand (given appropriate pre-treatment) fluctuations in feed water quality.

The two-pass BWRO plant will employ spiral wound, thin film composite polyamide membrane elements to separate dissolved salts from the feed water. The system proposed will convert, or “recover” approximately seventy-six (75%) percent of the incoming raw water as desalted product in the first pass. The remaining approximately twenty-five (25) percent of the incoming water is concentrated by the salts rejected from the product and will be returned to the environment via open outfall.

The first RO pass systems will be constructed in three (3) separate trains; each train will be rated at approximately 1.0 MGD capacity. Each train will have its own dedicated high pressure feed pump and RO membrane skid. The high-pressure feed pump will be a CRN series pump supplied by Grundfos Pumps or equivalent. The motor for each pump will be controlled using a VFD. The high-pressure piping will be a stainless-steel grade piping rated for 500 psi operation. Low pressure piping will be schedule 80 PVC rated for 100 psi.

The RO second pass systems will be constructed in two (2) separate trains; each train will be rated at approximately 0.42 MGD capacity. Each train will have its own dedicated high pressure feed pump and BWRO membrane skid. The high-pressure feed pump will be a CRN series pump

supplied by Grundfos Pumps or equivalent. The motor for each pump will be controlled using a VFD. The high-pressure piping will be stainless steel grade piping rated for 500 psi operation. Low pressure piping will be schedule 80 PVC rated for 100 psi.

4. Clean In Place (CIP) System

The membrane cleaning system will be used to clean the RO membrane elements in the plant if they become fouled by suspended solids or precipitates. Cleaning procedures are undertaken when operating pressures or RO permeate production exceeds normal operating limits. The system used to for cleaning (referred to as the Clean-In-Place or CIP procedure) consists of a chemical tank, a pump to re-circulate the cleaning chemicals through the RO membranes, and a cartridge filter. The CIP system will be designed to clean one complete BWRO skid at a time. The system will consist of a CIP fiberglass tank, non-metallic Fybroc pump, PVC piping and valve, and instrumentation. The CIP system will be equipped with a cartridge filter to remove foulants. The cartridge filters will be 40 inch long spun wound polypropylene design rated at 5 micron nominal filtration.

5. Instrumentation and Electrical Control

Seven Seas will provide a central control panel in the RO building which will control all pumps and valves as well as monitor all appropriate instrumentation associated with the plant operations. Instrumentation will include pressure switches and transmitters, flow meters and transmitters, and analytical instruments as appropriate to allow complete analysis of system performance via the SCADA system. The system will be configured to allow both remote monitoring of equipment performance and fault-finding analysis by our staff located in Tampa and other remote locations.

Most control instruments will use 4-20 mA loop power (where applicable) integrated into the PLC control logic. Pressure switches and level switches which function as safety devices will be connected to the PLC system to signal any alarm conditions. The instruments selected will be of proven reliability.

A central control system will control, monitor performance, and record operating data for all aspects of the desalination plant. It will provide plant-operating status, alarm messages, data collection, protective shutdowns, and automatic regulation of the plant equipment. The controls will employ an auto-dialer system that will automatically call and alert SSW operators to plant shutdowns or problems. This will be installed as part of the automation system.

The power and control system includes power distribution components, control panels, instrument panels, and programmable control devices.

The control system will provide for semi-automatic operation of the desalination system. This control system will include switches, push buttons, indicator lights, instruments, indicators, and alarms.

For the safety of equipment and operators controls and system logic shall be designed to fail safe.

All the cables, conduit and supports for the interconnection of the electrical and the control system for the water treatment plant to the skid battery limit will be supplied by SSW.

6. Post-Treatment

Permeate from the RO trains system will be combined prior to being transferred to Calcium Carbonate Contactors (CCCs). The permeate will be treated with carbon dioxide gas (CO₂) upon exiting the BWRO trains to aid in the remineralization process. Sodium Hypochlorite for disinfection will also occur prior to the calcium carbonate contactors. The Calcium Carbonate Contactors will consist of four (4) 10-foot diameter tanks. The tanks will be of fiberglass or steel construction with PVC internals for corrosion resistance and rated for 100 psig service. The contactors will be manually filled with calcite as needed to maintain proper water chemistry. Fluoridation of the treated water will occur after the CCCs as well as final pH adjustments. After all treatment two (2) certified revenue grade magnetic flowmeters and instrumentation for continuous online monitoring of conductivity, temperature, pH, free chlorine, fluoride, and turbidity will be installed. After this quality and quantity monitoring with the water then being transferred to the client's "Finished Water" or potable water storage tank(s).

7. Outfall

The concentrate discharge will be transferred via interconnecting piping to an Outfall location adjacent to the City of Alice water treatment facility. The concentrate discharge water quality will be monitored in accordance with the permit, state and federal regulations.

8. Construction Site

SSW will construct the RO plant facility on the property provided by the City of Alice. This will be considered a green field property such that the site work will consist of survey, geotechnical, civil, foundation, mechanical, electrical, metal building construction, interior offices for operations personnel, and utilities for the turnkey construction of the facility.

9. Environmental Requirements

Seven Seas Water has a Health and Safety program designed to ensure that by conducting all production and operations is done in a manner that protects the environment, health and safety of employees, customers, and the community.

Exhibit B Scope of Works

Project Scope Overview:

1. Construction of Feed Well #1 and #2 with direct connection to RO plant.
2. Pre-treatment system with chemical dosing and cartridge filters.
3. RO process equipment for 3 million US GPD design capacity.
4. If required, pre-treatment system of either Blend Tank, Degassifier or Colling Tower.
5. Post-Treatment system with process equipment and chemical dosing for 3 million US GPD design capacity.
6. Use of existing Water Storage Tank and High Service pumps.

Construction Scope Division of Responsibilities

Feed Well System:

1. Client Responsibilities:
 - a. Turnkey design, procurement, and construction of all associated process, pumps, mechanical, structural, electrical, and controls work required for the Test Well(s) and water testing analysis to determine the quality of the Jasper (Gulf Coast aquifer system) feed water.
 - b. Turnkey design, procurement, and construction of all associated process items, well pumps, mechanical, structural, and electrical power including backup generator, if required, critical spare parts such as pump, motor, VFD, other process items, and collaboration of controls design work required for Feed Well #1 and Feed Well #2. All collection line piping system and controls materials from Feed Well #1 and Feed Well #2 to within 50 feet of the RO water plant building.
 - c. Design, procurement, and construction of all collection line piping system from Feed Wells to Raw Ground Water storage tank, Degassifier or Cooling Tower, if required, and from Raw Water Storage, Degassifier or Cooling Tower, if installed, to within 50 feet of the RO water plant building.
 - d. Provide RO Plant final treated water quality specification to be used for the process design.
2. Seven Seas Responsibilities:
 - a. Turnkey design, procurement of communications, controls and SCADA system required for Feed Wells controls integration to the RO plant operations.
 - b. Connection of Feed Well #1 and Feed Well #2 collection line piping from within 50 feet of RO water plant building.

Pretreatment System:

1. Client Responsibilities:

- a. Provide RO Plant final treated water quality specification and feed water analysis to be used for the process design.
- b. Provide milestone review of Seven Seas Water's design drawings, product data, equipment & construction specifications and related documents for evaluation and determination of the design meeting the project scope of supply and industry standards.

2. Seven Seas Responsibilities:

- a. Design, procurement, and construction of Cartridge Filter system for 3 million US GPD design capacity located within the RO water plant building.
- b. Design, procurement, and construction of Pre-Treatment Chemical Dosing system for 3 million US GPD design capacity as required and located within the RO water plant building.
- c. Required work for commissioning, operating and ongoing maintenance of Pretreatment and process systems installed.
- d. Design, procurement, and installation of Instrumentation required for Raw Ground Water storage tank level monitoring, Degasifier or Cooling Tower system, if required.
- e. Required work for commissioning, operating and ongoing maintenance of Pretreatment and process systems for 3 million US GPD design capacity.

Reverse Osmosis System:

1. Client Responsibilities:

- a. Provide RO Plant final treated water quality specification to be used for the process design.
- b. Design, procurement and installation of minimum 750 kVA main Electrical Transformer providing 480 volts, 60Hz power supply necessary for electrical service including all connection fees required from utility provider. Connections shall be at the battery of the RO Plant building.
- c. Provide tie in point connection for sanitary sewer from RO plant facility within 50 feet of the battery limits of the facility.
- d. Provide milestone review of Seven Seas Water's design drawings, product data, equipment & construction specifications and related documents for evaluation and determination of the design meeting the project scope of supply and industry standards.

2. Seven Seas Responsibilities:

- a. Provide complete design for Reverse Osmosis (RO) water plant including Process Flow Diagram (PFD), Process & Instrumentation Diagram (P&ID), Functional Description, Mechanical, Structural, Electrical One Line Diagram, Electrical

cable layouts, Communication, and Programming for 3 million US GPD design capacity.

- b. Provide a turnkey plant design, procurement, and construction of RO water plant facility building, including site survey, geotechnical study for foundation works, metal building, interior offices, and utilities for RO water plant. Plant design to consists of documents required for local permitting applications, construction bid documents and coordination with local power utilities for 3 million US GPD design capacity.
- c. Design, procurement, and construction of RO water plant process system consisting of prefabricated RO skids designed for 3 million US GPD design capacity within the battery limits of the RO water plant building.
- d. Design, procurement, and construction of Clean-In-Place (CIP) system for RO membrane cleaning for one RO train at a time within the battery limits of the RO water plant building.
- e. Installation of Electrical Utility systems for 3 million US GPD design capacity located within the battery limits of the RO water plant building.
- f. Design, procurement, and installation of Electrical Service Switchgear, Motor Control Center (MCC), motor disconnects, power distribution equipment for 3 million US GPD design capacity within the battery limits of the RO water plant building.
- g. Design, procurement, and installation of backup Generator and Automatic Transfer Switch (ATS) sized to operate +/-33% of plant capacity and ancillary equipment.
- h. Design, procurement, and installation of Network / SCADA systems and monitoring equipment for remote access for 3 million US GPD design capacity.
- i. Design, procurement, and installation revenue flow meters (two in series) on the Permeate Transfer pipe to the High Service Water storage tank.
- j. Design, procurement, and installation of water quality monitoring systems within the battery limits of the RO water plant building.
- k. Procure and maintain on location inventory of critical mechanical & electrical spare parts as required operating the RO water plant.
- l. Provide Safety Equipment supplies as needed to meet current SSW and OSHA standards.
- m. Procurement of tools and work vehicles as needed to support SSW plant operations.
- n. Required work for commissioning, operating and ongoing maintenance of RO systems.
- o. Design and construction of RO water plant building "General Facilities" such as storm water control, parking lots, exterior lighting, landscaping, fencing, security system.

Post Treatment System:

1. Client Responsibilities:

- a. Provide RO Plant final treated water quality specification to be used for the process design.
- b. Provide milestone review of Seven Seas Water's design drawings, product data, equipment & construction specifications and related documents for evaluation and determination of the design meeting the project scope of supply and industry standards.

2. Seven Seas Responsibilities:

- a. Design, procurement, and construction of Post-Treatment Chemical Dosing and Remineralization systems, as required, such as sodium hydroxide for pH control, sodium hypochlorite for disinfection and free chlorine residual levels, Calcium Carbonate contactor tanks and Degasifier systems as required for 3 million US GPD design capacity located within the battery limits of the RO water plant facility.
- b. Required work for commissioning, operating and ongoing maintenance of Post Treatment Chemical Dosing and Process systems.

High Service Storage & Distribution System:

1. Client Responsibilities:

- a. Provide final treated water blending guidelines for the RO Plant to existing water plant system.
- b. Provide corrosion control guidelines for the new RO Plant water supply to existing water plant system.
- c. Use of existing High Service Storage tank and level control instrumentation.
- d. Operate and maintain existing High Service distribution pump systems.

2. Seven Seas Responsibilities:

- a. Design, procurement, and installation of process equipment to transfer permeate to client's High Service storage tank from a connection no more than 50 feet from RO water plant building.
- b. Design and implementation of existing Instrumentation data required for High Service storage tank level monitoring.
- c. Required work for commissioning, operating and ongoing maintenance of Permeate Forwarding and tank level monitoring systems.

Brine System:

1. Client Responsibilities:

- a. Provide collaborative support required for the Concentrate (Brine) Discharge permit.

- b. Design, procurement, and construction of gravity conveyed Concentrate Discharge Line required for treated water. All collection line piping system starting within 50 feet from RO water plant building.

2. Seven Seas Responsibilities:

- a. Provide collaborative supporting document submittals for Concentrate (Brine) Discharge permit to the state of Texas.
- b. Connection of Concentrate Discharge line with 50 feet of RO Plant Building.
- c. Design, procurement, and installation of sampling location no more than 50 feet from RO water plant building for Concentrate Discharge system water quality analysis.
- d. Brine Concentrate sampling and analysis for Discharge permit requirements.

Seven Seas Water Excluded Scope of Work Items:

1. Seven Seas Exclusions:

- a. All High Service distribution pumps not located within the battery limits of the RO water plant building.
- b. All water revenue and flow meters not located within the battery limits of the RO water plant building.
- c. Electrical power transmission lines supplying power to the RO water plant building.
- d. Procurement and construction of minimum 750 kVA main Electrical Transformer providing 480 volts, 60hHz power supply for electrical service.
- e. Electrical power transmission lines supplying power to well #1 and #2 and any electrical power equipment for operation of the well pumps.
- f. Design and construction of sanitary sewer system. SSW shall connect to the existing sanitary sewer system within the City's property.
- g. Access roads and underground utilities not within 50 feet of the RO building.

Exhibit C List of Permits and Approvals

The following Permits and Approvals are potentially required for construction and operation of the Facility. A final list of required Permits and Approvals will be developed as part of the design process.

1. Permit for a public water system, to be issued by the Texas Commission on Environmental Quality pursuant to Texas Health & Safety Code, Chap. 341, Subchapter C, and Texas Administrative Code, Title 30, Chapter 290, Subchapter D
2. Permit for the discharge of pollutants to water in the state or waters of the United States, to be issued by the Texas Commission on Environmental Quality pursuant to Texas Water Code, Chapter 26, and the Clean Water Act, United States Code, Title 33, Chapter 26, Subchapter IV
3. Building permit, to be issued by the City of Alice, Texas
4. Certificate of occupancy, to be issued by the City of Alice, Texas

Exhibit D Feed Water Characteristics

The feed water characteristics consists of the table below and includes but is not limited to non-detect concentrations for oil and grease, trace elements, contaminants of emerging concern, gross alpha and beta radioactivity, and microbiological organisms.

Analyte	Value	UoM
Temperature	<104	°F
pH	8.0	s.u.
Total Dissolved Solids	3,252	mg/L
Total Alkalinity	222	mg/L CaCO ₃
Aluminum	0.01	mg/L
Antimony	0.00	mg/L
Arsenic	0.00	mg/L
Boron	11.6	mg/L
Barium	0.02	mg/L
Beryllium	0.00	mg/L
Bromide	0.00	mg/L
Cadmium	0.00	mg/L
Calcium	27.75	mg/L
Chloride	537.25	mg/L
Chromium	0.00	mg/L
Copper	0.00	mg/L
Cyanide	<0.005	mg/L
Dissolved Organic Carbon	0.69	mg/L
Fluoride	3.04	mg/L
Iron, Ferrous	0.02	mg/L
Iron, Ferric	0.20	mg/L
Lead	0.00	mg/L
Magnesium	2.38	mg/L
Manganese	0.01	mg/L
Mercury	0.000	mg/L
Nitrogen, Ammoniacal	0.00	mg/L
Nitrite	0.02	mg/L N
Nitrate	0.18	mg/L N
Orthophosphate	0.00	mg/L

Potassium	5.2	mg/L
Selenium	0.00	mg/L
Silica	18.0	mg/L
Silver	0.00	mg/L
Sodium	950.93	mg/L
Sulfate	1,115.1	mg/L
Sulfide	<0.02	mg/L
Strontium	1.13	mg/L
Thallium	0.00	mg/L
Zinc	0.06	mg/L

Exhibit E Designated Senior Officers

[To be prepared]

Exhibit F Lease Agreement

LEASE AGREEMENT

by and between

**CITY OF ALICE,
as Landlord,**

and

**SEVEN SEAS WATER SOLUTIONS USA LLC,
as Tenant**

Dated as of _____, 2021

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Exhibits

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Exhibit B– Memorandum of Lease

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter the "Lease"), dated this _____, 2021, is made by and between **CITY OF ALICE**, a city established and existing under the laws of the State of Texas, as landlord ("**Landlord**"), and **Seven Seas Water Solutions USA LLC**, a Delaware limited liability company, as tenant ("**Tenant**"). Each of Landlord and Tenant shall be referred to herein as a "**Party**" or collectively as the "**Parties**."

RECITALS

WHEREAS, Landlord owns certain real property located at 1151 Commerce Street in Alice, Texas, consisting of approximately _____ square feet, as depicted on **Exhibit A** attached hereto, and as legally described on **Exhibit A-1** attached hereto, and all easements and rights appurtenant to such real property (collectively, the "**Property**"). Landlord also owns that certain property legally described on **Exhibit A-2** attached hereto, and all easements and rights appurtenant to such real property, which shall include, without limitation, all of the improvements at any time located thereon (the "**City Property**").

WHEREAS, Tenant wishes to lease the Property from Landlord to construct and place onto the Property the improvements described in **Exhibit A** to the Water Supply Agreement (as hereinafter defined) (the "**Facility**") and such other necessary appurtenances for Tenant's operation of the Facility.

WHEREAS, Landlord is willing to lease to Tenant, and Tenant is willing to lease from Landlord, the Property on the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the rent to be paid under this Lease and the other mutual promises contained in this Lease and the Water Supply Agreement, Landlord and Tenant hereby agree as follows:

ARTICLE 1 DEFINITIONS

References in this Lease to Sections and Articles are to the Sections and Articles of this Lease unless otherwise indicated. Unless the context shall otherwise require, the capitalized terms used herein shall have the following meanings:

"**Applicable Law**" has the meaning given such term in the Water Supply Agreement.

"**Business Day**" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized, by law or executive order, to be closed in the United States. Unless the term "Business Day" is used, the term "day" as used in this Lease means a calendar day.

"**Claims**" has the meaning given such term in Section 10.1.

"**Change in Law**" has the meaning given such term in the Water Supply Agreement.

"**City Property**" has the meaning given such term in the Recitals.

"**Commercial Operation Date**" has the meaning given such term in the Water Supply Agreement.

"**Dispute**" has the meaning given such term in the Water Supply Agreement.

"**Environmental Law**" means any federal, state, local or foreign statute, law, ordinance, regulation, rule, code, order or common law, and enforceable judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to pollution or protection of the environment, health, safety or natural resources,

including, without limitation, to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

“Environmental Permit” means any permit, approval, identification number, license, consent, agreement, inspection certificate or other authorization required under any applicable Environmental Law.

“Facility” has the meaning given such term hereinabove.

“Good Management Practice” has the meaning given such term in the Water Supply Agreement.

“Governmental Occurrence” has the meaning given such term in the Water Supply Agreement.

“Hazardous Materials” means any (a) toxic substances, pollutants, contaminants, hazardous wastes, petroleum, petroleum products, petroleum by-products, petroleum breakdown products, radioactive materials, asbestos-containing materials, polychlorinated biphenyls, per- or polyfluoroalkyl substances or radioactive substances or (b) materials or substances defined or regulated as toxic or hazardous or as a pollutant, contaminant or waste pursuant to the Applicable Law.

“Improvements” means any buildings, equipment or other fixtures, improvements or personal property placed on the Property by Tenant, excepting the Landlord’s improvements and all repairs or improvements made to said Landlord Improvements.

“Indemnify” has the meaning given such term in Section 10.1.

“Indemnitee” has the meaning given such term in Section 10.4(a).

“Indemnitor” has the meaning given such term in Section 10.4(a).

“Initial Term” has the meaning given in Section 4.1.

“Insurance Date” has the meaning given such term in Section 9.1(a).

“Interconnection Facilities” has the meaning given such term in the Water Supply Agreement.

“Landlord” has the meaning given such term in the Preamble.

“Landlord’s Indemnified Parties” means Landlord and its officials, employees, agents and contractors.

“Lease” has the meaning given such term in the Preamble.

“Lease Date” means the Contract Date (as defined in the Water Supply Agreement).

“Lien” means any interest in property securing an obligation, whether such interest is based on common law, equity, statute or contract. Liens shall include, but shall not be limited to, any security interest or lien arising from a mortgage, encumbrance, pledge, charge, easement, servitude, security agreement, conditional sale or trust receipt, or from a lease, consignment or bailment for security purposes.

“Notice of Default” has the meaning given such term in Section 13.1(b).

“Party” has the meaning given such term in the Preamble.

"Property" has the meaning given such term in the Recitals. The Property is referred to in the Water Supply Agreement as the "Site".

"Rent" has the meaning given such term in Section 3.1.

"Tenant" has the meaning given such term in the Preamble.

"Tenant's Indemnified Parties" means Tenant and its officers, employees, agents and contractors

"Term" means the Initial Term and any Renewal Terms created under Section 4.2, or such shorter period as may result from earlier termination as provided in this Lease.

"Uncontrollable Circumstance" has the meaning given such term in the Water Supply Agreement.

"Water Supply Agreement" means the Water Supply Agreement dated as of _____, 2021 between Landlord and Tenant.

ARTICLE 2 LEASE

2.1 Lease of Property. Subject to the terms and conditions of this Lease, Landlord hereby agrees to lease to Tenant, and Tenant hereby agrees to lease from Landlord, the Property for the Term. Except as expressly provided to the contrary in this Lease, reference to the "Property" shall not include the Facility or any Improvements now or hereafter located on the Property, notwithstanding that any such Facility and/or Improvements may or shall be construed as affixed to and as constituting part of the real property.

2.2 Possession. Possession of the Property shall be delivered to Tenant, subject to all the terms and conditions of this Lease by not later than seven (7) days after the Lease Date.

2.3 Quiet Enjoyment. Landlord covenants and warrants that it possesses good title to the Property and has the right and authority to lease the Property to Tenant under the terms provided herein. Upon payment by Tenant of the Rent and all other amounts due under this Lease, Landlord warrants and covenants that Tenant shall peaceably and quietly hold and enjoy the Property for the Term without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming against, by, through or under Landlord; subject, nevertheless, to the terms and conditions of this Lease and Tenant's compliance with all of its obligations under the Water Supply Agreement.

2.4 Tenant's Representations and Warranties. The representations and warranties made by Tenant in Section 14.1 of the Water Supply Agreement are incorporated herein by reference and made a part of this Lease as of the Lease Date.

2.5 Landlord's Representations and Warranties. The representations and warranties made by Landlord in Section 14.2 of the Water Supply Agreement are incorporated herein by this reference and remade as of the Lease Date.

2.6 Survival. The expiration of the Term, whether by lapse of time, termination or otherwise, shall not relieve either party of any obligations which accrued prior to or which may continue to accrue after the expiration or termination of this Lease.

2.7 Easement. During the Term, Landlord grants and conveys to Tenant a non-exclusive easement appurtenant to the Property, for ingress and egress to and from the Property, over, upon and across the City Property for the purposes described herein and in the Water Supply Agreement. Tenant shall have the right of ingress and egress across and access to the City Property as necessary or convenient in

connection with Tenant's use of the Property for the permitted use described in Section 6.1, which shall include, without limitation, Tenant's right to construct, operate and maintain thereon, any necessary part(s) of the Facility, including, without limitation, the Interconnection Facilities, and any other Improvements related thereto, and Tenant's right to park such vehicles on the City Property as Tenant deems necessary. Tenant shall exercise the easement right granted herein in a commercially reasonable manner. Landlord warrants that Landlord has good and indefeasible fee simple title to the easement premises; that Landlord has the full right and lawful authority to grant these easements, that Landlord will defend, indemnify and hold Tenant harmless against all lawful Claims, and that Tenant shall and may peaceably have, hold and enjoy the easements. All provisions of this Section 2.7, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the heirs, assigns, licensees, invitees, successors, tenants, employees and personal representatives of the parties.

ARTICLE 3 RENT

3.1 Rent. Tenant shall pay rent during the Term and any Renewal Term in the amount of One Dollar (\$1.00) per year, paid in advance (the "Rent"). The Parties acknowledge that the Lease is entered into as part of a larger project by which Tenant will treat and deliver Water to Landlord through the Facility, and location of the Facility on the Property is useful and necessary for completion of such project by Tenant for the benefit of Landlord and its residents. Therefore, consideration by Tenant to Landlord is not limited to the Rent to be paid under this Lease, and Landlord agrees that the Rent, in addition to other consideration received under the Water Supply Agreement, is sufficient.

3.2 Rent Payments. All amounts payable to Landlord by Tenant hereunder shall be made without abatement, deduction, diminution, proration or offset, and shall be paid to Landlord at the address provided in Section 13.7 hereof. The Rent shall be paid by Tenant annually in advance on or prior to the Lease Date and on or prior to each anniversary thereof.

ARTICLE 4 LEASE TERM

4.1 Initial Term. The "Initial Term" shall begin on the Lease Date and shall expire on the last day of the Billing Period that contains the fifteenth (15th) anniversary of the Commercial Operation Date, unless the Initial Term is terminated pursuant to Article 12 herein or by termination of the Water Supply Agreement in accordance with Section 3.4, Article 12 or Article 13 thereof, or extended in accordance with Section 5.2(d) of the Water Supply Agreement.

4.2 Renewal. If the Contract Term (as defined in the Water Supply Agreement) is extended, the Term shall be extended for an equal number of days, commencing upon the expiration of the Initial Term of this Lease (the "Renewal Term"). Such extension of the Term shall be on all of the terms and conditions of this Lease except as provided otherwise in this Article 4.

4.3 Surrender of Property. At the expiration or earlier termination of this Lease, Tenant shall immediately surrender to Landlord possession of the Property free and clear of all Liens.

ARTICLE 5 ENVIRONMENTAL PROVISIONS

5.1 Landlord shall at any and all times be responsible for compliance with all Environmental Laws covering Hazardous Materials at the Property, including any requirements pertaining to the clean-up, removal, remediation and/or encapsulation of any Hazardous Materials that may now be or at any time in the future may be in, on, at, under or about the Property, including any Hazardous Materials which may have emanated therefrom or migrated thereto, but excluding any Hazardous Materials contamination or

conditions caused by Tenant. In no event will Tenant be liable for any environmental cleanup, costs or remediation at the Property caused by, stemming from, arising out of, or resulting from Landlord's ownership and or operations at the Property, or Landlord's violation of any Environmental Laws. Notwithstanding anything provided herein to the contrary, Landlord shall indemnify, defend, and hold Tenant and any Tenant Indemnified Party harmless from any and all demands, losses, damages, liabilities, judgments, costs, claims, liens, expenses, penalties, permits and reasonable attorney's and consultant's fees caused by, stemming from, arising out of, or resulting from (a) any breach of the Landlord's covenants, representations or warranties in this **Error! Reference source not found.**, (b) any Hazardous Material present, released, stored, disposed of, placed, used, or discharged at, about or from the Property, or (c) any **violation of or non-compliance with** any Environmental Law or Environmental Permit, in each case not caused by Tenant's affirmative acts, whether or not such presence, release, storage, placement, use, discharge or disposal of Hazardous Material or violation of or noncompliance with Environmental Laws or Environmental Permits occurs or exists before, during or after the Term of this Lease. Landlord represents and warrants to Tenant that (x) there are no Hazardous Materials at, on, in or under the Property in violation of Applicable Laws and (y) the operations at the Property have been in compliance in all respects with all Environmental Laws and Environmental Permits.

5.2 Landlord acknowledges that, notwithstanding anything to the contrary herein, this Article 5 is the sole and exclusive provision in this Lease concerning compliance with or liability under Environmental Laws or with respect to any environmental, health or safety matter, including natural resources, related in any way to the Facility, the Property, this Lease or its subject matter. Notwithstanding anything to the contrary herein, Landlord waives, on its own behalf and on behalf of its Affiliates, predecessors, successors and assigns, officers, directors, employees, agents and partners, any common law and statutory action, claim or remedy against Tenant now or hereafter available under any Environmental Law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., as amended, and the rules and regulations promulgated thereunder, and similar international, foreign, federal, regional or state law, whether or not in existence on the date hereof. The provisions of this Article 5 shall survive the expiration or earlier termination of the Term of this Lease.

ARTICLE 6 USE OF PROPERTY AND IMPROVEMENTS

6.1 Permitted Uses. Tenant shall have the right to use the Property throughout the Term to erect, construct, reconstruct, replace, operate, maintain and repair the Facility as agreed to in the Water Supply Agreement, and for any and all purposes related thereto, including ancillary office uses. Tenant shall not have the right to use the Property or the Facility for any other purpose, except as otherwise agreed in writing by Landlord and Tenant. Tenant shall store on the Property and use Hazardous Materials thereon only to the extent necessary for the operation of the Facility.

6.2 Signage. To the extent not prohibited by Applicable Law, Tenant, at Tenant's sole cost and expense, shall have the exclusive right to install and maintain on the Property and/or the Facility, such signage as Tenant elects to install, in its reasonable discretion.

ARTICLE 7 GENERAL COVENANTS

7.1 Tenant's General Covenants. Commencing on the date hereof and continuing throughout the Term, Tenant shall comply with each of the following covenants:

(a) Maintenance of Corporate Existence. To the extent necessary to perform its obligations hereunder, Tenant shall be validly existing and in good standing under the laws of any state or other competent jurisdiction in the United States of America.

(b) Prohibition of Liens. Tenant shall not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to the Property or other property of Landlord, title thereto or any interest therein, except as provided pursuant to Article 6 of the Water Supply Agreement. Tenant shall promptly, at its own expense, take such action as may be necessary to discharge or eliminate or bond in a manner reasonably satisfactory to Landlord any Lien if the same shall arise at any time during the Term.

(c) Compliance with Water Supply Agreement. Tenant shall comply with all of the terms of the Water Supply Agreement. Without limiting the generality of the foregoing, Tenant shall construct the Facility, and Tenant shall operate and maintain the Facility in accordance with the terms set forth in the Water Supply Agreement.

7.2 Landlord's General Covenants. Commencing on the date hereof and continuing throughout the Term, Landlord shall comply with each of the following covenants:

(a) Maintenance of Existence. To the extent necessary to perform its obligations hereunder, Landlord shall be a city validly existing and in good standing under the laws of Texas.

(b) Prohibition of Liens. Landlord shall not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to the Facility or other property of Tenant, title thereto or any interest therein. Landlord shall promptly, at its own expense, take such action as may be necessary to discharge or eliminate or bond in a manner reasonably satisfactory to Tenant any Lien if the same shall arise at any time.

(c) Abandonment. Landlord shall not abandon the operation of the Client's Water System (as defined in the Water Supply Agreement) or any other portion of the City Property essential to the performance of Tenant's duties under the Water Supply Agreement, which abandonment shall be deemed to have occurred only after all or substantially all of Landlord's or its contractors' or operator's personnel have failed to be present on the Property for more than thirty (30) consecutive days, and where such failure is not the result of any Force Majeure Event (as defined in the Water Supply Agreement).

(d) Compliance with Water Supply Agreement. Landlord shall comply with all of the terms of the Water Supply Agreement.

ARTICLE 8 TRANSFERS

8.1 Tenant's Right to Assign the Lease or Facility. Any assignment of this Lease or any assignment of the ownership, in whole or in part, of the Facility by Tenant shall comply with the requirements set forth in Section 8.8 or Section 16.1 of the Water Supply Agreement.

8.2 Tenant's Liability After Assignment. Regardless of any assignment by Tenant of its rights under this Lease to an assignee that has expressly assumed all of Tenant's obligations under this Lease by an appropriate instrument duly executed and delivered to Landlord, Tenant shall not be released from its obligations under this Lease to Landlord arising on and after the date of such assignment.

8.4 Prohibition on Landlord's Right to Assign. During the Term, Landlord shall have no right to transfer or assign this Lease or convey its title and/or interest in the Property.

8.5 Successors and Assigns. The rights and obligations of Landlord and Tenant hereunder shall inure to the benefit of, and be binding upon, the permitted successors and assigns of Landlord and Tenant, respectively.

ARTICLE 9 INSURANCE

Landlord and Tenant shall at all times during this Lease comply with the insurance requirements set forth in Article 11 of the Water Supply Agreement. Evidence of compliance with such insurance requirements shall be provided by Tenant to Landlord, and vice versa, as specified in Article 11 and in Schedule 8 of the Water Supply Agreement.

ARTICLE 10 INDEMNIFICATION

10.1 Indemnification by Tenant. Tenant shall indemnify, protect, defend and hold harmless Landlord's Indemnified Parties ("**Indemnify**") from and against any and all liabilities, obligations, losses, damages, fines, penalties, claims, demands, suits, actions, causes of action, charges, judgments, costs and expenses (including all reasonable attorneys' fees and court costs) (collectively, "**Claims**") of any nature resulting from: (a) any accident, injury, loss or damage whatsoever caused to any natural person, or to the property of any person, from or arising out of the use, non-use, condition, possession, occupation, operation, improvement, repair, maintenance, removal or management by Tenant, its employees or its agents of the Facility or the Property; (b) the failure of Tenant to perform or comply with any term, covenant or condition of this Lease by which Tenant is bound; or (c) violation by Tenant of any Applicable Law affecting the Property, or affecting any part thereof, or the ownership, occupancy, use, possession, operation, improvement, repair, maintenance, removal or management of the Property.

10.2 Indemnification by Landlord. Landlord shall Indemnify Tenant's Indemnified Parties from and against any and all Claims of any nature resulting from any accident, injury, loss or damage whatsoever caused to any natural person, or to the property of any person, from or arising out of: (a) the use, non-use, condition, possession, occupation, operation, improvement, repair, maintenance, removal or management by Landlord, its employees or its agents of the, the Facility or the Property; (b) the failure of Landlord to perform or comply with any term, covenant or condition of this Lease by which Landlord is bound; or (c) violation by Landlord of any Applicable Law affecting the Property, or affecting any part thereof, or the ownership, occupancy, use, possession, operation, improvement, repair, maintenance, removal or management of the Property.

10.3 Exclusions. There is hereby expressly excluded from the scope of the indemnities set forth in Sections 10.1 and 10.2: (a) any matter arising with respect to Hazardous Materials, which shall be governed by Article 5, and (b) any Claims to the extent caused by or arising out of any gross negligence or willful act or omission, or breach of this Lease by, (i) any Landlord's Indemnified Party with respect to the indemnity set forth in Section 10.1 or (ii) any Tenant's Indemnified Party with respect to the indemnity set forth in Section 10.2.

10.4 Procedure.

(a) Notice and Defense. The obligation of any Party (an "**Indemnitor**") to Indemnify another Party (the "**Indemnatee**") hereunder shall arise upon the receipt by an Indemnitor of a written notice from an Indemnatee of the institution of a Claim. In the event an Indemnatee hereunder receives notice of a Claim against which it is entitled to indemnification hereunder, such Indemnatee shall immediately give written notice thereof to the Indemnitor. The Indemnitor shall immediately take such measures as may be reasonably required to defend such Claim properly and effectively, and may defend same with counsel, consultants and experts of its own choosing. In the event the Indemnitor fails to defend such claim properly and effectively, then the Indemnatee may defend and/or settle such Claim with counsel, consultants and experts of its own choosing at the expense of the Indemnitor, provided, that the Indemnatee gives the Indemnitor prior written notice thereof.

(b) Settlement Procedures. An Indemnitor shall have the right to negotiate concerning, settle or contest any Claim in good faith; provided, however, that all such negotiations, agreements, activities and decisions regarding settlements that may affect the Indemnitee and its rights shall be subject to the Indemnitee's prior written approval, which approval shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary herein, the Indemnitee may, through representatives designated by the Indemnitee, participate fully in any and all negotiations, meetings and activities with third parties regarding such Claim. An Indemnitee shall not settle any Claim without prior written notice to the Indemnitor and without the Indemnitor's prior written consent (which shall not be unreasonably withheld or delayed). Any settlement entered into by an Indemnitor without an Indemnitee's prior written consent shall be void and of no effect.

10.5 Survival. The provisions of this Article 10 shall survive the expiration or earlier termination of this Lease.

ARTICLE 11 CONDEMNATION

11.1 Taking. If at any time during the Term the entire Property or any portion thereof (or ingress or egress thereto or therefrom) that is sufficient to render the remaining portion thereof unsuitable for the use being made thereof at the time of such condemnation shall in fact be taken in or by condemnation or other proceedings pursuant to law, or sold in avoidance or in lieu of such condemnation or other proceedings (each of which is hereinafter in this Article referred to as a "taking"), then Tenant may give written notice to Landlord of Tenant's intention to terminate this Lease on or before the date of such taking, and this Lease shall thereupon terminate as of such date.

11.2 Award. If this Lease is terminated as a result of such taking, each Party hereto shall be entitled to prosecute claims in such condemnation proceedings for the value of its respective interest in the Property, as applicable, or any portion or interest therein.

11.3 Partial Taking. If a lesser portion of the Property is taken than is described in Section 11.1, or if the use or occupancy of the Property or any part thereof shall be temporarily requisitioned by any governmental authority, civil or military, this Lease shall nonetheless continue in full force and effect.

ARTICLE 12 EVENTS OF DEFAULT

12.1 Landlord's Notice of Tenant Default. As soon as practicable following the occurrence of a Tenant Default (as hereinafter defined), Landlord shall (unless such Tenant Default has been cured by Tenant) notify Tenant of the details thereof and the action Landlord is taking in respect thereto.

12.2 Tenant's Default. Each of the following events shall be a default by Tenant (a "**Tenant Default**"):

(a) Failure to Pay Rent. Tenant shall fail to make any payment of Rent to be made by it hereunder or to pay any other charges of whatsoever nature to be made by Tenant under this Lease within thirty (30) days after receiving notice from Landlord that such Rent or other amount is past due.

(b) Failure to Perform Under the Lease. Tenant shall fail duly to observe or perform any material obligation under this Lease, other than an obligation to pay Rent or other amounts due under this Lease, for a period of sixty (30) days after Landlord gives Tenant written notice of such failure, with such notice describing in reasonable detail the nature of the failure (such notice, a "**Notice of Default**"); provided, however, that if such failure to perform is not reasonably capable

of being cured within such sixty (30) day cure period but is reasonably capable of being cured, Tenant shall have such additional time, not to exceed ninety (90) days, as is reasonably necessary to cure such non-performance, so long as Tenant promptly commences and diligently pursues such cure.

(c) Insurance. Tenant shall fail to maintain adequate insurance in accordance with Article 9 and such failure is not cured within the Cure Period (as defined in the Water Supply Agreement).

(d) Default under Water Supply Agreement. A default by Tenant under Section 13.1 of the Water Supply Agreement has occurred and is not cured within the Cure Period (as defined in the Water Supply Agreement).

12.3 Landlord's Remedies. If any Tenant Default occurs, Landlord shall have the right to terminate this Lease upon sixty (60) days written notice, at the conclusion of which Landlord shall have the immediate right to recover all of the damages allowable pursuant to the Water Supply Agreement.

12.4 Tenant's Notice of Landlord Default. As soon as practicable following the occurrence of any Landlord Default, Tenant shall, unless such Landlord Default has been cured by Landlord, notify Landlord of the details thereof and the action Tenant is taking in respect thereto.

12.5 Landlord's Default. Each of the following events shall be a default by Landlord (a "Landlord Default"):

(a) Failure to Perform Under the Lease. Landlord shall fail duly to observe or perform any material obligation under this Lease for a period of thirty (30) days after Tenant gives Landlord written notice of such failure, with such notice describing in reasonable detail the nature of the failure; provided, however, that if such failure to perform is not reasonably capable of being cured within such thirty (30) day cure period but is reasonably capable of being cured, Landlord shall have such additional time, not to exceed sixty (90) days, as is reasonably necessary to cure such non-performance, so long as Landlord promptly commences and diligently pursues such cure.

(b) Insurance. Landlord shall fail to maintain adequate insurance in accordance with Article 9 and such failure is not cured within the Cure Period (as defined in the Water Supply Agreement).

(c) Default Under Water Supply Agreement. A default by Landlord under Section 13.2 of the Water Supply Agreement has occurred and is not cured within the Cure Period (as defined in the Water Supply Agreement).

12.6 Tenant's Remedies. If any Landlord Default occurs, Tenant shall have the right to terminate this Lease with sixty (60) day written notice, at the conclusion of which, Tenant shall have the immediate right to recover all of the damages allowable pursuant to the Water Supply Agreement.

12.7 Actions for Damages. Without limiting Landlord's other remedies provided herein or otherwise existing, Landlord shall have the right to bring an action against Tenant if a Tenant Default shall have occurred and be continuing, for recovery of Rent and other obligations due and owing under this Lease, damages or equitable relief including eviction or specific performance where appropriate. Without limiting Tenant's other remedies provided herein or otherwise existing, Tenant shall have the right to bring an action for damages or equitable relief (including specific performance where appropriate) against Landlord if a default by Landlord shall have occurred and be continuing.

12.8 Limitation on Liability. Notwithstanding anything to the contrary in this Lease, neither Party shall be entitled to recover from the other Party any consequential, special or punitive damages (except those payable by the indemnified Party with respect to third party claims), regardless of whether such other Party's liability arose out of a Tenant Default, a Landlord Default, an indemnification obligation or otherwise.

ARTICLE 13 MISCELLANEOUS

13.1 Expenses. Unless otherwise expressly provided in this Lease, each of Landlord and Tenant shall pay all its costs and expenses associated with this Lease, including the fees and disbursements of its counsel, printing and duplicating expenses, travel expenses and all other necessary fees.

13.2 Governing Law. This Lease shall be governed by, and construed in accordance with the laws of the State of Texas, and the venue for any disputes arising out of this Lease will be Jim Wells County, Texas.

13.3 Business Days. If any date on which a payment is to be made, notice given or other action taken hereunder is not a Business Day, then such payments, notice or other action shall be made, given or taken on the next succeeding Business Day; and with respect to any payment, no interest shall accrue for the delay.

13.4 Third Party Beneficiaries. Landlord and Tenant acknowledge that the respective rights and remedies under this Lease are for the benefit of, and can be exercised only by, Landlord and Tenant and any indemnitees under any provision of this Lease as their interests appear.

13.5 Entire Document. This Lease and each Exhibit hereinafter specified and the Water Supply Agreement (and each Exhibit and Schedule therein) shall constitute the entire agreement and understanding of Landlord and Tenant with respect to the subject matter hereof and thereof, and all prior agreements, negotiations, representations, and understandings with respect thereto, are expressly superseded. No amendment, modification, or change to this Lease, or its shall be effective unless the same shall be in writing, duly executed, authorized and approved by the Parties. In the event of any conflict between the terms and conditions of this Lease and that of any exhibit, or other document referenced herein (including the Water Supply Agreement), the Water Supply Agreement shall govern and control. The following Exhibits are incorporated herein by reference as if set forth in full, whether or not attached hereto:

Exhibit A – Site Plan of Property
Exhibit A-1 – Legal Description of Property
Exhibit A-2 – Legal Description of City Property
Exhibit B – Memorandum of Lease

13.6 Headings. The headings or titles of the Articles and Sections of this Lease shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Lease. Words importing the singular only also include the plural and reference to any gender includes all genders.

13.7 Notices. All notices required to be given hereunder shall be deemed delivered when deposited in the United States express mail, certified and return receipt requested, or when deposited with a nationally recognized express courier service that provides a receipt of delivery, or when delivered by

personal delivery, addressed to the following persons or such other persons as the Parties may designate in writing:

If to Landlord:

Michael Esparza
City Manager
City of Alice
500 E Main Street
Alice, TX 78332

If to Tenant:

Chad Schafer
Chief Financial Officer
Seven Seas Water Solutions USA LLC
14400 Carlson Circle
Tampa, FL 33626

13.8 Severability. In the event that any provision of this Lease shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith and agree to such amendments, modifications, or supplements to this Lease, or such other appropriate actions, as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Lease shall, as so amended, modified, supplemented, or otherwise affected by such action, remain in full force and effect.

13.9 Amendment. Neither this Lease nor any of the terms hereof may be terminated, amended or waived orally, but only by an instrument in writing signed by the Parties.

13.10 Additional Assurances. Each Party agrees to, and shall use all reasonable efforts to, provide such information, execute and deliver any instruments and documents and take such action as may be necessary or reasonably requested or required by the other Party, which are not inconsistent with the provisions of this Lease and which do not involve the assumption of obligations other than those provided for in this Lease in order to give full force and effect to this Lease and to carry out its intent.

13.11 Estoppel Certificates. Tenant or Landlord, as the case may be, shall execute, acknowledge, and deliver to the other, promptly upon request by Tenant or Landlord a certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and stating the modifications), (b) the dates, if any, to which the Rent has been paid, (c) that there are no existing offsets or defenses against the enforcement of any term hereof on the part of Tenant to be performed or complied with or, if so, specifying the same, and (d) that no notice has been given to either Party of any default that has not been cured or, if so, specifying the same.

13.12 Landlord's Right of Inspection. Landlord may, subject to Section 2.4, during normal business hours and on reasonable notice to Tenant during the Term, enter upon the Property for the purpose of inspecting the Facility and for such other purposes as may be necessary or proper for the reasonable protection of its interest.

13.13 Force Majeure. Sections 12.1 through 12.3 of the Water Supply Agreement are incorporated herein by reference and made a part hereof; provided that (a) references therein to "this Agreement" shall be deemed to be references to "this Lease", (b) defined terms therein that are used in such

sections but are not defined in this Lease shall have the definitions set forth in the Water Supply Agreement, and (c) there shall be no "Early Termination Fee" payable under this Lease.

13.14 Resolutions of Disputes.

(a) The provisions of Article 16 of the Water Supply Agreement shall govern the resolution of any Disputes arising under or related to this Lease.

(b) Any arbitration of any Dispute under this Lease involving facts and circumstances in common with any "Dispute" arising under the Water Supply Agreement shall be consolidated, upon notice from either Party, with any arbitration under the Water Supply Agreement with respect to such other dispute.

(c) Notwithstanding any other provision contained herein, the dispute resolution provisions contained in this Section 13.14 shall not be interpreted or construed to prevent Landlord from filing and prosecuting a forcible entry and detainer action to obtain possession of the Property following the expiration or earlier termination of this Lease.

13.14 Memorandum of Lease. Tenant shall have the right to record a memorandum of this Lease in the form attached hereto as Exhibit B, and Landlord shall execute such memorandum concurrently with the execution of this Lease.

13.15 Counterparts; Electronic Transmission. This Lease and any amendment hereto may be executed and delivered in one or more counterparts and by different Parties in separate counterparts. All of such counterparts shall constitute one and the same agreement and shall become effective (unless otherwise therein provided) when one or more counterparts have been signed by each Party and delivered to the other Party. The executed copies of this Lease may be delivered by facsimile or other electronic transmission.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have caused this Lease to be duly executed and delivered by their authorized representatives as of the day and year first above written.

TENANT:

SEVEN SEAS WATER SOLUTIONS USA LLC

a Delaware limited liability company

By: _____

Name: _____

Title: _____

LANDLORD:

CITY OF ALICE, a city established under the laws of the State of Texas

By: _____

Name: _____

Title: _____

EXHIBIT A

SITE PLAN OF PROPERTY

[To be inserted]

EXHIBIT A-1

LEGAL DESCRIPTION OF PROPERTY

[To be inserted]

EXHIBIT A-2

LEGAL DESCRIPTION OF CITY PROPERTY

[To be inserted]

EXHIBIT B

MEMORANDUM OF LEASE

[To be inserted]

Exhibit G Interconnection Facilities Specifications

[To be prepared]

Exhibit H Description of Facility Metering

This is a conceptual drawing only. Actual installation might deviate from the drawings based on engineering designs and assessments as agreed to by both Parties. Final drawing will be provided by Seven Seas to the Client no later than sixty (60) days prior to the scheduled COD, and the Parties agree to attach such final drawing hereto as Exhibit H.

Exhibit I Water Quality Standards

Product water quality at the delivery point will meet or exceed the requirements set forth in the applicable sections of 30 TAC §290 Subchapter F Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems, as in effect on the Contract Date, and those listed in the table below.

Analyte	UoM	Product Water	TCEQ Limits
Boron	mg/L	Less than or equal to 2.40	-

Exhibit J [Reserved]

Exhibit K Opinion of Counsel to Client

[Not required]

Exhibit L Opinion of Counsel to Seven Seas

[Not required]

Schedule 1 Facility Capacity

Schedule 1.1 Facility Capacity

Seven Seas shall at all times:

- (a) Provide and maintain a Facility that is capable of producing 3.0 MGD of Water meeting the Water Quality Standards as set forth in Exhibit I; and
- (b) Provide and maintain Facility water meters.

Schedule 1.2 Facility Expansion

The Facility **production capacity may be expanded at any time during the Contract Term** based on the mutual agreement of the Parties, subject to appropriate amendments to the Contract Term (Section 2.2) and Water Charge (Schedule 2).

Schedule 2 Charges For Water

Schedule 2.1 Water Charge

The Water Charge for each Billing Period shall be determined as follows:

- (a) Client shall pay to Seven Seas, in respect of such Billing Period and in accordance with Article 5, an amount equal to the greater of (i) a charge in the amount of \$2.24 per kgal for Water and delivered to Client as metered at the Delivery Point, hereinafter the "Base Water Charge" and (b) the Guaranteed Minimum Purchase.
- (b) The Water Charge does not include the cost of electricity consumption at the Facility, the cost of which shall be borne by Client as set forth in Schedule 10.

Schedule 2.2 Water Charge Adjustments.

The Water Charge for each Billing Period shall be adjusted as follows:

- (a) Consumer Price Index: The Water Charge shall be increased on January 1 of each year by the lower of: (i) the change in the U.S. Consumer Price Index (CPI-U) ("CPI Adjustment"), as maintained by the U.S. Bureau of Labor Statistics; or (ii) 1.75 percent. The first annual increase shall take into account the actual number of months of operations in the previous year ("MOP") and pro-rate the increase by MOP/12. In no event shall any adjustment reduce the Water Charge to an amount lower than that found in Schedule 2.1 above.
- (b) Increased Cost Adjustments: As set forth in Section 4.3(b) and Section 5.2(d).
- (c) Excess Electrical Consumption Adjustment: As set forth in Schedule 10.

Schedule 3 Requirements For Commercial Operation Date

Schedule 3.1 General Requirements for Commercial Operation Date.

The Facility shall achieve Commercial Operation Date when Seven Seas has demonstrated to Client that each of the following conditions has been satisfied:

- (a) All necessary Permits and Approvals, except for those that are Client's responsibility as specified in Section 3.5 and elsewhere in this Agreement, to construct and/or operate the Facility in compliance with Applicable Law, as agreed to by the Parties and in accordance with this Agreement, have been obtained and are in full force and effect.
- (b) Seven Seas has successfully completed the initial Water Quality Test as set forth in Section 7.2, the Water quality complies with regulatory and Water Quality Standards as set forth in Exhibit I;
- (c) The interconnection of the Facility to Client's Water System has been completed in accordance with this Agreement;
- (d) The Facility has been completed in all material respects (excepting punch list items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this Agreement;
- (e) Seven Seas has made all arrangements required to deliver the Water from the Facility to the Delivery Point in accordance with the provisions of this Agreement; and
- (f) All water metering and control interconnection arrangements have been completed in accordance with the provisions of this Agreement.

Schedule 3.2 Water Testing Requirements for Commercial Operation Date.

(a) **Initial Facility Specifications Rating.** Seven Seas shall give Client three (3) Days prior written notice when it is ready to perform its first Water Test consistent with the milestones as set forth in Schedule 4. Seven Seas shall grant the Client's Operating Representative reasonable access to observe the performance of Seven Seas' Facility during the Water Test. To be deemed successful during the 24-hour (consecutive) initial Water Test, Seven Seas shall demonstrate the following:

- (i) **Water Capacity Test.** The Facility meets or exceeds the Contract Capacity for Water (the "Water Capacity Test").
- (ii) **Water Quality Test.** The Water supplied by the Facility meets or exceeds the Water Quality Standards as set forth in Exhibit I (the "Water Quality Test"). The procedures for the Water Quality Test are as follows:
 - A. Seven Seas shall install a permanent tap for sampling Water in a mutually agreeable location in proximity to the Delivery Point.
 - B. Only certified sampling personnel of Seven Seas, the Client, or the Parties' Operating Representatives will be allowed to grab samples and analyze for the records.

- C. Seven Seas and Client shall utilize their respectively owned and calibrated instruments to independently grab samples, analyze, compare and record the following values onsite: temperature, pH, conductivity, and turbidity.
- D. Seven Seas or the Client's certified sampling personnel or Operating Representatives shall grab samples and package said samples for analysis by a mutually agreed upon independent certified lab. The independent lab shall analyze Water and the Water Quality Test shall be deemed successful unless, within three (3) Business Days from the sampling, the independent lab provides a written report to the Parties indicating the sample does not meet the Water Quality Standards set forth in Exhibit I – specifications in effect at the Commercial Operation Date. For the avoidance of doubt, the costs of these Water Quality Tests performed by the independent lab shall be the responsibility of Client.

(b) **Written Report.** At the conclusion of the Water Capacity Test and the Water Quality Test as specified in Schedule 3, Seven Seas shall provide Client with a written report of the initial Water Test results and related test data. Seven Seas may request as many 24-hour (consecutive) Water Tests as it deems necessary to bring the Facility up to the specifications as set forth in Schedule 3.2(b)(i) and (ii), but must be consistent with the milestones as set forth in Schedule 4. The Commercial Operation Date shall not occur until Seven Seas has corrected or repaired any discrepancies and demonstrated that the Facility has met all the criteria as set forth in Schedule 3.2(b)(i) and (ii).

(c) **Water Test Interruptions.** If any Water Test is interrupted during its 24-hour (consecutive) testing period due to any Delay Event, Seven Seas shall be credited for the consecutive hours performed prior to such interruption and deduct such credited hours from the 24-hour testing period when Seven Seas resumes performing the Water Test.

Schedule 4 Project Milestones

Milestones	Estimated Completion Date
Provide a list of all Permits and Approvals, as <u>Exhibit C</u> , necessary under Applicable Law to enable Seven Seas to construct, own and operate the Facility and deliver the Water	30 Days after the Contract Date
Apply for all Permits and Approvals necessary under Applicable Law to enable Seven Seas to construct, own and operate the Facility and deliver the Water	60 Days after the Contract Date
Obtain all Permits and Approvals (in final, non-appealable form) necessary under Applicable Law to enable Seven Seas to construct, own and operate the Facility, as set forth in <u>Exhibit C</u> and deliver the Water	9 months plus any extension as agreed to by the Parties
Target Commercial Operation Date	[●] Days after the receipt of all necessary Permits and Approvals and after the Site has been cleared by the Client per the Lease Agreement

Schedule 5 Delivery and Acceptance Obligations

During each calendar month during the Contract Term, Seven Seas shall deliver or make available and Client shall accept a minimum of 2.7 million gallons per Day of Water times the number of Days in each calendar month until Facility Expansion as set forth in Schedule 1.

Schedule 6 Metering

Schedule 6.1 Meter Selection:

Seven Seas shall install two (2) identical solid state Water Meters ("set" of "meters") in series (per "Meter Installation and Security" below) to be used for measuring Water produced by Seven Seas at its Facility and sold to Client. Seven Seas shall procure and install the meters and meter appurtenances at its expense.

Schedule 6.2 Meter Installation and Security:

Direct access to the meters will be limited to the Parties' representatives and meter calibration firms (per "Meter Performance").

- (a) The location of all meters shall be as set forth in Exhibit A ("Delivery Point").
- (b) See Exhibit H for a conceptual drawing illustrating the location of the Water Meters.

Schedule 6.3 Meter Readings:

Prior to 12:00 pm on the first day of the following calendar month the quantity of Water delivered by Seven Seas to Client at the Delivery Point during the previous calendar month shall be recorded for billing purposes by representatives of Seven Seas and Client, simultaneously, unless such quantity is determined by electronic means. **The billed amount shall be the average of the two Water Meters.**

Schedule 6.4 Meter Performance:

The Parties shall utilize the following procedures to address meter discrepancies, recalibrations and replacements:

- (a) **The Parties shall equally bear the cost of meter recalibrations.** Recalibrations shall occur no less than every 5 years on or about the anniversary of the Facility's Commercial Operation Date.
- (b) **The Parties shall equally bear the cost of intermediate recalibrations provided there is a 2% or greater registration discrepancy between any two meters in a set of meters – or if one or more of the meters in a set have failed outright.**
- (c) For intermediate recalibrations where there is a discrepancy equal to or less than 2% between any two meters in a set of meters, **the Party requesting the meter recalibration shall bear the cost of recalibration.**
- (d) Seven Seas shall replace any defective meter incapable of recalibration within sixty (60) Days of such discovery, at its expense. **Client shall reimburse Seven Seas for one-half (1/2) the purchase cost of the replaced meter.**

- (e) The Parties shall mutually agree on the independent meter calibration firm tasked with recalibrating the meters, as required.

Schedule 6.5 Meter Reading Estimations for Billings:

The Parties shall use the following procedures to estimate Water delivery in the event of meter failure.

- (a) One meter is clearly out of calibration or has failed outright the tests in Schedule 6.4: Seven Seas shall use the reading on the remaining working meter for billing purposes.
- (b) Disputes: Should either Party dispute any estimation procedure, the Parties shall make a good faith effort to review Client's storage level and water system input data during the billing period and settle on an estimated delivery.

Schedule 7 Facility Transfer Process

- (a) On the Business Day immediately following the date of receipt of **Transfer Fee** or Early Termination Fee, as the case may be, (the "Transfer Date") Seven Seas shall surrender and deliver to the Client the Facility in good order, condition and repair (reasonable wear and tear excepted).
- (b) The Client shall, as of the Transfer Date, assume full responsibility for the Facility, including the operation and maintenance thereof, and as of and from such date, Seven Seas shall have no liability or responsibility for the Facility.
- (c) Seven Seas shall be liable for those costs, expenses and other amounts for which it is liable or responsible hereunder incurred up to but not including the Transfer Date, and the Client shall be liable for all costs, expenses and amounts incurred in connection with the Facility on and after the Transfer Date;
- (d) Seven Seas shall deliver to the Client promptly following the Transfer Date all plans, drawings and specifications prepared in connection with construction of the Facility and in Seven Seas' possession.
- (e) The Client and Seven Seas shall make appropriate adjustments, including adjustments relating to charges incurred prior to the Transfer Date, and utilities, and any adjustments and payment therefor shall be made by the appropriate Party on the Transfer Date, but shall be subject to readjustment if necessary because of error in matters such as information, calculation, payments and omissions that are identified within the period of one hundred and eighty (180) Days following the Transfer Date; provided, however, that the Client and Seven Seas acknowledge that certain adjustments or readjustments may have to be made when a third party provides to the Client or Seven Seas a final adjustment amount in respect of a matter, and for such matters the adjustment and readjustment date shall each be correspondingly extended.
- (f) This Schedule 7 shall survive the expiration or any earlier termination of this Agreement.

Schedule 8 Insurance Requirements

Schedule 8.1 Seven Seas' Insurance Requirements

- A. The insurance coverage required of Seven Seas, and which Seven Seas agrees it will require of its subcontractors, includes the following:
1. Worker's Compensation insurance covering Seven Seas' obligations under all applicable laws.
 2. General Liability insurance covering liability arising from premises, operations, contractual liability, injuries to employees and independent contractors, personal injury, advertising injury, and products/completed operations with limits of not less than \$1,000,000 per occurrence, \$2,000,000 products completed operations aggregate limit, and \$2,000,000 policy aggregate limit.
 3. Automobile Liability insurance, with limits of not less than \$1,000,000 per occurrence combined single limit bodily injury or death and loss of or damage to property. The automobile insurance shall apply to all owned and non-owned vehicles used by Seven Seas.
 4. Excess (or umbrella) liability insurance providing follow-form coverage or coverage that is at least as broad as the coverage provided under the primary General Liability set forth in the sub-section directly above, as well as excess to the Automobile Liability insurance set forth in the sub-section directly below, with minimum per occurrence limits of \$5,000,000.
 5. Any additional insurance coverage required by applicable law.
- B. Prior to the commencement of any work, Seven Seas shall furnish to Client sufficient certificates of insurance demonstrating the insurance (including any necessary endorsements) required to be maintained by Seven Seas and its subcontractors under this Agreement is in full force and effect. Seven Seas shall promptly notify Client in writing of any changes to any insurance policies which adversely affect Client. All policies of insurance purchased by Seven Seas and any subcontractor shall (i) be primary to, and non-contributory with, any other insurance, deductible, self-insured retention, captive insurance, fronted insurance, or self-insurance available to Client, (ii) provide for waiver of rights of subrogation against the Client and any third party designated by Client and (iii) (except for workers compensation coverage) shall name the Client as additional insureds. Insurance certificates must be identified with the contract number applicable to this Agreement and the applicable policy endorsements conferring such additional insured status. Seven Seas shall provide certified copies of all insurance policies required in schedule 8.1 within 15 days of Client's written request for said copies.
- C. All insurance companies must be rated A- or better by A.M Best's. Should an insurance company's rating fall below A- Client must replace that insurance company with a qualifying insurance company within 60 Days.
- D. If SSW fails to meet these insurance requirements, Client may take any action necessary to rectify the non-compliance including procurement of comparable insurance coverage on SSW's behalf, the cost of which shall be borne by Seven Seas.

- E. Client may place other insurance for Seven Seas, at Client's own cost and expense and at Client's sole discretion. Seven Seas shall cooperate with Client and Client's insurance representatives in placement of these coverages and, if requested by Client, coordinate placement of these insurances with the insurances arranged by Seven Seas.

8.2 Client's Insurance Requirements

- A. The insurance coverage required of Client to be in place from inception of construction through final testing and acceptance at which time property insurance converts to the permanent property insurance program in an amount equal to the replaceable value of insurable real and personal property, unless otherwise noted, includes the following:
1. Earth Movement including Earthquake Volcanic Activity and Subsidence
 2. Fire
 3. Machinery breakdown for key machinery and equipment
 4. Named windstorm insurance
 5. Flood including Tsunamis and Wind-driven Water
 6. Business interruption insurance
 7. Debris Removal
 8. Ordinance or Law
 9. Expediting expense
 10. Cyber, with minimum per occurrence limits of \$3,000,000
 11. All Other Perils
 12. Any additional insurance coverage required by applicable law.
- B. Prior to the commencement of any work, Client shall furnish to Seven Seas sufficient certificates of insurance demonstrating the insurance (including any necessary endorsements) required to be maintained by Client and its subcontractors under this Agreement is in full force and effect. Client shall promptly notify Seven Seas in writing of any changes to any insurance policies which adversely affect Client. All policies of insurance purchased by Client and any subcontractor shall (i) be primary to, and non-contributory with, any other insurance, deductible, self-insured retention, captive insurance, fronted insurance, or self-insurance available to any of the Seven Seas, (ii) provide for waiver of rights of subrogation against the Seven Seas and any third party designated by Seven Seas, and (iii) shall name the Seven Seas as additional insureds. Insurance certificates must be identified with the contract number applicable to this Agreement and the applicable policy endorsements conferring such additional insured status. Client shall provide certified copies of all insurance policies required in schedule 8.2 within 15 days of Seven Seas's written request for said copies.
- C. No policies may contain a coinsurance clause.

- D. All insurance companies must be rated A- or better by A.M Best's. Should an insurance company's rating fall below A- Client must replace that insurance company with a qualifying insurance company within 60 Days.
- E. If Client fails to meet these insurance requirements, Seven Seas may take any action necessary to rectify the non-compliance including procurement of comparable insurance coverage on Client's behalf, the cost of which shall be borne by Client

Schedule 9 Form of Invoice

[To be prepared]

Schedule 10 Excess Electrical Consumption

[To be prepared]

Schedule 11 Early Termination Fee

REASON FOR TERMINATION

EARLY TERMINATION FEE

Uncontrollable Circumstance (§ 11.3)

Investment Value

Governmental Occurrence (§ 11.5)

Investment Value

Client Default (§ 12.2)

Client Default Investment Value

Seven Seas Default (§ 12.1)

Company Default Investment Value