

NUTRIENT CREDIT SALES AGREEMENT

BETWEEN

[NAME OF SELLER]

AND

THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

DATED AS OF _____, 20__

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This AGREEMENT is made this [%DAY OF SETTLEMENT%] day of [%MONTH OF SETTLEMENT%], [%YEAR OF SETTLEMENT%], by and between [%LEGAL ENTITY NAME%], an entity organized and existing under the laws of the Commonwealth of Pennsylvania or duly authorized to do business in the Commonwealth of Pennsylvania, with an address of [%FINANCIAL DISBURSEMENT ADDRESS%] (“Seller”), and the PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY, a body corporate and politic organized and existing under the laws of the Commonwealth of Pennsylvania, with an office at 22 South Third Street, Harrisburg, Pennsylvania (“Authority”).

WHEREAS, Seller desires to sell Credits (as hereinafter defined) to the Authority and the Authority desires to purchase Credits from Seller on the terms and conditions set forth herein.

NOW, THEREFORE, the Authority and Seller, with the intention of being legally bound, hereby agree as follows:

A. DEFINITIONS

The following words and phrases shall have the meanings given to them in this Section when used in this Agreement. Certain terms are defined elsewhere in the Agreement.

1. “AUCTION” shall refer to an auction held by the PENNVEST Clearinghouse which serves to establish a single auction-specific Credit price such that validly binding offers to sell Credits to the Authority posted by sellers and validly binding offers to buy Credits from the Authority posted by buyers will be equal in the aggregate at that price. The auctions will initially be uniform price auctions.

2. “AUCTION RULES” shall mean the terms and conditions Enrolled Participants agree to in participating in an Auction under the PENNVEST Clearinghouse, as more particularly described in Appendix 4 of the Rulebook.

3. “CERTIFIED CREDITS” shall mean Credits that have been or will be generated by a proposed or implemented pollutant reduction activity that has been certified to generate Credits.

4. “CLEARINGHOUSE RULES” shall mean the governing procedures and operational guidelines for the PENNVEST Clearinghouse, as set forth in this Rulebook, the Auction Rules, any advisories, circulars, notices, directives or decisions adopted or made by the Authority in accordance with the PENNVEST Clearinghouse, and any and all contracts by and between the Authority and the Enrolled Participant relative to the PENNVEST Clearinghouse.

5. “COMMONWEALTH” shall mean the Commonwealth of Pennsylvania.

6. “COMPLIANCE YEAR” shall mean the year long period starting October 1 and ending September 30 in which credits may be used to meet NPDES permit effluent limitations. The Compliance Year will be named for the year in which it ends. Example: The period of October 1, 2010 through September 30, 2011 is Compliance Year 2011.

7. "CREDIT" shall mean a tradable unit of compliance that corresponds with a unit of reduction of a Nutrient or of Sediment as recognized by DEP which, when certified, verified and registered may be used to comply with NPDES permit effluent limitations.

8. "CREDIT SALES DOCUMENTS" shall mean the Seller Notification Letter, this Agreement, together with all other documents, certifications and other instruments executed and delivered to the Authority by the Seller, pursuant to this Agreement.

9. "DELIVERY SCHEDULE" shall mean the schedule for the delivery of Credits from the Seller to the Authority as set forth in the Transaction Specific Terms, attached hereto as Exhibit A.

10. "DEP" shall mean the Pennsylvania Department of Environmental Protection.

11. "ENROLLED PARTICIPANT" shall mean an entity, individual or organization that has established eligibility in the PENNVEST Clearinghouse.

12. "EVENT OF DEFAULT" shall mean any of the events set forth in Paragraph H.1. herein.

13. "NPDES" shall mean the National Pollutant Discharge Elimination System.

14. "NUTRIENT" shall mean nitrogen or phosphorus.

15. "ORGANIZATIONAL DOCUMENTS" shall mean all documents which provide evidence of the organizational status of the Seller (*e.g.*, articles of incorporation, bylaws, operating agreements, partnership agreements, etc.)

16. "PENNVEST CLEARINGHOUSE" shall mean the Credit exchange maintained by the Authority whereby the agency becomes a counterparty to each party of Credit trading transaction by acting as the buyer to each seller trading in the exchange and the seller to each buyer trading in the exchange.

17. "PERSON" shall mean a municipality, municipal authority, or other form of government, including a governmental subdivision, agency or other instrumentality, an individual, any form of corporation or partnership, a business trust, an estate, a trust, a cooperative, an association, two or more individuals or entities having a joint or common interest, or any other legal or commercial entity.

18. "REGISTERED CREDITS" shall mean Credits to which DEP has assigned a registration identification number in DEP's tracking system, which identifies all Credits that may be used to comply with NPDES permit effluent limits.

19. “REGULATED POINT SOURCE” shall mean any entity, individual or organization, including wastewater treatment works owned or operated by municipalities or municipal authorities, developers and others that are responsible to comply with an NPDES permit.

20. “RULEBOOK” shall mean the PENNVEST Nutrient Credit Clearinghouse Rulebook, in existence as of the Settlement Date.

21. “SEDIMENT” shall mean soils or other erodible materials transported by stormwater as a product of erosion.

22. “SELLER NOTIFICATION LETTER” shall mean the letter provided to the Seller by the Authority setting forth the terms and conditions of Seller’s successful sale of Credits, including the number and type of Credits sold by Seller during the Auction and the schedule for delivery of such Credits.

23. “SETTLEMENT” shall mean the closing of the transaction between the Seller and the Authority contemplated hereby, including execution of the Credit Sales Documents.

24. “SETTLEMENT DATE” shall mean the effective date of this Agreement.

B. SALE OF CREDITS

1. TRANSACTION SPECIFIC TERMS

Seller hereby agrees to sell and the Authority hereby agrees to purchase Credits in the quantities and at the prices set forth in the Transaction Specific Terms, attached hereto as Exhibit A. Seller shall deliver Credits to the Authority in accordance with the Delivery Schedule outlined in Exhibit A and subject to the terms and conditions set forth herein.

2. CLEARINGHOUSE RULES AND SELLER NOTIFICATION LETTER SURVIVAL

The terms and conditions of the Clearinghouse Rules (as defined under the Rulebook) and the Seller Notification Letter are incorporated herein by reference and made a part hereof. Seller hereby agrees that the obligations set forth in the Clearinghouse Rules and the Seller Notification Letter shall survive Settlement on the sale of Credits and shall be continuing obligations of the Seller until all Credits required to be delivered under the Delivery Schedule have been delivered to the Authority and all other obligations of the Seller under the Credit Sales Documents have been fully completed and discharged.

C. SELLER REPRESENTATIONS AND WARRANTIES

Seller represents and warrants the following to the Authority, which representations and warranties shall survive until all obligations of the Seller hereunder have been satisfied and shall be deemed to be made as of the Settlement Date and the date of each delivery of Credits:

1. COMPLIANCE WITH RULEBOOK/AUCTION RULES

The Seller has complied with the terms and conditions of the Rulebook and the Auction Rules in all actions taken through the date of execution of this Agreement.

2. CERTIFICATION OF CREDITS; VERIFICATION PLAN

All Credits sold to the Authority under the Transaction Specific Terms, attached hereto as Exhibit A, are Certified Credits. The Seller has provided a copy of DEP's certification letter to the Authority, and if separate, the approved verification plan. The Seller has submitted to the Authority a business plan and/or implementation schedule identifying the major milestones required to generate Registered Credits by the dates set forth in the Delivery Schedule, included on Exhibit A.

3. STATUS OF TITLE TO CREDITS

The Seller has acquired sufficient ownership or title in the Credits, and all leases, easements, rights of way, or other personal or real property interests necessary to generate the Credits, for the term of this Agreement, copies of which have been provided to the Authority. The Seller has not entered into a contract to sell the Credits to another party, and the Credits are free and clear of all liens, encumbrances, security interests or other equitable charges, except those in favor of the Authority as may be created hereunder.

4. FORMATION; EXISTENCE; COMPOSITION

Seller is duly organized and existing under the laws of the Commonwealth of Pennsylvania or is duly authorized to do business in the Commonwealth of Pennsylvania; has the power and authority to carry on its business as now conducted; has furnished correct and complete copies of its Organizational Documents to the Authority; and provided a correct and complete list of its directors and officers, shareholders, or other management structure, as may be applicable, in the List of Officer and Directors, attached hereto as Exhibit B and incorporated herein by reference.

5. POWER AND AUTHORITY; AUTHORIZATION; ENFORCEABILITY

The Seller has the full power, authority and legal right to execute, deliver and comply with the Credit Sales Documents and has taken all actions necessary or appropriate for the execution and delivery of and compliance with the Credit Sales Documents. The Seller has delivered to the Authority copies of all documents demonstrating that the Seller has the corporate authorization or authority to enter into the transaction with the Authority. The Credit Sales Documents constitute valid and legally binding obligations of the Seller enforceable against the Seller in accordance with their respective terms.

6. APPROVAL OF CREDIT SALES DOCUMENTS

No consent, approval or other authorization of or by any court, administrative agency or other governmental authority is required in connection with the execution and delivery of or the performance of the Seller's obligations under this Agreement or any of the Credit Sales Documents, except as disclosed on the List of Permits/Approvals, attached hereto as Exhibit C and incorporated herein by reference.

7. CONFLICT; BREACH

The execution and delivery of and compliance with the Credit Sales Documents will not conflict with or result in a breach of any applicable law, judgment, order, writ, injunction, decree, rule or regulation of any court, administrative agency or other governmental authority, or the Organizational Documents, or of any agreement or other document or instrument to which the Seller is a party or by which it or its properties are bound, and such action by the Seller will not result in the creation or imposition of any lien, charge or encumbrance upon the Credits in favor of anyone other than the Authority.

8. LITIGATION

No action, suit or proceeding is pending or, to the knowledge of the Seller, is threatened, against or affecting the Seller or the Credits before or by any court, administrative agency or other governmental authority, which questions the validity of the transaction contemplated hereby, or which could result in a material adverse change in the financial condition or business of the Seller, except as disclosed in the List of Litigation, attached hereto as Exhibit D and incorporated herein by reference.

9. STATUS OF PRIOR AUTHORITY TRANSACTIONS OR FUNDING

To the extent that the Seller has previously entered into an agreement with the Authority for the purchase or sale of Credits or to the extent the Seller has previously received any project financing from the Authority, the Seller is in compliance with all obligations under the prior credit purchase or sale documents or funding documents and is not delinquent on its obligations.

10. BANKRUPTCY; INSOLVENCY

The Seller has not applied for or consented to the appointment of a receiver, conservator, trustee or liquidator for itself or any of its property; admitted in writing its inability to pay its debts as they mature; made a general assignment for the benefit of creditors; been adjudicated a bankrupt or insolvent or filed a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law; and no action has been taken by it for the purpose of effecting any of the foregoing. No order, judgment or decree has been entered by any court of competent jurisdiction approving a petition seeking reorganization of the Seller or all or a substantial part of the assets of the Seller, or appointing a receiver, conservator, sequestrator, trustee or liquidator of it or any of its property.

11. RESPONSIBILITY PROVISIONS

a. No one receiving funds by virtue of this Agreement is under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority.

b. The Seller is not delinquent in payment of any tax liabilities or other obligations to the Commonwealth.

12. INTEGRITY PROVISIONS

a. For purposes of this Paragraph only, the following terms shall have the meanings set forth below:

(i) “Confidential Information” shall mean information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Authority or the Commonwealth.

(ii) “Consent” shall mean written permission signed by a duly authorized officer or employee of the Authority, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Authority shall be deemed to have consented by virtue of execution of this Agreement.

(iii) “Financial Interest” shall mean ownership of more than a five percent interest in a business, or holding a position in the business as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

(iv) “Gratuity” shall mean any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

b. The highest standards of integrity in the performance of this Agreement have been maintained and no action has been taken in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.

c. No Confidential Information gained by virtue of this Agreement has been disclosed to others.

d. No pecuniary benefit has been conferred in connection with this Agreement or any other agreement with the Authority, directly or indirectly, on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.

e. No Gratuity has been offered, given or promised to anyone in connection with this Agreement or any other agreement with the Authority, directly or indirectly, for the benefit of or at the direction or request of any officer or employee of the Commonwealth.

f. No Gratuity has been accepted from or given to anyone in connection with the performance of work under the Agreement.

g. The Seller, upon being informed that any violation of these provisions has occurred or may occur, has immediately notified the Authority in writing.

h. The Seller, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, has provided, or if appropriate, has made promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Seller's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Seller's business or financial records, documents or files of any type or form, which refer to or concern the Agreement. Such information shall be retained by the Seller for a period of three years beyond the termination of the Agreement unless otherwise provided by law.

i. For violation of any of the above provisions, the Authority may terminate this Agreement and any other agreement with the Seller, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining complete performance hereunder, and debar and suspend the Seller from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Authority may have under law, statute, regulation, or otherwise set forth in this Agreement.

13. CONFIDENTIAL INFORMATION

The Seller has made every effort not to include confidential or proprietary information or trade secrets as part of any submission to the Authority, except as otherwise specified in the Rulebook. If the Seller has determined that it must divulge such information as part of any submission to the Authority, the Seller has submitted to the Authority a signed written statement to that effect in accordance with 65 P.S. § 67.707(b), and additionally has provided a redacted version of its submission, which has removed only the confidential or proprietary information and trade secrets for public disclosure purposes.

14. RIGHT-TO-KNOW LAW

a. The Pennsylvania Right-to-Know Law (hereinafter referred to as the "RTKL"), 65 P.S. §§ 67.101-3104, applies to this Agreement. For the purpose of administering the matters relating to the RTKL set forth in this Section, the applicable "Commonwealth agency" as provided in the RTKL shall be the Authority. Capitalized terms used but not otherwise defined herein shall have

the same meaning as set forth in the RTKL.

b. If the Authority needs the Seller's assistance in any matter arising out of the RTKL, the Authority shall notify the Seller using the legal contact information provided in this Agreement. The Seller, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Authority.

c. Upon written notification from the Authority that it requires the Seller's assistance in responding to a request under the RTKL for information that may be in the Seller's possession, constituting, or alleged to constitute, a Public Record in accordance with the RTKL, Seller shall:

(i) Provide the Authority, within ten (10) calendar days after receipt of such notification, access to, and copies of, any document or information in the Seller's possession arising out of this Agreement that the Authority reasonably believes may be a Public Record under the RTKL ("Requested Information"), to permit the Authority to evaluate whether such Requested Information is, in fact, a Public Record within the scope of the subject RTKL information request; provided, however, that providing such Requested Information not previously in the Authority's possession shall not be considered an admission by the Seller that such records are Public Records under the RTKL; and

(ii) Provide such other assistance as the Authority reasonably may request, in order to comply with the RTKL.

If the Seller fails to provide the Requested Information within ten (10) calendar days after receipt of such request, the Seller shall indemnify and hold the Authority harmless for any damages, penalties, detriment or harm that the Authority may incur under the RTKL as a result of the Seller's failure, including any statutory damages assessed against the Authority.

d. If the Seller considers the Requested Information not to be a Public Record, or exempt from production due to the inclusion of trade secret, confidential proprietary information, or any other reason for exemption from production as a Public Record under the RTKL, the Seller shall provide a written statement to the Authority within seven (7) days of receipt of the Authority's request for the Requested Information. This statement shall be signed by a representative of the Seller, explaining why the Seller considers the Requested Information exempt from public disclosure.

e. If such a written statement is timely provided, the Authority will rely upon it in denying a RTKL request for the information. However, if the Authority reasonably determines that such written statement is patently flawed or the Requested Information is, on its face, clearly not protected from disclosure under the RTKL, the Seller shall, subject to its rights of appeal, provide the Requested Information within five (5) business days of notification of the Authority's decision.

If the Seller fails to provide the Requested Information within the five (5) business days, the Seller shall indemnify and hold the Authority harmless from any damages, legal fees, penalties, detriment or harm, including statutory damages assessed against the Authority that the Authority may

incur under the RTKL as a result of the Seller's failure to provide the records.

f. The Seller shall be entitled to challenge or appeal any decision of the Authority, the Commonwealth Office of Open Records ("OOR") or any applicable court mandating the release of any record to the public which the Seller believes is not properly subject to disclosure under the RTKL; provided, however, that (i) the Seller shall be solely responsible for all costs related to such action; and (ii) the Seller shall indemnify and hold harmless the Authority from and against any and all legal fees, damages, penalties, detriment or harm that the Authority may incur under the RTKL as a result of such action, including any statutory damages assessed against the Authority, regardless of the outcome of such legal challenge. If the Seller does not appeal or is not successful after final appeal from a determination by the OOR or Pennsylvania courts, the Seller agrees to waive all rights or remedies that may be available to it as a result of the Authority's subsequent disclosure of Requested Information pursuant to such a decision by the OOR or Pennsylvania courts. The Authority will reimburse the Seller for any costs associated with complying with this provision, but only to the extent allowed under the fee schedule established by the OOR, or as otherwise provided by the RTKL, if the fee schedule is inapplicable.

g. Notwithstanding the foregoing, nothing set forth herein is intended, nor shall it be construed, to expand the Seller's obligations, or the Authority's authority, beyond those obligations and authority, respectively, as are set forth in the RTKL, and the sole remedy for any failure by the Seller to perform any obligation arising hereunder, or under the RTKL, shall be limited to those specifically provided for pursuant to the RTKL, and the failure of the Seller to comply with the provisions of this Section shall not constitute a default or Event of Default under the Agreement.

D. SELLER COVENANTS

All representations and warranties stated in Section C that continue to apply to the Seller's performance under this Agreement, are incorporated into this Section as if restated in their entirety. In addition, the Seller covenants and agrees to the following until the Seller's obligations hereunder have been satisfied in full:

1. DELIVERY OF CREDITS

The Seller shall deliver or cause to be delivered all Registered Credits in accordance with the Delivery Schedule set forth in the Transaction Specific Terms, attached as Exhibit A. In no event shall the date for delivery of Registered Credits extend beyond the scheduled delivery date set forth in Exhibit A without the express written consent of the Authority. The Seller shall provide the applicable registration identification numbers to the Authority at the time of delivery.

The Seller shall take all steps necessary to monitor or supervise the generation of Credits in accordance with the business plan or implementation schedule submitted to the Authority and Seller shall be responsible for ensuring that Seller will be able to deliver the applicable quantity and type of Credits as set forth in the Delivery Schedule.

In the event the Seller anticipates that it will not be able to make a scheduled delivery of Credits, it shall notify the Authority immediately, and shall take all steps necessary to procure replacement Credits. The Seller shall notify the Authority of all efforts being taken to procure replacement Credits and provide updates on the status of its efforts as requested by the Authority. Nothing herein shall prevent the Authority from taking its own efforts to secure replacement Credits as set forth in Chapter 10 of the Rulebook. To the extent Seller provides a partial delivery of Credits under the Delivery Schedule, Seller will be entitled only to payment for the proportionate share of Credits delivered. Seller agrees that it shall be responsible for reimbursing the Authority for any costs incurred to procure replacement Credits. For any Credits not delivered to the Authority in accordance with the Delivery Schedule, Seller agrees that it will owe the Authority a penalty in the amount of ten percent (10%) of the value of the Credits Seller failed to deliver in accordance with the Delivery Schedule, which shall be immediately due and payable upon the Seller's failure to deliver, subject to the applicable cure period set forth in Section H.1 herein. The Authority shall be entitled to withhold such penalty amount from any amount due and payable to the Seller hereunder. Such penalty shall not be assessed against the Seller where the Seller is able to provide replacement Credits by the delivery date set forth in the Delivery Schedule, or the applicable cure period as set forth in Section H.1 herein.

The Seller shall not deliver the Credits prior to the delivery date set forth on the Delivery Schedule without the express written consent of the Authority.

2. PAYMENT PROCEDURE; AUTOMATIC CLEARINGHOUSE PROCEDURES

Upon receipt of all Credits scheduled to be delivered in accordance with the Delivery Schedule and the associated registration identification numbers, the Authority shall submit payment to the Seller, so long as Seller is not in default of the terms and conditions of this Agreement. Payment shall be provided to the Seller at the address set forth in Section J.4 herein, unless the Seller notifies the Authority of a change in address.

Notwithstanding the foregoing, the Seller shall participate and follow any automatic clearinghouse procedures implemented, or to be implemented, by the Authority in order to facilitate payments in accordance with the Delivery Schedule. The Seller will provide any necessary information or written consent requested by the Authority upon receiving written notification that the Authority is implementing new or revised automatic clearinghouse procedures.

3. COMPLIANCE WITH RULEBOOK/AUCTION RULES

The Seller shall comply with the terms and conditions of the Rulebook and the Auction Rules until all obligations under this Agreement have been satisfied in full.

4. MAINTENANCE OF EXISTENCE

All actions required to maintain the Seller's existence as an entity duly organized and existing under the laws of the Commonwealth of Pennsylvania, or authorized to do business in the Commonwealth, shall be taken. The Authority shall be advised of the nature of any changes in

Organizational Documents promptly after any such changes are made, and the Organizational Documents shall not be changed in any manner that would adversely affect performance of any obligation under the Credit Sales Documents, without in each case obtaining the prior written approval of the Authority, which shall not be unreasonably withheld or delayed.

5. MERGER; DISSOLUTION

The Seller shall not be a party to any merger or consolidation or sell all or substantially all of its assets without the prior written consent of the Authority, which upon receipt of all requested information shall not be unreasonably withheld or delayed. The Seller shall not enter into any dissolution or liquidation proceedings.

6. CONTROL; OWNERSHIP OF CREDITS

If applicable, control or ownership of the Credits, shall not be transferred, directly or indirectly, voluntarily or involuntarily, without the prior written approval of the Authority, except as may otherwise be required by court order, and no lien, encumbrance or security interest shall be created or permitted to exist in favor of any third party with respect to the Credits.

7. FINANCIAL CONDITION

The Seller shall not take any action or incur additional debt or refinance existing debt which will have a material adverse change on the financial condition of the Seller and which may jeopardize the Seller's ability to satisfy its obligations hereunder, without the express prior written consent of the Authority. In the event the Seller suffers a material adverse change in its financial condition, which may jeopardize the Seller's ability to perform its obligations, hereunder, the Seller shall notify PENNVEST immediately.

8. PROPERTY, LIABILITY AND OTHER INSURANCE

The Seller shall maintain adequate property, comprehensive general liability insurance and such other insurance as may be necessary to provide adequate business insurance coverage on the Seller's business assets for the term of this Agreement.

9. AMERICANS WITH DISABILITIES ACT

a. Pursuant to federal regulations promulgated under the authority of the Americans With Disabilities Act, 28 C.F.R. § 35.101 *et seq.*, no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from activities provided for under this Agreement, and the Seller agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of the Americans With Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Authority as an agency of the Commonwealth through this Agreement.

b. The Commonwealth and the Authority shall be indemnified and held harmless from all losses, damages, expenses, claims, demands, suits and actions brought by any party against the Commonwealth or the Authority as a result of the Seller's failure to comply with its obligations under the provisions of Subparagraph (a) above.

10. NONDISCRIMINATION; SEXUAL HARASSMENT CLAUSE

The Seller shall comply, or cause its agents or representatives to comply, with the following requirements:

a. In the hiring of any employees for the performance of work, or any other activity required under this Agreement, no person who is qualified and available to perform the work to which the employment relates shall be discriminated against by reason of gender, race, creed or color.

b. No employee involved in the performance of work or any other activity required under the Agreement shall be discriminated against in any manner or intimidated on account of gender, race, creed, or color.

c. The Seller shall establish and maintain a written sexual harassment policy providing that sexual harassment will not be tolerated and employees who practice it will be disciplined and employees shall be informed of the policy.

d. No contractor or supplier who is qualified to perform the work relating to this Agreement shall be discriminated against by reason of gender, race, creed, or color.

e. All necessary employment documents and records shall be provided and access by the Authority and the Department of General Services' Bureau of Contract Administration and Business Development to books, records, and accounts shall be permitted for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If documents or records reflecting the necessary information requested are not available, such information shall be furnished on reporting forms supplied by the Authority or the Bureau of Contract Administration and Business Development.

f. This Nondiscrimination/Sexual Harassment Clause shall be included in contracts relating to the performance of this Agreement so that such provisions will be binding upon all parties to such contract.

g. The Authority may cancel or terminate the Agreement and all money due or to become due under the Agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Authority may proceed with debarment or suspension and may place the party not in compliance in the Contractor Responsibility File, a repository of information on contractors.

11. RESPONSIBILITY PROVISIONS

a. The Seller shall inform the Authority of any delinquency in the payment of taxes, or other Commonwealth obligations, or of any suspension or debarment by the Commonwealth, the federal government, or any other state or governmental entity of any party involved in the performance of this Agreement within 15 days of the date of the delinquency, suspension or debarment. The Seller may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us> or contacting the following:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125

b. The Commonwealth shall be reimbursed for the reasonable costs of investigation incurred by the Office of Inspector General for investigations of the compliance with the terms of this Agreement that results in the suspension or debarment. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. Investigative costs for investigations that do not result in suspension or debarment shall not be reimbursed.

12. MINORITY AND WOMEN BUSINESS UTILIZATION

The Seller acknowledges that the Commonwealth encourages the participation of certified minority business enterprises and women business enterprises in the performance of contracts entered into by the Commonwealth or Commonwealth agencies. To the extent Seller can do so, Seller is encouraged to utilize certified minority and women business enterprises in the performance of its obligations under this Agreement. For information and assistance on certified minority and women business enterprises, including a current list of the same, Seller should contact:

Department of General Services
Bureau of Contract Administration and Business Development
Room 502, North Office Building
Harrisburg, Pennsylvania 17125
Phone: (717) 787-7830
Facsimile: (717) 787-7052

13. RECORDING OR FILING OF CREDIT SALES DOCUMENTS

To the extent the Credit Sales Documents must be recorded or filed, the applicable Credit Sales Documents shall be recorded or filed by the Seller in the appropriate public office and evidence of the filing shall be provided to the Authority.

E. AUTHORITY COVENANTS

1. PAYMENT

The Authority covenants and agrees to make or cause to be made all payments in accordance with the Delivery Schedule set forth in the Transaction Specific Terms, attached hereto as Exhibit A, upon receipt of all Credits scheduled to be delivered by the Seller in accordance with the terms and conditions herein.

2. NON-PERFORMANCE; REPLACEMENT CREDITS

In the event the Seller has not delivered the full quantity of Credits scheduled to be delivered in accordance with the Delivery Schedule, the Authority shall attempt to secure replacement credits as set forth in Section 10 of the Rulebook by the end of the Compliance Year, regardless of the efforts being made by the Seller in accordance with Section D.1 herein. To the extent Seller provides a partial delivery of Credits under the Delivery Schedule, Seller will be entitled only to payment for the proportionate share of Credits delivered. In addition, the Authority shall be entitled to reimbursement from the Seller for any costs incurred above the scheduled payment amount to secure replacement Credits.

F. LIMITATION OF LIABILITY

1. AUTHORITY'S LIABILITY TO SELLER

The Seller has determined the number of Credits it has or will have available for sale. The Authority has not had and shall not have any responsibility whatsoever for the process by which the Seller intends to generate Credits. The parties understand and agree that the Authority's sole function is that of a clearinghouse entity in the nutrient credit market and the only consideration passing from the Seller to the Authority are the Credits set forth in the Transaction Specific Terms, attached hereto as Exhibit A, in accordance with and subject to the terms of this Agreement. Neither the Seller nor any other Person shall have any right to rely on any procedures required by the Authority herein, such procedures being solely for the protection of the Authority. The Seller assumes all risks of the acts or omissions of the Authority and the Authority shall not be liable to the Seller or any other Person for the Authority's acts or omissions in the performance of this Agreement, except that the Authority shall be obligated to pay Seller for Credits delivered to the Authority in accordance with the terms of this Agreement.

2. AUTHORITY'S LIABILITY TO THIRD PARTIES

The rights and benefits of this Agreement shall not inure to the benefit of any third party except as provided in Paragraph J.3 (Successors and Assigns) of this Agreement. Notwithstanding anything to the contrary contained in this Agreement or in any of the other Credit Sales Documents or any conduct or course of conduct by the Seller or the Authority or their respective affiliates, agents or employees, neither this Agreement nor any Credit Sales Documents shall be construed as creating any rights, claims or causes of action against the Authority in favor of

any Persons providing services or materials for or in connection with the performance of this Agreement, or their respective creditors, or any other Person other than the Seller.

G. INDEMNITY

The Seller, for itself and all those claiming under or through it, agrees to protect, indemnify, defend and hold harmless the Authority, its officers and employees, and any agent or consultant retained by the Authority to perform under this Agreement, from and against any and all liability, expense, or damage of any kind or nature and from any suits, claims or demands, including reasonable legal fees and expenses, arising out of this Agreement or in connection therewith including, but without limitation, any disputes arising between the Seller and any other Person on account of any act, or omission to act, or negligence of the Authority. This obligation specifically survives the performance of all obligations under this Agreement.

H. DEFAULTS

1. EVENTS OF DEFAULT

The occurrence of any of the following events shall constitute an Event of Default by the Seller hereunder, provided that the default has not been cured within thirty (30) days of receipt of written notice of the default from the Authority, or such other applicable cure period as may be set forth below:

a. Failure to provide Credits to the Authority in accordance with the Transaction Specific Terms, attached hereto as Exhibit A, which shall include a partial delivery of Credits to the Authority, except when such failure to deliver Credits is caused by conditions beyond the reasonable control of the Seller (including but not limited to, Acts of God, natural disasters, epidemics, riots, wars and other major upheavals) which determination shall be made by the Authority in its discretion on a case-by-case basis, provided that such failure continues for thirty (30) days after written notice from the Authority of such failure to provide Credits, or through the end of the applicable Compliance Year, whichever is earlier;

b. Failure by the Seller to comply with the terms and conditions of the Rulebook or the Auction Rules, including but not limited to, furnishing false or misleading information to the Authority or engaging in anticompetitive or collusive market activity;

c. Failure by the Seller to observe or perform any of the covenants or agreements required to be observed or performed under this Agreement or under any of the other Credit Sales Documents;

d. A representation or warranty made by the Seller to the Authority pursuant to this Agreement or under any of the Credit Sales Documents is untrue in any material respect;

e. The Seller applies for or consents to the appointment of a receiver, trustee, liquidator, or conservator of itself or any of its property; admits in writing its inability to pay its debts

as they mature; makes a general assignment for the benefit of creditors; is adjudicated as bankrupt or insolvent; files a voluntary petition in bankruptcy; files a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute; files an answer admitting the material allegations of a petition filed against it in any proceeding under any such law; or takes any other action for the purpose of effecting any of the foregoing; or

f. Any order, judgment or decree is entered by any court of competent jurisdiction, approving a petition seeking reorganization of the Seller or all or a substantial part of the assets of the Seller or appointing a receiver, sequestrator, trustee or liquidator of the Seller or any of its property, and such order, judgment or decree continues unstayed and in effect for any period of sixty (60) days.

2. RIGHTS AND REMEDIES

a. Availability

The Authority shall, upon the occurrence of any Event of Default hereunder, in addition to any other rights or remedies available to it hereunder or under any other Credit Sales Documents, or at law or in equity, have the right to immediately exercise any or all of the following rights and remedies, as it deems necessary or appropriate:

(i) Declare any Credits not yet delivered to the Authority and due and payable under the Delivery Schedule, as set forth on the Transaction Specific Terms, attached hereto as Exhibit A, or any outstanding balance due to the Authority for the procurement of replacement Credits, and all other sums due hereunder or under any of the other Credit Sales Documents, to be immediately due and payable in full;

(ii) Suspend any payment scheduled to be delivered to the Seller hereunder;

(iii) Suspend the Seller from further participation in the PENNVEST Clearinghouse; and

(iv) Exercise the Authority's right to purchase the amount of Credits that Seller failed to deliver in the following Compliance Year at a ten percent (10%) discount, as described in Section D.1 hereto.

b. Timing

No right or remedy conferred upon or reserved to the Authority under any of the Credit Sales Documents is intended to be or shall be deemed exclusive of any other such right or remedy, and each and every such right or remedy shall be cumulative and concurrent, and shall be in addition to every other such right or remedy, and may be pursued singularly, concurrently, successively or otherwise, at the sole discretion of the Authority, and shall not be exhausted by any

one exercise thereof but may be exercised as often as occasion therefore shall occur. No act of the Authority shall be deemed or construed as an election to proceed under any one such right or remedy to the exclusion of any other such right or remedy; furthermore, each such right or remedy of the Authority shall be separate, distinct and cumulative and none shall be given effect to the exclusion of any other. The failure to exercise or delay in exercising any such right or remedy, or the failure to insist upon strict performance of any term of any of the Credit Sales Documents, shall not be construed as a waiver or release of the same, or of any Event of Default thereunder, or of any obligation or liability of the Seller thereunder. Nothing herein, however, shall be construed to prevent the Authority from waiving any condition, obligation or default it should so elect. In the event of such election by the Authority, any waiver, in order to be effective, must be in writing and signed by the Authority, and any such waiver shall be strictly limited in its effect to the condition, obligation or default specified therein and shall not extend any subsequent condition, obligation or default or impair any right of the Authority with respect thereto.

c. Effect of Judgment

The recovery of any judgment by the Authority or the levy of execution under any judgment shall not affect in any manner or to any extent, liens, pledges, or any rights, remedies or powers of the Authority under any of the Credit Sales Documents or with respect to any guaranty or any pledge, but such liens and pledges, and such rights, remedies and powers of the Authority shall continue unimpaired as before. Further, the entry of any judgment by the Authority shall not affect in any way the interest rate payable under any of the Credit Sales Documents on any amounts due to the Authority, but interest shall continue to accrue on such amounts at the rate specified in such Credit Sales Documents.

d. Waiver of Notice

Presentment, demand, notice of nonpayment, protest, notice of protest, or other notice of dishonor, and any and all other notices in connection with any default in or enforcement of the delivery of Credits due from the Seller under the Delivery Schedule are hereby waived, except for the notices of default and opportunities to cure expressly provided herein, and all errors, defects and imperfections in any proceedings instituted by the Authority under the terms of any of the Credit Sales Documents or any pledges are further waived and released.

e. Effect of Authority Action

The Authority may take any of the following actions without such actions in any way being construed as a waiver or release of any right or remedy of the Authority, or of any Event of Default, or of any liability or obligation of the Seller, under any of the Credit Sales Documents:

(i) Release, compromise, forbear with respect to, waive, suspend, extend or renew any of the terms of the Credit Sales Documents (notice of any of the foregoing is hereby waived); or

(ii) Amend, supplement or modify the Credit Sales Documents with the written consent of the other signatory parties.

f. **Costs and Expenses**

Following the occurrence of any Event of Default, all costs and expenses incurred by the Authority in the exercise of any of its rights, remedies or powers under any of the Credit Sales Documents with respect to such Event of Default shall be paid upon demand (including all amounts paid to attorneys, accountants, real estate brokers, consultants, and other advisors and consultants employed by the Authority and/or to any contractors for labor and materials). Any amount not paid promptly upon demand, shall become part of the obligations of the Seller hereunder. In connection with and as part of the foregoing, in the event that any of the Credit Sales Documents are placed in the hands of an attorney for the collection of any sum payable thereunder, the Seller agrees to pay reasonable attorneys' fees for the collection of the amount being claimed under such Credit Sales Documents as well as all costs, disbursements and allowances provided by law.

I. PROGRAM TERMINATION; REGULATORY CHANGE

The Authority reserves the discretion to terminate this Agreement if Certified Credits become invalid due to changes in the NPDES permitting process or as a result of actions by DEP, the United States Environmental Protection Agency, a judicial order, or any other regulatory body or ruling, including but not limited to overturning the entire Credit system strategy, superseding the strategy with an alternate regulatory program, or not allowing Regulated Point Sources to purchase Credits as a method of complying with the strategy. In the event the Agreement is terminated by the Authority, any and all rights of the Seller to payment for Credits not delivered as of the date of the termination shall be null and void.

J. MISCELLANEOUS

1. **TIME OF THE ESSENCE**

All dates and times for the performance of obligations set forth herein shall be deemed to be of the essence of this Agreement. Without limiting the generality of the foregoing and notwithstanding anything to the contrary contained herein or in any of the Credit Sales Documents, delivery of Credits from the Seller shall be made in accordance with the Delivery Schedule and failure to make such delivery on the scheduled dates for any reason whatsoever shall constitute a default hereunder.

2. **SEVERABILITY**

In the event that for any reason one or more of the provisions of this Agreement or their application to any person or circumstance shall be held to be invalid, illegal or unenforceable in any respect or to any extent, such provisions shall nevertheless remain valid, legal and enforceable in all other respects and to such extent as may be permissible. In addition, any such invalidity, illegality

or unenforceability shall not affect any other provision hereof, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

3. SUCCESSORS AND ASSIGNS

This Agreement inures to the benefit of and binds the parties hereto and their respective successors and assigns, and the words “Seller”, and “Authority” whenever occurring herein shall be deemed to include such respective successors and assigns. However, the Seller shall not voluntarily, or by operation of law, assign or transfer any interest which it may have under this Agreement, or any part thereof, without the prior written approval of the Authority. To the extent the Seller assigns or transfers any interest or obligation under this Agreement without the prior written consent of the Authority, the Seller shall remain obligated to the Authority to perform all obligations under this Agreement.

4. NOTICES

All notices required or desired to be given to either of the parties hereunder shall be in writing and shall be deemed to have been sufficiently given for all purposes when presented personally to such party or sent by receipted mail via overnight courier, certified or registered mail, return receipt requested, or Electronic Postmark delivery through the United States Post Office to such party at its address set forth below:

Seller: [%SELLER LEGAL ADDRESS%]

Authority: Pennsylvania Infrastructure Investment Authority
22 South Third Street
Harrisburg, Pennsylvania 17101
Attention: Executive Director

Such notice shall be deemed to be given when received if delivered personally or two (2) days after the date mailed if sent by certified or registered mail. Any notice of any change in such address shall also be given in the manner set forth above. Whenever notice is required, the party entitled to receive such notice may waive the requirement by notifying the party required to give the notice in writing.

5. DEFINITIONS: NUMBER AND GENDER

In the event the Seller consists of more than one person or entity, the obligations and liabilities hereunder of each of such persons and entities shall be joint and several, and the term “Seller” shall mean all or some or any of them. For purposes of this Agreement, the singular shall be deemed to include the plural and the neuter shall be deemed to include the masculine and feminine, as the context may require.

6. CONFLICT BETWEEN INSTRUMENTS

In the event of any conflict between the provisions of this Agreement and the provisions of any of the other Credit Sales Documents, the provisions of this Agreement shall prevail.

7. CAPTIONS

The captions or headings of the paragraphs of this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the terms or provisions of this Agreement.

8. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument. All signatures need not appear on the same copy hereof.

9. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

10. TERM

The term of this Agreement shall commence with the date hereof and end on the date that all obligations under the Credit Sales Documents have been satisfied in full.

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IN WITNESS WHEREOF, the Seller and the Authority have executed this Nutrient Credit Sales Agreement on the date first above set forth.

PENNSYLVANIA INFRASTRUCTURE
INVESTMENT AUTHORITY

Paul K. Marchetti
Executive Director

ATTEST:

[INSERT NAME OF SELLER]

[Name, Title]

[Name, Title]

LIST OF EXHIBITS

- A - Transaction Specific Terms
- B - List of Officers and Directors
- C - List of Permits and Approvals
- D - List of Litigation
- E - Statement of Change in Financial Condition/List of Liens

EXHIBIT A

Transaction Specific Terms

The data included on this exhibit is sample data only. Actual data specific to each Buyer will be auto-populated into the agreement based on auction results.

Auction Date: August 27, 2010

Summary of Credits Sold

	Quantity of Credits Purchased (in credits per year)	Price of Credits (in dollars and cents per credit)	Compliance Year(s)	Percentage Upfront Payment
Susquehanna - Nitrogen	15,000	\$4.50	2011, 2012, 2013, 2014, 2015	N/A
Susquehanna - Phosphorus				
Potomac - Nitrogen				
Potomac - Phosphorus				

Delivery Schedule

Delivery Date	Payment Amount	Quantity of Credits Sold	Price of Credits (in dollars and cents per credit)	Applicable Compliance Year(s)
March 31, 2011	\$16,875	3,750	\$4.50	2011
June 30, 2011	\$16,875	3,750	\$4.50	2011
September 30, 2011	\$16,875	3,750	\$4.50	2011
December 31, 2011	\$16,875	3,750	\$4.50	2011
March 31, 2012	\$16,875	3,750	\$4.50	2012
June 30, 2012	\$16,875	3,750	\$4.50	2012
September 30, 2012	\$16,875	3,750	\$4.50	2012
December 31, 2012	\$16,875	3,750	\$4.50	2012
March 31, 2013	\$16,875	3,750	\$4.50	2013
June 30, 2013	\$16,875	3,750	\$4.50	2013
September 30, 2013	\$16,875	3,750	\$4.50	2013
December 31, 2013	\$16,875	3,750	\$4.50	2013

March 31, 2014	\$16,875	3,750	\$4.50	2014
June 30, 2014	\$16,875	3,750	\$4.50	2014
September 30, 2014	\$16,875	3,750	\$4.50	2014
December 31, 2014	\$16,875	3,750	\$4.50	2014
March 31, 2015	\$16,875	3,750	\$4.50	2015
June 30, 2015	\$16,875	3,750	\$4.50	2015
September 30, 2015	\$16,875	3,750	\$4.50	2015
December 31, 2015	\$16,875	3,750	\$4.50	2015

EXHIBIT B

List of Officers and Directors

	NAME	TITLE

EXHIBIT C

List of Permits and Approvals

Type of Permit/Approval	Permit/Approval Number	Date Issued	Appeal Period Expiration Date	Appeal Filed

EXHIBIT D

List of Litigation

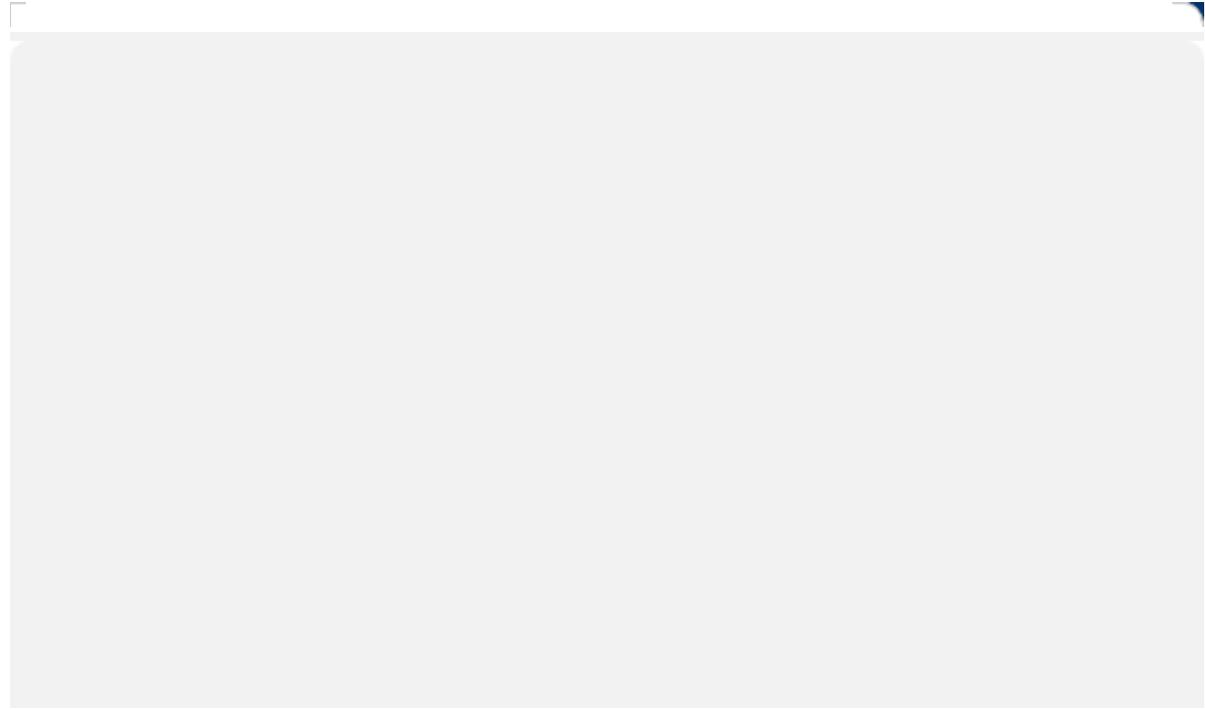


EXHIBIT E

Statement of Change in Financial Condition/List of Liens

