

ASSET PURCHASE AGREEMENT

among

BLUE WATER HOLDINGS LLC

and

THE CITY OF BURLINGTON D/B/A BURLINGTON TELECOM

and

CHAMPLAIN BROADBAND, LLC

and

SCHURZ COMMUNICATIONS, INC.
(solely for purposes of Section 13.12)

dated as of

December __, 2017

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “Agreement”), dated as of December __, 2017 (the “Effective Date”), is entered into by and among Blue Water Holdings LLC (“Blue Water”), a Vermont limited liability company, the City of Burlington, Vermont d/b/a Burlington Telecom (the “City” or “Burlington Telecom”), Champlain Broadband, LLC, a Vermont limited liability company and subsidiary of Schurz (“Buyer”) and, solely for purposes of Section 13.12, Schurz Communications, Inc., an Indiana corporation (“Schurz”).

RECITALS

WHEREAS, the City conveyed the assets of the Telecom System (defined below) to Blue Water and leased back the assets of the Telecom System to operate the Telecom System to provide phone, internet and cable television services to its residents and businesses under the trade name “Burlington Telecom;”

WHEREAS, the City and Blue Water entered into a certain Burlington Telecom Management and Sale Agreement dated as of December 31, 2014, as amended (the “Management Agreement”) which provided for the City to manage and operate the Telecom System under the Existing CPGs (defined below) and find a Qualified Purchaser (defined below) to purchase the Telecom System and direct the sale of the Telecom System to such Qualified Purchaser;

WHEREAS, Buyer (together with Schurz) meets the standards of a Qualified Purchaser and the City and Schurz have entered into a letter of intent regarding the sale of the Telecom System;

WHEREAS, Blue Water has consented to the sale of the Telecom System to Buyer; and

WHEREAS, the City and Blue Water desire to sell the Telecom System to Buyer and Buyer desires to purchase the Telecom System, subject to the terms and conditions set forth in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

Terms not otherwise defined in this Agreement shall have the meanings specified or referred to in this **ARTICLE I**:

“**200 Church Lease Provisions**” shall have the meaning set forth in Section 8.04.

“**Accounts**” shall mean all rights of the City (or Blue Water) to payment for goods sold or leased or for services rendered by the Telecom System that would constitute revenues of the Telecom System, including any notes receivable.

“**Acquisition Proposal**” has the meaning set forth in Section 7.04.

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agreement**” has the meaning set forth in the preamble.

“**Allocation Schedule**” has the meaning set forth in Section 2.11.

“**Assigned Contracts**” has the meaning set forth in [Section 2.01\(c\)](#).

“**Assignment and Assumption Agreements**” means the Assignment and Assumption Agreements referenced in the Bill of Sale and Assignment that separately provide for the assignment and assumption of certain Assigned Contracts referenced in the schedules attached to the Bill of Sale and Assignment.

“**Assumed Liabilities**” has the meaning set forth in [Section 2.03](#).

“**Balance Sheet**” has the meaning set forth in Section 6.09.

“**Balance Sheet Date**” has the meaning set forth in Section 6.09.

“**Basket**” has the meaning set forth in Section 11.04(a).

“**Benefit Plan**” has the meaning set forth in Section 6.13. “**Bill of Sale and Assignment**” has the meaning set forth in [Section 3.02](#).

“**Blue Water**” has the meaning set forth in the preamble.

“**Blue Water Officer Certificate**” has the meaning set forth in [Section 10.02](#).

“**Blue Water/City Closing Statement**” has the meaning set forth in [Section 2.10](#).

“**Books and Records**” has the meaning set forth in Section 2.01(n). “**Broadband Internet Access Service**” means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints,

including any capabilities that are incidental to and enable the operation of a communications service, but excluding dial-up Internet access service.

“**Burlington Telecom**” has the meaning set forth in the preamble.

“**Business Day**” means any day except Saturday, Sunday or any other day on which commercial banks located in Burlington, Vermont are authorized or required by Law to be closed for business.

“**Buyer**” has the meaning set forth in the preamble.

“**Buyer Closing Certificate**” has the meaning set forth in [Section 10.03\(c\)](#).

“**Buyer Indemnitees**” has the meaning set forth in Section 11.02.

“**Cable Act**” means Title VI of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151 *et seq.*, all other provisions of the Cable Communications Policy Act of 1984 and the provisions of the Cable Television Consumer Protection and Competition Act of 1992, and the provisions of the Telecommunications Act of 1996 amending Title VI of the Communications Act of 1934, in each case as amended and in effect from time to time.

“**Cap**” has the meaning set forth in Section 11.04(a).

“**CERCLA**” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 *et seq.*

“**City**” has the meaning set forth in the preamble.

“**City Certificate**” has the meaning set forth in [Section 10.02](#).

“**City Council**” means the City Council of the City of Burlington.

“**Closing**” has the meaning set forth in [Section 3.01](#).

“**Closing Adjustment**” has the meaning set forth in [Section 2.08](#).

“**Closing Date**” has the meaning set forth in [Section 3.01](#).

“**Closing Working Capital**” means: (a) Current Assets to the extent included in the Purchased Assets, less (b) Current Liabilities to the extent included in the Assumed Liabilities, determined as of the Effective Time.

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

“**Communications Act**” means the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992 and the provisions of the Telecommunications Act of 1996 amending Title VI of the Communications Act of 1934, and as may be further amended, and the rules and

regulations, policies and published decisions of the FCC thereunder, as in effect from time to time.

“**Confidentiality Agreement**” means the Non-Disclosure and Confidentiality Agreement, dated as of September 14, 2017, between Schurz and the City, as amended from time to time.

“**CPG**” means a Certificate of Public Good issued by the Vermont Public Utility Commission (f/k/a the Public Service Board).

“**Current Assets**” means the current assets of the Telecom System included in the line items set forth on Section 2.08 of the Disclosure Schedules and only to the extent acquired pursuant to the terms of this Agreement.

“**Current Liabilities**” means the current liabilities of the Telecom System included in the line items set forth on Section 2.08 of the Disclosure Schedules and only to the extent assumed pursuant to the terms of this Agreement.

“**Customer Lists**” means the lists of subscribers of the Telecom System using or purchasing services from Burlington Telecom including all lists of former subscribers using or purchasing services from Burlington Telecom.

“**Data Room**” means the electronic documentation site established by One Hub on behalf of the City containing the documents set forth in the Disclosure Schedules.

“**Deposit Trust Agreement**” means the Deposit Trust Agreement dated as of December 31, 2014, by and among the Blue Water Holdings LLC, the City, and Merchants Bank (now known as Community Bank, N.A.), as amended, with respect to the deposit of Revenues from the use and operation of the Leased Assets and the Telecom System.

“**Direct Claim**” has the meaning set forth in Section 11.06(c).

“**Disclosure Schedules**” means the Disclosure Schedules delivered by the City concurrently with the execution and delivery of this Agreement.

“**Disputed Amounts**” has the meaning set forth in Section 2.08(b)(iii).

“**Dollars or \$**” means the lawful currency of the United States.

“**Easements**” has the meaning set forth in **Section 8.04**.

“**EBITDA**” means earnings before interest, taxes, depreciation and amortization.

“**Edge Provider**” means any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet.

“**Effective Date**” means the date in the first paragraph of this Agreement.

“Effective Time” means 12:01 a.m. on the Closing Date.

“Employees” means those Persons employed by the City working for the Telecom System, and who are listed on the Disclosure Schedules.

“Encumbrance” means any lien, pledge, mortgage, security interest, charge, claim, encroachment or other similar encumbrance.

“End User” means any individual or entity that uses a Broadband Internet Access Service.

“Environmental Claim” means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

“Environmental Law” means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials. The term "Environmental Law" includes, without limitation, the following (including their implementing regulations and any state analogs): CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

“Environmental Notice” means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

“Environmental Permit” means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

“Equipment” means all machinery, equipment and fixtures, office furniture, furnishings and trade fixtures, specialty tools and parts, together with any rights to manuals, computer

programs, databases and other materials relating to the use, operation or structure of any of the foregoing Equipment, used in the operation of the Telecom System, as more particularly described in Disclosure Schedules and Schedules to the Bill of Sale and Assignment, together with all replacements, repairs, restorations, modifications, and improvements incorporated therein or affixed thereto.

“Escrow Agent” means the entity designated to serve as escrow agent under the Escrow Agreement.

“Escrow Agreement” means the Escrow Agreement among Buyer, Blue Water, the City and the Escrow Agent, to be executed and delivered at the Closing in a form reasonably acceptable to the parties thereto.

“Escrow Amount” means the sum of \$1,000,000 to be deposited with the Escrow Agent and held in escrow pursuant to the Escrow Agreement.

“Excluded Assets” has the meaning set forth in [Section 2.02](#).

“Excluded Liabilities” has the meaning set forth in [Section 2.04](#).

“Existing CPGs” means, together: (1) the Certificate of Public Good numbered as CPG No. 743-C issued to the City on June 18, 2003, authorizing Burlington Telecom to offer telecommunications services in the State of Vermont; and (2) the Certificate of Public Good issued to the City on September 13, 2005, in Docket No. 7044, authorizing Burlington Telecom to offer cable television services in the City of Burlington, as amended by the Renewed Certificate of Public Good issued by the PUC to the City and Blue Water on March 17, 2017 in Docket No. 8719.

“FCC” means the Federal Communications Commission.

“Financial Statements” has the meaning set forth in Section 6.09.

“FIRPTA Certificate” means a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that neither the City nor Blue Water is a foreign person within the meaning of Section 1445 of the Code duly executed by the City and Blue Water.

“First Refusal Notice” has the meaning set forth in Section 8.08.

“GAAP” means United States generally accepted accounting principles in effect from time to time.

“Governmental Authority” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

“Governmental Order” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

“Hazardous Materials” means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls.

“Headend Reports” has the meaning set forth in Section 6.18.

“Historical Financial Statements” has the meaning set forth in Section 6.09.

“Indemnified Party” has the meaning set forth in Section 11.06.

“Indemnifying Party” has the meaning set forth in Section 11.06.

“Independent Accountant” has the meaning set forth in Section 2.08(b)(iii).

“Information Technology Systems” means any combination of the computer software, computer hardware (whether general or special purpose), telecommunications capabilities (including all voice, data, and video networks) and other similar or related items of automated, computerized, or software systems and any other networks or systems and related services that are used or relied on by the City or Blue Water in the operation of the Telecom System.

“Insurance Policies” has the meaning set forth in Section 6.16.

“Intellectual Property” means the rights to use the name Burlington Telecom, together with any logos or marks for Burlington Telecom, all websites, domain names and other copyrights of the City or Blue Water used by the City in the operation of the Telecom System, all as is more particularly set forth on the Disclosure Schedules.

“Intellectual Property Agreements” means all licenses, sublicenses and other agreements by or through which other Persons grant Blue Water or the City or the City or Blue Water grant any other Persons any exclusive or non-exclusive rights or interests in or to any Intellectual Property that is used exclusively in connection with the Telecom System.

“Intellectual Property Assets” means all Intellectual Property that is owned by Blue Water or the City and exclusively used in connection with the Telecom System, including the Intellectual Property Registrations set forth on the Disclosure Schedules.

“Intellectual Property Registrations” means all Intellectual Property Assets that are subject to any issuance, registration, application or other filing by, to or with any Governmental Authority or authorized private registrar in any jurisdiction, including registered trademarks, domain names, and copyrights, issued and reissued patents and pending applications for any of the foregoing.

“Interim Income Statement” has the meaning set forth in Section 6.09.

“Interim Income Statement Date” has the meaning set forth in Section 6.09.

“Interim Financial Statements” has the meaning set forth in Section 6.09.

“Inventory” means all parts, set-top boxes, fiber optic cable, finished goods, works in progress, supplies and similar items of Inventory held for sale or lease or use in the operation of the Telecom System, as more particularly described in Schedules to the Bill of Sale and Assignment Agreement.

“Knowledge of City or City’s Knowledge” or any other similar Knowledge qualification, means the actual or constructive Knowledge of Stephen Barraclough and/or Mayor Weinberger, after due inquiry.

“Law” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

“Leased Motor Vehicles” means those Motor Vehicles that are subject to financing leases described more particularly on Section 2.07 of the Disclosure Schedules, which shall be purchased by the City prior to Closing to allow for transfer of such Leased Motor Vehicles at Closing.

“Leases” has the meaning set forth in **Section 8.04**.

“Liabilities” or **“liabilities”** means liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise.

“License Agreements” means the agreements with Pomerleau, University of Vermont Medical Center, ROW 617 Riverside, and Metropark (collectively, the “Licensors”) granting the City rights to access and store Equipment at the Licensors’ facilities, which agreements will be assigned to Buyer.

“Lifeline ETC” has the meaning set forth in Section 8.06.

“Limited Reserved Rights of Use Agreement” means the agreement substantially in the form attached hereto as **Exhibit A**, which Buyer and the City will execute as of the Closing in connection with certain reserved rights of the City for Smart City initiatives and other matters described therein.

“Losses” means actual out-of-pocket losses, damages, liabilities, costs or expenses, including reasonable attorneys’ fees.

“Malicious Instructions” has the meaning set forth in Section 6.20(b).

“Management Agreement” has the meaning set forth in the recitals.

“Material Adverse Effect” means any event, occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Telecom System, or (b) the ability of Blue Water and the City to consummate the transactions contemplated hereby on a timely basis; *provided, however*, that “Material Adverse Effect” shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which the Telecom System operates; (iii) any changes in financial or securities markets in general; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) any action required or permitted by this Agreement, except pursuant to consents obtained, or to be obtained, pursuant to this Agreement; (vi) any changes in applicable Laws or accounting rules, including GAAP; or (vii) the public announcement, pendency or completion of the transactions contemplated by this Agreement; *provided further, however*, that any event, occurrence, fact, condition or change referred to in clauses (i) through (iv) immediately above shall be taken into account in determining whether a Material Adverse Effect has occurred or could reasonably be expected to occur to the extent that such event, occurrence, fact, condition or change has a disproportionate effect on the Telecom System compared to other participants in the industries in which the Telecom System operates.

“Memorial Provisions” has the meaning set forth in Section 8.04.

“Motor Vehicles” means any motor vehicles currently used by employees of the Telecom System in connection with the operation of the Telecom System, including without limitation the Leased Motor Vehicles, which are more particularly described in Section 2.07 of the Disclosure Schedules and the Schedules to the Bill of Sale and Assignment.

“MOUs” means the Memoranda of Understandings dated July 18, 2008, between Burlington d/b/a Burlington Telecom and the City of Burlington Board of School Commissioners relating to certain parcels of school property, which are more particularly described in the School Agreements.

“Non-Compete Agreements” has the meaning set forth in Section 3.02(a)(vi).

“Paid Prioritization” means directly or indirectly favoring some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration (monetary or otherwise) from a third party, or to benefit an affiliated entity.

“Permits” means all permits, licenses, franchises, approvals, authorizations and consents required to be obtained from Governmental Authorities.

“Permitted Encumbrances” means (a) mechanics’, carriers’, workmen’s, repairmen’s or other like liens arising or incurred in the ordinary course of Telecom System and for which adequate reserves have been established; (b) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property that do not individually or in the aggregate materially interfere with the right or ability to own, use or operate the Real Property; (c), liens

arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of Telecom System; and (d) other immaterial imperfections of title or Encumbrances, if any.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

“Proposed Terms” has the meaning set forth in Section 8.08.

“Proprietary Software” means computer software (whether general or special purpose) that is used or relied on in the operation of the Telecom System and that the Telecom System (either directly or through a third party) has developed, customized, or enhanced, or is in the process of doing the same. For the purpose of clarity, “off the shelf” computer software does not constitute Proprietary Software, but customizations or enhancements to “off the shelf” computer software do constitute Proprietary Software.

“Prudent Utility Practice” means either (i) any of the practices, methods and acts engaged in or approved by a significant portion of the fiber, cable and telephone telecommunications industry at the time of such practice, method or act or prior thereto, or (ii) any of the practices, methods or acts, which in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expeditious action. Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts. Prudent Utility Practice shall also include those practices, methods and acts that are required by applicable laws and final orders or regulations of regulatory agencies having jurisdiction over the subject action.

“PUC” mean the Vermont Public Utility Commission (formerly known as the Vermont Public Service Board).

“Purchase Price” has the meaning set forth in [Section 2.05](#).

“Purchased Assets” has the meaning set forth in [Section 2.01](#).

“Qualified Purchaser” means a person that has the capability of operating a telecommunications company of size and service similar to the Telecom System and is reasonably expected to satisfy any statutory criteria in order to obtain CPGs from the PUC.

“Quitclaim Deed” has the meaning set forth in Section 9.09.

“Real Property Interests” means such easements and rights of way in common with other utilities and telecommunication providers currently required for the operations for the Telecom System.

“Release” means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing

or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

“Representative” means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person and with respect to the City means the Mayor or any other person designated by the City Council.

“Resolution Period” has the meaning set forth in Section 2.08(b)(ii).

“Revenues” means all revenues, rates, fees, charges, rents or other income derived and receipts received by the City or Blue Water from any source in connection with the management and operation of the Telecom System. Without limiting the generality of the foregoing, Revenues include rentals, subscriber charges, the proceeds of grants for the limited purposes or of the disposition of rentals, subscriber charges, the proceeds of grants, payments or reimbursement of capital costs by other Persons pursuant to joint ownership agreements relating to jointly owned facilities, and receipts from disposition of Telecom System assets (except the sale of the assets contemplated by this Agreement), and proceeds of insurance to the extent paid on account of the loss or damage to the Telecom System.

“Review Period” has the meaning set forth in Section 2.08(b)(i).

“Sales Notice” has the meaning set forth in Section 8.08.

“School Agreements” has the meaning set forth in Section 8.04.

“School Leases” has the meaning set forth in Section 8.04.

“Schurz” has the meaning set forth in the preamble.

“Seller Indemnitees” has the meaning set forth in Section 11.03.

“Services Agreement” has the meaning set forth in Section 9.02.

“State” means the State of Vermont.

“Statement of Net Position” has the meaning set forth in Section 6.09.

“Statement of Net Position Date” has the meaning set forth in Section 6.09.

“Statement of Objections” has the meaning set forth in Section 2.08(b)(ii).

“System Contracts” means the contracts for services to subscribers of the Telecom System and other contracts related to the Telecom System operations, as more particularly set forth on the Disclosure Schedules.

“Tangible Personal Property” means all furniture, fixtures, equipment, machinery tools, supplies, computers and other tangible personal property of the Telecom System.

“**Taxes**” means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

“**Tax Return**” means any return, declaration, report, claim for refund, information return or statement or other document required to be filed with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“**Telecom System**” means the telecommunication system operated by the City known as “Burlington Telecom” providing phone, cable television and internet services to third-party subscribers, which is comprised of the Accounts, Equipment, Inventory, System Contracts, Tangible Personal Property, Real Property Interests, Intellectual Property Assets, Customer Lists, License Agreements, Leases and Books and Records.

“**Third Party Claim**” has the meaning set forth in Section 11.06(a).

“**Transaction Documents**” means this Agreement, the Escrow Agreement, the Non-Compete Agreement(s), the Leases, the Services Agreement, the Bill of Sale and Assignment, certificates of title properly endorsed for Motor Vehicles transferred, and the other agreements, instruments and documents required to be delivered at the Closing.

“**Transferred Employee**” has the meaning set forth in Section 8.01(a).

“**True-Up Adjustment**” has the meaning set forth in Section 2.08.

“**Undisputed Amounts**” has the meaning set forth in Section 2.08(b)(iii).

“**Union**” has the meaning set forth in Section 6.14(b).

“**WARN Act**” means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign laws related to plant closings, relocations, mass layoffs and employment losses.

ARTICLE II PURCHASE AND SALE

Section 2.01 Purchase and Sale of Assets. Subject to the terms and conditions set forth herein, at the Closing, Blue Water and the City shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase from Blue Water and the City free and clear of all Encumbrances other than Permitted Encumbrances, all of Blue Water’s and the City’s respective right, title and interest in, to and under the following assets, properties and rights of Blue Water and the City, to the extent that such assets, properties and rights exist as of the Closing Date and primarily are used in or relate to the Telecom System (collectively, the “**Purchased Assets**”)

including the following:

- (a) all Accounts;
- (b) all Inventory;
- (c) all System Contracts set forth on **Section 2.01(c)** of the Disclosure Schedules, including the Intellectual Property Agreements, the Leases, Licenses and the other contracts separately referenced in the Assignment and Assumption Agreements referenced in the schedules to the Bill of Sale and Assignment (collectively, the “**Assigned Contracts**”);
- (d) all Intellectual Property Assets;
- (e) all Equipment;
- (f) the Motor Vehicles;
- (g) all Customer Lists;
- (h) all Tangible Personal Property
- (i) Real Property Interests
- (j) all Permits that are held by Blue Water or the City and required for the conduct of the Telecom System as currently conducted or for the ownership and use of the Purchased Assets, including, without limitation, those listed on Section 2.01(j) of the Disclosure Schedules, to the extent assignable;
- (k) all rights to any Actions of any nature available to or being pursued by Blue Water or the City to the extent related to the Telecom System, the Purchased Assets or the Assumed Liabilities, whether arising by way of counterclaim or otherwise;
- (l) all prepaid expenses, credits, advance payments, claims, security, refunds, rights of recovery, rights of set-off, rights of recoupment, deposits, charges, sums and fees (including any such item relating to the payment of Taxes);
- (m) all of Blue Water and the City’s rights under warranties, indemnities and all similar rights against third parties to the extent related to any Purchased Assets;
- (n) originals, or where not available, copies, of all books and records, including books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, billing records and Accounts records, Customer Lists, and the records and information of customers and suppliers required or necessary to operate the Telecom System (“**Books and Records**”); and
- (o) all goodwill associated with the Telecom System.

Section 2.02 Excluded Assets. Other than the Purchased Assets subject to Section 2.01, Buyer expressly understands and agrees that it is not purchasing or acquiring, and neither Blue

Water nor the City are selling or assigning, any other assets or properties of Blue Water or the City, and all such other assets and properties shall be excluded from the Purchased Assets (the “**Excluded Assets**”). Excluded Assets shall also include the following assets and properties of Blue Water or the City, as applicable:

(a) all cash and cash equivalents, bank accounts and securities of Blue Water, including its rights in accounts held by the Trustee under the Deposit Trust Account.

(b) all contracts that are not Assigned Contracts;

(c) all Intellectual Property other than the Intellectual Property Assets;

(d) the corporate seals, organizational documents, minute books, stock books, Tax Returns, books of account or other records having to do with the corporate organization of Blue Water, and any other books and records which Blue Water is prohibited from disclosing or transferring to Buyer under applicable Law and is required by applicable Law to retain;

(e) all insurance policies of Blue Water or the City and all rights to applicable claims and proceeds thereunder;

(f) the rights which accrue or will accrue to Blue Water or the City under the Transaction Documents; and

(g) provided it is not included in the Inventory or used by the Telecom System, telecommunications equipment that is both (i) owned and used by the City in its municipal governmental operations and located at its facilities other than the property used by the Telecom System located at 200 Church Street, Burlington, Vermont, and (ii) not held or used for operation by any third-party department office to another department office or to the interconnection point with the Telecom System;

(h) cash and cash equivalents in hand or in bank accounts, including the Operating Fund established by the City under the Deposit Trust Agreement; or any other rights in accounts held by the Trustee under the Deposit Trust Agreement;

(i) Employee contracts and assets attributable to or related to employees of the City, including any benefit, pension or retirement plan;

(j) the public records of the City relating to Burlington Telecom;

(k) rights to refunds of taxes and governmental impositions, if any, payable with respect to the assets, properties or operations of the City;

(l) any insurance policy, bond, letter of credit or other similar item, and any cash surrender value in regard thereto;

(m) except as otherwise provided in Section 2.01(k) all rights and claims against third parties based on conduct, actions, facts, circumstances, or conditions arising or occurring before the date hereof held by or in favor of the City; and

- (n) rights of the City under the Existing CPGs.

Section 2.03 Assumed Liabilities. Subject to the terms and conditions set forth herein, Buyer shall assume and agree to pay, perform and discharge when due only the following Liabilities of Blue Water and the City (collectively, the “**Assumed Liabilities**”), and no other liabilities:

- (a) all trade accounts payable of Blue Water or the City to third parties in connection with the Telecom System that remain unpaid and are not delinquent as of the Closing Date and that either are reflected on the Interim Balance Sheet Date or arose in the ordinary course of business consistent with past practice since the Interim Balance Sheet Date; and

- (b) all liabilities in respect of the Assigned Contracts but only to the extent that such liabilities thereunder are required to be performed after the Closing Date, were incurred in the ordinary course of business and do not relate to any failure to perform, improper performance, warranty or other breach, default or violation by Blue Water or the City on or prior to the Closing.

Section 2.04 Excluded Liabilities. Notwithstanding the provisions of **Section 2.03** or any other provision in this Agreement to the contrary, Buyer shall not assume and shall not be responsible to pay, perform or discharge any liabilities of Blue Water or the City or any of their Affiliates of any kind or nature whatsoever other than the Assumed Liabilities (the “**Excluded Liabilities**”). Blue Water and the City shall, and shall cause each of their Affiliates to, pay and satisfy in due course all Excluded Liabilities which they are obligated to pay and satisfy. Without limiting the generality of the foregoing, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) any liabilities or obligations arising out of or relating to the City’s or Blue Water’s ownership or operation of the Telecom System and the Purchased Assets prior to the Closing Date;

- (b) any liabilities or obligations relating to or arising out of the Excluded Assets;

- (c) any liabilities or obligations for (i) Taxes relating to the Telecom System, the Purchased Assets or the Assumed Liabilities for any taxable period ending on or prior to the Closing Date and (ii) any other Taxes of Blue Water (other than Taxes allocated to Buyer under Section 9.07) for any taxable period;

- (d) except as specifically provided in **Section 8.01**, any liabilities or obligations of the City relating to or arising out of (i) the employment, or termination of employment, of any Employee prior to the Closing, or (ii) workers’ compensation claims of any Employee which relate to events occurring prior to the Closing Date;

- (e) any liabilities or obligations of Blue Water or the City arising or incurred in connection with the negotiation, preparation, investigation and performance of this Agreement, the other Transaction Documents and the transactions contemplated hereby and thereby, including, without limitation, fees and expenses of counsel, accountants, consultants,

advisers and others; and

- (f) any Benefit Plan Liability.

Section 2.05 Purchase Price. The aggregate Purchase Price shall be Thirty Million Eight Hundred Thousand and 00/100s Dollars (\$30,800,000.00) (the “Purchase Price”) subject to adjustment as set forth in Section 2.06, Section 2.07 and Section 2.08, plus the assumption of Assumed Liabilities.

Section 2.06 Purchase Price Adjustment for Capital Expenditures and Performance. The Purchase Price assumes that the City will expend Two Million Five Hundred Thousand and 00/100s Dollars (\$2,500,000.00) for capital improvements in fiscal year 2018. The City shall provide in the City Certificate a statement of capital expenditures funded in fiscal year 2018 and, if applicable, fiscal year 2019. Any shortfall of the \$2,500,000 budget for fiscal year 2018 shall result in a downward adjustment to the Purchase Price. Buyer agrees to increase the Purchase Price by any capital expenditures pre-approved by Buyer and made in fiscal year 2019, if applicable. Buyer also agrees to increase the Purchase Price if the Telecom System’s EBITDA (determined in accordance with GAAP subject to any exceptions listed on Section 2.06 of the Disclosure Schedules) exceeds \$4.05 million for the fiscal year ending June 30, 2018, by multiplying the incremental EBITDA over \$4.05 million by a multiple of 4 (the “Excess EBITDA Adjustment”). Buyer shall provide its calculation of the Telecom System’s EBITDA and the Excess EBITDA Adjustment at the same time that it provides the True-Up Adjustment to the City under Section 2.08 or as soon thereafter as reasonably practicable (with the review and response dates equitably adjusted). The City and Blue Water shall have the Review Period to review and submit any objections to Buyer’s calculation of the Telecom System’s EBITDA and Excess EBITDA Adjustment. The provisions of Section 2.08(b) shall apply to the examination, review and resolution of any objections relating to the determination of the Excess EBITDA Adjustment.

Section 2.07 Purchase Price Adjustment for Cost of Motor Vehicle Financing. In the event that any financing lease of any Motor Vehicle is not assignable, the Purchase Price shall be increased by the amount of the lease buy out with respect to each such Leased Motor Vehicle. Such amounts and leases shall be set forth on **Section 2.07** of the Disclosure Schedules. All Motor Vehicles will be transferred to Buyer free and clear of all Encumbrances at Closing.

Section 2.08 True-Up Adjustment.

(a) *Working Capital Adjustment.* At the Closing, the City shall deliver a City Certificate stating the estimated Closing Working Capital (the “**Closing Adjustment**”). At Closing, the Purchase Price shall be adjusted either upward or downward by the Closing Adjustment so that zero Closing Working Capital is achieved. Within forty-five (45) days from the Closing, Buyer shall calculate the actual Closing Working Capital (the “**True-Up Adjustment**”). If the True-Up Adjustment is less than Ten Thousand Dollars (\$10,000) no further adjustment shall be made to the Purchase Price. If the True-Up Adjustment is over Ten Thousand Dollars (\$10,000), then the parties agree to make a further adjustment to the Purchase Price (either upward or downward as applicable). An illustrative calculation of the Closing

Working Capital, assuming the Closing Date was on October 31, 2017, is attached as Schedule 2.08(a) of the Disclosure Schedules.

(b) *Examination and Review.*

(i) After receipt of the proposed True-Up Adjustment, the City shall have thirty (30) days (the “**Review Period**”) to review the proposed True-Up Adjustment. During the Review Period, the City and the City’s accountants shall have full access to the relevant books and records of Buyer, the personnel of, and work papers prepared by, Buyer and/or Buyer’s accountants to the extent that they relate to the True-Up Adjustment and to such historical financial information (to the extent in Buyer’s possession) relating to the True-Up Adjustment as the City may reasonably request for the purpose of reviewing the proposed True-Up Adjustment and to prepare a Statement of Objections (defined below), *provided, that* such access shall be in a manner that does not unreasonably interfere with the normal business operations of Buyer.

(ii) On or prior to the last day of the Review Period, the City may object to the proposed True-Up Adjustment by delivering to Buyer a written statement setting forth the City’s objections in reasonable detail, indicating each disputed item or amount and the basis for the City’s disagreement therewith (the “**Statement of Objections**”). If the City fails to deliver the Statement of Objections before the expiration of the Review Period, the proposed True-Up Adjustment shall be deemed to have been accepted by the City. If the City delivers the Statement of Objections before the expiration of the Review Period, Buyer and the City shall negotiate in good faith to resolve such objections within thirty (30) days after the delivery of the Statement of Objections (the “**Resolution Period**”), and, if the same are so resolved within the Resolution Period, the True-Up Adjustment with such changes as may have been previously agreed in writing by Buyer and the City, shall be final and binding.

(iii) If the City and Buyer fail to reach an agreement with respect to all of the matters set forth in the Statement of Objections before expiration of the Resolution Period, then any amounts remaining in dispute (“**Disputed Amounts**” and any amounts not so disputed, the “**Undisputed Amounts**”) shall be submitted for resolution to the office of Grant Thornton or, if Grant Thornton is unable to serve, Buyer and the City shall appoint by mutual agreement the office of an impartial nationally recognized firm of independent certified public accountants other than the City’s accountants or Buyer’s accountants (the “**Independent Accountant**”) who, acting as experts and not arbitrators, shall resolve the Disputed Amounts only and make any adjustments to the True-Up Adjustment, as the case may be. The parties hereto agree that all adjustments shall be made without regard to materiality. The Independent Accountant shall only decide the specific items under dispute by the parties and its decision for each Disputed Amount must be within the range of values assigned to each such item in the proposed True-Up Adjustment and the Statement of Objections, respectively.

(iv) The fees and expenses of the Independent Accountant shall be paid by the City, on the one hand, and Buyer, on the other hand, based upon the percentage that the amount actually contested but not awarded to the City or Buyer, respectively,

bears to the aggregate amount actually contested by the City and Buyer. The Independent Accountant shall make a determination as soon as practicable within thirty (30) days (or such other time as the parties hereto shall agree in writing) after its engagement, and its resolution of the Disputed Amounts and its adjustments to the True-Up Adjustment shall be conclusive and binding upon the parties hereto. Except as otherwise provided herein, any payment of the True-Up Adjustment, together with interest calculated as set forth below, shall (A) be due (x) within five Business Days of acceptance of the applicable True-Up Adjustment or (y) if there are Disputed Amounts, then within five Business Days of the resolution described herein; and (B) be paid by wire transfer of immediately available funds to such account as is directed by Buyer or the City, as the case may be. Any payment of the True-Up Adjustment owed by the City to Buyer shall be paid by the Escrow Agent from the Escrow Amount pursuant to the terms of the Escrow Agreement. The amount of any True-Up Adjustment shall bear interest from and including the Closing Date to and including the date of payment at a rate per annum equal to four percent (4%). Such interest shall be calculated daily on the basis of a 365 day year and the actual number of days elapsed, without compounding.

(c) *Adjustments for Tax Purposes.* Any payments made pursuant to Section 2.08 shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

Section 2.09 Non-assignable Assets.

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section, to the extent that the sale, assignment, transfer, conveyance or delivery, or attempted sale, assignment, transfer, conveyance or delivery, to Buyer of any Purchased Asset would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of a Person who is not a party to this Agreement or an Affiliate of a party to this Agreement (including any Governmental Authority), and such consent, authorization, approval or waiver shall not have been obtained prior to the Closing, this Agreement shall not constitute a sale, assignment, transfer, conveyance or delivery, or an attempted sale, assignment, transfer, conveyance or delivery, thereof; *provided, however,* that, subject to the satisfaction or waiver of the closing conditions, the Closing shall occur notwithstanding the foregoing without any adjustment to the Purchase Price on account thereof. Following the Closing, the City and Buyer shall use commercially reasonable efforts, and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution or amendment required to novate all liabilities and obligations under any and all Assigned Contracts or other liabilities that constitute Assumed Liabilities or to obtain in writing the unconditional release of all parties to such arrangements, so that, in any case, Buyer shall be solely responsible for such liabilities and obligations from and after the Closing Date; *provided, however,* that neither the City nor Buyer shall be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, the City shall sell, assign, transfer, convey and deliver to Buyer the relevant Purchased Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration.

(b) To the extent that any Purchased Asset and/or Assumed Liability cannot

be transferred to Buyer following the Closing pursuant to this **Section 2.09**, Buyer and the City shall use commercially reasonable efforts to enter into such arrangements (such as subleasing, sublicensing or subcontracting) to provide to the parties the economic and, to the extent permitted under applicable Law, operational equivalent of the transfer of such Purchased Asset and/or Assumed Liability to Buyer as of the Closing and the performance by Buyer of its obligations with respect thereto. Buyer shall, as agent or subcontractor for the City pay, perform and discharge fully the liabilities and obligations of the City thereunder from and after the Closing Date. To the extent permitted under applicable Law, the City shall, at Buyer's expense, hold in trust for and pay to Buyer promptly upon receipt thereof, such Purchased Asset and all income, proceeds and other monies received by the City to the extent related to such Purchased Asset in connection with the arrangements under this Section. The City shall be permitted to set off against such amounts all direct costs associated with the retention and maintenance of such Purchased Assets.

Section 2.10 Payment of Purchase Price. Buyer shall pay the Purchase Price, less the Escrow Amount, at Closing via wire transfer pursuant to the wire transfer instructions provided by each of Blue Water and the City and in conformance with the instructions for allocation and distribution, which shall be set forth on the Blue Water/City Closing Statement, which will be signed by the parties hereto at Closing, to be executed and delivered at the Closing in a form reasonably acceptable to the parties thereto (the "Blue Water/City Closing Statement"). The Escrow Amount shall be deposited by wire transfer of immediately available funds into an account designated by the Escrow Agent and shall be held and distributed in accordance with the terms of the Escrow Agreement to satisfy (a) any adjustments to the Purchase Price in favor of Buyer pursuant to Section 2.08; and (ii) any and all claims made by Buyer or any other Buyer Indemnitee against Blue Water or the City pursuant to ARTICLE XI.

Section 2.11 Allocation of Purchase Price. The City, Blue Water and Buyer agree that the Purchase Price and the Assumed Liabilities (plus other relevant items) shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) as shown on the allocation schedule (the "**Allocation Schedule**"). A draft of the Allocation Schedule shall be prepared by Buyer and delivered to the City and Blue Water within thirty (30) days prior to the proposed the Closing Date. If the City or Blue Water notifies Buyer in writing that the City or Blue Water objects to one or more items reflected in the Allocation Schedule, the City, Blue Water and Buyer shall negotiate in good faith to resolve such dispute; *provided, however*, that if the City, Blue Water and Buyer are unable to resolve any dispute with respect to the Allocation Schedule prior to the Closing Date such dispute shall be resolved by the Independent Accountant within one hundred twenty (120) days following the Closing Date. The fees and expenses of the Independent Accountant incurred under this Section 2.11 shall be borne equally by the City, Blue Water and Buyer. Buyer, the City and Blue Water shall file all Tax Returns, as applicable (including amended returns and claims for refund) and information reports in a manner consistent with the Allocation Schedule. Any adjustments to the Purchase Price pursuant to this ARTICLE II shall be allocated in a manner consistent with the Allocation Schedule.

Section 2.12 Withholding Tax. Buyer shall be entitled to deduct and withhold from the Purchase Price all Taxes that Buyer may be required to deduct and withhold under any provision of Tax Law. All such withheld amounts shall be treated as delivered to the City or Blue Water hereunder.

ARTICLE III CLOSING

Section 3.01 Closing. Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the “**Closing**”) shall take place at the offices of Primmer Piper Eggleston & Cramer PC, 30 Main Street, Suite 500, Burlington, VT as soon as practicable, or at the election of the City and Buyer, on the first business day of the month following PUC’s issuance of new CPGs to Buyer to operate the Telecom System and, if applicable, Certificate(s) of Consent under Title 30 of the Vermont Statutes and in any event thirty (30) days following PUC’s issuance of new CPGS to Buyer to operate the Telecom System (“**Closing Date**”). The parties agree that the Closing shall be deemed effective as of the Effective Time.

Section 3.02 Closing Deliverables.

(a) At the Closing, Blue Water and the City shall deliver to Buyer the following:

- (i) the Escrow Agreement duly executed by Blue Water and the City;
- (ii) a bill of sale, in a form reasonably acceptable to the parties (the “**Bill of Sale and Assignment**”), duly executed by Blue Water and the City, transferring their respective interests in the Purchased Assets to Buyer;
- (iii) all other Transaction Documents to which Blue Water and the City are a party duly executed by each of Blue Water and the City;
- (iv) the Blue Water/City Closing Statement;
- (v) the FIRPTA Certificate;
- (vi) non-competition agreements from each of Blue Water and the City in a form reasonably acceptable to the parties thereto, containing customary 5-year non-competition, non-solicitation and confidentiality provisions which shall expressly carve out passive investments (the “**Non-Compete Agreements**”);
- (vii) the Services Agreement required under Section 9.02;
- (viii) any consents, authorizations, orders or approvals required under Section 10.01(b);
- (ix) such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement; and
- (x) the Blue Water Officer’s Certificate and the City Certificate.

(b) At the Closing, Buyer shall deliver to Blue Water and the City the

following:

- (i) the Purchase Price, less the Escrow Amount, in the manner set forth in the Blue Water/City Closing Statement;
 - (ii) the Escrow Agreement duly executed by Buyer;
 - (iii) all Transaction Documents to which Buyer is a party duly executed by Buyer;
 - (iv) Buyer's Closing Certificates; and
 - (v) Buyer's Secretary Certificates.
- (c) At the Closing, Buyer shall deliver the Escrow Amount to the Escrow Agent pursuant to the Escrow Agreement.

ARTICLE IV REPRESENTATION AND WARRANTIES OF BUYER

Buyer represents and warrants to the City and to Blue Water that the statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date.

Section 4.01 Organization. Buyer is a Vermont limited liability company duly organized, validly existing and in good standing under the Laws of the state of Vermont.

Section 4.02 Authority. Buyer has all necessary company power and authority to enter into this Agreement and the other Transaction Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any other Transaction Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite company action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Blue Water and the City) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). When each other Transaction Document to which Buyer is or will be a party has been duly executed and delivered by Buyer (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Buyer enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 4.03 No Conflicts; No Consents. The execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) result in a violation or breach of any provision of the certificate of organization or operating agreement of Buyer; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to Buyer; or (c) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which Buyer is a party, except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Buyer in connection with the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, except for the new CPGs from the PUC to be applied for and acquired by Buyer and such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby and thereby.

Section 4.04 Brokers. Except as set forth on Section 4.04 of the Disclosure Schedules, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Schurz or Buyer.

Section 4.05 Sufficiency of Funds. Schurz has, as of the execution of this Agreement, and Buyer will have at Closing sufficient cash on hand or other sources of immediately available funds to enable Buyer to make payment of the Purchase Price and consummate the transactions contemplated by this Agreement. Buyer's obligation to consummate the transactions contemplated hereby is not subject to its or any of its Affiliates obtaining financing.

Section 4.06 Solvency. Immediately after giving effect to the transactions contemplated hereby, Buyer shall be solvent and shall: (a) be able to pay its debts as they become due; (b) own property that has a fair saleable value greater than the amounts required to pay its debts (including a reasonable estimate of the amount of all contingent liabilities); and (c) have adequate capital to carry on the Telecom System. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated hereby with the intent to hinder, delay or defraud either present or future creditors of Buyer or Blue Water or the City. In connection with the transactions contemplated hereby, Buyer has not incurred, nor plans to incur, debts beyond its ability to pay as they become absolute and matured.

Section 4.07 Legal Proceedings. There are no actions, suits, claims, investigations or other legal proceedings pending or, to Buyer's knowledge, threatened against or by Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

Section 4.08 Independent Investigation. Buyer has conducted its own independent investigation, review and analysis of the Telecom System and the Purchased Assets, and

acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the City for such purpose. Buyer acknowledges and agrees that: (a) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer has relied solely upon its own investigation and the express representations and warranties of the City and Blue Water set forth in this Agreement (including related portions of the Disclosure Schedules); and (b) neither Blue Water nor the City has made any representation or warranty, except as expressly set forth in this Agreement (including the related portions of the Disclosure Schedules).

Section 4.09 Public Utility Commission Criteria for Entity Seeking CPG and Liquidity. Buyer is not aware of any fact, circumstance, condition, or reason that would prevent it from meeting the EMCO criteria set forth in PUC Rule 8.214(B) or other criteria required under Title 30 of the Vermont Statutes Annotated to qualify to obtain a cable television CPG from the PUC, including but not limited to the financial soundness and stability of Buyer and the experience and ability of the applicant to run and manage a cable television system. Buyer will have sufficient financial capacity to maintain the current capabilities of the Telecom System.

Section 4.10 Qualified Purchaser. Schurz meets the definition of a Qualified Purchaser.

Section 4.11 Financial Statements. Schurz has made available to the City's financial consultant copies of financial statement information sufficient for the City to verify the sources of funds to pay the Purchase Price and the ongoing capital adequacy of Schurz and its ability to fund the capital adequacy of Buyer, which financial statements fairly present in all material respects the financial condition of Schurz as of the respective dates they were prepared.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BLUE WATER

Except as set forth in the Disclosure Schedules, Blue Water represents and warrants to Buyer and the City that the statements contained in this Section are true and correct as of the date hereof and as of the Closing Date.

Section 5.01 Organization and Qualification of Blue Water. Blue Water is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Vermont and has all necessary power and authority to own or lease the properties and assets now owned or leased by it and to carry on the Telecom System as currently conducted.

Section 5.02 Authority of Blue Water. Blue Water has all necessary company power and authority to enter into this Agreement and the other Transaction Documents to which it is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Blue Water of this Agreement and any other Transaction Document to which it is a party, the performance by it of its obligations hereunder and thereunder and the consummation by Blue Water of the transactions contemplated hereby and thereby have been duly authorized by all requisite company action on the part of Blue Water. This Agreement has been duly executed and delivered by Blue Water, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a

legal, valid and binding obligation of Blue Water, enforceable against Blue Water in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). When each other Transaction Document to which Blue Water is or will be a party has been duly executed and delivered by Blue Water (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Blue Water enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

Section 5.03 Title to Purchased Assets. Blue Water has good and valid title to and is the beneficial owner of the Purchased Assets, free and clear of Encumbrances, except for the lien held by Community Bank N.A. (formerly known as Merchants Bank), the lease to the City (which will be terminated at Closing) and as further described on Section 5.03 of the Disclosure Schedules and Permitted Encumbrances, and will transfer and deliver good and valid title to the Purchased Assets free and clear of Encumbrances, except Permitted Encumbrances.

Section 5.04 No Conflicts; Consents. The execution, delivery and performance by Blue Water of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) result in a violation or breach of any provision of the certificate of organization or the operating agreement of Blue Water or any ordinances, statutes or laws of the State; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to Blue Water, the organization or the Purchased Assets; or (c) except as set forth in Section 5.04 of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any Material Contract; except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a Material Adverse Effect. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Blue Water in connection with the execution and delivery of this Agreement or any of the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, except for the new CPGs to be applied for and acquired by Buyer, a Certificate of Consent under Title 30 of the Vermont Statutes to be obtained by Blue Water, and such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which, in the aggregate, would not have a Material Adverse Effect.

Section 5.05 Employees and Benefit Plans. Blue Water does not have any employees and does not and has not maintained any: (a) employee benefit plan within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended; (b) equity based compensation arrangements; (c) deferred compensation arrangements; (d) change in control agreements; (e) severance programs or policies; or (f) vacation or paid time off programs or policies.

Section 5.06 City Representations and Warranties. To the actual knowledge of Blue Water and without any obligation to perform investigations or make due inquiry, all of the representations and warranties of the City made in this Agreement are true, accurate and complete.

Section 5.07 No Other Representations and Warranties. Except for the representations and warranties contained in this ARTICLE V (including the related portions of the Disclosure Schedules), neither Blue Water nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Blue Water, including any representation or warranty as to the accuracy or completeness of any information regarding the Telecom System and the Purchased Assets furnished or made available to Buyer and its Representatives or as to the future revenue, profitability or success of the Telecom System, or any representation or warranty arising from statute or otherwise in law.

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF THE CITY

The City represents and warrants to Buyer that the statements contained in this **ARTICLE VI** are true and correct as of the date hereof and as of the Closing Date.

Section 6.01 Organization and Authority of the City. The City is a municipal corporation and political subdivision of the State of Vermont and has full corporate power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on the Telecom System as currently conducted. The City is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the ownership of the Purchased Assets or the operation of the Telecom System as currently conducted makes such licensing or qualification necessary.

Section 6.02 Authority of the City. The City has all necessary power and authority to enter into this Agreement and the other Transaction Documents to which the City is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the City of this Agreement and any other Transaction Document to which the City is a party, the performance by the City of its obligations hereunder and thereunder and the consummation by the City of the transactions contemplated hereby and thereby have been duly authorized by the City Council. This Agreement has been duly executed and delivered by the City, and (assuming due authorization, execution and delivery by Blue Water and Buyer) this Agreement constitutes a legal, valid and binding obligation of the City enforceable against the City in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). When each other Transaction Document to which the City is or will be a party has been duly executed and delivered by the City (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of the City enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought

in a proceeding at law or in equity).

Section 6.03 No Conflicts; Consents. The execution, delivery and performance by the City of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) result in a violation or breach of any provision of its Charter; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to the City; or (c) except as set forth in **Section 6.03** of the Disclosure Schedules, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which the City is a party, except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on the City's ability to consummate the transactions contemplated hereby. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to City in connection with the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, except for the new CPGs to be applied for and acquired by Buyer, the Certificate of Consent to be required by the City under Title 30 of the Vermont Statutes (if applicable), the FCC approval to transfer the International Section 214 Authority, and such consents, approvals, Permits, Governmental Orders, declarations, filings or notices which would not have a material adverse effect on the City's ability to consummate the transactions contemplated hereby and thereby.

Section 6.04 System Contracts. **Section 6.04** of the Disclosure Schedules lists each of the System Contracts (a) by which any of the Purchased Assets are bound or affected or (b) to which the City (or Blue Water as assignee) is a party or by which it is bound in connection with the Telecom System or the Purchased Assets (together with all Intellectual Property Agreements listed in **Section 6.07** of the Disclosure Schedules, collectively, the "**System Contracts**"). Each System Contract is valid and binding on the City (or Blue Water as assignee) in accordance with its terms and is in full force and effect. None of City or, to City's Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of any intention to terminate, any System Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any System Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each System Contract (including all modifications, amendments and supplements thereto and waivers thereunder) have been made available to Buyer. There are no material disputes pending or threatened under any contract included in the Purchased Assets.

Section 6.05 Title to Purchased Assets. Except as set forth in **Section 6.05** of the Disclosure Schedules, the City transferred good and valid title to, or a valid leasehold interest in, all the Purchased Assets to Blue Water free and clear of Encumbrances except for Permitted Encumbrances.

Section 6.06 Sufficiency of Assets. Except as set forth in **Section 6.06** of the Disclosure Schedules, the buildings, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property included in the Purchased Assets are structurally sound, are in good operating condition and repair (ordinary wear and tear excepted), and are adequate for

the uses to which they are being put, and none of such buildings, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The Purchased Assets are sufficient for the continued conduct of the Telecom System after the Closing in substantially the same manner as conducted prior to the Closing and (except for the CPGs to be applied for and acquired by Buyer) constitute all of the rights, property and assets necessary to conduct the Telecom System as currently conducted. None of the Excluded Assets are material to the operation of the Telecom System.

Section 6.07 Intellectual Property. Section 6.07 of the Disclosure Schedules lists (a) all Intellectual Property Registrations and (b) all Intellectual Property Agreements. Except as set forth in Section 6.07 of the Disclosure Schedules, the City and/or Blue Water owns or has the right to use all material Intellectual Property Assets and the Intellectual Property licensed to the City or Blue Water under the Intellectual Property Agreements. To City's Knowledge: (i) the conduct of the Telecom System as currently conducted does not infringe, misappropriate, dilute or otherwise violate the Intellectual Property of any Person; and (ii) no Person is infringing, misappropriating or otherwise violating any Intellectual Property Assets.

Section 6.08 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 6.08 of the Disclosure Schedules, there are no actions, suits, claims, investigations or other legal proceedings pending or, to the City's Knowledge, threatened against or by the City or Blue Water (i) relating to or affecting the Telecom System, the Purchased Assets or the Assumed Liabilities, or (ii) that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such action, suit, claim, investigation or other legal proceeding.

(b) Except as set forth in Section 6.08(b) of the Disclosure Schedules, there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Telecom System or the Purchased Assets. The City is in compliance with the terms of each Governmental Order set forth in Section 6.08(b) of the Disclosure Schedules. No event has occurred or circumstances exist that may constitute or result in (with or without notice or lapse of time) a violation of any such Governmental Order.

Section 6.09 Financial Statements. Complete copies of the financial statements consisting of the Audited City of Burlington Statement of Net Position of the Telecom System, as at June 30 in each of the years 2016, and 2015 and the related statements of Revenues, Expenses and Changes in Fund Net Position and Statement of Cash Flows for the years then ended (the "**Historical Financial Statements**"), and unaudited financial statements consisting of the Income Statement of the Telecom System as at June 30, 2017 and October 31, 2017 (the "**Interim Financial Statements**" and together with the Historical Financial Statements, the "**Financial Statements**") are included in the Disclosure Schedules. The Financial Statements have been prepared in accordance with GAAP applied on a consistent basis from FY 2016 (July 1, 2015) and, except as noted on Section 6.09 of the Disclosure Schedule, the Financial Statements for all prior periods have been prepared in accordance with GAAP applied on a consistent basis. The Interim Financial Statements are subject to normal and recurring year-end

adjustments (the effect of which will not be materially adverse) and the absence of notes (that, if presented, would not differ materially from those presented in the Historical Financial Statements). The Financial Statements are based on the books and records of the Telecom System, and fairly present the financial condition of the Telecom System as of the respective dates they were prepared and the results of the operations of the Telecom System for the periods indicated. The Statement of Net Position of the Telecom System as of June 30, 2017 is referred to herein as the “**Statement of Net Position**” and the date thereof as the “**Statement of Net Position Date**” and the Income Statement of the Telecom System as of October 31, 2017 is referred to herein as the “**Interim Income Statement**” and the date thereof as the “**Interim Income Statement Date**”. The City maintains a standard system of accounting for the Telecom System established and administered in accordance with GAAP. The City has no Liabilities with respect to the Telecom System, except (a) those which are adequately reflected or reserved against in the Statement of Net Position, and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Statement of Net Position Date and which are not, individually or in the aggregate, material in amount.

Section 6.10 Absence of Certain Changes, Events and Conditions. Since the Statement of Net Position Date, and other than in the ordinary course of business consistent with past practice, there has not been any:

- (a) event, occurrence or development that has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;
- (b) material change in any method of accounting or accounting practice for the Telecom System, except as required by GAAP or as disclosed in the notes to the Financial Statements;
- (c) material change in cash management practices and policies, practices and procedures with respect to collection of Accounts, establishment of reserves for uncollectible Accounts, accrual of Accounts, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits;
- (d) entry into any contract requiring expenditures or generating revenue in excess of \$25,000 annually that would constitute a System Contract;
- (e) incurrence, assumption or guarantee of any indebtedness for borrowed money in connection with the Telecom System except unsecured current obligations and Liabilities incurred in the ordinary course of business consistent with past practice;
- (f) transfer, assignment, sale or other disposition of any of the assets of the Telecom System, except for the sale of Inventory in the ordinary course of business;
- (g) cancellation of any debts or claims or amendment, termination or waiver of any rights constituting Purchased Assets;

(h) transfer, assignment or grant of any license or sublicense of any material rights under or with respect to any Intellectual Property Assets or Intellectual Property Agreements;

(i) material damage, destruction or loss, or any material interruption in use, of any Purchased Assets, whether or not covered by insurance;

(j) acceleration, termination, material modification to or cancellation of any Assigned Contract or Permit;

(k) material capital expenditures which would constitute an Assumed Liability;

(l) imposition of any Encumbrance upon any of the Purchased Assets other than Permitted Encumbrances;

(m) (i) grant of any bonuses, whether monetary or otherwise, or increase in any wages, salary, severance, pension or other compensation or benefits in respect of any current or former employees, officers, directors, independent contractors or consultants of the Telecom System, other than as provided for in any written agreements or required by applicable Law, (ii) change in the terms of employment for any employee of the Telecom System or any termination of any employees for which the aggregate costs and expenses exceed \$25,000, or (iii) action to accelerate the vesting or payment of any compensation or benefit for any current or former employee, officer, director, consultant or independent contractor of the Telecom System;

(n) adoption, modification or termination of any: (i) employment, severance, retention or other agreement with any current or former employee, officer, director, independent contractor or consultant of the Telecom System, (ii) Benefit Plan, or (iii) collective bargaining or other agreement with a Union, in each case whether written or oral;

(o) any loan to (or forgiveness of any loan to), or entry into any other transaction with, any current or former directors, officers or employees of the Telecom System;

(p) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(q) purchase, lease or other acquisition of the right to own, use or lease any property or assets in connection with the Telecom System for an amount in excess of \$25,000, individually (in the case of a lease, per annum) or \$100,000 in the aggregate (in the case of a lease, for the entire term of the lease, not including any option term), except for purchases of Inventory or supplies in the ordinary course of business consistent with past practice; and

(r) any contract or agreement to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 6.11 Compliance With Laws; Permits.

(a) Except as set forth in Section 6.11(a) of the Disclosure Schedules, the City and Blue Water have complied, and are now complying, in all material respects with all Laws applicable to the conduct of the Telecom System as currently conducted or the ownership and use of the Purchased Assets.

(b) All Permits required for the City and Blue Water to conduct the Business as currently conducted or for the ownership and use of the Purchased Assets have been obtained by the City and Blue Water and are valid and in full force and effect, except as set forth on Schedule 6.11(b). All fees and charges with respect to such Permits as of the date hereof have been paid in full. Section 6.11(b) of the Disclosure Schedules lists all current Permits issued to the City and/or Blue Water which are related to the conduct of the Telecom System as currently conducted or the ownership and use of the Purchased Assets, including the names of the Permits and their respective dates of issuance and expiration. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any Permit set forth in Section 6.11(b) of the Disclosure Schedules.

Section 6.12 Environmental Matters.

(a) Except as set forth in Section 6.12(a) of the Disclosure Schedules, to the City's Knowledge, the operations of the City and Blue Water with respect to the Telecom System and the Purchased Assets are in compliance with all Environmental Laws. Except as set forth in Section 6.12(a) of the Disclosure Schedules, the City has not received from any Person, with respect to the Business or the Purchased Assets, any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(b) Except as set forth in Section 6.12(b) of the Disclosure Schedules, to the City's Knowledge, the City and Blue Water have obtained and are in material compliance with all material Environmental Permits (each of which is disclosed in Section 6.12(b) of the Disclosure Schedules) necessary for the conduct of the Telecom System as currently conducted or the ownership, lease, operation or use of the Purchased Assets.

(c) None of the Real Property Interests is listed on, or has been proposed for listing on, the National Priorities List (or CERCLIS) under CERCLA, or any similar state list.

(d) Except as set forth in Section 6.12(d) of the Disclosure Schedules, to City's Knowledge, there has been no Release of Hazardous Materials in contravention of Environmental Law with respect to the Telecom System, the Purchased Assets or any Real Property Interests, and neither the City nor Blue Water has received any Environmental Notice that the Telecom System or any of the Purchased Assets or Real Property Interests has been contaminated with any Hazardous Material that would reasonably be expected to result in an Environmental Claim against, or a violation of Environmental Law or term of any Environmental Permit by, the City or Blue Water.

(e) The City has previously delivered to Buyer any and all material environmental reports, studies, audits, records, sampling data, site assessments and other similar documents with respect to the Telecom System, the Purchased Assets or any Real Property Interests that are in the possession or control of the City or Blue Water.

Section 6.13 Employee Benefit Matters. Section 6.13 of the Disclosure Schedules contains a list of each material benefit, retirement, employment, consulting, compensation, incentive, bonus, stock option, restricted stock, stock appreciation right, phantom equity, change in control, severance, vacation, paid time off, welfare and fringe-benefit agreement, plan, policy and program in effect and covering one or more Employees and/or former employees of the City in connection with the Telecom System, and is maintained, sponsored, contributed to, or required to be contributed to by the City, or under which the City has any liability for premiums or benefits (as listed on Section 6.10 of the Disclosure Schedules, each, a “Benefit Plan”). The representations and warranties set forth in this Section 6.10 are the City’s sole and exclusive representations and warranties regarding employee benefit matters.

Section 6.14 Employment Matters.

(a) Section 6.14(a) of the Disclosure Schedules contains a list of all persons who are employees, independent contractors or consultants of the Telecom System as of the date hereof, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (i) name; (ii) title or position (including whether full or part time); (iii) hire date; (iv) current annual base compensation rate; (v) commission, bonus or other incentive-based compensation; and (vi) a description of the fringe benefits provided to each such individual as of the date hereof. Except as set forth in Section 6.14(a) of the Disclosure Schedules, as of the date hereof, all compensation, including wages, commissions and bonuses payable to all employees, independent contractors or consultants of the Telecom System for services performed on or prior to the date hereof have been paid in full and there are no outstanding agreements, understandings or commitments of the City or Blue Water with respect to any compensation, commissions or bonuses.

(b) Except as set forth in Section 6.14(b) of the Disclosure Schedules, the City or Blue Water are not, and have not been for the past five (5) years, a party to, bound by, or negotiating any collective bargaining agreement or other contract or agreement with a union, works council or labor organization (collectively, “**Union**”) applicable to the Telecom System, and there is not, and has not been for the past five (5) years, any Union representing or purporting to represent any employee of Telecom System, and, to City’s Knowledge, no Union or group of employees of the Telecom System is seeking or has sought to organize employees for the purpose of collective bargaining. There has never been, nor has there been any threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work overtime or other similar labor disruption or dispute affecting the Telecom System or Blue Water or any employees of the Telecom System. Neither the City nor Blue Water has any duty to bargain with any Union regarding the Telecom System.

(c) The City and Blue Water are and have been in compliance in all material respects with all applicable Laws pertaining to employment and employment practices to the

extent they relate to employees of the Telecom System, including all Laws relating to labor relations, equal employment opportunities, fair employment practices, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, health and safety, workers' compensation, leaves of absence and unemployment insurance. All individuals characterized and treated by the City or Blue Water as consultants or independent contractors of the Telecom System are properly treated as independent contractors under all applicable Laws. All employees of the Telecom System classified as exempt under the Fair Labor Standards Act and state and local wage and hour laws are properly classified in all material respects. There are no Actions against the City or Blue Water pending, or to the City's Knowledge, threatened to be brought or filed, by or with any Governmental Authority or arbitrator in connection with the employment of any current or former applicant, employee, consultant, volunteer, intern or independent contractor of the Telecom System, including, without limitation, any claim relating to unfair labor practices, employment discrimination, harassment, retaliation, equal pay, wages and hours or any other employment related matter arising under applicable Laws.

Section 6.15 Taxes.

(a) The City and Blue Water have filed (taking into account any valid extensions) all Tax Returns with respect to the Business required to be filed by the City or Blue Water, such Tax Returns are complete and accurate in all material respects, and the City and Blue Water have paid all Taxes shown thereon as owing. Neither the City nor Blue Water is currently the beneficiary of any extension of time within which to file any Tax Return other than extensions of time to file Tax Returns obtained in the ordinary course of business. The Telecom System does not have nexus with any state other than Vermont which would allow such state to impose its taxing jurisdiction on it. There are no Tax Encumbrances upon any of the Purchased Assets, except Encumbrances for Taxes not yet due and payable. There are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any Tax Returns of the City or Blue Water relating to the Telecom System or the payment by, or the assessment against, the City or Blue Water relating to the Telecom System. There are no suits, actions, claims, investigations, inquiries or other proceedings pending or, to the City's Knowledge, threatened in respect of Taxes relating to the Telecom System, or any matters under discussion with any Governmental Authority relating to Taxes or any claims for additional Taxes asserted by any such authority. All Taxes that the City or Blue Water are or were required to withhold, deduct or collect with respect to the Telecom System have been duly withheld, deducted and collected and, to the extent required, have been paid to the proper Governmental Authorities.

(b) Neither the City nor Blue Water is a "foreign person" as that term is used in Treasury Regulations Section 1.1445-2.

Section 6.16 Insurance. Section 6.16 of the Disclosure Schedules sets forth (a) a true and complete list of all current policies or binders of fire, liability, product liability, umbrella liability, real and personal property, workers' compensation, vehicular, fiduciary liability and

other casualty and property insurance maintained by the City and Blue Water or their Affiliates and relating to the Telecom System, the Purchased Assets or the Assumed Liabilities (collectively, the “**Insurance Policies**”); and (b) with respect to the Telecom System, the Purchased Assets or the Assumed Liabilities, a list of all pending claims and the claims history for the City and Blue Water since [July 1, 2012]. There are no claims related to the Telecom System, the Purchased Assets or the Assumed Liabilities pending under any such Insurance Policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights. Neither the City, Blue Water nor any of their Affiliates have received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. All premiums due on such Insurance Policies have either been paid or, if not yet due, accrued. All such Insurance Policies (i) are in full force and effect and enforceable in accordance with their terms; (ii) are provided by carriers who are financially solvent; and (iii) have not been subject to any lapse in coverage. None of the City, Blue Water or any of their Affiliates is in default under, or has otherwise failed to comply with, in any material respect, any provision contained in any such Insurance Policy. The Insurance Policies are of the type and in the amounts customarily carried by Persons conducting a business similar to the Telecom System and are sufficient for compliance with all applicable Laws and System Contracts to which the City or Blue Water is a party or by which it is bound. True and complete copies of the Insurance Policies have been made available to Buyer.

Section 6.17 Retransmission Consent and Must-Carry; Rate Regulation; Copyright Compliance.

(a) Section 6.17(a) of the Disclosure Schedules sets forth a list of the stations within the Telecom System that have elected “must-carry” or retransmission consent status pursuant to the Cable Act. Except as described at Section 6.17(a) of the Disclosure Schedules, each station carried by the Telecom System is carried pursuant to a retransmission consent agreement, “must-carry” election or other programming agreement.

(b) The City or Blue Water has filed with the U.S. Copyright Office all required statements of account with respect to the Telecom System that were required to have been filed since June 30, 2015 in accordance with the Copyright Act of 1976 and regulations promulgated pursuant thereto, and the City or Blue Water have paid all royalty fees payable with respect to the Telecom System. Neither the City nor Blue Water has received any notice from the U.S. Copyright Office that any additional fees are owed. The City has delivered to Buyer true and complete copies of all statements of account referred to in this Section 6.17(b). The City has provided all notices to customers of its business required under the Communications Act. Neither the City nor Blue Water has received any written notice from the FCC (i) that it has not made such material filings or not provided such material notices, or (ii) that any rates charged for services provided by the Telecom System are not permitted rates under the rules and regulations of the FCC or (iii) alleging that it is not in compliance with the rules and regulations of the FCC.

(c) Except as described on Section 6.17(c) of the Disclosure Schedules, since October 2014, the Telecom System: (i) are and have been in compliance in all material respects with the Communications Act and all applicable rules of the FCC; or (ii) have made all material filings required to be made by it with the FCC in connection with the Telecom System or

provided all material notices to customers of the Telecom System required under the Communications Act and the FCC's rules and regulations. Neither the City nor Blue Water has, since October 2014, received any notice that any Telecom System rates are not permitted rates under the rules and regulations of the FCC. Section 6.17(c) of the Disclosure Schedules sets forth a list, as of the date of this Agreement, of all pending rate complaints on file at the FCC with respect to the Telecom System.

(d) The City or Blue Water is permitted under all applicable requirements of the Communications Act and Section 111 of the Copyright Act, to receive and retransmit the video programming and other information that it currently makes available to the customers of the Telecom System. The City or Blue Water is permitted under all applicable requirements of the Communications Act to utilize all frequencies generated by the operation of the Telecom System and, where required, is licensed to operate all the facilities required by applicable Law to be licensed by the FCC. All reports, fees, filings, applications and other submissions of the City and Blue Water to the FCC and to the Copyright Office have been true and correct in all material respects.

(e) All necessary United States Federal Aviation Administration approvals have been obtained and all related notifications have been submitted and are effective with respect to the height and location of towers included in the Purchased Assets and all required FCC antenna structure registrations have been filed with respect to such towers.

Section 6.18 Headend Reports. The City has delivered true and correct unaudited, internal, monthly reports showing revenues and subscribers for the Telecom System (collectively, the "**Headend Reports**") as of the end of each month from July 2015 through November 2017. The books and financial records of the City for the Telecom System comprising the Headend Reports are complete and correct in all material respects.

Section 6.19 Information on the Systems and Subscribers. Section 6.19 of the Disclosure Schedules sets forth a true, accurate and complete statement, to City's Knowledge, as of the dates set forth in such Schedule, of the following information with respect to the Telecom System: (a) the total number of subscribers served; (b) the bandwidth capacity specified in MHz; (c) the channel line-up and rate card, and (d) the plant miles and fiber miles.

Section 6.20 Information Technology; Privacy and Data Security.

(a) Neither the City nor Blue Water has any Proprietary Software that is used by the City or Blue Water (or that is under development by the City or Blue Water) with respect to the Telecom System.

(b) The City and Blue Water have taken reasonably prudent actions to protect the data contained in the Information Technology Systems directly related to the Telecom System. The City and Blue Water have taken reasonably prudent actions to protect against (i) any protective, encryption, security, or lock-out devices that might in any way interrupt, discontinue, or otherwise adversely affect the use of such Information Technology Systems; and (ii) any so-called computer viruses, worms, trap or back doors, Trojan horses, or any other

instructions, codes, programs, data, or materials (collectively, “**Malicious Instructions**”) that could improperly interfere with the operation or use of such Information Technology Systems.

(c) Except as set forth on Section 6.20(c) of the Disclosure Schedules, none of the Information Technology Systems related to the Telecom System has experienced any material bugs, failures, breakdowns, continued substandard performance, Malicious Instructions, data losses, data-integrity problems, hacking attempts, or security breaches that, alone or in the aggregate, have caused any substantial disruption or interruption in or to the use of any such Information Technology Systems.

(d) All of the Content used on the Information Technology Systems and on the web sites of the Telecom System is owned by or properly licensed to the City and Blue Water.

(e) The City and Blue Water are in compliance in all material respects with the privacy policies and notices publicly maintained by the City and Blue Water, and neither the City nor Blue Water has, to City’s Knowledge, with respect to its data or systems, suffered any unauthorized access or disclosure, or been in violation of any applicable privacy or data security law, including the Electronic Communications Privacy Act of 1986 (18 U.S.C. §§2510-22) and those laws requiring notification to any Person or Governmental Authority, in connection with the confidential or personal information of any Person.

Section 6.21 Brokers. Except for Dorman & Fawcett, no broker, finder or investment banker is entitled to any brokerage, finder’s or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of the City.

Section 6.22 No Other Representations and Warranties. Except for the representations and warranties contained in this ARTICLE VI (including the related portions of the Disclosure Schedules), neither City nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the City, including any representation or warranty as to the accuracy or completeness of any information regarding the Telecom System and the Purchased Assets furnished or made available to Buyer and its Representatives or as to the future revenue, profitability or success of the Telecom System, or any representation or warranty arising from statute or otherwise in law.

ARTICLE VII CITY COVENANTS

Section 7.01 Conduct of Telecom System Prior to the Closing. From the date hereof until the Closing, except as otherwise provided in this Agreement or consented to in writing by Buyer (which consent shall not be unreasonably withheld or delayed), the City shall (a) conduct the Telecom System in the ordinary course of business and consistent with Prudent Utility Practice; (b) use commercially reasonable efforts to maintain and preserve intact its current Telecom System organization, operations and franchise and to preserve the rights, franchises, goodwill and relationships of its Employees, customers, suppliers, regulators and others having relationships with the Telecom System; and (c) continue in the normal course of business to

work toward accomplishing the projects in the fiscal year 2018 and fiscal year 2019 capital budgets, which are identified in Section 7.01 of the Disclosure Schedules. From the date hereof until the Closing Date, except as consented to in writing by Buyer (which consent shall not be unreasonably withheld or delayed), the City shall not take, or allow to be taken, any action that would cause any of the changes, events or conditions described in Section 6.10 to occur.

Section 7.02 Access to Information. From the date hereof for thirty (30) days, the City shall (a) afford Buyer and its Representatives reasonable access to and the right to inspect all of the Purchase Assets and other documents and data related to the Telecom System; (b) furnish Buyer and its Representatives with such financial, operating and other data and information related to the Telecom System as Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of the City to cooperate with Buyer in its investigation of the Telecom System; *provided, however*, that any such investigation shall be conducted during normal Telecom System hours upon reasonable advance notice to the City, under the supervision of City personnel and in such a manner as not to interfere with the conduct of the Telecom System. Without limiting the foregoing, the City shall permit Buyer and its Representatives to conduct environmental due diligence of the Real Property Interests. All requests by Buyer for access pursuant to this **Section 7.02** shall be submitted or directed exclusively to Stephen Barraclough or such other individuals as the City may designate in writing from time to time. Notwithstanding anything to the contrary in this Agreement, the City shall not be required to disclose any information to Buyer if such disclosure would, in the City's sole discretion: (x) cause significant competitive harm to the City and the Telecom System, if the transactions contemplated by this Agreement are not consummated; (y) jeopardize any attorney-client or other privilege; or (z) contravene any applicable Law, fiduciary duty or binding agreement entered into prior to the date of this Agreement. Prior to the Closing, without the prior written consent of the City, which may be withheld for any reason, Buyer shall not contact any suppliers to, or customers of, the Telecom System. Buyer shall, and shall cause its Representatives to, abide by the terms of the Confidentiality Agreement with respect to any access or information provided pursuant to this **Section 7.02**. No investigation by Buyer or other information received by Buyer shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by the City or Blue Water in this Agreement.

Section 7.03 Supplement to Disclosure Schedules. From time to time prior to the Closing, the City and Blue Water shall promptly notify Buyer in writing if either of them becomes aware of (a) any fact or condition that causes or constitutes a breach of any of the City's or Blue Water's representations and warranties made as of the date of this Agreement, or (b) the occurrence after the date of this Agreement of any fact or condition that could be reasonably likely to cause or constitute a breach of any such representation or warranty had that representation or warranty been made as of the time of the occurrence of, or the City's or Blue Water's discovery of, such fact or condition. Should any such fact or condition require any change to the Disclosure Schedule, the City shall promptly deliver to Buyer a supplement to the Disclosure Schedule specifying such change (each a "**Schedule Supplement**"). Such delivery shall not affect any rights of Buyer under ARTICLE XI and ARTICLE XII. During the same period, the City and Blue Water also shall promptly notify Buyer of the occurrence of any breach of any covenant of the City or Blue Water in this ARTICLE VII or of the occurrence of any event that may make the satisfaction of the conditions in ARTICLE X impossible or unlikely.

Section 7.04 No Solicitation of Other Offers. Between the date of this Agreement and the Closing Date, neither the City nor Blue Water will, directly or indirectly, through any officer, director, manager, representative, employee, Affiliate or agent, (a) solicit, initiate, encourage or assist in the submission of any inquiries, proposals or offers from any person or entity relating to any sale (whether of assets or securities), merger, consolidation, business combination, spin-off, liquidation or similar transaction involving the Telecom System (each an “**Acquisition Proposal**”); (b) participate in any discussion or negotiation regarding an Acquisition Proposal or furnish to any person or entity any information concerning the fact that Blue Water and the City have entered into this Agreement with Buyer, or the transactions contemplated hereby; or (c) otherwise cooperate in any way with, or assist or participate in, facilitate or encourage any effort or attempt by any other person or entity to make or enter into an Acquisition Proposal. Blue Water and the City will promptly inform Buyer of any such Acquisition Proposal, including the material terms thereof and the identity of the person or entity making the same, and shall furnish Purchaser with a copy of any writing related to such Acquisition Proposal.

Section 7.05 Confidentiality. From and after the Closing, the City (subject to applicable Law) and Blue Water shall, and each shall cause its Affiliates to, hold, and shall use its reasonable best efforts to cause it or its respective Representatives to hold, in confidence any and all information, whether written or oral, concerning the Telecom System, except to the extent that the City or Blue Water can show that such information (a) is generally available to and known by the public through no fault of the City or Blue Water, any of their Affiliates or their respective Representatives; or (b) is lawfully acquired by the City or Blue Water, any of their Affiliates or their respective Representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If the City or Blue Water or any of their Affiliates or their respective Representatives are compelled to disclose any information by judicial or administrative process or by other requirements of Law, the City and Blue Water shall promptly notify Buyer in writing and shall disclose only that portion of such information which Blue Water or the City is advised by its counsel in writing is legally required to be disclosed, *provided that* the City and Blue Water shall use reasonable best efforts to obtain an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information. The parties also agree that the provisions of that certain Confidentiality Agreement between Schurz and the City dated September 14, 2017 shall survive the Contemplated Transactions.

Section 7.06 Due Diligence by Buyer. The City and Blue Water acknowledge and agree that Buyer will have a period of thirty (30) days after the date of execution of this Agreement to obtain title reports and complete other real estate due diligence (subject to Section 7.02, excluding environmental reports) in connection with the Leases. In the event Buyer discovers any such issue that will, or could reasonably be expected to, result in a material adverse effect on the value or operation of the Telecom System after the Closing, Buyer shall provide the City with reasonable notice of the discovery of such issue, and the City agrees to remedy such issue to Buyer’s reasonable satisfaction prior to the Closing.

ARTICLE VIII SCHURZ/BUYER COVENANTS

Section 8.01 Employees and Employee Benefits.

(a) Buyer shall offer employment effective on the Closing Date, to all of the Employees (such Employees are listed on Schedule 8.01 attached hereto), at the same salary currently paid to such Employees, including Employees who are absent due to vacation, family leave, short-term disability or other approved leave of absence (the Employees who accept such employment and commence employment on the Closing Date, the “**Transferred Employees**”); *provided, however*, Buyer shall offer employment to Employees on family leave, short-term disability or other approved leave of absence once the Employee returns to work (and not before) at the same salary payable to such Employee prior to such leave of absence.

(b) Buyer shall offer all Transferred Employees employee benefit plans maintained by Buyer, which such benefit plans shall be generally consistent with plans offered to all other employees of Schurz.

(c) Effective as of the Closing, the Transferred Employees shall cease active participation in any City Benefit Plan. The City shall remain liable for all eligible claims for benefits under any applicable Benefit Plan incurred by the Employees prior to the Closing Date. For purposes of this Agreement, the following claims shall be deemed to be incurred as follows: (i) life, accidental death and dismemberment, short-term disability, and workers’ compensation insurance benefits, on the event giving rise to such benefits; (ii) medical, vision, dental, and prescription drug benefits, on the date the applicable services, materials or supplies were provided; and (iii) long-term disability benefits, on the eligibility date determined by the long-term disability insurance carrier for the plan in which the applicable Employee participates.

(d) Except as provided in **Section 8.01(c)**, Buyer shall be liable and hold the City harmless for: (i) any statutory, common law, contractual or other severance with respect to any Employee, other than an Employee who has received an offer of employment by Buyer and declines such offer; and (ii) any claims relating to the employment of any Transferred Employee arising in connection with or following the Closing.

(e) This **Section 8.01** shall be binding upon and inure solely to the benefit of each of the parties to this Agreement, and nothing in this **Section 8.01**, express or implied, shall confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this **Section 8.01**. Nothing contained herein, express or implied, shall be construed to establish, amend or modify any benefit plan, program, agreement or arrangement. The parties hereto acknowledge and agree that the terms set forth in this **Section 8.01** shall not create any right in any Transferred Employee or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever.

Section 8.02 Local Management Authority and Board Representation. Buyer’s operating agreement will provide for its management by a seven person Board of Managers (the “Buyer Board”) and the Buyer Board will retain and hire local managers to operate the business and such management personnel will be authorized to make decisions that are intended to, at a minimum, assure the continued provision of quality customer service and will be authorized to use customer service expertise from Schurz Affiliates to develop new initiatives. Buyer will use commercially reasonable efforts to extend customer service hours to include off hours evening and weekend customer service. Buyer’s local management team will be empowered to work with local officials. Schurz corporate and broadband segment senior leadership teams will also

use commercially reasonable efforts to visit Burlington on a regular basis and agree to periodic in-person meetings with elected public officials or members of the Burlington Telecom Advisory Board (or its successor). Buyer Board will include one member to be appointed by the City provided the City elects the required minimum purchase rights set forth in Section 8.09 below and, if the City elects its maximum purchase rights set forth in Section 8.09 below, it may appoint a total of two members of the Board, which appointee(s) will have a strong background in telecommunications, business and/or finance. Local senior management will report to a regional/segment general manager on an operational basis and will regularly update the Buyer Board. Buyer will have an annual strategic plan, budget, that will be presented and approved by the Buyer Board and conduct an independent audit that will be presented to the Buyer Board and such audit will be disseminated to the City and publicly.

Section 8.03 Capital Improvements. Buyer has reviewed the City’s budget for the Telecom System for the period of 2018 through 2021 and agrees to commit spending a minimum of \$6,200,000 and up to \$8,840,000 in capital projects in accordance with the existing capital plan without diluting the equity interest owned by the City, if any. Buyer is committed to use its commercially reasonable efforts to build out the network in Burlington by 2019 (except for the 120 homes that present affordable build challenges) as well as continuing to extend facilities and choice to the communities around Burlington. Buyer will remain committed to working with the City and Burlington Electric Department to find a solution to bring additional broadband options to the aforesaid 120 homes.

Section 8.04 Easements and Leases. At the Closing, the City and Buyer agree to enter into easement agreements for access to property located at 287 Shelburne Road, 1364 North Avenue, 1645 North Avenue and 123 North Street, owned by the City and described in the MOUs, which contains the fiber cables and other Telecom System equipment (the “**Easements**”) and lease agreements for the buildings where necessary, including a portion of the Taft School located at 14 South Williams Street, for the benefit of Buyer (the “**School Leases**” and together with the Easements, the “**School Agreements**”), which shall be in forms reasonably acceptable to the parties. In addition, the City and Buyer will enter into a lease agreement at the Closing, which shall include the terms listed on the attached **Exhibit B** (the “**200 Church Street Lease Provisions**”) for the premises currently occupied by the Telecom System located at 200 Church Street, which (a) shall be for a term of five years with three (3) five (5) year options to renew at market rates plus proportionate share of operating expenses, (b) shall contain a right of first refusal at market value in favor of Buyer should the City elect to sell the building, and (c) shall contain an option to purchase such building at fair market value (as determined by an independent valuation unless otherwise agreed by Buyer and the City) in favor of Buyer, exercisable by Buyer at any time during the third five (5) year option period following the Closing Date. In addition, the City and Buyer covenant to enter into a lease at the Closing for the storage, access and operation of the equipment at the Memorial Auditorium location, which shall include the terms listed on **Exhibit C** attached hereto (the “**Memorial Provisions**”). The leases to be entered into in connection with the Memorial Provisions and the 200 Church Street Provisions, together with the School Leases, are collectively referred to as the “**Leases**”.

Section 8.05 Community Commitment. Buyer covenants to invest \$250,000 per year in the first ten (10) calendar years following Closing in Burlington to establish and support either a BTV Ignite Technology Innovation Fund that provides mentorship and seed capital to local

start-ups or other to be determined community/economic development investment. In addition, Buyer will contribute \$50,000 per calendar year in the first ten (10) years following Closing to establish a program in partnership with local resources to teach basic technical skills/competencies necessary for Burlington's high school students and workforce to remain relevant and improve employment prospects in today's work environment. Buyer and the City agree that they will work in good faith together and with ZRF Partners, on as to be determined basis, to finalize the details of these programs so that they can be incorporated into the Transaction Documents at Closing, including determining the entity to whom the payments will be distributed, the methodology or standards for distribution, and the measurement tools to be used for determining the viability of the programs. Buyer intends to continue supporting these programs beyond the 10 years provided it is reasonably satisfied with the viability of such programs as determined by the measurement tools.

Section 8.06 Lifeline Support for Low Income Households. Buyer agrees to maintain and when necessary renew Burlington Telecom's designation by the PUC as a federal Eligible Telecommunications Carrier under 47 U.S.C. § 214(e) (a "**Lifeline ETC**") for the purpose of providing Lifeline Broadband Internet Access Service to qualifying low-income customers, and to develop increased solutions to lessen the digital divide.

Section 8.07 Limited Resale Restriction. Schurz covenants that it will refrain from selling the assets of the Telecom System or a controlling equity interest in Buyer to any entity which is a then existing provider of communications services in the Burlington, Vermont market, if after such transaction that entity's market share would exceed 75% of either the Burlington residential or commercial video or internet service market, without the written consent of the City and the approval of the PUC. The parties hereto jointly agree to propose and support making the provisions of this Section 8.07 a condition of the PUC's approval of Buyer's new CPGs.

Section 8.08 Repurchase Notice and Right of First Refusal. In the unlikely event that Schurz or Buyer elects to sell either the assets of the Telecom System or a controlling interest in Buyer, the Buyer and/or Schurz will provide a confidential 20-day notice to the City ("**Sales Notice**"), which Sales Notice will contain a valuation range for the target sales price of the proposed transaction and an invitation to the City or its elected local investors to participate in that process. In the three (3) months following the Sales Notice, Schurz/Buyer shall seek a valuation of the company to be established by a competitive offer process. Upon receipt of bona fide offers or letters of intent, Schurz/Buyer shall not consummate the proposed transaction until it delivers to the City a notice (the "**First Refusal Notice**") setting for the proposed transaction terms (the "**Proposed Terms**"). The City (or any of its designees/assignees) shall have ninety (90) days from the First Refusal Notice to accept the Proposed Terms and complete the transaction. Buyer or Schurz shall not complete a Proposed Transaction if there are any material changes to the Proposed Terms from what was in the First Refusal Notice without providing a new First Refusal Notice.

Section 8.09 Membership Interest Purchase Agreement. The City and Buyer may, at City's election, enter into a Membership Interest Purchase Agreement pursuant to which the City may use some of its designated closing proceeds or other funds as determined at the election of the City to purchase up to 33% of the voting membership interests of Buyer. The purchase

price for such membership interest shall be based on the Purchase Price set forth herein. The final documents to be executed in connection with this sale will include certain minority protections, including without limitation, the right to appoint a Board member to the Board of Managers of Buyer (provided the City elects to purchase at least 7.5% of Buyer and such appointee has a strong background in telecommunications, business and/or finance) and a right to redeem its interests based upon an annual valuation by an independent third party with notice provisions consistent with the Schurz's existing company policy (provided however that such minimum purchase price shall be based on an established EBITDA multiple of 6.0) as a floor without discount for marketability and minority. Buyer agrees that the City may elect to enter into such Membership Interest Agreement, at any time, within the later of (i) one year following the Closing of this Agreement or (ii) within 60 days following receipt of the new CPGs.

Section 8.10 Limited Reserved Rights of Use Agreement. The City and Buyer will enter into the Limited Reserved Rights of Use Agreement in substantially the form attached hereto as **Exhibit A** to provide for certain "Smart City Initiatives" as set forth therein.

Section 8.11 Support for Broadband Access and Reduction of Digital Divide. Buyer will continue to offer and support programs to provide affordable Broadband Internet Access Service to residents within the service area of the Telecom System, including but not limited to programs substantially similar to the current EduNet and Internet Essentials Program, and, consistent with Section 8.06 hereof, to maintain its designation as an eligible telecommunications carrier for the purpose of providing Lifeline service to qualifying households at the prices set forth on Section 8.11 of the Disclosure Schedules and will provide some free WiFi access at an appropriate community location.

Section 8.12 Continuation of Privacy Protections. Buyer will adhere, at a minimum, to the standards for privacy of user data that are currently being provided by the City to users of the Telecom System, which are set forth on Section 8.12 of the Disclosure Schedules. Buyer agrees to publish its commitment to privacy protections as set forth in this Agreement on its website and/or in its subscriber agreements.

Section 8.13 Continuation of Residential and Commercial Services. Buyer will continue to offer the current residential and commercial services and will expand and launch more advanced products and services in video and telephone, as set forth on Section 8.13 of the Disclosure Schedules.

Section 8.14 Continuation of Pricing. Buyer will maintain all existing broadband rates of the current Telecom System in the City of Burlington for sixty (60) months, which rates are set forth on Section 8.14 of the Disclosure Schedules. Any price changes in the twenty-four (24) months thereafter will be discussed at the Buyer Board.

Section 8.15 Net Neutrality. Buyer will continue the current Telecom System's support for net neutrality, will treat all Internet traffic equally, and will maintain transparency with respect to its policies and practices, including, without limitation, refusing to block, throttle, slow down, or unreasonably interfere with or unreasonably disadvantage any lawful content, applications, services, or use of non-harmful devices by End Users, content providers or Edge Providers. Buyer will not engage in Paid Prioritization. Buyer will publicly disclose accurate

information regarding its network management practices and the commercial terms of its Broadband Internet Access Services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings. Buyer will not sell consumer data to third parties or use sensitive consumer data without consent for marketing. Buyer agrees to publish its commitment to Net Neutrality as set forth in this Agreement on its website and/or in its subscriber agreements.

Section 8.16 Burlington Telecom Name. Buyer will continue to maintain and use the name “Burlington Telecom” in connection with its operation of the Telecom System.

Section 8.17 Further Assurances. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the other Transaction Documents.

ARTICLE IX ADDITIONAL COVENANTS

Section 9.01 Terminations and Release. The City and Blue Water shall provide satisfactory evidence of termination of the existing Lease Agreement for the Purchased Assets; the Lease Agreement for 200 Church Street; the Deposit Trust Agreement and any other agreements necessary to effect the sale of the Purchased Assets as set forth herein. Blue Water shall file a UCC 3 releasing its security interest. The Blue Water/City Closing Statement shall contain satisfactory confirmation of payoffs for Community Bank, N.A., Citibank, N.A., Dorman & Fawcett, Blue Water and the City.

Section 9.02 City Services Agreement. The City will enter into a new 5 year Services Agreement with Buyer at the Closing, and Buyer will assume the services to the City provided for therein. The Services Agreement will be in a form reasonably acceptable to the parties.

Section 9.03 Governmental Approvals and Consents.

(a) Each party hereto shall, as promptly as possible, use commercially reasonable efforts to obtain, or cause to be obtained, all consents, authorizations, orders and approvals from all Governmental Authorities that may be or become necessary for its execution and delivery of this Agreement and the performance of its obligations pursuant to this Agreement and the other Transaction Documents, including without limitation, applications to the FCC to transfer the existing International Section 214 to Buyer and to the PUC for the CPGs as required by Title 30 of the Vermont Statutes. Each party shall cooperate fully with the other party and its Affiliates in promptly seeking to obtain all such consents, authorizations, orders and approvals. The parties hereto shall not willfully take any action that will have the effect of delaying, impairing or impeding the receipt of any required consents, authorizations, orders and approvals.

(b) Buyer (together with the City and Blue Water), shall (i) submit a petition to the PUC seeking CPGs within sixty (60) days of execution of this Agreement); (ii) promptly

respond to discovery requests, if applicable, from the Department of Public Service and any other entities that may be granted party status in the PUC docket; (iii) take such action to seek approval as soon as commercially practicable and (iv) work diligently to achieve Closing and in accordance with the scheduling as set forth by the PUC and as soon as commercially practical. The City and Blue Water shall also make such filings with the PUC to support the sale of the Telecom System to Buyer and shall submit testimony as requested in support of Buyer's application for approval.

(c) As part of its CPG filing, Buyer shall warrant to maintain and fulfill the Existing CPGs obligations to PEG access channels and all aspects of the City's current agreements with the PEG channels.

(d) All analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals made by or on behalf of either party before any Governmental Authority or the staff or regulators of any Governmental Authority, in connection with the transactions contemplated hereunder (but, for the avoidance of doubt, not including any interactions between the City or Buyer with Governmental Authorities in the ordinary course of Telecom System, any disclosure which is not permitted by Law or any disclosure containing confidential information) shall be disclosed to the other party hereunder in advance of any filing, submission or attendance, it being the intent that the parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, meetings, discussions, presentations, memoranda, briefs, filings, arguments, and proposals. Each party shall give notice to the other party with respect to any meeting, discussion, appearance or contact with any Governmental Authority or the staff or regulators of any Governmental Authority, with such notice being sufficient to provide the other party with the opportunity to attend and participate in such meeting, discussion, appearance or contact.

(e) The City and Blue Water, as applicable, and Buyer shall use commercially reasonable efforts to give all notices to, and obtain all consents from, all third parties that are described in this Agreement and the Disclosure Schedules.

Section 9.04 Books and Records.

(a) In order to facilitate the resolution of any claims made by or against or incurred by the City or Blue Water after the Closing, or for any other reasonable purpose, for a period of five (5) years after the Closing, Buyer shall:

(i) retain the books and records (including personnel files) which relate to the Telecom System and its operations for periods prior to the Closing that were transferred to Buyer; and

(ii) upon reasonable notice, afford the Representatives of the City or Blue Water reasonable access (including the right to make, at their expense, photocopies), during normal business hours, to such books and records.

(b) In order to facilitate the resolution of any claims made by or against or incurred by Buyer after the Closing, or for any other reasonable purpose, for a period of five (5)

years after the Closing, the City and Blue Water shall:

(i) retain the books and records (including personnel files) which relate to the Telecom System and its operations for periods prior to the Closing if not transferred to Buyer at Closing; and

(ii) upon reasonable notice, afford Buyer's Representatives reasonable access (including the right to make, at Buyer's expense, photocopies), during normal business hours, to such books and records.

(c) Neither Buyer nor Blue Water nor the City shall be obligated to provide the other party with access to any books or records (including personnel files) pursuant to this Section 9.04 where such access would violate any Law.

Section 9.05 Closing Conditions. From the date hereof until the Closing, each party hereto shall use commercially reasonable efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in ARTICLE X hereof.

Section 9.06 Public Announcements. Unless otherwise required by applicable Law (based upon the reasonable advice of counsel), no party to this Agreement shall make any public announcements in respect of this Agreement or the transactions contemplated hereby without the prior written consent of the other parties (which consent shall not be unreasonably withheld or delayed), and the parties shall cooperate as to the timing and contents of any such announcement. Notwithstanding the foregoing, the City's elected officials are not precluded from communication with the media or the public as part of their duties as public officials.

Section 9.07 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the other Transaction Documents (including any real property transfer Tax and any other similar Tax) shall be split equally by the City and Buyer. Buyer shall, at its own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and the City and Blue Water shall cooperate with respect thereto as necessary).

Section 9.08 Bulk Sales Laws. The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Buyer; it being understood that any Liabilities arising out of the failure of the City or Blue Water to comply with the requirements and provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction which would not otherwise constitute Assumed Liabilities shall be treated as Excluded Liabilities.

Section 9.09 Quitclaim Deed. Prior to Closing, Blue Water covenants to provide a quitclaim deed (the "**Quitclaim Deed**") to the City to relinquish the rights and property interests set forth in that certain Warranty Deed dated December 31, 2014 recorded at the City of Burlington land records in Volume 1266, Page 225, in a form reasonably acceptable to the City, Blue Water and Buyer, so that the City can convey the School Agreements to Buyer as set forth in Section 8.04.

ARTICLE X
CONDITIONS TO CLOSING

Section 10.01 Conditions to Obligations of All Parties. The obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of the following conditions:

(a) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Governmental Order which is in effect and has the effect of making the transactions contemplated by this Agreement illegal, otherwise restraining or prohibiting consummation of such transactions or causing any of the transactions contemplated hereunder to be rescinded following completion thereof.

(b) The City shall have received all consents, authorizations, orders and approvals from the Governmental Authorities referred to in Section 5.04 and Section 6.03 and Buyer shall have received all consents, authorizations, orders and approvals from the Governmental Authorities referred to in Section 4.03 and any other consents, authorizations, orders or approvals listed on Section 10.01(b) of the Disclosure Schedules, in each case, in form and substance reasonably satisfactory to Buyer and the City, and no such consent, authorization, order and approval shall have been revoked.

Section 10.02 Conditions to Obligations of Buyer. The obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Buyer's waiver, at or prior to the Closing, of each of the following conditions:

(a) Buyer shall have received CPGs from the PUC to operate the Telecom System within twenty-four (24) months of execution of this Agreement.

(b) The representations and warranties of Blue Water and the City contained in this Agreement shall be true and correct in all material respects as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date, the accuracy of which shall be determined as of the specified date in all respects).

(c) The City and Blue Water shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the other Transaction Documents to be performed or complied with by it prior to or on the Closing Date.

(d) The City and Blue Water shall have delivered to Buyer duly executed counterparts to the Transaction Documents to which they are a party (other than this Agreement) and such other documents and deliveries as required under the terms of this Agreement.

(e) Buyer shall have received the Blue Water/City Closing Statement, dated as of the Closing Date and signed by the respective duly authorized persons of each of Blue Water and the City, stating that each of the conditions set forth in this Agreement have been satisfied.

(f) All Encumbrances relating to the Purchased Assets shall have been released in full, other than Permitted Encumbrances, and the City shall have delivered to Buyer written evidence, in form satisfactory to Buyer in its sole discretion, of the release of such Encumbrances.

(g) Buyer shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Blue Water certifying that attached thereto are true and complete copies of all resolutions authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby (the “Blue Water Officer Certificate”). Buyer shall also have received a certificate of the Mayor certifying that attached thereto are true and complete copies of all resolutions of the City Council authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby (the “City Certificate”).

(h) The City and Blue Water shall have delivered to Buyer such other documents or instruments as Buyer reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

Section 10.03 Conditions to Obligations of Blue Water and the City. The obligations of Blue Water and the City to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or waiver by Blue Water and the City, at or prior to the Closing, of each of the following conditions:

(a) The representations and warranties of Buyer and Schurz (contained in Section 13.12) contained in **ARTICLE IV** shall be true and correct in all respects as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, which shall be true and correct in all respects as of that specified date), except where the failure of such representations and warranties to be true and correct would not have a material adverse effect on Buyer’s ability to consummate the transactions contemplated hereby.

(b) Buyer shall have duly performed and complied in all material respects with all agreements, covenants and conditions required by this Agreement and each of the other Transaction Documents to be performed or complied with by it prior to or on the Closing Date.

(c) Buyer shall have delivered the Purchase Price in accordance with the Blue Water/City Closing Statement, duly executed counterparts to the Transaction Documents (other than this Agreement) to which Buyer is a party and such other documents and deliveries as required in this Agreement.

(d) Blue Water and the City shall have received a certificate, dated as of the Closing Date and signed by a duly authorized officer of Buyer, certifying that each of the conditions set forth in this Agreement have been satisfied (the “**Buyer Closing Certificate**”).

(e) Blue Water and the City shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer and Schurz certifying that attached thereto are true and complete copies of all resolutions adopted by the board of directors of Buyer and Schurz authorizing the execution, delivery and performance of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby; and Blue Water and the City shall have received a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of Buyer and Schurz certifying the names and signatures of the officers of Buyer and Schurz authorized to sign this Agreement, the Transaction Documents and the other documents to be delivered hereunder and thereunder (the “Buyer’s Secretary Certificate”).

(f) Buyer shall have delivered to the City and Blue Water such other documents or instruments as the City and Blue Water reasonably request and are reasonably necessary to consummate the transactions contemplated by this Agreement.

ARTICLE XI INDEMNIFICATION

Section 11.01 Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is one year from the Closing Date (the “Indemnification Deadline”). All covenants and agreements of the parties contained herein shall survive the Closing indefinitely or for the period explicitly specified therein. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the Indemnification Deadline shall not thereafter be barred by the expiration of the Indemnification Deadline and such claims shall survive until finally resolved.

Section 11.02 Indemnification By the City. Subject to the other terms and conditions of this ARTICLE XI, the City shall indemnify and defend each of Buyer and its Affiliates and their respective Representatives (collectively, the “**Buyer Indemnitees**”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Blue Water or the City contained in this Agreement, the other Transaction Documents or in any certificate or instrument delivered by or on behalf of Blue Water or the City pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Blue Water or the City pursuant to this Agreement, the other Transaction

Documents or any certificate or instrument delivered by or on behalf of Blue Water or the City pursuant to this Agreement;

(c) any Excluded Asset or any Excluded Liability; or

(d) any third party claim based upon, resulting from or arising out of Blue Water's or the City's ownership or operation of the Telecom System conducted, existing or arising on or prior to the Closing Date other than claims based upon, resulting from or arising out of any breach of representation, warranty or covenant of Buyer under this Agreement.

Section 11.03 Indemnification By Buyer. Subject to the other terms and conditions of this ARTICLE XI, Buyer shall indemnify and defend each of City and its Affiliates and their respective Representatives (collectively, the "**Seller Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement, the other Transaction Documents, or in any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement, the other Transaction Documents or any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement;

(c) any Assumed Liability; or

(d) any third party claim based upon, resulting from or arising out of Buyer's operation of the Telecom System after the Closing Date other than claims based upon, resulting from or arising out of any breach of any representation, warranty or covenant of the City or Blue Water under this Agreement.

Section 11.04 Certain Limitations. The indemnification provided for in Section 11.02 and Section 11.03 shall be subject to the following limitations:

(a) The City shall not be liable to Buyer Indemnitees for indemnification under Section 11.02(a) until the aggregate amount of all Losses in respect of indemnification under Section 11.02(a) exceeds \$10,000 (the "**Basket**"), in which event the City shall be required to pay or be liable for all such Losses from the first dollar. The aggregate amount of all Losses for which the City shall be liable pursuant to Section 11.02(a) shall not exceed Two Million and 00/100s Dollars (\$2,000,000.00) (with \$1,000,000.00 to be retained in Escrow) (the "**Cap**").

(b) Buyer shall not be liable to the Seller Indemnitees for indemnification under Section 11.03(a) until the aggregate amount of all Losses in respect of indemnification

under Section 11.03(a) exceeds the Basket, in which event Buyer shall be required to pay or be liable for all such Losses from the first dollar. The aggregate amount of all Losses for which Buyer shall be liable pursuant to Section 11.03(a) shall not exceed the Cap.

(c) For purposes of this ARTICLE XI, any inaccuracy in or breach of any representation or warranty shall be determined without regard to any materiality, Material Adverse Effect or other similar qualification contained in or otherwise applicable to such representation or warranty.

Section 11.05 Subject to [Section 13.10](#), the parties acknowledges and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement (except with respect to the representation on Environmental Matters provided by the City in Section 6.12 and any rights or remedies under the Leases or other Transaction Documents), shall be pursuant to the indemnification provisions set forth in this [Article XI](#). In furtherance of the foregoing, each party hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other parties hereto and their Affiliates and each of their respective Representatives arising under or based upon any Law, except (i) pursuant to the indemnification provisions set forth in this [Article XI](#), (ii) for the representation on Environmental Matters provided by the City in Section 6.12, and (iii) any rights or remedies under the Leases or other Transaction Documents. Nothing in this [Section 11.05](#) shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled pursuant to Section 13.10.

Section 11.06 Indemnification Procedures. The party making a claim under this ARTICLE XI is referred to as the “**Indemnified Party**”, and the party against whom such claims are asserted under this ARTICLE XI is referred to as the “**Indemnifying Party**”.

(a) If any Indemnified Party receives notice of the assertion or commencement of any Action 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 (a “**Third Party Claim**”) against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party reasonably prompt written notice thereof, but in any event not later than thirty (30) calendar days after receipt of such notice of such Third Party Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defense of any Third Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel, and the Indemnified Party shall cooperate in good faith in such defense; *provided, that* if the Indemnifying Party is the City, such Indemnifying Party shall not have the right to defend

or direct the defense of any such Third Party Claim that (x) is asserted directly by or on behalf of a Person that is a supplier or customer of the Telecom System, or (y) seeks an injunction or other equitable relief against the Indemnified Party. In the event that the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 11.06(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right to participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. The fees and disbursements of such counsel shall be at the expense of the Indemnified Party, *provided, that* if in the reasonable opinion of counsel to the Indemnified Party, (A) there are legal defenses available to an Indemnified Party that are different from or additional to those available to the Indemnifying Party; or (B) there exists a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived, the Indemnifying Party shall be liable for the reasonable fees and expenses of counsel to the Indemnified Party in each jurisdiction for which the Indemnified Party determines counsel is required. If the Indemnifying Party elects not to compromise or defend such Third Party Claim, fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, or fails to diligently prosecute the defense of such Third Party Claim, the Indemnified Party may, subject to Section 11.06(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. The City and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available (subject to the provisions of Section 7.05) records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party, except as provided in this Section 11.06(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within ten (10) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 11.06(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Any Action by an Indemnified Party on account of a Loss which does not result from a Third Party Claim (a "**Direct Claim**") shall be asserted by the Indemnified Party

giving the Indemnifying Party reasonably prompt written notice thereof, but in any event not later than thirty (30) days after the Indemnified Party becomes aware of such Direct Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. The Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to the Indemnified Party's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such thirty (30) day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement

Section 11.07 Payments. Once a Loss is agreed to by the Indemnifying Party or finally adjudicated to be payable pursuant to this ARTICLE XI, the Indemnifying Party shall satisfy its obligations within 15 Business Days of such final, non-appealable adjudication by wire transfer of immediately available funds. The parties hereto agree that should an Indemnifying Party not make full payment of any such obligations within such 15 Business Day period, any amount payable shall accrue interest from and including the date of agreement of the Indemnifying Party or final, non-appealable adjudication to and including the date such payment has been made at a rate per annum equal to seven percent (7%). Such interest shall be calculated daily on the basis of a 365 day year and the actual number of days elapsed, without compounding.

Section 11.08 Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties (including for Tax purposes) as an adjustment to the Purchase Price, unless otherwise required by Law.

ARTICLE XII TERMINATION

Section 12.01 Termination. This Agreement may be terminated at any time prior to the Closing:

- (a) by the mutual written consent of Blue Water, the City and Buyer;
- (b) by Buyer by written notice to Blue Water and the City if:
 - (i) Buyer is not then in material breach of any provision of this Agreement and there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Blue Water or the City

pursuant to this Agreement that would give rise to the failure of any of the conditions specified in ARTICLE X and such material breach, inaccuracy or failure has not been cured by Blue Water or the City within thirty (30) days of Blue Water and the City's receipt of written notice of such breach from Buyer; *provided, however*, if such cure cannot be reasonably had within such thirty (30) day period, Buyer shall not have a right of termination if either Blue Water or the City are in good faith commencing and diligently proceeding with prosecuting cure of such breach or

(ii) any of the conditions set forth in Section 10.01 or Section 10.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the date that is the 24 month anniversary of the Effective Date of this Agreement, unless such failure shall be due to the failure of Buyer to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing;

(c) by Blue Water and the City by written notice to Buyer if:

(i) Blue Water and the City are not then in material breach of any provision of this Agreement and there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions specified in ARTICLE X and such breach, inaccuracy or failure has not been cured by Buyer within ten (10) days of Buyer's receipt of written notice of such breach from Blue Water and the City; or

(ii) any of the conditions set forth in Section 10.01 or Section 10.03 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by the date that is the 24 month anniversary of the Effective Date, unless such failure shall be due to the failure of Blue Water or the City to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing; and

(iii) the City and Blue Water shall be deemed to have automatically made an election to terminate this Agreement on June 30, 2020 if not previously terminated; provided that the City and Blue Water have acted with good faith and fair dealing.

(d) by Buyer or Blue Water and the City in the event that (i) there shall be any Law that makes consummation of the transactions contemplated by this Agreement illegal or otherwise prohibited or (ii) any Governmental Authority shall have issued a Governmental Order restraining or enjoining the transactions contemplated by this Agreement, and such Governmental Order shall have become final and non-appealable.

Section 12.02 Effect of Termination. In the event of the termination of this Agreement in accordance with this Article, this Agreement shall forthwith become void and there shall be no liability on the part of any party hereto except:

(a) as set forth in this ARTICLE X and Section 7.05 and ARTICLE XIII hereof; and

(b) that nothing herein shall relieve any party hereto from Liability for any willful breach of any provision hereof.

ARTICLE XIII MISCELLANEOUS

Section 13.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred by Blue Water and the City and the Buyer in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred; *provided, however*, that Buyer shall also be responsible for all filing and other similar fees payable in connection with any filings or submissions related to the application for and attainment of CPGs.

Section 13.02 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal Telecom System hours of the recipient, and on the next Telecom System Day if sent after normal Telecom System hours of the recipient or (d) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 2.10):

If to Blue Water:

c/o Lake Champlain Transportation Company
King Street Dock
Burlington, VT
Attention: Trey Pecor

with a copy to:

Sheehey Furlong & Behm PC
30 Main Street, 6th Floor
PO Box 66
Burlington, VT 05402
Facsimile: 802-864-6815
E-mail: mfurlong@sheeheyvt.com
dmccarthy@sheeheyvt.com
Attention: Michael Furlong
Diane McCarthy

149 Church Street

If to the City:

Burlington, VT 05401
Attention: Eileen Blackwood, City Attorney
Office: 802-865-7125
Facsimile: 802-865-7123
E-mail: eblackwood@burlingtonvt.gov

with a copy to:

Primmer Piper Eggleston & Cramer PC
30 Main Street, 5th Floor
PO Box 1489
Burlington, VT 05402
Office: 802-864-0880
Facsimile: 802-864-0328
E-mail: rorourke@primmer.com
Attention: Ralphine N. O'Rourke
Keith A. Roberts

If to Buyer:

Todd F. Schurz
President and CEO
Schurz Communications Inc.
1301 E. Douglas Road, Suite 200
Mishawaka, IN 46545
Office: 574-247-7220
tschurz@schurz.com

Brian Lynch
Senior Vice President Broadband
Schurz Communications Inc.
1000 Willow Circle
Hagerstown, MD 21740
Office: 240-420-2068
blynch@schurz.com

Chris Dautel
Director of Strategic Planning & Corporate
Development
Schurz Communications Inc.
1301 E. Douglas Road, Suite 200
Mishawaka, IN 46545
Office: 574-247-7265
cdautel@schurz.com

with a copy to:

John Smarrella
Barnes & Thornburg LLP
700 1st Source Bank Center

100 North Michigan
South Bend, IN, 46601-1632
Direct: (574) 237-1133
John.Smarrella@btlaw.com

James W. Tuesley
Direct: (574) 237-1271
Jim.Tuesley@btlaw.com

Section 13.03 Interpretation. For purposes of this Agreement, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Section 13.04 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 13.05 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 13.06 Entire Agreement. This Agreement and the other Transaction Documents constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous representations, warranties, understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 13.07 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 13.08 No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 13.09 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 13.10 Governing Law; Dispute Resolution; Specific Performance.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Vermont.

(b) The parties hereto agree that any dispute, controversy, difference, or claim arising out of, relating to, or in connection with this Agreement, the other Transaction Documents or the transactions contemplated hereby or thereby shall prior to any legal action under this Section 13.10 be mediated within 20 days from a written request by any party for mediation. The mediation shall be conducted before a single mediator to be agreed upon by the parties in dispute. Each party shall bear the fees and expenses of the mediator.

(c) Any dispute, controversy, difference, or claim arising out of, relating to, or in connection with this Agreement, the other Transaction Documents or the transactions contemplated hereby or thereby shall be finally settled by arbitration in accordance with the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association in effect at the time of submission to arbitration, by a single arbitrator appointed in accordance with such Rules. The arbitrator's award shall be final and binding. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall take place in Burlington, Vermont or such other place as the parties may agree. The prevailing party in such arbitration shall recover its costs of the arbitration and reasonable attorneys' fees from the other party, and the arbitrator will determine the amount of such costs and fees to be awarded. In no event shall the arbitrator have jurisdiction to award punitive damages.

(d) Notwithstanding Section 13.10(c), any party may, if it believes that it requires or is entitled to injunctive relief or specific performance, file a civil action in the federal courts of the United States of America located in Vermont or the courts of the State of Vermont seeking injunctive relief or specific performance. EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(e) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY PROCEEDING UNDER SECTION 13.10(D) IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUCH ACTION. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 13.10(D).

(f) The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof (in particular the guaranty obligations referenced in Section 13.12 below) and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 13.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 13.12 Schurz Guarantee. Subject to the provisions of this Section 13.12, Schurz hereby fully, unconditionally and irrevocably guarantees to the City and Blue Water the due and punctual payment of the Purchase Price in accordance with the terms of this Agreement and the due and punctual performance of all other obligations to be performed by Buyer under Sections 8.03, 8.06, 8.07, 8.08, 8.11, 8.12, 8.14, 8.15 and Section 9.03(b), all in accordance with the terms of this Agreement and hereby represents and warrants the accuracy of the statements

contained in Sections 4.04, 4.05, 4.07, 4.09, 4.10 and 4.11; *provided, that* Schurz's obligations under this Section 13.12 with respect to Sections 8.03, 8.06, 8.07, 8.08, 8.11, 8.12, 8.14, 8.15 shall apply only as long as the Telecom System is owned and operated by Schurz or one of its Affiliates. Schurz hereby represents and warrants to Blue Water and the City as follows: (a) Schurz is a corporation duly organized, validly existing and in good standing under the laws of the State of Indiana and has the requisite corporate authority to execute, deliver and perform this Agreement according to its terms; (b) the execution, delivery and performance of this Agreement and the consummation of the Transactions by Schurz have been duly authorized by all necessary corporate action on the part of Schurz; (c) this Agreement has been duly executed and delivered by Schurz and constitutes the legal, valid and binding obligation of Schurz enforceable against Schurz in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity); and (d) the execution, delivery and performance of this Agreement by Schurz: (i) do not require the consent of any Person, (ii) do not conflict with the organizational documents of Schurz, and (iii) do not conflict with, result in a breach of, or constitute a default under any legal requirement applicable to Schurz or any contract to which Schurz is a party or by which Schurz or its assets may be bound, except in in the case of subclauses (i) and (iii) where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on Schurz's ability to consummate the transactions contemplated hereby.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

BLUE WATER HOLDINGS LLC

By_____

Name:

Title:

CITY OF BURLINGTON

By_____

Name:

Title:

CHAMPLAIN BROADBAND, LLC

By_____

Name:

Title:

SCHURZ COMMUNICATIONS, INC.

(solely for purposes of Section 13.12)

By_____

Name:

Title:

EXHIBITS

A—LIMITED RESERVED RIGHTS OF USE AGREEMENT

B—CHURCH STREET PROVISIONS

C—MEMORIAL PROVISIONS