

AGREEMENT FOR THE TRANSPORTATION AND TREATMENT OF WASTEWATER

This Agreement for the treatment of wastewater (the “Agreement”) is entered into this _____ day of _____, 2009, by and between Pilgrim’s Pride Corporation, a _____ corporation, doing business in West Virginia (“Pilgrim’s Pride”), and the Moorefield Area Public Service District, a public corporation of the State of West Virginia (the “District,” and collectively with Pilgrim’s Pride, the “Parties”).

WHEREAS, Pilgrim’s Pride is the owner and operator of certain poultry processing facilities (collectively, the “Pilgrim’s Pride Facilities”) located in the Town of Moorefield, Hardy County, West Virginia (the “Town”); and,

WHEREAS, as the result of its operation of the Pilgrim’s Pride Facilities, Pilgrim’s Pride generates both domestic wastewater (the “Pilgrim’s Domestic Wastewater”) and wastewater which is consistent with the operation of a poultry processing plant (the “Pilgrim’s Process Wastewater” and, collectively with the Pilgrim’s Domestic Wastewater, the “Pilgrim’s Wastewater”); and,

WHEREAS, The County Commission of Hardy County (the “County Commission”) created the District pursuant to Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the “Act”), for the purpose of owning and operating a regional sanitary sewer collection, transmission and treatment facility to serve Pilgrim’s Pride, the Town, and citizens of the County, within the District’s service territory; and

WHEREAS, Pilgrim’s Pride has certain obligations to treat Pilgrim’s Wastewater pursuant to certain statutes and rules of the United States and the State of West Virginia; and,

WHEREAS, Pilgrim’s Pride wishes to contract with the District for the transmission, treatment and disposal of Pilgrim’s Wastewater; and,

WHEREAS, the Town currently owns and operates a wastewater treatment facility (the “Existing Treatment Facility”) pursuant to those terms and conditions as set forth in West Virginia/National Pollutant Discharge Elimination System Permit No. WV _____; and,

WHEREAS, the Existing Treatment Facility currently maintains insufficient capacity to treat Pilgrim’s Wastewater; and,

WHEREAS, pursuant to the terms included herein, the District is willing and able to construct and operate capital improvements in order to provide adequate facilities to receive, convey, treat and dispose of Pilgrim’s Wastewater; and,

WHEREAS, the Parties, along with the Town and the County Commission, have secured funding commitments, in the form of grants, contributions in kind and low interest loans (the “Funding Commitments”) to finance the construction of a new wastewater transmission line (the “New Transmission Line”) and a new wastewater treatment facility (the “New Treatment Facility”), both to be owned by the District, for the purpose of transporting and treating the Pilgrim’s Wastewater, and wastewater from the District’s other customers including the Town; and,

WHEREAS, a preliminary engineering report (the “PER”) has been prepared, with the input of the Parties, which PER specifies the type of treatment process to be used in, and treatment limits to be achieved by, the New Treatment Facility, including the wastewater from the District and the Pilgrim’s Wastewater; and

WHEREAS, Pilgrim’s Pride and the District, now wish to contract for the District’s transportation, treatment and disposal of the Pilgrim’s Wastewater; and

WHEREAS, Pilgrim’s Pride has agreed to an in-kind contribution of land for the site of the New Treatment Facility (the “New Treatment Facility Site”), the value of which is estimated to be \$_____, which is included in the “Funding Commitments” defined above; and

WHEREAS, as consideration for Pilgrim’s Pride’s agreement to participate in the New Treatment Facility, the in-kind contribution of the New Treatment Facility Site and Pilgrim’s Pride’s agreement to provide certain security related to its proportionate share of the debt service related to the New Treatment Facility and New Transmission Line, all as more fully described *infra*, the County Commission has arranged for the representation of Pilgrim’s Pride, on the Board of the District, as the County’s largest industrial wastewater user, all as reflected by the County Commission Order creating the District, a copy of which is attached hereto as “Appendix A – County Commission Order creating District;”

WHEREAS, in exchange for the capital improvements and services to be provided by the District, Pilgrim’s Pride agrees to tender the performance, payments and guarantees described herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and explicitly acknowledged by the Parties, Pilgrim’s Pride and the District hereby agree as follows:

ARTICLE 1 PURPOSE AND PRECONDITIONS OF CONTRACT

1.1 Purpose.

The purpose of this Agreement is to define the terms and conditions under which the District will accept for transportation, treatment and disposal the Pilgrim’s Wastewater, and the services Pilgrims’ Pride will receive from the District.

1.2 Contract Documents.

The following appendices and schedules are attached hereto and incorporated herein as if fully set forth in this Agreement.

Appendix A County Commission Order creating District

Appendix B District Proposed NPDES Permit

Appendix C Form of Cost of Service Study

Appendix D Initial Schedule of Assessments

1.3 Preconditions to Performance of the Parties' Obligations.

1.3.1 The District shall have no obligation and shall be held harmless of any of the obligations set forth in this Agreement and any amendments or attachments thereto unless and until the District receives all necessary approvals from the required and relevant regulatory agencies, whether state or federal, to perform necessary capital improvements and/or to accept and treat the Pilgrim's Wastewater, including but not limited to:

- (a) The issuance of its WV/NPDES permit approving the acceptance of the Pilgrim's Wastewater for treatment and disposal with the limits set forth in the PER; and,
- (b) The issuance of a certificate of convenience and necessity from the Public Service Commission of West Virginia for the construction of the New Transmission Line and the New Treatment Facility; and,
- (c) The approval of this Agreement by the Public Service Commission of West Virginia; and,
- (d) An adequate guaranty from Pilgrim's Pride of continuing treatment capacity demand that will support operation, maintenance and capital funding of the New Treatment Facility.

The District shall make good faith efforts to ensure that the preconditions set forth above are satisfied.

1.3.2 Pilgrims' Pride shall have no obligation under this Agreement and any amendments or attachments thereto unless and until the District receives all necessary approvals from the required and relevant regulatory agencies, whether state or federal, to perform necessary capital improvements and/or to accept and treat the Pilgrim's Wastewater, including but not limited to:

- (a) The issuance of the District's WV/NPDES permit approving the acceptance of the Pilgrim's Pride Wastewater for treatment and disposal with the limits set forth in the PER; and,
- (b) The issuance of a certificate of convenience and necessity by the Public Service Commission of West Virginia for the construction of the New Transmission Line and the New Treatment Facility; and,
- (c) The approval of this Agreement by the Public Service Commission of West Virginia.

Pilgrim's Pride shall make good faith efforts to ensure that the preconditions set forth above are satisfied.

ARTICLE 2 WASTEWATER SERVICES

2.1 Wastewater Treatment.

The District agrees to transport, treat and dispose of the Pilgrim's Wastewater during the term of this Agreement for as long as the District is authorized by relevant regulatory agencies, whether state or federal, to accept and treat wastewater flows from the Pilgrim's Pride Facilities.

The Parties hereto agree and affirm that the District shall, in conjunction with seeking the necessary approvals for construction and operation of the New Transmission Line and the New Treatment Facility, apply for a West Virginia/National Pollutant Discharge Elimination System Permit to provide among other things, for the pre-treatment limits set forth in the PER, (the "NPDES Permit") initially to be in a form substantially similar to that set forth in Appendix B of this Agreement. The Parties further agree and affirm that the NPDES Permit will be subject to ongoing review and further modification by the relevant regulatory agencies, whether state or federal. The Parties also agree that, whenever the term "NPDES Permit" is used in this Agreement, such term shall include and encompass all future modifications to the NPDES Permit, and the obligation or responsibility of any party with respect to the NPDES Permit shall be to comply with the terms of the NPDES Permit in existence at the time.

2.2 Commencement of Treatment.

2.2.1 Treatment of the Pilgrim's Process Wastewater shall commence only upon:

A. The effective date of the NPDES Permit approving the processing and treatment of the Pilgrim's Wastewater with the limits set forth in the PER; and,

B. Substantial completion of construction, and acceptance by the District, of the New Transmission Line and the New Treatment Facility; and

C. Completion of construction of any necessary interconnection points between the Town, Pilgrim's Pride and the District for transmission of the Town's wastewater and Pilgrim's Wastewater; and

D. Upon the issuance of any other permit, license or approval which may be required by law.

2.3 Rights of Use.

2.3.1 Pilgrim's Pride shall have the continuing right to discharge Pilgrim's Wastewater at interconnection points (the "Pilgrim's Interconnection Points") with the District's collection system. As the receiving party, the District has the right to recover costs due it under this Agreement. Pilgrim's Pride and the District recognize and agree that the protection of the health of West Virginians and quality of water of the State are paramount to proprietary or monetary issues. Accordingly, it is agreed that any dispute arising between Pilgrim's Pride and the District concerning monetary or proprietary issues shall not constitute grounds for termination of service. However, nothing in this Agreement shall prevent either party from acting and/or seeking immediate legal recourse in a court of competent jurisdiction (in the event that judicial intervention is necessary) to prevent the imminent harm to the health, safety and welfare of the residents of the Town and/or Hardy County, West Virginia, harm to the waters of the State, and/or damage to the District's wastewater collection, transmission, and/or treatment facilities.

2.4 Pretreatment.

The Pilgrim's Wastewater delivered at the Pilgrim's Interconnection Points shall comply with the pretreatment standards in the NPDES Permit. The District shall provide Pilgrim's Pride with notice of any proposed changes in the NPDES Permit.

2.5 Quantity of Pilgrim's Wastewater to be Accepted for Treatment.

2.5.1 During the term of this Agreement, Pilgrim's Pride shall have the right to deliver for processing and treatment at the New Treatment Facility a maximum weekly average of 2.78 million gallons (MGD) of wastewater per day.

2.5.2 During the term of this Agreement, the District shall have the right to deliver for processing and treatment at the New Treatment Facility a maximum annual average of 0.94 million gallons (MGD) of wastewater per day.

2.6 Future Improvements to New Treatment Plant.

The Parties further recognize and agree that the NPDES Permit shall be subject to review and modification at regular intervals by the relevant regulatory agencies, whether local, state, or federal and, as a discharger to the Chesapeake Bay watershed, the District may be subject to nutrient loading criteria as part of its NPDES permit. The Parties further recognize and agree that the New Treatment Facility is being designed to meet the limits set forth in the PER and that the District may, in the future, be subjected to more stringent criteria for either known substances or subject to regulation for substances which are currently un-regulated. In the event that improvements to the New Treatment Plant are required in the future to comply with the District's NPDES permit, the Parties hereto agree that the allocation of such costs shall be based on the Reserved Capacity for each party as provided in Article 4 hereof.

2.7 Damage to District's System Caused by Wastewater.

In the event that the District's acceptance of Pilgrim's Wastewater results in damage to any portion of the District's sanitary sewerage system, specifically including, but not limited to, the New Transmission Line and the New Treatment Facility, Pilgrim's Pride shall reimburse the District for all expenses related to such damage, as determined by the Cost of Service Expert in Paragraph 3.10.

2.8 Wastewater Treatment Indemnification/Fines and Penalties.

Pilgrim's Pride agrees to indemnify and hold harmless the District for any and all damages, fines or penalties, including reasonable professionals' fees that are incurred by the District due to Pilgrim's failure to meet the requirements of the NPDES Permit. Pilgrim's Pride shall not be responsible for any failure by the District to meet the requirements of the NPDES Permit which are not the direct result of the failure of Pilgrim's Pride to meet the requirements of the NPDES Permit.

2.9 Duty to Maintain.

The District agrees to operate and maintain its facilities in accordance with reasonable wastewater utility standards, and agrees to make good faith efforts to obtain all necessary permits for the continued operation of its wastewater treatment facilities.

ARTICLE 3 MONTHLY ASSESSMENTS FOR SEWER SERVICE

3.1 Assessments.

All assessments by the District for sewer service to Pilgrim's Pride shall be established in accordance with the provisions of this Article.

3.2 Percentage Contribution to the Cost of the New Treatment Plant.

The District and Pilgrim's Pride agree that the method of calculating the percentage contribution to be paid for the capital cost of the New Treatment Plant will be based as follows.

3.2.1 Pilgrim's Pride estimates that it will require approximately 2.97 MGD of capacity of the New Treatment Plant of total capacity of approximately 4.1 MGD (monthly maximum design flow) ("Pilgrim's Reserved Capacity").

3.2.2 The District estimates that it will require approximately 1.13 MGD of capacity of the New Treatment Plant of total capacity of approximately 4.1 MGD (monthly maximum design flow) for its other customers ("District Reserved Capacity").

3.2.3 Based on the foregoing total requirements, the District and Pilgrim's Pride agree to meet the cost of the New Treatment Plant on the basis of the following percentages of the capital cost of the New Treatment Plant to be supported by each party:

Pilgrim's Pride	84.16% ("Pilgrim Percentage Contribution")
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District's Other Customers	15.84% ("District Percentage Contribution")
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3.2.4 Pilgrim's Pride and the District's other customers shall pay a portion of the monthly principal, interest, administrative fee and reserve account payment required for the financing of the capital cost of the New Treatment Plant equal to their respective Percentage Contribution. Such payment shall be made by Pilgrim's Pride and the District's other customers regardless of the amount of wastewater which actually flows into the New Treatment Plant.

3.2.5 With the consent and agreement of Pilgrim's Pride the Town and the District, Pilgrim's Pride, the Town or the District may acquire capacity in the New Treatment Plant from one party or another. In such event, the Cost of Service Expert shall determine the changes in Reserved Capacity and Percentage Contribution for each party.

3.3 Pilgrim's Pride Contribution to the Cost of the New Transmission Line.

Pilgrim's Pride and the District agree that Pilgrim's Pride shall be responsible for the capital cost of the New Transmission Line. Pilgrim's Pride shall, each month, pay the financing cost attributable to the principal, interest, administrative fee and reserve account payment on the revenue bonds to finance the capital cost of the New Transmission Line. Such payment shall be made regardless of the amount of wastewater which actually flows into the New Treatment Plant.

3.4 District O&M Assessment to Pilgrim's Pride.

In addition to a monthly amount equivalent to the Pilgrim Percentage Contribution provided in paragraphs 3.2 and 3.3 above, of the principal, interest, administrative fee and reserve account payment on the revenue bonds to finance the portion of the New Treatment Plant attributable to the Pilgrim's Reserved Capacity and the amount attributable to the capital cost of the New Transmission Line (collectively, "Pilgrim Debt Assessment"), the District shall assess Pilgrim's Pride a monthly amount ("Pilgrim O & M Assessment") for transporting, accepting and treating the wastewater received through the New Transmission Line at the New Treatment Plant. The Pilgrim's O & M Assessment shall be calculated as provided in the Cost of Service Study to be prepared by the Cost of Service Expert as specified in Section 3.7 below in order to pay the operation and maintenance costs of the New Transmission Line and the New Treatment Plant used in transporting and treating wastewater from Pilgrim's Pride.

3.5 [RESERVED]

3.6 District's O&M Responsibility.

In addition to being sufficient to cover the costs of operating its own collection system, the District's rates to its other customers shall be sufficient to finance a monthly amount

equivalent to the District Percentage Contribution provided in Section 3.2 above, of the principal, interest, administrative fee and reserve account payment on the revenue bonds to finance the portion attributable to the District Reserved Capacity (“District Debt Assessment”). In addition, the rates to its customers shall be sufficient to cover District’s share of the O & M expense of operating the New Treatment Plant (the “District O&M Assessment”).

3.7 Cost Basis for O & M Assessment.

The monthly Pilgrim O & M Assessment and District O&M Responsibility for transportation and treatment of wastewater by the District shall be calculated on the basis of gallons of wastewater measured through the flow meter for Pilgrim’s Pride, with the District O & M Assessment calculated based upon the total wastewater treated at the New Treatment Plant, less the amounts measured through the flow meter for Pilgrim’s Pride based upon a cost of service study (“Cost of Service Study”) prepared by a cost of service expert (“Cost of Service Expert”) agreed upon by the Parties. These monthly O & M Assessments shall reflect the actual cost for wastewater treated. Each Party’s share of the operation and maintenance costs shall be calculated on the basis of wastewater treated and shall include a pro rata share of the administration, operation, maintenance and any additional cost of service costs related to the New Treatment Plant, with all cost of service costs attributable to the New Transmission Line being allocated to Pilgrim’s Pride, including any and all legal, engineering and administrative fees incurred by District as a result of this Agreement, all as reflected and considered in the Cost of Service Study to be prepared by the Cost of Service Expert. The monthly fee is initially estimated as \$180,000 for Pilgrim’s Pride and \$17,000 for the District. The Parties’ agree that after the first year of operation of the New Transmission Line and the New Treatment Plant such estimated assessments shall be adjusted annually, or when a reassessment has been requested by

a party to this Agreement as provided in paragraph 3.9 hereof, based on a Cost of Service Study to reflect actual expenses for the immediately preceding twelve months and that thereafter all such monthly assessments shall be fixed based on annual historical costs, as determined by such study.

In order to fairly allocate operation and maintenance costs the annual Cost of Service Study shall include a “true-up” to reflect actual expenses incurred over the prior year. This “true-up” will determine the amounts assessed and the amounts of actual costs incurred and the Cost of Service Expert shall, if necessary, provide a credit to a party in the ensuing year if the O&M Assessment for such party for the prior year exceeded the actual costs, or shall provide for additional payments in the O&M Assessment for the subsequent year if the O & M Assessment for such party for the prior year was less than the actual costs incurred (in the alternative, a party may pay a lump sum amount for such underpayment of O&M Assessment) Provided, however, such credit or additional payment may be spread over a period of years as necessary to achieve fairness to the Parties.

In order to permit the Cost of Service Expert to carry out his duties, all parties agree to provide such expert with access to their books and records. The cost of the Cost of Service Expert shall be borne by the parties as a part of the operation and maintenance expenses of the New Transmission Line and the New Treatment Plant.

3.8 Cost Study and Initial Assessments.

The methodology to be followed in the Cost of Service Study shall be as shown in Appendix C attached hereto. An initial schedule of assessments between the parties shall be as shown in Appendix D attached hereto.

3.9 Modification of Assessments.

Unless otherwise agreed in writing by Pilgrim's Pride and the District, any modification to the assessments provided for herein as between Pilgrim's Pride and the District shall be supported by a subsequent Cost of Service Study prepared as indicated in paragraph 3.7 of this Article. When any subsequent Cost of Service Study is performed, that Cost of Service Study shall be the basis for future charges to the Parties to this Agreement. Those charges shall become effective sixty (60) days from the date of the recommendation by the Cost of Service Expert, or at such other date as unanimously agreed by the Parties. At the end of each twelve months of operation of the New Treatment Plant, the cost of Service Expert shall perform a Cost of Service Study to determine whether there is justification for a modification of the assessments to each party. In the event any of the parties is in disagreement with any rate recommendation of the Cost of Service Expert, that party may, within the sixty (60) day period following receipt of the recommendation of the Cost of Service Expert, file a petition with the Public Service Commission seeking a review of the assessments proposed by the Cost of Service Expert. During the pendency of the review by the Public Service Commission, the Parties will use the assessments proposed by the Cost of Service Expert. Any assessment finally approved by the Public Service Commission shall remain in effect until the next reassessment by the Cost of Service Expert. Any party may request that a reassessment be performed at any other time. If a Cost of Service Study requested by any party or parties establishes that there is no justification for a modification of the assessments, the party or parties requesting the reassessment will be responsible for paying the cost of the Cost of Service Expert and all costs, including legal expenses, incurred by the other parties or party in responding to the petition filed with the Public Service Commission.

3.10 Extraordinary Surcharge Assessments.

Pilgrim's Pride estimates that the average daily flow of Pilgrim's Wastewater delivered to the Pilgrim's Interconnection Points shall be 2.78 MGD. The District estimates that the average daily flow of wastewater which the District's other customers will deliver to the New Treatment Facility shall be 0.47 gpd ("District Wastewater").

The Parties agree and affirm that the delivery of the aforementioned flows is essential to ensure the continued viability of the biological and physical treatment processes at the New Treatment Plant, as well as the ability to fund the continued operations and maintenance for the New Treatment Plant. If, for any reason, the average daily flow of either Pilgrim's Pride or the District's other customers is less than ____% of the amount set forth above, Pilgrim's Pride shall be invoiced, and hereby agrees to timely pay, an amount determined by the Cost of Service Expert equal to the minimum amount of monthly operation and maintenance expense allocable to Pilgrim's Pride and, if necessary, an amount equal to any extraordinary operation and maintenance expenses (specifically including, but limited to, overtime, outside contractors and professional services) incurred by the District as a result of such reduction in flow. Likewise, the District shall take appropriate action to increase its rates to its other customers to recover an amount determined by the Cost of Service Expert equal to the minimum amount of monthly operation and maintenance expense allocable to the District's other customers and, if necessary, an amount equal to any extraordinary operation and maintenance expenses (specifically including, but limited to, overtime, outside contractors and professional services) incurred by the District as a result of such reduction in flow. If, for any reason, the average daily flow of Pilgrim's Pride or the District's other customers is greater than ____% of the amount set forth above, or if Pilgrim's Pride fails to comply with any restriction or covenant in this Agreement,

Pilgrim's Pride shall be invoiced, and hereby agrees to timely pay, an amount determined by the Cost of Service Expert equal to any extraordinary operation and maintenance expenses (specifically including, but not limited to, overtime, outside contractors, lost profits and professional services) incurred by the District as a result of increase in flow or failure to comply with any restriction or covenant in this Agreement.

3.11 Monthly Invoices.

The District shall prepare and deliver monthly to Pilgrim's Pride an invoice for its Debt Assessment, O&M Assessment and Extraordinary Surcharge Assessment (if any). All payments due pursuant to this Agreement shall be paid by Pilgrim's Pride to the District within thirty (30) days of date of the monthly invoice for such payment.

ARTICLE 4 MONITORING AND REPORTING

4.1 Pilgrim's Pride Monitoring and Reporting.

Pilgrim's Pride shall comply, at its own expense, with all monitoring and reporting requirements as provided in the NPDES permit related to the discharge of Pilgrim's Wastewater to the District; provided, however, that in the event the applicable state or federal regulatory agency shall subsequently modify the District's NPDES permit so that the monitoring and reporting requirements are less rigorous and/or frequent than in the NPDES Permit in effect upon the construction of the New Treatment Facility, Pilgrim's Pride shall continue to comply with the monitoring and reporting requirements of the initial NPDES permit. Pilgrim's Pride shall be responsible for the testing, calibration, maintenance and replacement of monitoring facilities at

the Pilgrim's Interconnection Points. Pilgrim's Pride and the District shall supply to each other any data generated by any inspection or testing of the facilities or equipment.

Pilgrim's Pride and the District shall each have the right to access all monitoring facilities required by this Agreement.

Pilgrim's Pride shall reimburse the District for any and all monitoring and/or reporting costs imposed on the District by any governmental agency as the sole result of the District's acceptance of the Pilgrim's Wastewater.

ARTICLE 5 PILGRIM'S PRIDE SECURITY AGREEMENT

5.1 Pilgrim's Pride Security for Debt Assessment

Pilgrim's Pride agrees that, so long as the District has any outstanding bonds or other debt obligations the proceeds of which were used to pay the capital costs of construction of the New Treatment Plant and the New Transmission Line, or any capital costs associated with repairs, additions, betterments or improvements to the New Treatment Plant and the New Transmission Line, Pilgrim's Pride shall maintain a security instrument issued by a financial institution, or insurance company, with a rating of at least "AA", in form satisfactory to the District, to ensure the payment of the net present value of the Pilgrim's Debt Assessment over the life of such outstanding bonds or other debt obligations.

ARTICLE 6

[RESERVED]

ARTICLE 7 DELIVERY OF WASTEWATER

7.1 Delivery of Wastewater by Pilgrim's Pride.

Pilgrim's Pride shall be solely and fully responsible for the delivery of wastewater generated from its facilities to the Pilgrim's Interconnection Points. Accordingly, Pilgrim's Pride shall indemnify, defend and hold harmless the District and its officers, employees and/or agents for, from and against any and all claims, demands, actions, causes of action, fines, penalties, suits, liability, losses, costs (including, but not limited to, attorneys' fees and expenses) and damages arising from or relating to its delivery of wastewater from its facilities to the Pilgrim's Interconnection Points, or at any location at or upstream from the Pilgrim's Interconnection Points.

ARTICLE 8 DISTRICT BOARD

8.1 District Board Composition

8.1.1 In consideration of the following actions by Pilgrim's Pride:

1. The agreement to participate in the New Treatment Facility and New Transmission Line, as provided by this Agreement;
2. The contribution of the New Treatment Facility Site (with an estimated value of \$_____) to the District; and
3. The agreement to maintain a security instrument to ensure the payment of the net present value of the Pilgrim's Pride Debt Assessment over the life of any outstanding bonds or other debt obligations related to the financing of the New Treatment Facility and New Transmission Line (or any capital costs associated with repairs, additions, betterments or improvements to the New Treatment Facility and New Transmission Line), as provided by Article 5 of this Agreement;

the County Commission has established that Pilgrim's Pride, as long as it remains the County's largest wastewater user, shall be represented on the three (3) member Board of the District, by the appointment of a member who is a resident of the area to be served by the District who is a representative of Pilgrim's Pride, as reflected in the County Commission Order creating the District, a copy of which are attached hereto as Appendix A.

8.1.2 In consideration of the cooperation of the Town and in recognition of its inclusion within the boundaries of the District, the County Commission has established that the Town shall be represented on the three (3) member Board of the District by the appointment of a resident of and representative of the Town as reflected in the County Commission Order creating the District, a copy of which are attached hereto as Appendix A.

ARTICLE 9 DEFAULT AND REMEDIES

9.1 Pilgrim's Pride Event of Default.

A "Pilgrim's Pride Event of Default" shall mean:

9.1.1 Failure to Pay. Failure to pay any sum when due under this Agreement (except sums disputed in good faith for which adequate assurance of payment has been made, specifically excluding any Pilgrim's Debt Assessment) which failure has not been cured within ten (10) Business Days after written notice thereof by the District to Pilgrim's Pride.

9.1.2 Other Breach. Failure in the due observance or performance of any of the material covenants or agreements of Pilgrim's Pride set forth in this Agreement, which failure is not cured within sixty (60) Days after written notice thereof by the District to Pilgrim's Pride (unless otherwise waived in writing by the District). If the nature of the failure is such that the

same cannot be cured within sixty (60) Days, or if Pilgrim's Pride contests the same in good faith, or if Pilgrim's Pride has commenced and is diligently pursuing such cure or contest, and, in the case of cure, completes such cure within six (6) months after said written notice, a default has/will not occur. Nothing in this section is intended to limit in any way the District's rights under Article 3 hereof.

9.1.3 Insolvency Event

A Pilgrim's Pride "Insolvency Event" means any of the following:

9.1.3.1 Except as set forth in section 9.1.3.3, Pilgrim's Pride makes an assignment for the benefit of its creditors, or petitions or applies for or arranges for the appointment of a trustee, liquidator or receiver, or commences any proceeding relating to itself under any bankruptcy law or shall be adjudicated bankrupt or insolvent; or

9.1.3.2 Except as set forth in section 9.1.3.3, Pilgrim's Pride gives its approval of, consent to, or acquiescence in any of the following: the filing of a petition or application for the appointment of a trustee, liquidator or receiver against Pilgrim's Pride; the commencement of any proceeding under any bankruptcy laws against Pilgrim's Pride; or the entry of an order appointing any trustee, liquidator or receiver for Pilgrim's Pride.

9.1.3.3 Notwithstanding the foregoing, an "Insolvency Event" shall not mean the proceedings initiated under title 11 of the United States Code on December 1, 2008 being jointly administered in the United States Bankruptcy Court for the Northern District of Texas as *In re Pilgrim's Pride Corp.*, Case No. 08-45664.

9.2 The District's Remedies as to Pilgrim's Pride.

9.2.1 Upon the occurrence of any Pilgrim's Pride Event of Default as defined in Article 9.1, the District shall have the right (without prejudice to any other right the District may have) to exercise all or any of the following powers:

- (a) Terminate this Agreement following an additional 20 (twenty) days written notice to Pilgrim's Pride;
- (b) Demand immediate payment of any overdue or current charges which may be due; and
- (c) Take any further action allowed for by this Agreement or by law.

9.2.2 In the event of a Pilgrim's Pride Insolvency Event as defined by 9.1.3 of this Agreement, the District shall have the additional right to demand prepayment of an amount equal to 12 months estimated payments prior to continuing service. The District shall continue to monthly invoice Pilgrim's Pride, and Pilgrim's Pride shall be obligated to pay said invoices as set forth elsewhere in this Agreement.

ARTICLE 10 TERM OF AGREEMENT

10.1 Term of Agreement.

This Agreement shall terminate _____ years after the commencement of service as provided in Article 2.2, or upon mutual agreement of the parties. Following this initial term, this Agreement will be automatically renewed for successive five year terms unless any party issues a notice of termination to the other parties at least ninety (90) days prior to expiration of this Agreement. Notwithstanding any provision of this Agreement to the contrary, this Agreement may not be terminated so long as any bonds issued by the District to finance the New Treatment Facility or the New Transmission Line are outstanding.

10.2 Extension of Term for Further Capital Improvements.

In the event that the District is required to become obligated on additional bonds, or other evidences of indebtedness, the proceeds of which are used to finance repairs, additions, betterments or improvements to the New Treatment Plant or the New Transmission Line, the term of this Agreement shall, unless objected to in writing by any party hereto prior to the issuance of such additional bonds or the incurrence of other indebtedness by the District, automatically extend to the maturity date of such additional bonds or other evidence of indebtedness.

ARTICLE 11 JUDICIAL FORUM AND CHOICE OF LAW FOR DISPUTE RESOLUTION

The Parties agree that the forum for any legal action brought to enforce the terms of this contract shall be the Circuit Court of Hardy County, West Virginia. West Virginia law shall govern this Agreement.

**ARTICLE 12
ASSIGNMENT**

This Agreement may not be assigned by any party without the prior written consent of the other parties hereto. Such consent will not be unreasonably withheld. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

**ARTICLE 13
MISCELLANEOUS**

13.1 Notices.

Unless otherwise stated in the Agreement, all notices to be given under the Agreement shall be in writing, and sent by personal delivery or dispatch to the United States Postal Service (USPS) to the address of the relevant party set out below. Provided that:

13.1.1 Any notice sent by USPS shall be deemed (in the absence of evidence of earlier receipt) to have been delivered three (3) days after dispatch;

13.1.2 Any notice delivered personally shall be deemed to have been delivered on the date of its acknowledgement.

13.1.3 All notices to be given under the Agreement shall be sent to Pilgrim's Pride or the District, as the case may be, at the addresses set forth below:

If to Pilgrim's Pride:

With a copy to:

And copy to:

If to the District:

With a copy to:

And a copy to:

John C. Stump, Esq.
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, West Virginia 25326

and

Robert R. Rodecker, Esq.
Law Offices of Robert R. Rodecker
P.O. Box 3713
Charleston, West Virginia 25337

or such other address as is notified pursuant to this Clause

13.1.4 Wherever in the Agreement provision is made for a communication to be "written" or "in writing" this means any hand written, typewritten or printed communication.

13.2 Independent Contractor.

For purposes of services rendered pursuant to this Agreement, the District is an independent contractor and nothing in this Agreement shall be construed as creating an agency, partnership or other employment or master/servant relationship between Pilgrim's Pride and the District.

13.3 Entire Agreement.

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements with respect thereto as of the date of the execution of this Agreement, and no alteration, modification or interpretation of this Agreement shall be binding unless in writing and signed by all Parties.

13.4 No Waiver.

No failure by any party to insist upon the strict performance of any term, covenant or condition of this Agreement, or to exercise any right or remedy upon breach of any provision hereof, and no acceptance of payment or performance during the continuation of any such breach, shall constitute a waiver of any term, covenant or condition herein or waiver of any subsequent breach or default in the performance of any terms, covenant, or condition herein.

13.5 Severability.

If any provision of this Agreement or its application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and/or unenforceable to any extent, the remainder of this Agreement, along with contemporaneously executed agreements, or the application of such provision to such party or circumstances, other than those determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law. In the event a provision of this Agreement, or contemporaneously executed agreements, is found to be invalid or unenforceable,

the Parties will negotiate in good faith to agree on a lawful provision having as near the same economic effect as the unenforceable provision.

13.6 Further Assurances.

Pilgrim's Pride and the District agree to execute and deliver such other documents and papers and to do such other acts and things as may be reasonably necessary to more fully affect the intent and purposes of this Agreement. Each party agrees to exercise its rights and perform its obligations hereunder in good faith.

13.7 Captions.

All headings or captions appearing herein are for convenience only, shall not be considered a part of this Agreement, for any purpose or as, in any way interpreting, construing, varying, altering, or modifying this Agreement or any of the provisions hereof.

13.8 Conflicting Provisions.

In the event of any conflict between this document and any Appendix hereto, the terms and provisions of this document, as amended from time to time, shall control.

13.9 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same agreement.

13.10 Opportunity to Review/District to Enter into Agreement.

The Parties represent unto each other that each has had an opportunity to review the contents of this Agreement and that their counsel has had the same opportunity and that their respective signatories have been authorized on behalf of their respective entities to sign and execute this Agreement.

13.11 Arbitration.

The Parties hereto agree and affirm that the arbiter of all disputes under this Agreement shall be the Public Service Commission of West Virginia and, except as otherwise provided herein, each party shall be responsible for its own attorney's fees and costs associated with bringing any complaint to the Public Service Commission; provided however, that no party waives any right to appeal the decision of the Public Service Commission as provided by State law.

[Signature Page Follows]

IN WITNESS WHEREOF, Pilgrim's Pride Corporation and the Moorefield Area Public Service District have executed this Agreement in duplicate originals on the dates set forth below.

PILGRIM'S PRIDE CORPORATION

By: _____
Its _____

MOOREFIELD AREA PUBLIC SERVICE DISTRICT

By: _____
Its _____