U.S. Department of Justice
United States Attorney's Office
District of Rhode Island

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May 13, 2024

Reed Brodsky
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Re: Evoqua Water Technologies Corporation

Dear Counsel:

The United States Attorney's Office for the District of Rhode Island (the "Government") and Evoqua Water Technologies Corporation ("Evoqua" or the "Company") enter into this Non-Prosecution Agreement ("Agreement"). The Company agrees to certain terms and obligations as set forth below.

1. The Government enters into this Agreement based on the individual facts and circumstances presented by this case and Evoqua, including:

(a) The nature and seriousness of the offense conduct, which involved improper revenue recognition practices in its Aquatics and Disinfection (A&D) Division that resulted in Evoqua falsely inflating its publicly reported revenues from 2016 through 2018.

(b) Evoqua did not voluntarily disclose to the Government the conduct described in the Statement of Facts attached hereto as Attachment A ("Statement of Facts");

(c) Evoqua received credit for its cooperation with the Government's investigation, which was, in large part, in response to the Government's requests, and included Evoqua promptly collecting, organizing, and producing voluminous documents at the Government's request, assisting in making employees available to be interviewed, conducting an internal investigation relating to the issues in the Government's investigation, and making a factual presentation to the Government concerning the non-privileged results of Evoqua's internal investigation;

(d) Evoqua provided to the Government all relevant non-privileged facts known to it;

(e) Evoqua has no criminal history nor did the Government become aware through its investigation of similar misconduct;

(f) Since learning about the conduct set forth in the attached Statement of Facts and the Government's and the SEC's investigations, Evoqua has engaged in extensive remedial measures, including enhancing its compliance program and internal controls designed to detect and deter improper revenue recognition and other securities fraud by, among other things:

i. removing and replacing the A&D Division Executives whose conduct is described in the attached Statement of Facts;

ii. implementing the compliance measures set forth in Evoqua's Settlement Agreement with the SEC, which is attached as Attachment E and incorporated by reference;

iii. maintaining compliance programs and procedures that comply with Attachment B and provide that any hotline complaints will be raised to and investigated by Evoqua as well as reported to external auditors; and

iv. agreeing to certify as to these compliance procedures by filing with the Government the certification in Attachment C hereto and incorporated herein by reference.

(g) The Government determined that an independent compliance monitor was unnecessary, based on the following factors, among others: (i) the fact that Evoqua has been acquired by Xylem Inc. ("Xylem"); (ii) the nature and status of Evoqua's remedial improvements to their compliance programs and internal controls; and (iii) Evoqua's agreement to enhance its compliance program as set forth in Attachment E and report to the Government as set forth in Attachment C to this Agreement (Corporate Compliance Reporting);

(h) Evoqua has agreed to continue to cooperate with the Government as set forth in Paragraph 5, below;

(i) Evoqua has already entered into a separate resolution with the SEC relating to the conduct described in the Statement of Facts, under which Evoqua has paid a civil penalty of $8.5 million; and

(j) Accordingly, after considering (a) through (i) above, the Government determined that the appropriate resolution in this case is a Non-Prosecution Agreement with Evoqua; a Criminal Monetary Penalty in the total amount of $8.5 million, which reflects a fine within the otherwise-applicable Sentencing Guidelines fine range; and Evoqua's agreement to report to the Government as set forth in Attachment C to this Agreement.

2. Evoqua admits, accepts, and acknowledges that it is responsible under U.S. law for the acts of its officers, directors, employees, and agents as set forth in the attached Statement of Facts, and that the facts described therein are true and accurate. Evoqua also admits, accepts, and acknowledges that the facts described in the attached Statement of Facts would be sufficient to

prove a violation of U.S. criminal law, specifically committing securities fraud. Evoqua does not endorse, ratify, or condone criminal conduct by its employees and represents that it has taken appropriate steps to prevent any such conduct in the future.

3. Evoqua expressly agrees that it will not, through present or future attorneys, officers, directors, employees, agents, or any other persons authorized to speak for Evoqua, make any public statement, contradicting the acceptance of responsibility by Evoqua set forth above or the facts described in the attached Statement of Facts. Evoqua agrees that if it, or any of its direct or indirect subsidiaries or affiliates, issues a press release or holds any press conference in connection with this Agreement, Evoqua must first consult the Government to determine (a) whether the text of the release or proposed statements at the press conference are true and accurate with respect to matters relating to this Agreement; and (b) whether the Government has any objection to the anticipated disclosure(s).

4. Evoqua's obligations under this Agreement have a term of two (2) years from the date on which the Agreement is executed (the "Term"). Evoqua agrees, however, that, in the event the Government determines, in its sole discretion, that Evoqua has knowingly violated any provision of this Agreement or has failed to completely perform or fulfill each of its obligations under this Agreement, an extension or extensions of the Term may be imposed by the Government, in its sole discretion, for up to a total additional period of one year, without prejudice to the Government's right to proceed as provided in the breach provisions of this Agreement below. Any extension of the Agreement extends all terms of this Agreement for an equivalent period. In the event the Government finds, in its sole discretion, that there exists a change in circumstances sufficient to eliminate the need for the reporting requirement in Attachment C, and that the other provisions of this Agreement have been satisfied, the Agreement may be terminated early.

5. Evoqua must cooperate fully with the Government in any and all matters relating to the conduct described in this Agreement and the attached Statement of Facts and other conduct under investigation by the Government at any time during the Term, until the later of the date the Term ends or the date upon which all investigations and prosecutions arising out of such conduct are concluded. At the request of the Government, Evoqua must also cooperate fully with other domestic or foreign law enforcement and regulatory authorities and agencies in any investigation of Evoqua, its subsidiaries or affiliates, or any of its present or former officers, directors, employees, agents, and consultants, or any other party, in any and all matters relating to the conduct described in this Agreement and the Statement of Facts and other conduct under investigation by the Government at any time during the Term. Evoqua's cooperation under this Paragraph is subject to applicable law and regulations, as well as valid claims of attorney-client privilege or the attorney-work-product doctrine; however, Evoqua must provide to the Government a log of any information or cooperation that they withhold based on an assertion of law, regulation, or privilege, and Evoqua has the burden of establishing the validity of any such assertion. Evoqua agrees that its cooperation must include, but is not limited to, the following:

(a) Upon request of the Government, Evoqua must truthfully and in a timely manner disclose all factual information not protected by a valid claim of attorney-client privilege or the attorney-work-product doctrine related to internal or external investigations about which Evoqua has any knowledge or about which the Government inquires involving its subsidiaries and

affiliates, and those of its present and former directors, officers, employees, agents, and consultants. This obligation of truthful disclosure includes, but is not limited to, the obligation of Evoqua to promptly provide to the Government, upon request, any document, record, or other tangible evidence about which the Government may inquire of Evoqua.

(b) Upon request of the Government, Evoqua must designate knowledgeable employees, agents, or attorneys to provide to the Government the information and materials described above on behalf of Evoqua. It is further understood that Evoqua must at all times provide complete, truthful, and accurate information.

(c) Evoqua must use its best efforts to make available for interviews or testimony, as requested by the Government, present or former officers, directors, employees, agents, and consultants of Evoqua. This obligation includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with domestic or foreign law enforcement and regulatory authorities. Cooperation under this paragraph includes identification of witnesses who, to the knowledge of Evoqua, may have material information regarding the matters under investigation.

(d) With respect to any information, testimony, documents, records, or other tangible evidence provided to the Government under this Agreement, Evoqua consents to any and all disclosures subject to applicable law and regulations, to other governmental authorities, including U.S. authorities, of such materials as the Government, in its sole discretion, deems appropriate.

(e) In addition, during the Term, should Evoqua learn of any non-frivolous evidence or allegation of a criminal violation of U.S. securities laws, Evoqua must promptly report such evidence or allegation to the Government. On the date that the Term expires, Evoqua, by the Vice President and Secretary of Evoqua, will certify to the Government per Attachment D that Evoqua has met its disclosure obligations under this Agreement. Each certification will be deemed a material statement and representation by Evoqua to the executive branch of the United States for purposes of 18 U.S.C. §§ 1001 and 1519.

6. Evoqua represents that it has implemented and will continue to implement a compliance and ethics program designed to prevent and detect violations of U.S. criminal law and the failure to adhere to statutory and regulatory requirements throughout its operations, including with respect to its subsidiaries, affiliates, agents, and joint ventures (to the extent Evoqua has control), and those of its contractors and subcontractors (to the extent Evoqua has control), including, but not limited to, the minimum elements set forth in Attachment B (Corporate Compliance Program). In addition, Evoqua agrees that it will report to the Government during the Term regarding remediation and implementation of the compliance measures described in Attachment B. This report will be prepared in accordance with Attachment C (Corporate Compliance Reporting).

7. To address any deficiencies in its internal controls, policies, and procedures, Evoqua represents that it has undertaken, and will continue to undertake in the future, in a manner consistent with all of its obligations under this Agreement, a review of its existing internal controls, policies, and procedures regarding compliance with U.S. securities law. Where necessary and

appropriate, Evoqua agrees to modify its compliance programs to maintain rigorous compliance programs that incorporate relevant internal controls, as well as policies and procedures designed to effectively detect and deter violations of U.S. securities law. The compliance program will include the minimum elements set forth in Attachment B.

8. Evoqua agrees to pay a Criminal Monetary Penalty in the total amount of $8.5 million to the U.S. Treasury no later than ten business days after the Agreement is fully executed. Evoqua acknowledges that no tax deduction may be sought in connection with the payment of any part of this amount. The Government is not requiring Xylem or Evoqua to pay a Victim Compensation Payment as Evoqua has already paid $16.6 million in a civil settlement brought by shareholder victims. Evoqua will not seek or accept directly or indirectly reimbursement or indemnification from any source with regard to the penalty that it pays under this Agreement or any other agreement entered into with an enforcement authority or regulator concerning the facts set forth in Attachment A. Nothing in this Agreement, however, may be deemed an agreement by the Government that the payment amount is the maximum penalty that may be imposed in any future prosecution, and the Government is not precluded from arguing in any future prosecution that the Court should impose any type of monetary penalty, including a criminal fine, restitution, disgorgement, or civil or criminal forfeiture, or the amount of such monetary penalty.

9. The Government agrees, except as provided herein, that it will not bring any criminal case (except for any possible criminal tax violations, as to which the Government does not make any agreement) against Evoqua, or any of its present or former subsidiaries or affiliates relating to any of the conduct described in the attached Statement of Facts. To the extent there is conduct disclosed by Evoqua that does not relate to any of the conduct described in the attached Statement of Facts, such conduct will not be exempt from prosecution and is not within the scope of or relevant to this Agreement. The Government, however, may use any information related to the conduct described in the attached Statement of Facts against Evoqua: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement other than those which are identified in the Statement of Facts; (c) in a prosecution or other proceeding relating to any crime of violence; or (d) in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the U.S. Code. This Agreement does not provide any protection against prosecution for any future conduct by Evoqua or any of its present or former parents or subsidiaries. In addition, this Agreement does not provide any protection against prosecution of any individuals, regardless of their affiliation with Evoqua, or any of its present or former parents, subsidiaries, or affiliates.

10. If, during the Term, Evoqua (a) commits any felony under U.S. criminal law; (b) provides in connection with this Agreement deliberately false, incomplete, or misleading information, including in connection with its disclosure of information about individual culpability; (c) fails to cooperate as set forth in this Agreement; (d) fails to implement or maintain a compliance program as set forth in this Agreement and Attachment B; or (e) otherwise fails specifically to perform or to fulfill completely each of Evoqua's obligations under the Agreement, regardless of whether the Government becomes aware of such a breach after the Term is complete, Evoqua and its subsidiaries will thereafter be subject to prosecution for any federal criminal violation of which the Government has knowledge, including, but not limited to, the conduct described in the attached Statement of Facts, which may be pursued by the Government in the U.S.

District Court for the District of Rhode Island or any other appropriate venue. Determination of whether Evoqua has breached the Agreement and whether to pursue prosecution of Evoqua will be in the Government's sole discretion. Any such prosecution may be premised on information provided by Evoqua or its personnel. Any such prosecution relating to the conduct described in the attached Statement of Facts or relating to conduct known to the Government before this Agreement's execution that is not time-barred by the applicable statute of limitations as of that date may be commenced against Evoqua or its subsidiaries or affiliates, notwithstanding the expiration of the statute of limitations, between this Agreement's execution and the expiration of the Term. Thus, by signing this Agreement, Evoqua agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement will be tolled for the Term. In addition, Xylem and Evoqua agree that the statute of limitations as to any criminal violation of U.S. securities laws that occurs during the Term will be tolled from the date upon which the violation occurs until the earlier of the date upon which the Government is made aware of the violation or the duration of the Term, and that this period will be excluded from any calculation of time for purposes of the application of the statute of limitations.

11. In the event the Government determines that Evoqua has breached this Agreement, the Government agrees to provide Evoqua with written notice of such breach before instituting any prosecution resulting from such breach. Within 30 days of receipt of such notice, Evoqua will have the opportunity to respond to the Government in writing to explain the nature and circumstances of such breach, as well as the actions Evoqua has taken to address and remediate the situation, which explanation the Government will consider in determining whether to pursue prosecution of Evoqua or its subsidiaries or affiliates.

12. In the event that the Government determines that Evoqua has breached this Agreement: (a) all statements made by or on behalf of Evoqua or its subsidiaries and affiliates to the Government or to the Court, including the attached Statement of Facts, and any testimony given by Evoqua, or its subsidiaries or affiliates before a grand jury, a court, a federal agency, or any tribunal, or at any legislative hearings, whether before or after this Agreement's execution, and any leads or evidence derived from such statements or testimony, will be admissible in evidence in any and all criminal proceedings brought by the Government against Evoqua or its subsidiaries; and (b) Evoqua or its subsidiaries may not assert any claim under the U.S. Constitution, Federal Rule of Criminal Procedure 11(f), Federal Rule of Evidence 410, or any other federal rule that any such statements or testimony made by or on behalf of Evoqua or its subsidiaries before or after this Agreement's execution, or any leads or evidence derived therefrom, should be suppressed or are otherwise inadmissible. The decision whether conduct or statements of any current director, officer, or employee, or any person acting on behalf of, or at the direction of, Evoqua or its subsidiaries will be imputed to Evoqua for the purpose of determining whether Evoqua has violated any provision of this Agreement will be in the sole discretion of the Government.

13. Except as may otherwise be agreed by the parties in connection with a particular transaction, Evoqua agrees that in the event that, during the Term it undertakes a change in corporate form, including if it sells, merges, or transfers business operations as they exist as of the date of this Agreement, whether such change is structured as a sale, asset sale, merger, transfer, or other change in corporate form Evoqua must include in any contract for such change, including

any such sale, merger, transfer, or other change in corporate form, a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement. Evoqua must provide notice to the Government at least 30 days before undertaking any such sale, merger, transfer, or other change in corporate form, including dissolution, to give the Government an opportunity to determine if such change in corporate form would affect this Agreement's terms or obligations. If such transaction (or series of transactions) has the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined in the sole discretion of the Government, it will be deemed a breach of this Agreement.

14. This Agreement is binding on Evoqua and the Government but specifically does not bind any other component of the U.S. Department of Justice, other federal agencies, or any state, local, or foreign law enforcement or regulatory agencies, or any other authorities, although the Government will bring the cooperation of Evoqua and its compliance with its other obligations under this Agreement to the attention of such agencies and authorities if requested to do so by Evoqua. Further, if consulted, the Government will recommend to any official vested with the authority to exclude or debar Evoqua or its parent, subsidiaries, or affiliates from participation in any state, local, or federal programs, that in the view of the Government, exclusion, suspension or debarment of Evoqua or its parent, subsidiaries, or affiliates is not warranted based on Evoqua's conduct in this case, because, among other things, Evoqua has agreed to the terms of this Agreement, in which, among other things, Evoqua has accepted responsibility for the conduct of its employees as set forth therein, and has implemented and will continue to implement a compliance and ethics program designed to prevent and detect violations of U.S. criminal law. However, Evoqua understands that no other government agencies are signatories to this Agreement, nor bound by this Agreement or the recommendation of the Government and that any intermediate or final administrative determination will be made by agencies with regulatory jurisdiction over Evoqua. This Agreement does not provide any protection against prosecution for any future conduct by Evoqua or any of its present or former parents or subsidiaries. In addition, this Agreement does not provide any protection against prosecution of any individuals, regardless of their affiliation with Evoqua or any of its present or former parents or subsidiaries.

15. Evoqua and the Government may disclose this Agreement to the public.

16. This Agreement sets forth all the terms of the agreement between Evoqua and the Government. No amendments, modifications, or additions to this Agreement will be valid unless they are in writing and signed by the Government, the attorneys for Evoqua, and duly authorized representatives of Evoqua.

17. Evoqua enters into this agreement pursuant to authority delegated by Xylem's Board of Directors.

Sincerely,

UNITED STATES OF AMERICA
By its Attorney,

ZACHARY A. CUNHA

United States Attorney

DATE: May 13, 2024 BY: *Sara Miron Bloom*
SARA MIRON BLOOM
KEVIN BOLAN
Assistant U.S. Attorneys
U.S. Attorney's Office
One Financial Plaza, 17th Floor
Providence, RI 02903

AGREED AND CONSENTED TO:

EVOQUA WATER TECHNOLOGIES CORPORATION

DATE: May 13, 2024 BY: Dorothy Capers
Its: Vice President and Secretary, Evoqua Water Technologies Corporation

DATE: May 13, 2024 BY:
REED BRODSKY
MARK SCHONFELD
Outside Counsel for Xylem Inc. and Evoqua Water Technologies Corporation

ATTACHMENT A
STATEMENT OF FACTS

The investigation by the Government to date has determined the facts set forth below. EVOQUA WATER TECHNOLOGIES CORPORATION (EVOQUA) accepts it is responsibility for the acts as described herein.

INTRODUCTION

1. Until May 2023, EVOQUA was a corporation headquartered in Pennsylvania with its Aquatics and Disinfection ("A&D") Division based in Coventry, Rhode Island that provided municipal and industrial water and wastewater treatment and water filtration equipment and services. On or about May 24, 2023, EVOQUA's stock was acquired by XYLEM INC.

2. From November 2017 through May 24, 2023, EVOQUA's common stock traded under the symbol "AQUA" on the N.Y. Stock Exchange, a national securities exchange.

OVERVIEW OF THE IMPROPER REVENUE RECOGNITION

3. From in or about late 2016, and through 2018, EVOQUA's A&D Division falsely inflated and improperly recognized revenue in violation of Generally Accepted Accounting Principles ("GAAP"). The A&D Division's improper revenue recognition caused EVOQUA to misstate the financial statements incorporated into its November 2017 initial public offering ("IPO") of stock and reported in its subsequent annual and quarterly financial statements filed with the U.S. Securities and Exchange Commission ("SEC").

4. Under GAAP and SEC guidance, a company may recognize revenue from a product sale only if:

(a) persuasive evidence of an arrangement exists;
(b) delivery has occurred or services have been rendered;
(c) the seller's price to the buyer is fixed or determinable; *and*
(d) collectability (i.e., payment) is reasonably assured.

5. From in or about late 2017 through 2018, EVOQUA knowingly and intentionally made and caused to be made false and fraudulent statements filed with the SEC by:

(a) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
(b) engaging in acts, practices, and courses of business that would and did operate as a fraud and deceit in connection with the purchase and sale of a security, that is, the stock of EVOQUA.

6. From in or about the fall of 2017 through 2018, EVOQUA also willfully made materially false and misleading statements and omitted material facts necessary to make its statement not misleading to its external auditors.

7. As a result of this improper recognition of revenue from its A&D Division, EVOQUA improperly inflated the financial data used in connection with its IPO in November 2017 and its secondary offering in March 2018, as well as in other disclosures from at least 2017 through 2018. In its initial and secondary offering, EVOQUA raised capital from the sale of EVOQUA stock to the public using improperly inflated financial results.

8. EVOQUA intentionally and improperly booked false revenue from purported sales of products where:

(a) the sale was contingent and receiving revenue was not reasonably assured;
(b) the products had not shipped to customers in the quarter during which the revenue was recognized; and/or
(c) the component parts had not been completed and/or assembled.

9. EVOQUA's disclosures falsely represented that, for aftermarket products, EVOQUA recognizes revenue at the time title and risks and rewards of ownership pass, which is generally when products are shipped or delivered to the customer and when payment is reasonably assured.

10. EVOQUA offered financial incentives to customers of the A&D Division to prematurely book orders whose anticipated revenue EVOQUA improperly recognized, including discounts, waived shipping fees, unusually extended payment terms or risk-free return rights. EVOQUA improperly recognized revenue from such contingent sales to contrive the appearance that it was meeting its forecasted sales growth.

11. EVOQUA corporate executives received numerous red flags indicating that revenue was being improperly recognized within the A&D Division, including substantially accurate hotline complaints with allegations that specifically identified revenue-recognition issues, but did not fully investigate and uncover the extent of the improper revenue-recognition practices; did not stop the practices completely; and failed to disclose timely to its external auditors the full extent of the hotline allegations and improper revenue-recognition practices, or to the investing public the full existence of the improper revenue recognition or the financial impact of the improper revenue recognition.

12. EVOQUA's A&D Division executives made false statements to EVOQUA's external auditors about the revenue-recognition issues and failed to disclose to EVOQUA's external auditors their improper revenue-recognition practices or the extent of the improperly recognized revenue.

13. EVOQUA's improper revenue recognition affected many of the EVOQUA A&D Division's largest transactions. In total, between in or about 2016 and September 2018,

EVOQUA improperly recognized nearly $36 million in revenue from more than 120 A&D Division transactions. For this period, approximately one-fifth of the A&D Division's total reported revenue was improperly recognized.

14. The A&D Division revenue EVOQUA improperly reported in violation of GAAP made it appear that the Company was selling more products, earning more revenue, and growing at a more accelerated pace than it actually was at the time of the IPO and secondary offering. EVOQUA and its executives also failed to accurately disclose these overstatements and the misconduct.

15. On or about October 30, 2018, EVOQUA disclosed that it had missed its quarterly and annual revenue targets for its fiscal year 2018 by more than $20 million. The improper revenue recognition practices within EVOQUA's A&D Division were a significant contributing factor to EVOQUA's inability to meet its quarterly and annual revenue targets.

16. When EVOQUA disclosed this shortfall to the market on or about October 30, 2018, EVOQUA'S stock price dropped in one day by approximately 35%, from $13.80 per share to $9.02 per share.

Improper Revenue Recognition in Late 2016 (First Quarter FY 2017)

17. Beginning at least as early as in or about 2016 and 2017, and in part to drive up the Company's valuation before selling privately held shares on the public market, EVOQUA aggressively set sales forecasts and revenue goals projecting substantial growth and profits.

18. In or about late December 2016, EVOQUA executives caused EVOQUA to recognize approximately $2.4 million in revenue for a proposed sale for a waterpark in Asia despite the fact that they knew:

(a) The proposed deal was explicitly contingent and cancellable at any time if not accepted by the buyer's end customer.
(b) No payment was due for at least 6 to 18 months.
(c) EVOQUA had arranged for and paid to warehouse the products in Asia for 18 months or more because the buyer was unwilling at that time to accept the products. EVOQUA insured the products in the meantime.
(d) The buyer agreed to the deal only after EVOQUA offered an additional discount to cover the cost of storage, which EVOQUA paid in any event.
(e) A promised letter of credit was not issued until after the quarter in which the revenue was recognized and would still be contingent upon acceptance of the goods by the buyer, which was not obligated to accept the product absent a final award from its own customer.

19. EVOQUA improperly recognized approximately $2.4 million in revenue from this transaction during the quarter in which EVOQUA and certain A&D executives saw closing the gap in revenue as "critical" to meeting the A&D Divisions' "revenue and EBITDA commitment to the Board."

20. Similarly, in or about December 2016, to boost reported revenues for first quarter 2017, EVOQUA improperly recognized about $750,000 in revenue from a shipment to Hong Kong for a waterpark in Asia, despite the following:

(a) The purchase order shows the payment terms as 25% down payment and 75% payment by Irrevocable Letter of Credit.
(b) EVOQUA shipped the products to a third-party warehouse in Asia, and arranged for and paid 100% of the storage fees; and
(c) The risk of loss never transferred to the customer for these products.

21. By about August 24, 2017, the customer had cancelled the purported sale, but EVOQUA did not reverse the revenue or adjust its projections or year-end revenues reported for its fiscal year 2017. EVOQUA never collected any payment for this purported sale and eventually wrote off the receivable in early 2019.

First Hotline Complaint About Improper Revenue Recognition—November 2016

22. In or about November 2016, EVOQUA received an internal hotline complaint ("Complaint #1") alleging that: (a) a named A&D Division executive and others were manipulating shipping terms in order to recognize revenue before shipment; and (b) EVOQUA, recognized revenue in its fiscal year 2016 for sales that had not been shipped.

23. In or about winter 2017, EVOQUA's compliance department investigated Complaint #1 by pulling sample invoices from September 2016 and reviewing supporting transaction documentation. EVOQUA's compliance department identified a lack of adequate documentation for most of the transactions and inconsistencies even when there was documentation. Despite these clear deficiencies and the lack of any witness interviews, EVOQUA deemed the allegations "unsubstantiated" and investigated no further.

24. Although in or about March 2017, EVOQUA retrained its A&D Division finance team on revenue recognition processes and required documentation, EVOQUA's A&D Division later expanded its improper practices in recognizing revenue for products that had not been shipped to customers, using the techniques that were the same or similar to those that had previously been flagged for EVOQUA through the allegations in Complaint #1.

Improper Revenue Recognition in 2017

25. During the second and third quarters of its 2017 fiscal year, EVOQUA's financial statements included at least $3 million in additional improperly recognized A&D Division revenue on deals where products had not shipped and, in some cases, had not yet been assembled. As a result of these practices, EVOQUA conveyed to its potential shareholders in connection with its anticipated sale or public offering that it had a faster growth trajectory than it actually was achieving.

26. For example, in or about June 2017, EVOQUA improperly recognized approximately $1 million in A&D Division revenue for a waterpark project in Asia that was not

shipped to the customer and where, as EVOQUA executives knew, the potential project had not even been approved by the ultimate buyer. To recognize this revenue early, EVOQUA's A&D Division arranged to store product in warehouses in Rhode Island and China and extended the time for payment for more than a year.

27. During the second and third quarters of its 2017 fiscal year, EVOQUA's A&D Division booked multiple deals with a large pool contractor (Customer #1) that submitted purchase orders early despite the fact that Customer #1 did not know if its end customer would win the jobs. EVOQUA recognized revenue from such deals despite knowing it could not ship those products because the end customer had not yet sought bids.

28. Customer #1 submitted these orders early as a favor to EVOQUA to help EVOQUA meet its revenue forecasts for its Initial Registration Form ("S-1") for the IPO. On or about June 7, 2017, an EVOQUA A&D Division regional sales director explained this to Customer #1:

> I am just trying to get the best feel for where things might stand because the reporting is at an all-time demand from upper management. Especially this being the end of the quarter and next quarter being the last quarter of the fiscal year. . . .
>
> We have a pretty large gap to fill and those jobs would be a big bridge to help get us across. I hate asking for favors but the truth is we are getting pressure from above because the S1 was filed for the IPO. This quarter will determine the valuation of the company's stock so you can imagine the push coming downhill.

29. Customer #1 submitted five orders in summer 2017, all of which EVOQUA improperly recognized as revenue in fiscal year 2017 even though it did not ship any of these products in fiscal year 2017, and one did not have an arrangement in place with the end customer and ultimately was never purchased.

30. Customer #1 acknowledged to an EVOQUA A&D Division regional sales director that this latter transaction "was not a for sure deal" and "probably the most far fetched" of their projects when it was booked. Customer #1 also described the invoice for this project in communications with the A&D Division as "not real." Nonetheless, EVOQUA continued to recognize the revenue for this transaction through most of 2018 despite knowing that it had been cancelled.

31. In late September 2017, EVOQUA recognized approximately $770,000 in revenue on a purported sale of product to a company in Europe ("Customer #2"), despite the fact that:

(a) The products were shipped in September 2017 to a third-party warehouse used and paid for by EVOQUA, with a subset of those products later returned to EVOQUA;

(b) Customer #2 received extended payment terms requiring the payment of only 5% of the sales price every two months starting in January 2018;

(c) The products could be returned for full credit without a restocking charge and thus the sale was contingent; and

(d) EVOQUA did not ship all of the products for which revenue was recognized to Customer #2, shipped three of the products to different customers, and recognized revenue a second time on those shipments. Additional products for which revenue was recognized as a sale to Customer #2 were returned to EVOQUA from the third-party warehouse.

32. EVOQUA's financial statements for the fourth quarter of 2017 included approximately $9.5 million in net pretax profit derived from improperly recognized revenue from transactions where product had not been shipped by period end or that otherwise did not meet proper revenue recognition requirements.

Concealment of Improper Revenue Recognition from External Auditors—Fall 2017

33. In fall 2017, EVOQUA's external auditors audited the A&D Division's billings in connection with signing off on EVOQUA's fiscal year 2017 financials. Those financials would support the share price for the IPO scheduled for November 2017, as well as for required external auditor filings in early December 2017 for EVOQUA's initial Form 10-K filing.

34. On or about November 1, 2017, EVOQUA's external auditors raised a concern about revenues recognized by the A&D Division for products that had not shipped. The external auditors noted that in 96% of the transactions initially reviewed for fourth quarter 2017, EVOQUA had recognized revenue but had not shipped product in that quarter.

35. In response, A&D executives falsely claimed that EVOQUA had recognized revenue for these transactions only because it was using "Ex Works"—a shipping term in which the seller transfers title and risk of loss to the customer while making products available for customer pick-up. In fact, however, EVOQUA was not holding customer-owned products for pick-up. It was storing products at EVOQUA's own expense because customers were not ready to purchase or receive the products and had not taken title or, in some instances, even agreed to all the transaction terms.

36. The external auditors explained to EVOQUA that even if EVOQUA was using an Ex Works-shipping term, the revenue could be recognized only if it met the GAAP criteria for "Bill and Hold," which requires, among other things, that the buyer, rather than the seller, must have requested that the product be held for a defined time.

37. EVOQUA's executives knew that the GAAP requirements for "Bill and Hold" were not met for these transactions because, among other issues, they knew that EVOQUA, not the buyers, initiated these arrangements and that in some instances, the products had not even been made or assembled.

38. When EVOQUA's external auditors questioned EVOQUA about these transactions, EVOQUA made additional misrepresentations, including that:

(a) It began using Ex Works in late August or early September 2017;
(b) It stopped using Ex Works in December 2017;
(c) There were no complaints or allegations of fraud that could affect the financial statements;
(d) EVOQUA used Ex Works in response to customer requests; and,
(e) It had shipped the products to customers—when in fact the products were sitting in warehouses where EVOQUA was covering the cost of storage.

39. As a result of these misrepresentations, EVOQUA's external auditors identified only about $4.8 million of a larger and material amount of improperly recognized revenue. EVOQUA executives understood that the external auditors were using a materiality cut-off of about $5 million for purposes of its materiality testing procedures.

40. In signing off on the audit and financials for 2017, on or about November 15, 2017, EVOQUA's external auditors, warned certain EVOQUA corporate executives and A&D personnel:

> [I]f . . . it is determined that [bill-and-hold] criteria was met and revenue is recognized by the Company and then the customer subsequently does not take delivery/pick up by the specified date, [the external auditors] would then consider this to be an error related to the 9/30/2017 audit and this could trigger a reopening of the FY17 audit/potential restatement of FY17 results.

41. Certain EVOQUA executives who received this warning either knew or later learned that many of the deals and purported revenue that EVOQUA booked in fiscal year 2017 had been improperly recognized. Nevertheless, they did not inform the external auditors of these facts and did not correct the audit or restate EVOQUA's fiscal year 2017 results. Moreover, when these executives learned later in 2018 that additional products from transactions where revenue had been recognized on a bill-and-hold basis still had not been accepted by customers, they made false statements to the external auditors and did not disclose these facts to them.

Second Hotline Complaint—November 2017

42. On or about November 7, 2017, while the fiscal year 2017 external audit was ongoing, EVOQUA received a second internal hotline complaint ("Complaint #2") about improper recognition revenue by the A&D Division. Complaint #2 was immediately passed on to corporate executives with oversight over the A&D Division. It alleged that:

(a) Revenue was being recognized on products that had not shipped;
(b) Empty crates were being counted as finished product; and
(c) An A&D Division Operations Manager had directed subordinates not to disclose this conduct to external auditors.

43. Complaint #2 also stated, among other things:

> Coming up to the end of the year there was significant pressure . . . to recognize revenue by completed product packing and invoicing with ex works terms to recognize revenue even though materials did not leave the factory. . . . [T]he factory I was working with had a significant amount of materials prepped and ready to ship at the end of the fiscal year and invoiced. [W]e still have many of these products with in [sic] the plant. Shortly after the end of the fiscal year I was told by a coworker [that] the plant could not finish building the product but put partial equipment and no equipment into clean crates, photographed it and call[ed it] completed product. . . . Now . . . the [] facility is being audited . . . . and instructions have been given to employees within the plant [that they] should not disclose the practice of counting partially built [or] not built equipment as finished goods. This confirms to me that sta[ff] in the plant know that the . . . actions that they took at the end of the fiscal year were in violation of accounting principles.

44. Thus, as of November 2017, EVOQUA and certain of its executives were aware of allegations of revenue recognition fraud that aligned with the issues that the external auditors were reviewing and that staff had allegedly been told to hide from the auditors.

45. Although an EVOQUA executive with expertise in revenue recognition advised that EVOQUA should immediately disclose this allegation to the external auditors, other senior EVOQUA executives rejected this advice and directed that the existence of the Complaint #2 not be disclosed to the external auditors at that time – and thus not before their completion of the audit and sign off on EVOQUA's fiscal year 2017 10K.

46. On or about November 9, 2017, EVOQUA hired a different accounting firm ("Accounting Firm #2") to investigate Complaint #2. However, EVOQUA did not share the then ongoing work of the external auditors on the same issue with Accounting Firm #2 or vice versa. Moreover, when, in or about November 30, 2017, certain EVOQUA executives received copies of Accounting Firm #2's findings, they did not provide the findings to the external auditors before the close of the audit.

47. In July 2017, before receiving Complaint #2, some of these EVOQUA executives had signed an engagement letter with EVOQUA's external auditors stating, in part (emphases added):

> Management [of EVOQUA] is responsible for communicating to us **on a timely basis all instances of alleged, identified, or suspected non-compliance with laws and regulations that could have an effect on the financial statements** or the effects of which should be considered by management when preparing the financial statements, and **all instances of alleged, identified, or suspected financial improprieties, of which management or the Audit Committee is aware (regardless of the source or form in which they may have been discovered or communicated to them and including, without limitation, instances identified by "whistle-**

blowers") and providing us full access to information and any internal investigations related to them. Such instances include, without limitation, manipulation of financial results by management employees.

48. In addition, on or about December 4, 2017, certain EVOQUA executives signed letters to the external auditors in connection with the external auditors' sign off as to EVOQUA's financials. These letters stated, among other things (emphasis added):

(a) "There are no material transactions that have not been properly recorded in the accounting records underlying the consolidated financial statements."

(b) "All revenue recognized as of the balance sheet date(s) has been realized (or is realizable) and earned. Revenue has not been recognized before (1) persuasive evidence of an arrangement exists, (2) goods have been delivered or services rendered, (3) the consideration to be received is fixed or determinable and (4) collectability is reasonably assured."

(c) "[The signers] have no knowledge of any fraud or suspected fraud involving management or other employees who have a significant role in the Company's internal control over financial reporting. . . . **We have disclosed to you all allegations of financial improprieties, including fraud or suspected fraud, coming to our attention (regardless of the source or form and including, without limitation, allegations by whistle-blowers) where such allegations could result in a misstatement of the consolidated financial statements or otherwise affect the financial reporting of the Company.**"

49. Nevertheless, EVOQUA did not disclose to its external auditors the receipt of Complaint #2, the results of Accounting Firm #2's findings, or other information concerning potential improper revenue recognition.

Continued Failure to Disclose Relevant Information to External Auditors After Their Discovery of Complaint #2

50. In or about January 2018, after having signed off on EVOQUA's 2017 financial statements, EVOQUA's external auditors learned of Complaint #2. EVOQUA's external auditors expressed their anger with and to EVOQUA's executives about their failure to inform the external auditors on a timely basis about Complaint #2, despite having promised to disclose such allegations on a timely basis.

51. EVOQUA stated to its external auditors that the failure to timely disclose had been unintentional and part of its normal process of completing internal investigations before disclosing the underlying information to its external auditors. EVOQUA did not, however, inform its external auditors that it had reached this decision despite the advice of a senior accounting executive to make the disclosure immediately.

52. Moreover, EVOQUA had arranged for Accounting Firm #2 to remove from its investigative report (and put in a separate consulting report) its conclusions about an inventory issue that it had uncovered during its investigation. Accounting Firm #2 concluded that EVOQUA could not account for inventory within the A&D Division that potentially exceeded $1 million—thereby amplifying the scope of the known internal-controls deficiencies in the A&D Division. When EVOQUA later quantified the value of missing, improperly valued, obsolete, and excess inventory in the A&D Division in 2018, EVOQUA adjusted the value of its inventory down by approximately $2.6 million.

53. In light of its the untimely discovery of Complaint #2 by EVOQUA's external auditors, the external auditors insisted that certain EVOQUA personnel expressly certify again that they understood their obligations to disclose such allegations to EVOQUA's external auditors and would do so.

54. On or about February 6, 2018, two EVOQUA executives certified that the external auditors had been given access to:

> all information that management has obtained regarding any material non-compliance or possible non-compliance with laws and regulations that have been committed by the Company, or any of its agents or employees. We also confirm that, except for the matter investigated as noted below, we have determined such matters to be clearly inconsequential relative to the financial statements as of and for the periods referred to above. . . .
>
> Management and [Accounting Firm #2] have provided you with access to all relevant documents and information obtained or prepare din connection with the investigation . . . . Management has concluded that further investigation is not warranted with respect to . . . any other matters of which we are currently aware.

55. Even when making this further representation, EVOQUA still did not disclose to its external auditors the additional A&D Division inventory issues identified by Accounting Firm #2.

Continued Improper Revenue Recognition in 2018

56. Throughout 2018, despite having been warned and reminded of the requirements for proper revenue recognition by the external auditors in late 2017, the EVOQUA A&D Division continued to improperly recognize revenue for products that customers had not accepted or paid for, and instead, shipped those products to third-party warehouses paid for by EVOQUA.

57. For example, in the spring and summer of 2018, EVOQUA again recognized revenue exceeding half a million dollars for purported sales to Customer #1 but where the customer was not ready to accept delivery or pay.

58. In or about June 2018, EVOQUA also recognized revenue on a purported sale of more than $2.7 million to an A&D Division customer in Asia, even though the contract explicitly made the payments contingent on the end-user's receipt and acceptance of the products, and the product was held by EVOQUA in various warehouses for an extended period.

59. Moreover, before entering the contract, an EVOQUA sales manager in Asia had warned in an internal email that the customer did not want to sign the contract in June 2018. On or about June 19, 2018, an A&D Division executive replied (bold emphasis added):

> I am very disappointed with your email. It is not appropriate to send this type of email without first discussing with myself and [another Division Executive]. **Without this order our quarter will be a disaster.** Even if we ultimately don't get this across the finish line how we message this will be important. Your message will be distributed across the entire senior management team and this will cause chaos.

60. When this sales manager pushed back on the pressure from the A&D Division executive to complete the deal in June 2018, the A&D executive responded: "Tell him that me, [and two senior EVOQUA executives] have already approved and we need it in the q[uarter]. What a dick."

61. EVOQUA did not receive its first payment on this transaction until 18 months after it recognized the $2.7 million and never received approximately $780,000 of the revenue recognized.

Return of Product from the Rhode Island Warehouse—Summer 2018

62. In or about the summer of 2018, certain senior EVOQUA executives learned, to the extent they did not already know, that additional A&D Division revenue had been improperly recognized. Specifically, certain senior EVOQUA executives learned, to the extent that they did not already know, that additional inventory remained in third-party warehouses for which the A&D Division had caused EVOQUA to improperly recognize revenue earlier in 2017 and 2018. EVOQUA failed to disclose this information to its external auditors. This had the effect of preventing EVOQUA's external auditors from adequately assessing or incorporating correct revenue recognition into EVOQUA's financial statements.

63. In or about August of 2018, an A&D Division executive reported that a number of products, from transactions on which more than $2 million in revenue had already been recognized, were being held by EVOQUA at a third-party warehouse in Rhode Island and that EVOQUA was paying the associated storage fees for these products and retained title to them.

64. Moreover, in August 2018, this A&D Division executive also reported in writing to certain senior EVOQUA and A&D Division executives that the revenue on products in this warehouse had been improperly recognized and that EVOQUA retained control and title to these products, even though they had been treated in the Company's books as records as if they were already delivered to the customers. With the approval of other senior EVOQUA executives, the

A&D Division executive directed that many of these products be returned to the EVOQUA Rhode Island premises.

65. On or about August 28, 2018, this A&D Division executive also notified certain senior EVOQUA executives of the following:

(a) A former A&D Division executive knew that the products still at the warehouse included products for which revenue was recognized in 2017, and that were related to the 2017 fiscal-year-end audit but that had not yet been deducted from 2017 revenues.
(b) This former A&D Division executive claimed to have been planning on "crediting" the customers' accounts for these transactions, but when asked what that meant, responded with "a lot of BS";
(c) [T]here is probably a revenue cut-off issue in our procedures";
(d) Revenue would likely need to be reversed from prior quarters;
(e) A senior A&D Division executive "agreed that something smells funny here" but wanted the new A&D Division executive to speak alone with the former A&D Division executive.

66. Thus, certain EVOQUA executives were made aware by August 2018 that there were additional revenue recognition issues for the A&D Division for revenue recognized in both 2017 and 2018, and that the explanations provided by the former A&D Division executive were not accurate and "smell[ed] funny."

67. Nonetheless, despite their recognition that revenue from prior quarters would likely need to be reversed, this was not done, and the external auditors were not informed about these issues.

68. Instead, before September 30, 2018, the A&D Division executive, with the approval of another EVOQUA executive, either shipped products from the Rhode Island warehouse to the customers or wrote them off as "returns" and sought to sell them elsewhere. By treating these materials as returned goods, when EVOQUA knew that the goods had never been shipped to customers and the associated revenue should never have been recognized, EVOQUA avoided further scrutiny of these problematic transactions and the associated improper revenue recognition.

Continued Improper Revenue Recognition to Reduce Its Multi-Million Dollar Forecast Miss—September 2018

69. In the fourth quarter of 2018, EVOQUA again recognized several million dollars in revenue from transactions in the A&D Division with contingent terms, which otherwise lacked sufficient evidence of an arrangement, or where the products had not actually shipped to the customer. By improperly recognizing revenue for these transactions, EVOQUA was able to mitigate its failure to achieve its fourth quarter and annual 2018 forecasts by millions of dollars and to avoid drawing attention to the unconsummated transactions in 2017 and earlier in 2018. EVOQUA also did not disclose to its external auditors the underlying facts that would have exposed EVOQUA's improper revenue recognition from these transactions.

70. On or about September 27, 2018, a senior EVOQUA executive emailed the leadership team, including Division presidents and financial officers, instructing them that they must meet their forecasted sales numbers as follows:

> Guys . . . We are currently showing $3m off consensus and $1m under our guidance range. We must hit guidance and simply cannot miss the range as we close this year. I know that there is tremendous stress in the organization, but we must drive every opportunity between now and midnight on Sunday [*i.e.*, September 30] to close this gap. Reach out individually to all [General Managers] and let them know to pull whatever they can and to drive full through Sunday night. Divisions that are on plan cannot let up and divisions under plan must continue to gap. We've worked too hard to not deliver the results.

71. In or about September 2018, when EVOQUA revenues from the A&D Division were trending toward more than $12 million below forecast, and in an attempt to close that gap, EVOQUA's A&D Division again recognized revenue on products that it shipped to warehouses for transactions that the A&D Division knew were contingent or that otherwise involved revenue that was not reasonably assured. EVOQUA's financial statements for the fourth quarter of 2018 included approximately $7 million in net pretax profit derived from improperly recognized revenue where product had not been shipped by period end or that otherwise did not meet proper revenue-recognition requirements.

72. For example, in or about September 2018, EVOQUA's A&D Division recognized millions in revenue for purported sales that were not final and/or not shipped in that quarter, including approximately:

(a) **$2 million** for a waterpark where most of the product was not ready until at least November and December 2018;

(b) **$1.2 million** for a purported sale to a distributor in Mexico, despite the fact that EVOQUA knew (among other things):
   (i) The products listed as sold were simply those EVOQUA had left for the year and were not specified by the buyer;
   (ii) The buyer had never bought water for water parks before and previously operated within the pharmaceutical sector;
   (iii) The buyer previously had only about $1 million in annual net revenue and net profits of $250,000 in FY 2018; and
   (iv) The products were being shipped to a third-party warehouse in Rhode Island used by EVOQUA to be held for this Mexican distributor, which was not ready to receive the product.

(c) $**370,000** for a contingent deal for a waterpark in Asia, in which more than half the parts were not even ready in that quarter. EVOQUA shipped some of the product to warehouses first in Boston and then to Asia because the customer was not ready to receive the product. Only approximately $14,000 was ever paid towards this purported sale.

73. EVOQUA executives nonetheless told EVOQUA's external auditors that there were no unusual transactions that quarter.

Continued Failure to Address or Disclose Revenue Recognition and Inventory Issues

74. In addition, in the fall of 2018, EVOQUA hired another firm ("Accounting Firm #3") to assist it in the transition to new accounting guidance and rules, particularly with respect to inventory at the A&D Division.

75. On or about December 3, 2018, Accounting Firm #3 provided a report to certain EVOQUA senior executives that concluded, among other things:

> The current state is not sustainable, increasing the likelihood of recurring issues:
>
> Internal controls require significant improvements to avoid risk of misstatements in future periods.
>
> Revenue Recognition: "During FY 2018 the company used SEKO for logistics and storage services. Once goods left the [EVOQUA] warehouse (for either storage or logistic purpose), nobody at [EVOQUA] had visibility on effective date of delivery of products to final customers. Recommendation: Because this service has been terminated before year end no further controls will need to be implemented. However, due to lack of documentation/visibility into the SEKO services over the past year, risks that Revenue Recognition criteria were not met during the past period end still exist.

The report designated this finding with a block in red, indicating high importance and risk.

76. Nonetheless, EVOQUA did not disclose to its external auditors the content of this report by Accounting Firm #3 or its finding that risks existed that revenue recognition criteria were not met for sales recognized in 2018. Nor did EVOQUA take steps at that time to further identify or correct the extent of any improperly recognized revenue, as required to ensure the accuracy of its own financial statements.

77. Even after EVOQUA senior executives were made aware, including in the summer of 2018, that the A&D Division management had been improperly recognizing revenue on numerous transactions, EVOQUA executives and others falsely reported to the external auditors that there were no issues of revenue recognition or potential fraud despite their clear acknowledgement in internal emails of such issues.

78. Instead, EVOQUA continued to improperly recognize millions of dollars in revenue from deals where they had been made aware that the revenue was not reasonably assured. In this way, EVOQUA avoided scrutiny of the A&D Division's revenue recognition

practices, which it knew was caused, at least in part, by overly aggressive sales targets set during the period year.

79. In the fall of 2018, EVOQUA A&D Division executives who knew about the undisclosed improper revenue recognition in their division falsely answered "no" to each of the following questions posed in an external audit questionnaire:

> 1. Have you seen anything unusual in the processing of routine transactions handling processing or application of a control (e.g. . . . any recorded sales where risk has not passed to buyers)?
>
> 2. Have you seen any unusual involvement of management in the initiation, recording, processing or reporting of transactions?
>
> 3. Have you observed anything unusual in your position? . . . .
>
> 6. Are you aware of recorded sales where risk has not passed to buyers?
>
> 7. Have there been any significant unusual or complex transactions?

80. On or about December 11, 2018, EVOQUA's corporate executives again signed a letter to the external auditors in which they stated that they had disclosed all relevant information and repeated the statements set forth in in the December 2017 management representation letter as described in Paragraph 48 above.

81. EVOQUA made these statements to EVOQUA's external auditors in connection with the preparation, examination, and review of EVOQUA's financial statements as well as in EVOQUA financial statements filed with SEC, including Forms 10-Q and 10K as well as other SEC filings in fiscal years 2017 and 2018.

82. At all relevant times, EVOQUA submitted to the SEC and publicly filed its quarterly and annual financial reports. Additionally, EVOQUA filed with each of its quarterly and annual financial reports certifications in which its representatives certified, in part:

> (a) I have reviewed this [quarterly or annual report] of EVOQUA.
> (b) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
> (c) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects

the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.

(d) They had disclosed to EVOQUA's External Auditors (emphasis added): "Any fraud, **whether or not** material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting."

EVOQUA MATERIALLY MISSES REVENUE TARGETS

83. Despite EVOQUA's attempts to avoid its revenue shortfalls, in fourth quarter 2018, even with improperly recognized revenue from contingent transactions, EVOQUA missed its company-wide forecasted sales by approximately $25 million, the majority of which was attributed to a $14 million sales shortfall in the A&D Division. EVOQUA reported EBITDA (earnings before interest, taxes, depreciation and amortization) of $59 million versus $86 million in forecasted EBITDA. According to EVOQUA's internal analysis, even with the improperly recognized revenue still on its books, the A&D Division was responsible for $18 million of the EBITDA shortfall. EVOQUA's results failed to meet analysts' consensus estimates.

84. Upon public disclosure of these financial results on or about October 30, 2018, the value of EVOQUA's stock dropped by approximately 35%.

85. On or about October 30, 2018, EVOQUA in public statements attributed the earnings miss primarily to the A&D Division's product line, but failed to disclose that the financial results were also affected in significant part by the A&D Division's improper revenue-recognition practices and that those practices were continuing—thus hiding from the investing public the full extent and reasons for EVOQUA's earnings miss.

ATTACHMENT B
CORPORATE COMPLIANCE PROGRAM

To address any deficiencies in its internal controls, compliance code, policies, and procedures regarding violations of (i) Title 15, U.S.C., §§ 78m, 78ff(a); 17 C.F.R. §§ 2401.10b-5, 12b2-1, 13b2- 2(a) ("securities fraud"), Evoqua Water Technologies Corporation (the "Company") agrees to continue to conduct, in a manner consistent with all of its obligations under this Agreement, appropriate reviews of its existing internal controls, policies, and procedures.

Where necessary and appropriate, the Company agrees to adopt a new or to modify its existing compliance program, including internal controls, compliance policies, and procedures designed to maintain an effective compliance program that is designed, implemented, and enforced to effectively deter and detect securities fraud. This includes compliance with the undertakings and agreements provided for in the Consent Agreement with the SEC attached hereto as Attachment E.

ATTACHMENT C
REPORTING REQUIREMENTS

Evoqua Water Technologies Corporation (the "Company"), agrees to report to the United States Attorney's Office for the District of Rhode Island (the "Government") during the two-year term (the "Term"), regarding remediation and implementation of the compliance program and internal controls, policies, and procedures described in Attachment B. During this Term, the Company must conduct a review and submit a report, as described below:

a. By no later than one year from this Agreement's execution, the Company must submit to the Government a written report setting forth a complete description of its remediation efforts to date and its proposals reasonably designed to improve the Company's internal controls, policies, and procedures for ensuring compliance with U.S. securities laws. The report must be transmitted to the First Assistant United States Attorney, United States Attorney's Office, District of Rhode Island, at One Financial Plaza, 17th Floor Providence, RI 02903. The Company may extend the deadline for issuance of the report only with the Government's prior written approval.

b. The report will likely include proprietary, financial, confidential, and competitive business information. Moreover, public disclosure of the report could discourage cooperation; impede pending or potential government investigations; and, thus, undermine the objectives of the reporting requirement. For these reasons, among others, the report and the contents thereof are intended to remain and will remain non-public, except as otherwise agreed to by the parties in writing, or except to the extent that the Government determines in its sole discretion that disclosure would be in furtherance of the Government's discharge of its duties and responsibilities or is otherwise required by law.

ATTACHMENT D
CERTIFICATION

To: United States Attorney's Office District of Rhode Island

Attention: First Assistant United States Attorney

Re: Non-Prosecution Agreement Disclosure Certification

The undersigned certifies, under Paragraph 5(e) of the Non-Prosecution Agreement ("NPA") executed on May ___, 2024, by and between the United States Attorney's Office for the District of Rhode Island and Evoqua Water Technologies Corporation ("Evoqua" or the "Company"), that the undersigned is aware of Evoqua's disclosure obligations under Paragraph 5(e) of the NPA and that Evoqua has disclosed to the United States Attorney's Office, District of Rhode Island's Criminal Division (the "Government") any and all evidence or allegations of conduct required under Paragraph 5(e) of the NPA, which includes any non-frivolous evidence or allegations that may constitute a criminal violation of U.S. securities laws ("Disclosable Information"). This obligation to disclose information extends to any and all Disclosable Information that has been identified through Evoqua's compliance and controls program, whistleblower channel(s), internal audit reports, due diligence procedures, investigation process, or other processes. The undersigned further acknowledges and agrees that the reporting requirement contained in Paragraph 5(e) and the representations contained in this certification constitute a significant and important component of the NPA and Government's determination whether Evoqua has satisfied its obligations under the NPA. The undersigned hereby certifies that he or she is the Vice President and Secretary of Evoqua and has been duly authorized by the Company to sign this Certification on behalf of Evoqua as indicated below. This Certification constitutes a material statement and representation by the undersigned and by, on behalf of, and for the benefit of, Evoqua to the executive branch of the United States for purposes of 18 U.S.C. § 1001, and such material statement and representation will be deemed to have been made in the District of Rhode Island. This Certification will also constitute a record, document, or tangible object in connection with a matter within the jurisdiction of a department and agency of the United States for purposes of 18 U.S.C. § 1519, and such record, document, or tangible object will be deemed to have been made in the District of Rhode Island.

By: _____ Dated: _____
Vice President and Secretary
Evoqua Water Technologies Corporation

ATTACHMENT E
EVOQUA CONSENT AGREEMENT WITH THE SECURITIES AND EXCHANGE COMMISSION

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. EVOQUA WATER TECHNOLOGIES CORP. and IMRAN PAREKH, Defendants.	Case No.

CONSENT OF DEFENDANT EVOQUA WATER TECHNOLOGIES CORP.

1. Defendant Evoqua Water Technologies Corp. ("Defendant" or the "Company") waives service of a summons and the complaint in this action, enters a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:

(a) permanently restrains and enjoins Defendant from violations of Sections 17(a)(2) and (3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77q(a)(2) and (3)], and Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78m(a), 78m(b)(2)(A), 78m(b)(2)(B)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13]; and

(b) orders Defendant to pay a civil penalty in the amount of $8,500,000 under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

3. Defendant acknowledges that the civil penalty paid pursuant to the Final Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, the civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant agrees that it shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays

pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Defendant undertakes to:

(a) Within six (6) months from the date of the Final Judgment, complete a review of Evoqua's current controls structure and revenue recognition practices and make improvements to its internal controls over financial reporting, financial or accounting policies, and revenue recognition practices, necessary to ensure that Defendant complies with Generally Accepted Accounting Principles ("GAAP") and the securities laws and regulations. The work will include:

i. An assessment of the Company's revenue recognition policies and procedures, and consideration of potential improvements, including the adoption of an enhanced revenue recognition requirements focused on the specific criteria in ASC 606, and related documentation requirements (including bills of lading and related shipping documentation), and document retention procedures designed to support and test revenue recognition decisions.

ii. A review of the current sign-off processes, which will include, as appropriate, the review of sign-off processes for transactions that have unusual terms, such as conditionality upon third-party contracts or

acceptance, any type of storage arrangement, delayed delivery, or delivery to a location that is neither a distributor, installer, nor an end user of the product. The review will consider potential enhancements to sign-off processes, including the implementation of a rigorous review by a trained accountant with revenue recognition expertise to confirm revenue recognition for product sales within the Aquatics division above 0.5% of the prior year's revenue for the division, which would require the trained accountant to obtain and cross-reference relevant documentation sufficient to comply with GAAP, including ASC 606.

iii. A review of existing disclosure committee review processes to ensure the adequate review of revenue trends and the impact on its trend disclosures from changes to the expected timing of revenue recognition of transactions in the Company's sales pipeline;

iv. An assessment of the frequency of reporting of risk concerns to the Audit Committee; and

v. A review of existing training programs (including any recent remedial actions in this area) to ensure adequate training regarding relevant revenue recognition principles for relevant accounting, finance, and sales teams, including bill-and-hold guidance and other common fact patterns presenting potential revenue recognition issues under relevant accounting literature, guidance and past enforcement precedent, including the issues alleged by the Complaint.

(b) Within twelve (12) months from the date of the Final Judgment, design and implement Company-wide enhanced documentation requirements concerning cutoff procedures for the recognition of revenue, oversight, and testing to ensure that revenue is being recognized within the appropriate reporting period in compliance with GAAP and the securities laws and regulations;

(c) Within twelve (12) months from the date of the Final Judgment, design and implement procedures for the integration into the Company of acquired entities and operating units whose financial results are consolidated by the Company to ensure the appropriate and timely development, integration, and adoption of applicable internal controls for financial reporting, accounting policies, and financial reporting functions for the newly acquired entity or operating unit in compliance with GAAP and the securities laws and regulations;

(d) Within twelve (12) months from the date of the Final Judgment, the Company and the Audit Committee shall design and implement procedures and controls to ensure the timely reporting to the Company's internal and external auditor of any tips, complaints, allegations or other relevant information – whether or not substantiated – concerning any improprieties, violations of Company policies, deficiencies, insufficient or improperly functioning accounting controls, errors, or misconduct relating to or potentially impacting the company's financial reporting, along with management's responses for such tips, complaints, allegations or other relevant information;

(e) Within twelve (12) months from the date of the Final Judgment, the Company and the Audit Committee shall design and implement procedures and controls for the timely reporting to the full Audit Committee of any tips, complaints, allegations, or other relevant information concerning financial matters. In addition, design and implement procedures and controls for the regular (annually, quarterly, etc.) reporting to the full Audit Committee of any: (i) Compliance Helpline cases; (ii) areas of weakness or concern; and (iii) all matters addressed during the prior year by the Company's management; and (iv) any key findings and/or recommendations regarding any identified issues about the effectiveness of the Company's risk management, including applicable internal controls.

(f) Within twelve (12) months from the date of the Final Judgment, design and implement a process to track, evaluate, and document whether uncorrected errors or misstatements to current or prior period financial statements are material, individually or in combination with other misstatements, taking into account relevant quantitative and qualitative factors.

(g) Within twelve (12) months from the date of the Final Judgment, design and implement recurring training for relevant Company employees, including sales and sales support staff, concerning risk assessments and compliance with the tenets of GAAP relevant to revenue recognition applicable to the employee's functional area of responsibility. Training of sales and sales support staff will include the importance that all terms and conditions of sales

transactions are properly documented and made available to the applicable accounting and finance staff.

(h) The CEO of Evoqua, or if Defendant closes its announced merger with another publicly-traded company then the CFO or Chief Accounting Officer of the successor company, will certify in writing compliance with the undertaking(s) set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Defendant agrees to provide such evidence. Defendant shall submit the certification and supporting material to John Dugan, Associate Director, Division of Enforcement, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 24th Floor, Boston, MA 02110, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

(i) For purposes of these undertakings, if the Defendant closes its announced merger with another publicly-traded company, the references to Evoqua or the Company shall apply to the historical Evoqua business as then operated within the successor company.

6. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

7. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

8. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

9. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

10. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

11. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

12. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and

other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that it shall not be permitted to contest the factual allegations of the complaint in this action.

13. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings," and "a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations, without also stating that Defendant does not deny the allegations; and (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal

proceedings in which the Commission is not a party.

14. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

15. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Defendant (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Defendant's undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Defendant in any United States District Court for purposes of enforcing any such subpoena.

16. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

17. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: FEB 3, 2023

Evoqua Water Technologies Corp.

By: _____
Vincent Grieco
Executive Vice President & General Counsel
210 Sixth Ave.
Pittsburgh, PA 15222

On February 3, 2023, Vincent Grieco, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of Evoqua Water Technologies Corp. as its General Counsel.

_____
Notary Public
Commission expires:

Commonwealth of Pennsylvania - Notary Seal
Jennifer Ann Valentine, Notary Public
Allegheny County
My commission expires July 18, 2026
Commission number 1334563

Approved as to form:

_____
Peter L. Simmons, Esq.
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza, New York, NY 10004
(212) 859-8455
Attorney for Defendant