

**ADDENDUM NO. 1
TO
SERVICE AGREEMENT**

THIS ADDENDUM NO. 1 TO SERVICE AGREEMENT dated as of September 9, 2009 ("Addendum No. 1") modifies and supplements that certain **SERVICE AGREEMENT** (the "Service Agreement"), dated of even date herewith between the parties, is made by and between **SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA**, a public body politic and corporate of the Commonwealth of Virginia ("SPSA"), and **WHEELABRATOR TECHNOLOGIES INC.**, a Delaware corporation (the "Company"). Except as otherwise expressly defined in this Addendum No. 1, capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Service Agreement.

WHEREAS, SPSA entered into Contract No. N62470-80-C-3916 dated July 1, 1999 with the U.S. Navy, as amended by Amendment/Modification No. P00005 dated July 1, 1999, No. P00036 dated July 1, 1999, No. P00037 dated July 1, 1999, No. P00038 dated October 31, 2000, No. P00039 dated March 22, 2001, No. P00040 dated December 21, 2006, and No. P00041 dated July 10, 2008, as it may be further amended or supplemented (the "Navy Contract");

WHEREAS, SPSA and the Company have entered into a Purchase and Sale Agreement dated as of September 9, 2009 (the "Purchase Agreement"), pursuant to which the Company will purchase and assume from SPSA the Acquired Assets (as defined in the Purchase Agreement) including (a) the assets used in performing the Navy Contract and (b) SPSA's rights and obligations in, to and under the Navy Contract;

WHEREAS, SPSA and the Company have entered into the Service Agreement whereby the Company will manage, operate and maintain the Facilities in accordance with the terms and conditions therein;

WHEREAS, pursuant to the Purchase Agreement, SPSA and the Company have agreed to enter into a novation agreement which will transfer and assign the Navy Contract to the Company upon the approval of the U.S. Navy;

WHEREAS, pending approval of the novation agreement by the U.S. Navy, SPSA and the Company desire to amend the Service Agreement to provide for a subcontract arrangement whereby the Company will perform all obligations of SPSA under the Navy Contract (on a one hundred percent (100%) subcontract basis), to the same extent as if the Navy Contract had already been novated, in accordance with the terms and conditions set forth in the Service Agreement, as amended by this Addendum No. 1; and

WHEREAS, SPSA and the Company acknowledge that this Addendum No. 1 neither alters SPSA's status as the contracting party in the Navy Contract nor releases SPSA for its obligations thereunder.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are acknowledged, SPSA and the Company agree as follows:

1. Navy Contract. The Navy Contract in its entirety, and all contract documents relating thereto, including but not limited to all supplements, schedules, amendments, modifications and change orders heretofore and hereafter issued by the U.S. Navy, are hereby incorporated by reference herein.

2. Obligations and Liabilities. Although SPSA shall retain ultimate responsibility for performance of the Navy Contract, the Company, as a subcontractor to SPSA, shall assume all obligations and liabilities of SPSA on and after the Commencement Date under and relating to the Navy Contract and agrees to perform the Navy Contract on behalf of SPSA in accordance with the terms and conditions of the Navy Contract as if the Company was the original party thereto.

3. Term. This Addendum No. 1 shall be effective on the Commencement Date and shall continue until the effective date of the novation of the Navy Contract to the Company (the "Novation Date") in accordance with Section 2.08 of the Purchase Agreement (the "Novation Period"). On the Novation Date, (a) this Addendum No. 1 shall automatically terminate without any further action on the part of the Parties, and (b) Sections 2.1, 8.1, 8.2.1 and 8.2.3 of the Service Agreement shall revert to the original language contained therein and the modifications contained in Section 4 of this Addendum No. 1 shall have no further force and effect.

4. Amendments to Service Agreement. Commencing with the Commencement Date and continuing during the Novation Period until the earlier to occur of the Novation Date or termination of the Navy Contract, Sections 2.1, 8.1, 8.2.1 and 8.2.3 of the Service Agreement are hereby amended as set forth below.

(a) The following definitions shall be added to Section 2.1 of the Service Agreement:

"Electric Energy" means electric energy generated by the WTE Facility.

"Electric Energy Revenues" means the revenues actually received by SPSA from the U.S. Navy for the sale of Electric Energy pursuant to the Navy Contract.

(b) The last sentence of Section 8.1 of the Service Agreement is amended to read in its entirety as follows:

"The Service Fee shall be comprised of the Monthly Fee specified in Section 8.2.2, plus the Excess Tonnage Fee (if any) specified in Section 8.2.2.1, plus the energy revenues specified in Section 8.2.3, minus the SPSA Hauling Fee specified in Section 8.2.4, minus the Residue Disposal Fee specified in Section 8.2.5.1, minus the Loading Fee specified in Section 8.2.5.2, minus the Diverted Waste Costs

specified in Section 8.2.6, plus the Pass Through Costs specified in Section 8.2.7.1, minus the SPSA Facility Pass Through Costs specified in Section 8.2.7.2, plus or minus the Adjustments specified in Section 8.2.8, all in accordance with the Service Fee formula specified in Section 8.2.1.”

(c) Section 8.2.1 of the Service Agreement is amended in its entirety to read as follows:

“Section 8.2.1 Service Fee Formula. The monthly payment shall be calculated as follows:

$$SF = MF + ETF + ER - SHF - RDF - LF - DWC + PTC - SFPTC +/- ADJ$$

WHERE	SF	=	Service Fee
	MOMF	=	Monthly Fee (<u>Section 8.2.2</u>)
	ETF	=	Excess Tonnage Fee (<u>Section 8.2.2.1</u>)
	ER	=	Energy Revenue (<u>Section 8.2.3</u>)
	SHF	=	SPSA Hauling Fee (<u>Section 8.2.4</u>)
	RDF	=	Residue Disposal Fee (<u>Section 8.2.5.1</u>)
	LF	=	Loading Fee (<u>Section 8.2.5.2</u>)
	DWC	=	Diverted Waste Costs (<u>Section 8.2.6</u>)
	PTC	=	Pass Through Costs (<u>Section 8.2.7.1</u>)
	SFPTC	=	SPSA Facility Pass Through Costs (<u>Section 8.2.7.2</u>)
	ADJ	=	Adjustments* (<u>Section 8.2.8</u>)

* with the Adjustments to be calculated as follows:

$$ADJ = +/- ALDWCS +/- MA$$

WHERE:

ALDWCS = Actual and liquidated damages; Withholdings or reimbursement of Withholdings; and credits and set-offs

MA = Miscellaneous Adjustments"

(d) Section 8.2.3 of the Service Agreement is amended in its entirety to read as follows:

"Section 8.2.3 Energy Revenues. The Company shall be entitled to receive for each Billing Month the sum of (a) the revenue from Steam Energy calculated pursuant to Section 8.2.3.1, and (b) one hundred percent (100%) of the Electric Energy Revenues.

Section 8.2.3.1. Revenue From Steam Energy. The Company shall be entitled to receive from SPSA monthly an amount equal to ninety percent (90%) of the Steam Energy revenues that SPSA actually receives from the sale of Steam Energy pursuant to the Steam Agreement during each Billing Month. SPSA shall retain ten percent (10%) of the Steam Energy revenues that SPSA actually receives from the sale of Steam Energy pursuant to the Steam Agreement during each Billing Month. The Company shall receive and enjoy the benefits of the revenues from any other product or commodity generated, produced or otherwise recognized under the Steam Agreement or any separate or other agreement with the U.S. Navy not involving the sale of pounds of steam produced from Processible Waste, if any (including emission credits, renewable energy credits or other credits or payments that now or in the future may be paid pursuant to the Steam Agreement or any such separate or other agreement with the U.S. Navy). For purposes of clarity, (a) Steam Energy revenues from Steam Energy after the Commencement Date and prior to the earlier to occur of the termination of this Agreement or the expiration of the Term shall be Steam Energy revenues for purposes of this Section 8.2.3.1 and the Company's applicable share of such Steam Energy revenues shall be an adjustment in calculating the Service Fee in accordance with Section 8.2.1 and pursuant to the applicable terms of this Agreement and (b) Steam Energy revenues for Steam Energy produced prior to the Commencement Date, even if such payments are not received by SPSA until after the Commencement Date, shall not be Steam Energy revenues for purposes of this Section 8.2.3.1 and SPSA shall have the right to receive and enjoy all Steam Energy revenues accrued on and prior to the Commencement Date.

Section 8.2.3.2. Documentation Necessary for U.S. Navy Invoices. Within five (5) Days after the closing of each Billing Month, the Company shall deliver to SPSA all supporting information necessary for SPSA to prepare invoices for Steam Energy and Electric Energy, if any, produced and sold to the U.S. Navy during such period. Such information shall include, but not be limited to, the beginning and ending steam meter readings, quantity of Steam Energy delivered to the U.S. Navy during the Billing Month and all other information as may be requested by SPSA.

The Company shall fully cooperate with and assist SPSA in preparing the U.S. Navy invoices. The Company shall have, during normal business hours and upon reasonable prior Notice to SPSA, reasonable access to review, in accordance with and as may be limited by Applicable Law, SPSA's books and records relating to the U.S. Navy invoices and payments received by SPSA in connection with the Navy Contract. The Company may, at its sole cost and expense, during normal business hours and upon reasonable Notice to SPSA, audit SPSA's accounting records no more frequently than once each calendar year for the sole purpose of verifying the accuracy of the amounts received by SPSA under the Navy Contract.

5. Correspondence and Disputes Under the Navy Contract.

(a) Any correspondence, invoices, or other written submissions, including requests for equitable adjustments, claims, contract modifications, and requests for final decisions will be prepared by the Company in the name of SPSA and submitted for approval and certification, if appropriate, to SPSA. SPSA shall review such submitted documents and if satisfactory to SPSA, in its reasonable discretion, SPSA shall sign or certify such documentation and submit it to the U.S. Navy. All notices hereunder shall be given to the other Party's Authorized Representative.

(b) If a decision is issued by the Contracting Officer under the "Disputes" clause of the Navy Contract and the decision relates to this Addendum No. 1, said decision, if binding upon SPSA under the Navy Contract, shall also be binding upon the Company under this Addendum No. 1 as if incorporated herein. However, if the Company is affected by such decision, and if SPSA intends not to appeal such decision under the "Disputes" clause of the Navy Contract, SPSA shall promptly send Notice to the Company. After receipt of such Notice by the Company, if the Company submits a timely request to SPSA to appeal such decision, SPSA shall file an appeal. If SPSA appeals such decision, whether at its election or at the Company's request, any decision upon such appeal, if binding upon SPSA under the Navy Contract, shall be binding upon the Company as it relates to this Addendum No. 1. The Parties shall cooperate in any "Dispute" and SPSA will act upon and consistent with any reasonable direction of the Company.

(c) For any claims to be submitted under (b) above, the Company shall certify to SPSA as to its portion of the claim that: (1) the claim is made in good faith, (2) the supporting data is accurate to the best of the Company's knowledge and belief, and (3) the amount requested accurately reflects the adjustment for which the Company reasonably believes the U.S. Navy is liable.

(d) If any such appeal is denied or otherwise decided adversely to the Company's interest, or if the Company is otherwise adversely affected by any decision made by any representative of the U.S. Navy on any question of fact and/or law arising under the Navy Contract which is also related to this Addendum No. 1, from which an

appeal under the "Disputes" clause in the Navy Contract is not available, said decision, if binding upon SPSA under the Navy Contract, shall in turn be binding upon the Company; provided, however, if the Company is adversely affected by any such decision, and if SPSA elects not to bring suit against the U.S. Navy with respect to such decision, SPSA shall notify the Company promptly. If the Company submits a timely request to SPSA directing SPSA to bring suit against the U.S. Navy, SPSA shall start such suit. If SPSA brings suit against the U.S. Navy with respect to any such decision, whether at its election or at the Company's request, a final judgment in any such suit, if binding upon SPSA under the Navy Contract shall in turn be binding upon the Company and SPSA under this Addendum No. 1 with respect to the question decided as it relates to this Addendum No. 1. The commencement of any legal proceedings by SPSA shall be at the sole expense of the Company. The Company shall be required to execute any engagement letter with SPSA's counsel and be obligated to pay SPSA's counsel directly for all costs, fees and expenses relating to or arising from any suit involving the U.S. Navy.

(e) If any such appeal or suit is taken or brought by SPSA, whether at its election or at the Company's request, the Company shall assist SPSA in its prosecution thereof in every reasonable manner and the Company shall be afforded reasonable opportunity to participate in the prosecution thereof to the extent the Company's interest may be affected. To the extent requested by SPSA, the Company shall prosecute for SPSA any appeal or suit taken or brought at the Company's request and, in such event, SPSA shall assist the Company in every reasonable manner. All costs and expenses incurred by the Company and SPSA in prosecuting any appeal or suit taken or brought solely at the Company's request shall be paid by the Company.

(f) If, as a result of any decision or judgment which is binding upon the Company and SPSA, SPSA is unable to obtain reimbursement from the U.S. Navy under the Navy Contract for, or is required to refund or credit to the U.S. Navy any amount with respect to any item of cost or fee for which SPSA has reimbursed the Company, the Company shall, on demand, promptly repay such amount to SPSA.

(g) The rights and obligations herein shall survive termination of this Addendum No. 1.

(h) Pending the resolution of any dispute, the Company shall proceed as directed by SPSA in writing.

6. Indemnification. The Company shall protect, indemnify and hold SPSA harmless from and against any and all Losses of any kind and shall defend the SPSA Indemnified Parties in any Legal Proceeding related to, arising from or in connection with the Navy Contract on or after the Commencement Date.

7. Full Force and Effect. Except as expressly modified herein, all other terms and provisions set forth in the Service Agreement shall remain in full force and effect and shall not

otherwise be affected by this Addendum No. 1.

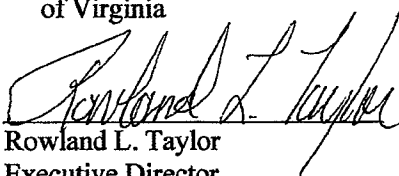
8. Incorporation into Service Agreement. The provisions of this Addendum No. 1 are essential components of the Service Agreement and, as such, shall be incorporated into and are hereby made an essential part thereof.

9. Counterparts. This Addendum No. 1 may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have duly executed this Addendum No. 1 as of the date first mentioned above.

**SOUTHEASTERN PUBLIC
SERVICE AUTHORITY OF VIRGINIA,**
a public body politic and
corporate of the Commonwealth
of Virginia

By: 
Rowland L. Taylor
Executive Director

**WHEELABRATOR TECHNOLOGIES
INC.,**
a Delaware corporation

By: _____
Name: _____
Title: _____


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SOUTHEASTERN PUBLIC
SERVICE AUTHORITY OF VIRGINIA,
a public body politic and
corporate of the Commonwealth
of Virginia

By: _____
Name: _____
Title: _____

WHEELABRATOR TECHNOLOGIES
INC.,
a Delaware corporation

By: 
Name: Mark Steinman
Title: Pres. & CEO

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