

**REFUSE DERIVED FUELS AND WASTE TO ENERGY FACILITIES
SERVICE AGREEMENT
BETWEEN
SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA
AND
WHEELABRATOR TECHNOLOGIES INC.**

September 9, 2009

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Schedule 7	Fuel Surcharge
Schedule 8	Authorized Haulers
Schedule 9	Authorized Hauler Acceptable Waste Cap
Schedule 10	Permits
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Schedule 12	Performance Guarantees
Schedule 13	Performance Calculations and Test Procedures
Schedule 14	Adjustment Factor
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Schedule 17	Guaranty
Schedule 18	Insurance
Schedule 19	Form of Company's Monthly Invoice
Schedule 20	Form of Annual Reconciliation Invoice
Schedule 21	Disclosures
Schedule 22	Affected Employees
Schedule 23	Existing Special Waste Contracts
Schedule 24	ANP Revenue Share
Schedule 25	Extension Period Fuel Surcharge
Schedule 26	Form of Solid Waste Disposal Agreement
Schedule 27	Annual Fee

SERVICE AGREEMENT

THIS SERVICE AGREEMENT (this "Agreement") is made and entered into as of this 9th Day of September, 2009, by and between **WHEELABRATOR TECHNOLOGIES INC.**, a Delaware having its principal place of business at Hampton, New Hampshire, and authorized to do business in the State (the "Company"), and the **SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA** ("SPSA"), a public body politic and corporate of the Commonwealth of Virginia. The Company or SPSA or both may be referred to herein as the "Party" or the "Parties", as the context of the usage of such term may require.

RECITALS

WHEREAS, SPSA owns and operates an integrated Solid Waste (as defined herein) disposal system in the geographic area of its member localities in Hampton Roads, including a refuse-derived fuel facility (the "RDF Facility") and a waste-to-energy facility (the "WTE Facility"), and together with the RDF Facility, the "Facilities") as such terms are more particularly defined herein;

WHEREAS, on May 28, 2008, Covanta Energy Corporation ("Covanta") submitted an unsolicited proposal under the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 ("PPEA") to SPSA to purchase the Facilities;

WHEREAS, SPSA in response to such unsolicited offer, determined that it may be in its economic and business interest to sell the Facilities to the private sector and accordingly, consistent with the PPEA and SPSA's implementing Guidelines, issued a public notice on June 5, 2008 encouraging interested parties to submit unsolicited bids/proposals for the acquisition of the Facilities;

WHEREAS, as part of such public notice, it was contemplated that the Company would provide Sorting (as defined herein), Processing (as defined herein) and disposal services for SPSA with SPSA guaranteeing to provide and deliver all SPSA Acceptable Waste (as defined herein) collected by its member communities to the RDF Facility through at least December 31, 2017;

WHEREAS, pursuant to such public notice, SPSA, on August 27, 2008, received proposals from additional vendors, including Wheelabrator Technologies Inc. ("Wheelabrator");

WHEREAS, based on such proposals, including the vendors' professed experience, qualifications and interest, Covanta and Wheelabrator were selected to participate in meetings and simultaneous competitive negotiations relative to a draft asset purchase agreement with respect to the acquisition of the Facilities and a draft service agreement with respect to the management, operation and maintenance of the Facilities, in each case, as prepared by SPSA;

WHEREAS, pursuant to such meetings and negotiations, the draft asset purchase agreement and the draft service agreement were finalized and a final Purchase and Sale Agreement (as defined herein) and this Agreement were forwarded to Covanta and Wheelabrator

for final pricing and performance proposals based on the negotiated and finalized Purchase and Sale Agreement and this Agreement;

WHEREAS, Wheelabrator submitted final pricing and performance proposals with respect to the Purchase and Sale Agreement and this Agreement on September 9, 2009;

WHEREAS, SPSA has selected the Company, in reliance on (a) the Company's submissions and representations in its proposal to SPSA, and (b) the Company's final proposal in response to the negotiated and finalized Purchase and Sale Agreement and this Agreement;

WHEREAS, SPSA desires to engage the services of the Company to process Solid Waste of SPSA's member communities at the Facilities in accordance with the terms and conditions of this Agreement and the Company desires to perform such services under such terms and conditions for the compensation provided herein; and

WHEREAS, as a condition precedent to closing under this Agreement, Waste Management, Inc., a Delaware corporation (the "Guarantor"), is executing the Guaranty set forth in Schedule 17 (Guaranty) guaranteeing the performance of the Company's obligations hereunder.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and SPSA do hereby covenant and agree as follows:

SECTION 1 THE SERVICE AGREEMENT

Section 1.1 Purpose. The purpose of this Agreement is to define the terms and conditions by which the Company shall manage, operate and maintain the Facilities commencing on the Commencement Date through the Term.

Section 1.2 Effective Date. Notwithstanding any provision in this Agreement that may be interpreted or construed to the contrary, the Parties shall neither be bound by the terms and conditions of this Agreement nor shall this Agreement have any force and effect unless and until the Parties shall have executed the Purchase and Sale Agreement.

Section 1.3 Cooperation. The Parties shall cooperate and exercise all reasonable efforts in the performance of their respective obligations and exercise of their rights under this Agreement to facilitate the timely and effective implementation of this Agreement. The Parties also agree in good faith to attempt to resolve disputes, if any, in an equitable and timely manner so as to avoid, where feasible, the need for more formal resolution.

Section 1.4 Entire Agreement. The following Schedules are attached to and made a part of this Agreement:

SCHEDULES

Schedule 1	Description of the Facilities
Schedule 2	Facilities Site
Schedule 3	SPSA Truck Maintenance Facility
Schedule 4	SPSA Transfer Stations
Schedule 5	SPSA Transfer Station Receiving Times
Schedule 6	SPSA Transfer Station Hauling Rates
Schedule 7	Fuel Surcharge
Schedule 8	Authorized Haulers
Schedule 9	Authorized Hauler Acceptable Waste Cap
Schedule 10	Permits
Schedule 11	SPSA Permits
Schedule 12	Performance Guarantees
Schedule 13	Performance Calculations and Test Procedures
Schedule 14	Adjustment Factor
Schedule 15	Reporting Requirements
Schedule 16	Irrevocable Letter of Credit
Schedule 17	Guaranty
Schedule 18	Insurance
Schedule 19	Form of Company's Monthly Invoice
Schedule 20	Form of Annual Reconciliation Invoice
Schedule 21	Disclosures
Schedule 22	Affected Employees
Schedule 23	Existing Special Waste Contracts
Schedule 24	ANP Revenue Share
Schedule 25	Extension Period Fuel Surcharge
Schedule 26	Form of Solid Waste Disposal Agreement
Schedule 27	Annual Fee

This Agreement, including the recitals hereto and the foregoing Schedules, constitutes the entire Agreement, and the Parties agree that the terms, conditions and provisions of this Agreement, inclusive of the Schedules, and any amendments that may arise as a result of the terms and conditions of this Agreement, shall govern the obligations of the Parties with respect to the management, operation and maintenance of the Facilities. To the extent that there is any conflict between the provisions of the body of this Agreement and the provisions of any Schedule, the body of this Agreement shall control.

SECTION 2 DEFINITIONS

Section 2.1 Definitions. The following are definitions of certain terms used in this Agreement. To the extent an initial capitalized term is used herein but not defined in this Agreement, such term shall have the meaning specified in the Purchase and Sale Agreement.

“Acceptable Waste” shall mean garbage, trash, rubbish and refuse normally disposed of by and collected from residential, commercial, military, institutional and industrial establishments delivered to the RDF Facility comprised of SPSA Acceptable Waste or Third Party Acceptable Waste, or both.

“Addendum No. 1” means an addendum to this Agreement designated as “Addendum No. 1”, executed by SPSA and the Company and dated as of the Contract Date.

“Adjustment(s)” shall have the meaning attributed to such term pursuant to Section 8.2.8.

“Adjustment Factor” shall have the meaning specified in Schedule 14 (Adjustment Factor).

“Affected Employees” means the SPSA employees listed in Schedule 22 (Affected Employees), being all SPSA employees employed by SPSA at the Facilities (except for SPSA employees who operate SPSA’s Scales and Scalehouses) as regular, full-time employees, and reflecting their employee positions and years of service as of the Contract Date.

“Affiliate” means the Guarantor and any corporation, partnership, joint venture or other entity controlled by, controlling or under common control, directly or indirectly with, the Company, the Guarantor or any one of such entities, and their respective officers, directors, and beneficial owners of five percent (5%) or more of any class of their equity or options.

“Agreement” shall have the meaning set forth in the opening paragraph of this Service Agreement identifying the Parties hereto.

“Annual Delivery Guarantee” shall have the meaning specified in Section 7.1.1.

“Annual Fee” means the fixed amount for each respective Billing Year determined pursuant to Schedule 27 (Annual Fee).

“Annual Processing Factor” shall have the meaning specified in Schedule 12 (Performance Guarantees).

“Annual Processing Guarantee” means the quantity of Acceptable Waste that, pursuant to Section 7.2, the Company guarantees to Process at the WTE Facility in any Billing Year as specified in Schedule 12 (Performance Guarantees), pro rata for a Billing Year less than a full twelve (12) months.

“Annual Processing Guarantee Shortfall Damages” shall have the meaning specified in Section 8.4.1.

“ANP Revenue Share” shall have the meaning provided in Schedule 24 (ANP Revenue Share Calculation).”

“Applicable Law(s)” means every federal, State, county, or local law, code, mandate, statute, regulation, ordinance, municipal charter provision, order, decree, Permit, license, judgment, or other governmental requirement or resolution, the common law arising from final, nonappealable decisions of Governmental Authorities in the United States, and any written interpretation or administration of any of the foregoing by any Governmental Authority which applies to the services or obligations or both of either Party under this Agreement, whether now or hereafter in effect.

“Audited Financial Statements” means a balance sheet, income statement and statement of changes in financial position and relating footnotes for the Guarantor’s fiscal year, in each case prepared in accordance with GAAP and audited by a nationally recognized firm of independent certified public accountants in accordance with GAAS and accompanied by such firm’s written audit opinion to the effect that such statements fairly present the Guarantor’s financial position and the results of operations set forth therein.

“Authorized Hauler(s)” means the haulers listed on Schedule 8 (Authorized Haulers) and any other Entity maintaining a waste delivery agreement with the Company or its Affiliates and SPSA and satisfying the requirements set forth in Section 4.2.1 for the delivery of Authorized Hauler Acceptable Waste.

“Authorized Hauler Acceptable Waste” shall mean garbage, trash, rubbish and refuse normally disposed of by and collected from residential, commercial, military, institutional and industrial establishments created or generated in the SPSA Service Area delivered by or on behalf of any Authorized Hauler (excluding SPSA or any Entity delivering waste on behalf of SPSA) to SPSA Transfer Station(s) comprised of Processible Waste and Non-Processible Waste.

“Authorized Hauler Tipping Fee” means the weighted average of the per Ton tipping fees for Authorized Hauler Acceptable Waste delivered to SPSA Transfer Station(s) by Authorized Haulers during the relevant period pursuant to the waste delivery agreements among the Company or its Affiliates, the Authorized Haulers and SPSA.

“Authorized Representative(s)” means SPSA’s Authorized Representative or the Company’s Authorized Representative, or both.

“Billing Month” means each calendar month in each Billing Year, except that (a) the first Billing Month shall begin on the Commencement Date and end at the end of the last Day of the month in which such Commencement Date occurs and (b) the last Billing Month shall end concurrently with the end of the Term, or, as applicable, the date of termination of this Agreement.

“Billing Year” means a Fiscal Year, except that (a) the first Billing Year shall commence on the Commencement Date and end at the end of the Fiscal Year in which the Commencement Date occurred and (b) the last Billing Year shall end concurrently with the end of the Term or, as applicable, the date of termination of this Agreement.

“Blended Tipping Fee” means the per Ton tipping fee equal to the sum of (a) sixty percent (60%) of the SPSA Tipping Fee, and (b) forty percent (40%) of the Authorized Hauler Tipping Fee.

“Board” means SPSA’s Board of Directors.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday and Friday, which is not a Legal Holiday.

“Cause” shall mean the (a) material failure to render services to the Company; (b) gross or willful neglect of duty, neglect or refusal to perform all duties assigned to such employee, in good faith by the Company; (c) conviction of or guilty plea to a felony or a crime involving moral turpitude; (d) illegal use of drugs or alcohol; (e) any material violation of Company policy applicable to similarly situated employees; (f) material waste or misuse of assets of the Company; or (g) embezzlement, dishonesty, fraud or other similar acts reflecting adversely upon the employee’s honesty and integrity or the reputation of the Company.

“Change in Law” means either (a) the enactment, adoption, promulgation, modification or repeal, after the Contract Date, of any Applicable Law or any change in interpretation thereof by any Governmental Authority; or (b) the denial of an application for or suspension, termination, interruption, failure to issue, or imposition, after the Contract Date, of any material conditions on the issuance, modification or renewal of any Permit (in each case, through no fault of the Company) that, in the case of (a) or (b), (1) affects the Company’s performance of the Work and/or increases the Company’s costs to perform the Work, (2) affects SPSA’s performance of its obligations hereunder or (3) increases SPSA’s costs to perform such obligations, by establishing, in the case of (1), (2) or (3) requirements that are more burdensome than the most stringent requirements:

- (i) in effect on the Contract Date; or
- (ii) agreed to by SPSA and the Company in any applications for Permits.

For purposes of part (a) of this definition, no enactment, adoption, promulgation or modification of any Applicable Law shall be considered a Change in Law if, as of the Contract Date, such Applicable Law was (i) officially proposed by the responsible Governmental Authority and published in final form in the Federal Register or equivalent federal, State or local publication and thereafter becomes effective without further action or (ii) enacted into law or promulgated by the appropriate Governmental Authority before the Contract Date, and the comment period with respect to which expired on or before the Contract Date and any required hearings concluded on or before the Contract Date in accordance with applicable administrative procedures and which thereafter becomes effective without further action.

The enactment into law after the Contract Date of any federal, State or local tax law, other than a sales tax or discriminatory tax law having application to the Company as the owner or operator or both of the Facilities, shall not be considered a Change in Law or any other Uncontrollable Circumstance under this Agreement. For purposes of this Agreement, a change

in sales tax law which increases taxes of the Company shall only be a Change in Law to the extent the Company's aggregate tax burden from all other applicable taxes is not reduced due to a change in other tax laws. In no event, however, shall any other change in tax law, federal, State, local or otherwise, be considered a Change in Law.

“Closing Date” means the date of the Closing of the Purchase and Sale Agreement.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

“Commencement Date” means the date specified in Section 15.5.

“Company” shall have the meaning ascribed to it in the opening paragraph of this Agreement identifying the Parties hereto.

“Company Change in Law Notice” shall have the meaning specified in Section 10.1(a).

“Company Cost Threshold” shall have the meaning specified in Section 9.1.2(b).

“Company Fault” means (a) any breach, failure, nonperformance or noncompliance by the Company (including the acts or omissions of a Subcontractor) with the terms and conditions of this Agreement for any reason except to the extent such breach, failure, nonperformance or noncompliance is caused by the occurrence or continuing effect of an Uncontrollable Circumstance or SPSA Fault, or (b) any negligence or willful misconduct of any agent, officer, employee or Subcontractor of the Company which, in the case of (a) or (b) of this definition, (1) prevents or, individually or cumulatively, materially interferes with or materially delays the Company's or SPSA's performance of its obligations, (2) deprives SPSA of any of its material rights, or (3) increases SPSA's costs of performing its obligations or reduces its revenues, in any case, under this Agreement.

“Company Landfill(s)” shall have the meaning set forth in Section 7.1.6(a).

“Company Indemnified Parties” shall have the meaning specified in Section 11.1.2.

“Company Objection Notice” shall have the meaning specified in Section 10.2(a).

“Company Responsible Percentage” shall mean 42.82%.

“Company's Authorized Representative” means the Company's representative designated pursuant to Section 16.7.

“Conditions Precedent(s)” shall have the meaning specified in Section 15.

“Confidential Information” shall have the meaning set forth in Section 16.5.

“Consulting Engineer(s)” means one or more nationally recognized consulting

engineering company(ies) selected and retained by SPSA with demonstrated experience in the area of waste-to-energy, refuse derived fuel and resource recovery facility construction, operation and maintenance. SPSA's Authorized Representative shall give the Company's Authorized Representative written notice of the name of SPSA's consulting engineering company(ies) on or about the Contract Date and the name of any replacement consulting engineering company(ies) on or about the time such replacement shall occur during the Term.

"Contract Date" means the date on which this Agreement is executed and delivered by both of the Parties as set forth in the opening paragraph of this Agreement identifying the Parties hereto.

"Coordination Committee" shall have the meaning set forth in Section 14.1(a).

"Cost Substantiation" means, with respect to any cost or expense incurred by either Party, a certificate signed by the Authorized Representative with respect to the Party's asserted increase and incremental Direct Costs incurred by the Party, stating (a) the reason for incurring such Direct Cost, (b) the amount of such Direct Cost, (c) the act, event, condition or Section under this Agreement giving rise to the Party's right to incur such Direct Cost, and (d) that such Direct Cost is at a fair market value price for the service provided or materials supplied (it being understood that such services or materials may be provided or supplied by an Affiliate). If the other Party does not object, in writing, to any such certificate provided by the asserting Party within sixty (60) days after its receipt of such certificate, such Direct Costs shall be deemed accepted by the other Party and shall be payable in accordance with the terms of this Agreement. With respect to Direct Costs incurred by either Party, the amount shall be increased to provide for the payment of a Markup only when expressly authorized pursuant to the terms of this Agreement (by the addition of the term "inclusive of Markup"). Any certification provided by the Authorized Representative shall include copies of all invoices or charges, together with any additional reasonable documentation of such costs or expenses incurred which the other Authorized Representative deems reasonably necessary to verify the amount of such costs and expenses and to demonstrate the basis for the amount claimed. Each Party reserves their right to have such documentation audited at their sole cost and expense.

"Covered Period" shall have the meaning specified in Section 3.4.3.

"Cure", "Cured" or "Curing" means any repair, replacement, change, modification, reconstruction, retrofit, cure, remedy or correction relative to the WTE Facility, the RDF Facility, SPSA Transfer Stations or SPSA's Landfills, including the operation and maintenance of the same.

"Day" means a calendar day of time, beginning at midnight in the eastern time zone of the United States coinciding with the calendar day, whether or not a Legal Holiday.

"DEQ" means the Virginia Department of Environmental Quality and any successor.

"Direct Cost(s)" means, in connection with any cost or expense incurred by either Party, the sum of (a) the costs of the Party's payroll directly related to the performance of any

obligation of the Party pursuant to the terms of this Agreement, consisting of compensation and fringe benefits, including vacation, sick leave, holidays, retirement, worker's compensation insurance and employer's liability insurance and in the case of the Company, not otherwise provided by the Company pursuant to the provisions of Section 11.3 and Schedule 18 (Insurance), federal and State unemployment taxes and all medical and health insurance benefits excluding retirees medical and health benefits, plus (b) the sum of (1) payments of reasonable costs to Subcontractors necessary to and in connection with the performance of the Party's obligations, plus (2) the costs of equipment, materials, direct rental costs and supplies purchased by such Party (equipment manufactured or furnished by, and services, materials and supplies furnished by, the Party or its Affiliates shall be considered purchased materials at their actual invoice cost, provided such cost is an arm's length fair market value cost), plus (c) subject to Applicable Law, the reasonable costs of travel and subsistence incurred by any employee of the Party. This definition shall be applicable whenever this term is identified in this Agreement unless the Parties shall otherwise agree in writing.

"Diverted Waste Costs" shall have the meaning specified in Section 8.2.6.

"Dry Residue" means Residue with weighted moisture content of less than thirty percent (30%).

"Emergency" means an incident beyond the reasonable control of the Company and its Subcontractors requiring immediate action on the part of the Company, or, as necessary and appropriate, SPSA or other Entity, that if not immediately addressed, may reasonably be expected to result in imminent and substantial damage, injury or loss (1) on or to the WTE Facility or the RDF Facility or both or (2) to the safety, health or welfare of Entities on, in the vicinity of, relying on or benefitting from the WTE Facility or the RDF Facility or both or a potential violation of any Permit.

"Entity" or "Entities" means without limitation, any individual, person, firm, corporation, company (including limited liability), partnership (including general and limited), joint venture, association, joint-stock company, trust (including business trusts), unincorporated organization, Governmental Authority, and other entities.

"EPA" means the United States Environmental Protection Agency and any successor.

"Equipment" means all equipment and personal property constituting part of or used in the operation of the Facilities, including Sorting and Processing equipment, Rolling Stock, communication devices and computer hardware and software in use as of the Commencement Date and purchased by the Company pursuant to the Purchase and Sale Agreement, or procured or provided on or after the Commencement Date through the Term by the Company for use at the Facilities.

"Estimated Real Property Tax" shall have the meaning specified in Section 8.2.8.2.4.

"Event of Default" shall have the meaning specified in Section 12.

“Excess Tonnage Fee” shall have the meaning specified in Section 8.2.2.1.

“Executive Director” means the Executive Director of SPSA.

“Extension Period” shall have the meaning set forth in Section 16.1.1.

“Facilities” means both the WTE Facility and the RDF Facility, or, as applicable, either such facility.

“Facilities Manager” that individual designated by the Company in writing prior to execution of this Agreement who shall manage and supervise the Work and shall serve as a Company liaison to and with SPSA.

“Facilities Site” means the geographic area defined and depicted in Schedule 2 (Facilities Site).

“Ferrous Metal(s)” means magnetic metals contained in Residue.

“Financial Issues” means an issue or issues primarily of a financial nature and concerns whether the applicable Party’s obligations are being provided or calculated, or both, in accordance with this Agreement.

“Fiscal Year” means SPSA’s fiscal year commencing on July 1 and ending on the immediately succeeding June 30.

“Fuel Surcharge” means a supplemental fee determined in accordance with Schedule 7 (Fuel Surcharge).

“GAAP” means generally accepted accounting principles, consistently applied.

“GAAS” means generally accepted auditing standards, consistently applied.

“Governmental Authority(ies)” means any federal, State, regional, city, county, or local government, any political subdivision thereof, or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, commission, administration, bureau or court having jurisdiction over, as applicable, the WTE Facility, the RDF Facility or both, the Facilities Site, or the transactions relative to (a) the management, operation and maintenance of the WTE Facility, the RDF Facility or both, or (b) the sale, purchase or other disposition of commodities consumed or produced by the WTE Facility, the RDF Facility or both.

“Guarantor” means the Entity that executed the Guaranty, attached hereto as Schedule 17 (Guaranty).

“Guaranty” means the agreement between the Guarantor and SPSA wherein the Guarantor guarantees the obligations of the Company, as set forth in Schedule 17 (Guaranty).

“Hazardous Waste” means any material or substance which by reason of its composition or characteristics is (a) hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. §6901 et seq., as amended, replaced or superseded, and the regulations implementing same, or (b) material the disposal of which is regulated by the Toxic Substances Control Act, 15 U.S.C. §2601, et seq., as amended, replaced or superseded, and the regulations implementing same, or (c) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954, or (d) treated as hazardous waste under Applicable Law. If any Governmental Authority shall determine that substances are hazardous or harmful to health when Processed at the Facility, then any such substances or materials shall be Hazardous Waste for purposes of this Agreement.

“Hazardous Waste Contingency Plan” or “HWCP” shall have the meaning set forth in Section 7.3.2.3.

“Hazardous Waste Costs” shall have the meaning set forth in Section 7.3.2.3.

“Indemnified Parties” means either the Company Indemnified Parties or the SPSA Indemnified Parties, as the case may be.

“Independent Expert” means a reasonably qualified expert in the area in which expertise is sought, which Entity may, as applicable, include the Consulting Engineer, a financial advisor or firm, an appraiser or other professionally trained and licensed Entity. SPSA’s Authorized Representative shall give the Company’s Authorized Representative written notice of SPSA’s Independent Expert(s), if any, on the later to occur of (a) on or about the Contract Date or (b) within thirty (30) days after each such Independent Expert is retained by SPSA, and any replacement Independent Expert on or about the time such replacement shall occur during the Term.

“Interest Rate” means interest on any payment due after the due date in the amount of the lesser of (a) six percent (6%) per annum or (b) the maximum rate prescribed under applicable State law.

“Landfill(s)” means any landfill permitted in accordance with all Applicable Laws and permitted to accept, as applicable, for disposal, Residue, Acceptable Waste, Unacceptable Waste, Processible Waste, Non-Processible Waste and Prohibited Waste. For purposes of this Agreement, the term “Landfill(s)” shall include SPSA’s Landfill(s) to the extent applicable.

“Landfill Receiving Time” means the period of operation during which the SPSA Landfill is open and available for the receipt and delivery of Non-Processible Waste and Residue.

“Legal Holiday” means New Year’s Day, Lee-Jackson Day, Martin Luther King, Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Columbus Day, Day immediately before Thanksgiving Day (half day), Thanksgiving Day, Friday following Thanksgiving Day, Christmas Eve (half day), Christmas Day and such other Day(s) as may be

mutually designated from time to time by the Parties.

“Legal Proceeding” means every action, suit, litigation, administrative proceeding, and other legal or equitable proceeding (including appeals).

“Letter of Credit” shall have the meaning given to such term in Section 11.4.

“Loading Fee” shall have the meaning set forth in Section 8.2.5.

“Loading Rate” shall mean two dollars and fifty cents (\$2.50) per Ton, as multiplied by the Adjustment Factor pursuant to Schedule 14 (Adjustment Factor).

“Loss” or “Losses” means collectively any and all losses, liabilities, damages, actions, forfeitures, obligations, liens, claims, delays, fines, penalties, recoveries, judgments, payments, demands, allegations, forfeitures, costs, fees and reasonable expenses (including reasonable fees and expenses of attorneys, expert witnesses and consultants, and costs of transcripts, printing of briefs and records on appeal, copying and other non-reimbursed expenses, and expenses reasonably incurred in connection with any Legal Proceeding of every kind and character).

“Mark-up” means an amount for overhead and profit equal to ten percent (10%) of the costs and expenses described in only clause (a) of the definition of “Direct Costs.”

“Maximum Waiting Time” shall have the meaning specified in Section 7.1.2.

“Member Community” means the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach and the Counties of Isle of Wight and Southampton.

“Member Entity(ies)” shall have the meaning specified in Section 14.1.

“Miscellaneous Adjustments” shall mean those cost and expense items specified in Section 8.2.8.2.

“Moisture Content Limits” means weighted average moisture content greater than thirty percent (30%) but less than thirty-five percent (35%).

“Monthly Fee” shall have the meaning specified in Section 8.2.2.

“Monthly Report(s)” means those monthly reporting requirements specified in Schedule 15 (Reporting Requirements).

“Native Electronic Format” means the electronic format in which an electronic Record was originally created. For purposes of clarity, if an electronic Record was originally created using Microsoft Word, its native format would be a Microsoft Word file; if an electronic Record was originally created using Microsoft Excel, its native format would be a Microsoft Excel file.

“Navy Contract” means Contract No. N62470-80-C-3916 dated July 1, 1999 between SPSA and 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 June 10, 2008, as the Navy Contract may be further amended, supplemented, novated or any or all of the foregoing relative to the sale of Steam Energy to the U.S. Navy under this Navy Contract.

“Non-Contract Waste” means Solid Waste received by SPSA at SPSA Transfer Stations (excluding the SPSA Transfer Station located at the Suffolk Landfill) from Entities not otherwise maintaining a waste disposal agreement with SPSA.

“Non-Ferrous Metal(s)” means non-magnetic metal contained in Residue.

“Non-Processible Waste” means that portion of Acceptable Waste that is not Processible Waste (a) due to its size, (b) because it is predominately non-combustible, (c) due to its physical or chemical composition or (d) because it is inappropriate to Process such waste using Prudent Industry Practices as determined by the Company’s Authorized Representative in consultation with SPSA’s Authorized Representative.

“Non-Qualifying Residue” means Residue that either (i) fails to meet or otherwise satisfy requirements for disposal under Applicable Law or (ii) fails to satisfy the Paint Filter Test performed by SPSA’s employees.

“Notice(s)” means written notice from the Authorized Representative of the applicable Party to the other, all in accordance with Section 16.8 and the timeframes and other requirements of this Agreement.

“NP Hauler” shall have the meaning set forth in Section 7.1.6(c).

“Out-of-State Waste” means Processible Waste of any kind originating or is created or generated in any state other than in the State or North Carolina.

“Outside-Area Waste” means Processible Waste that is created or generated in (a) the State (but outside of the SPSA Service Area) or (b) North Carolina.

“Paint Filter Test” means the method used to determine the presence of free liquids in a representative sample of Residue selected and performed in accordance with the procedures commonly used by SPSA.

“Party” or “Parties” means either SPSA or the Company or both, as the context of the usage of such term may require.

“Pass Through Costs” means the component of the Service Fee specified in Section 8.2.7.1.

“Performance Guarantees” means all of the guarantees specified in Schedule 12 (Performance Guarantees), calculated and tested in accordance with Schedule 13 (Performance Calculations and Test Procedures).

“Permit(s)” means all actions, reviews, approvals, consents, waivers, exemptions, variances, franchises, orders, permits, authorizations, rights, licenses, filings, zoning changes or variances, and entitlements, of whatever kind and however described, which are required under Applicable Law to be obtained or maintained by any Entity with respect to the Facilities, SPSA Facilities or Work.

“PPEA” shall have the meaning set forth in the recitals.

“Process,” “Processed” or “Processing” means the combustion of Processible Waste through the WTE Facility.

“Processible Waste” means that portion of Acceptable Waste delivered to the RDF Facility that is not Non-Processible Waste or Prohibited Waste or both.

“Prohibited Waste” means that portion of Solid Waste that is not permitted to be Processed because it is (a) Unacceptable Waste, (b) Hazardous Waste, (c) prohibited by Permit or other Applicable Law, or (d) deemed to be an operational, health or safety issue or hazard as determined by the Company’s Authorized Representative in consultation with SPSA’s Authorized Representative.

“Projected Monthly Waste Shortfall” shall have the meaning specified in Section 7.8.

“Prudent Industry Practices” means those practices, methods, techniques, specifications and standards of safety, maintenance, housekeeping, repair, replacement and performance, as the same may change from time to time, as are commonly performed by competent, qualified operators performing management, operation, maintenance, repair and replacement services on Solid Waste facilities in the United States of the type similar to, as applicable, the WTE Facility or the RDF Facility, which in the exercise of reasonable judgment and in light of the facts known at the time the decision was made, are (a) considered good, safe and prudent practice in connection with such services and (b) commensurate with a prudent standard of safety, performance, dependability and efficiency.

“Punch List Items” shall have the meaning specified in Section 6.1.

“Purchase and Sale Agreement” means the Purchase and Sale Agreement, between the Company and SPSA, executed by the Company on September 9, 2009.

“Qualified Financial Institution” means any depository institution incorporated under the laws of the United States or any state thereof (or domestic branches of any foreign bank) meeting the following criteria: (a) such depository institution is subject to supervision and regular examination by federal or State banking or depository institution authorities, (b) such depository institution has a combined capital and surplus not less than one hundred million dollars

(\$100,000,000), and (c) the commercial paper or other short-term debt obligations of such depository institution (or, in the case of a depository institution which is the principal subsidiary of a holding company, the commercial paper or other short-term debt or deposit obligation of such holding company or depository institution, as the case may be) has a short-term rating of at least "P-1" by Moody's Investors Service ("Moody's") and a short-term rating of at least "A-1" by Standard & Poor's, a division of the McGraw-Hill Companies, Inc., or any successor in interest ("S&P"), or a long-term rating by S&P of at least "AA-" or a short-term rating of at least "F-1" by Fitch Ratings, or any successor in interest ("Fitch").

"Qualifying Residue" means Residue that both (i) meets or otherwise satisfies requirements for disposal under Applicable Law and (ii) satisfies the Paint Filter Test performed by SPSA's or other Landfill employees on a representative sample of delivered Residue.

"RDF Facility" means the RDF Facility as described in Schedule 1 (Description of Facilities), including for operation, maintenance, repair and replacement purposes only as more particularly addressed in this Agreement, SPSA's Roadways and SPSA's Tipping Floor, and excluding SPSA's Scales and Scalehouses.

"Reagent(s)" means individually or collectively, as applicable, pebble lime, urea, carbon, sulfuric acid and other chemical reagents used from time to time in the Process or conditioning of Residue.

"Receiving Time" means twenty-four (24) hour per day, seven (7) days per week, 365 days per year basis. The Receiving Time may only be changed upon the mutual agreement of the Parties.

"Records" means any materials on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form of characteristics, that are prepared or received by the Company in connection with this Agreement. "Records" includes handwritten, typed or printed pages, maps, charts, photographs, film, recordings, tapes (including computer tapes), computer data, computer printouts, magnetic storage media and optical disks. "Records" do not include drafts, notes, preliminary computations or like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working, or both; materials that have no relation to SPSA or the Facilities; materials to which access is limited by copyrights, patent or bequest; materials which the Company has an obligation by Applicable Law to maintain as confidential or which are privileged; published materials in the possession of the Company which are available for sale, or which are available for inspection at a public library; or identical duplications of a Record.

"Recovered Materials" means (i) electricity, Ferrous Metal and Non-Ferrous Metals, ash and such other materials of whatever nature or description as the Company may from time to time recover from Solid Waste, Residue or any other material received or generated at the Facilities or separated therefrom elsewhere other than at SPSA Facilities, and (ii) offsets, credits or benefits of whatever nature or description, for emissions, pollution, carbon, greenhouse gas, renewable energy generation, investment, taxes or any certificate, grant or intangible entitlement

relating to the Facilities or their operation.

“Required Company Insurance” shall have the meaning specified in Section 11.3.1.1.

“Required Insurance” shall have the meaning specified in Section 11.3.2.

“Required SPSA Insurance” shall have the meaning specified in Section 11.3.1.2.

“Residue” means the material remaining after Processible Waste is Processed, including fly ash, bottom ash and Spent Reagent, both prior to and after the recovery, if at all, of Recovered Materials.

“Residue Disposal Fee” shall have the meaning specified in Section 8.2.5.

“Rolling Stock” means mobile Equipment such as, but not limited to, front-end loaders, trucks, trailers and replacements thereto.

“RTP” shall have the meaning specified in Section 7.9.

“Schedule(s)” means a schedule attached hereto and which is hereby incorporated herein and made a part of this Agreement, unless the context or usage of such term clearly indicates a reference to another amendment or agreement.

“Scheduled Maintenance” shall mean Company scheduled Facilities downtimes for maintenance of one or more boiler units at the WTE Facility.

“Section” means a section of this Agreement, unless the context or usage of such term clearly indicates a reference to another agreement or statute.

“Service Agreement” or “Agreement” means this Agreement, which includes all Schedules, and any properly authorized written amendments.

“Service Fee” means the amount payable to the Company by SPSA, calculated in accordance with Section 8.1.

“Solid Waste” shall have the meaning ascribed to such term pursuant to Applicable Law in the State.

“Sort”, “Sorted”, or “Sorting” means separation by the Company of Acceptable Waste at the RDF Facility into wastestreams of Processible Waste and Non-Processible Waste.

“Sourced Special Waste Contract” means any agreement or other arrangement between any Entity and the Company or its Affiliate for delivery of Special Waste to the RDF Facility (a) which Entity was or is referred to the Company by SPSA or (b) which agreement or arrangement was procured by SPSA or through the joint efforts of the Company and SPSA. The proprietary waste contracts listed on Schedule 23 (Existing Special Waste Contracts), together with all

renewals, replacements, modifications and extensions thereof with the counterparties thereto, shall be excluded from the definition of Sourced Special Waste Contract.

“Spare Parts” means those component parts and repair or replacement items relative to the Facilities that (a) were purchased by the Company from SPSA pursuant to the Purchase and Sale Agreement and (b) are procured or secured by the Company during the Term that, in the case of either (a) or (b), are (1) stored on or in close proximity to the Facilities Site or (2) readily available within forty-eight (48) hours for repair or replacement of equipment at, in or used by the Facilities or in conjunction with the Facilities in conformance with Prudent Industry Practices.

“Special Waste” means Processible Waste that requires special handling as reasonably determined by the Company’s Authorized Representative taking into account Prudent Industry Practices.

“Spent Reagent” means reacted and unreacted Reagents remaining after passing through the WTE Facility that are entrained in the Residue.

“SPSA” shall have the meaning ascribed to it in the opening paragraph of this Agreement identifying the Parties hereto.

“SPSA Acceptable Waste” shall mean garbage, trash, rubbish and refuse normally disposed of by and collected from residential, commercial, military, institutional and industrial establishments (including any SPSA contracted waste) delivered by or on behalf of SPSA (or any Member Community or the U.S. Navy) to the RDF Facility comprised of Processible Waste and Non-Processible Waste.

“SPSA Change in Law Notice” shall have meaning specified in Section 10.2(a).

“SPSA Cost Threshold” shall mean two hundred thousand dollars (\$200,000), as multiplied by the Adjustment Factor pursuant to Schedule 14 (Adjustment Factor); provided, however, the SPSA Cost Threshold shall be zero dollars (\$0.00) solely with respect to fees and expenses imposed or implemented by the City of Portsmouth, Virginia (other than property taxes) that constitute a Change in Law and are paid by the Company.

“SPSA Excess Tonnage” means each Ton of SPSA Acceptable Waste (excluding Authorized Hauler Acceptable Waste and Non-Contract Waste) delivered to the RDF Facility in any Billing Year in excess of the Annual Delivery Guarantee.

“SPSA Facilities” means SPSA’s RDF Assets, SPSA Transfer Stations and SPSA’s Landfill(s).

“SPSA Facility Pass Through Costs” shall have the meaning specified in Section 8.2.7.2.

“SPSA Fault” means (a) any breach, failure, nonperformance or noncompliance by SPSA (including the acts or omissions of subcontractors performing services by or on behalf of SPSA

relative to the Facilities and under contract with SPSA) with the terms and conditions of this Agreement for any reason except to the extent such breach, failure, nonperformance or noncompliance is caused by the occurrence or continuing effect of an Uncontrollable Circumstance or Company Fault or (b) any negligence or willful misconduct of SPSA or any agent, officer, commissioner, employee, contractor, subcontractor at any tier or independent contractor (including, without limitation, the Consulting Engineer) of SPSA which, in the case of (a) or (b) of this definition, (1) prevents or, individually or collectively, materially interferes with or materially delays SPSA's or the Company's performance of its obligations (2) deprives the Company of any of its material rights or (3) increases the Company's costs of performing the Work or reduces its revenues, in any case, under this Agreement.

“SPSA Hauling Fee” shall have the meaning specified in Section 8.2.4.

“SPSA Indemnified Parties” shall have the meaning specified in Section 11.1.1.

“SPSA Objection Notice” shall have the meaning specified in Section 10.1(a).

“SPSA Permits” shall mean those Permits issued to SPSA listed on Schedule 11 (SPSA Permits).

“SPSA Responsible Percentage” means a fraction, the numerator of which is the Annual Delivery Guarantee and the denominator of which is the design capacity of the WTE Facility as of the Contract Date.

“SPSA Service Area” means the geographic area covered by the political subdivision boundaries of the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach, Virginia and the counties of Isle of Wight and Southampton, Virginia.

“SPSA Tipping Fee” shall mean the per Ton tipping fee equal to the quotient determined by dividing (a) the Annual Fee, by (b) the Annual Delivery Guarantee.

“SPSA Transfer Stations” means the transfer stations owned or leased and operated by SPSA as more particularly described in Schedule 4 (SPSA Transfer Stations), as the same may be modified by SPSA from time to time.

“SPSA's Authorized Representative” means SPSA's representative designated pursuant to Section 16.7.

“SPSA's Landfill(s)” or “SPSA Landfill” means the landfill located in Suffolk, Virginia owned by SPSA and any other landfill or landfills within the SPSA Service Area that SPSA leases, owns, operates, contracts with or designates during the Term.

“SPSA's RDF Assets” shall mean (a) SPSA's Roadways, (b) SPSA's Tipping Floor and (c) SPSA's Scales and Scalehouses.

“SPSA’s Roadways” means the access and egress roadways located on the RDF Facility Site as more particularly described and depicted in Schedule 2 (Facilities Site).

“SPSA’s Scales and Scalehouses” means the scales and scalehouses located on the Facilities Site as more particularly described and depicted in Schedule 2 (Facilities Site).

“SPSA’s Tipping Floor” means the tipping floor where Acceptable Waste is delivered and Sorted and located at and in the RDF Facility as more particularly described in Schedule 2 (Facilities Site).

“SPSA’s Truck Maintenance Facility” means the maintenance buildings and underlying real property located adjacent to the RDF Facility as more particularly described in Schedule 3 (SPSA Truck Maintenance Facility).

“Standards of Maintenance” shall have the meaning specified in Section 3.11.

“State” means the Commonwealth of Virginia and all of its appropriate administrative, contracting and regulatory agencies and offices.

“Steam Agreement(s)” means the Navy Contract relative to the sale of Steam Energy or steam capacity by the WTE Facility, as the same may be assigned by SPSA to the Company or an Affiliate, as the same is approved and novated by the U.S. Navy, and any other agreement for the sale of steam produced by the WTE Facility or any alternative producer of steam (including a package boiler) operated by or on behalf of the Company at or near the WTE Facility that sells steam or steam capacity to the U.S. Navy or other steam purchaser.

“Steam Energy” means steam energy produced by the WTE Facility or an alternative steam supply equipment operated by or on behalf of SPSA on or near the Facilities Site as may be expressed in pounds or pounds per hour, delivered to the delivery point and sold to the U.S. Navy pursuant to the Navy Contract.

“Steam Energy Delivery Guarantee Shortfall Damages” shall have the meaning specified in Section 8.4.2.

“Subcontractor” means every Entity, other than the respective Party or its employees, who or which directly or indirectly contracts with the Party to provide labor, services, materials, supplies, equipment or spare parts for or with respect to the Facilities or SPSA Facilities, as applicable.

“Suffolk Landfill” means the SPSA Landfill located in Suffolk, Virginia.

“TCLP” means the Toxicity Characteristic Leaching Procedure as promulgated by the EPA, as modified or amended.

“Technical Issue(s)” means any issue primarily of a technical or engineering nature and which concerns whether the applicable Party’s obligations are being provided in accordance with this Agreement.

“Term” means the term of this Agreement which term shall, subject to the proviso in Section 16.1, commence on the Commencement Date and end at midnight on January 24, 2018, unless sooner terminated in accordance with the terms herein or extended pursuant to Section 16.1.1.

“Third Party Acceptable Waste” shall mean garbage, trash, rubbish and refuse normally disposed of by and collected from residential, commercial, military, institutional and industrial establishments delivered by or on behalf of any Entity (excluding SPSA or any Entity delivering SPSA Acceptable Waste on behalf of SPSA) to the RDF Facility comprised of Processible Waste and Non-Processible Waste.

“Timeframe” shall have the meaning specified in Section 6.2.

“Ton” means two thousand (2,000) pounds.

“Transfer Station Receiving Time” means the period of operation each SPSA Transfer Station remains open and available for the receipt and delivery of Authorized Hauler Acceptable Waste from Authorized Haulers. As of the Contract Date, the Transfer Station Receiving Time for each SPSA Transfer Station is as specified in Schedule 5 (SPSA Transfer Station Receiving Times). Schedule 5 may be amended at any time by SPSA in its reasonable judgment after consultation with the Company.

“Transition Period” shall have the meaning specified in Section 3.11(b).

“Unacceptable Waste” means (a) primarily large castings, transmissions, car and truck rear ends, springs, fenders or other major parts of automobiles, motorcycles, other vehicles or marine vessels and machinery (other than small household appliances), (b) stumps or logs larger than six (6) feet in length and six (6) inches in diameter, (c) spools larger than twenty-four (24) inches in diameter, (d) carpet rolls or bundles larger than six (6) feet in length, (e) explosives, pathological or biological wastes, (f) large quantities of sulfur-containing materials and (g) dirt, concrete and other non-combustible construction and demolition debris materials.

“Uncontrollable Circumstance(s)” means any act, event or condition that prevents the Company or SPSA from meeting the applicable Party’s obligations under this Agreement, to the extent such act, event or condition is due to circumstances beyond the reasonable control of the Party asserting an Uncontrollable Circumstance as justification for being prevented from meeting such obligations; provided, however with respect to the asserting Party, such act, event or condition is not the result of such Party’s failure to perform its obligations hereunder in accordance with the terms and conditions of this Agreement.

(1) Subject to the terms and conditions of the immediately preceding paragraph of this definition, the following acts, events or conditions are examples, but not limitations, of what qualifies as an Uncontrollable Circumstance:

(A) Hurricane, flood, tornado, epidemic, severe earthquake, catastrophic fire

or explosion, act of a public enemy, act of terror, war, blockade, insurrection, riot, restraint of government and people, civil disturbance, sabotage or similar occurrence;

(B) the order, injunction or judgment of any Governmental Authority, including any exercise of the power of eminent domain, police power, condemnation or other taking by or on behalf of any public, quasi-public or private entity; expecting decisions interpreting federal, State or local tax laws; provided, however, that such order, injunction or judgment did not arise in connection with the negligence or the willful or wrongful action or inaction of the Party relying thereon and that neither the contesting in good faith of any such order, injunction or judgment nor the reasonable failure to so contest shall constitute or be construed as negligence or the willful or wrongful action or inaction of such Party;

(C) the suspension, termination, interruption, denial, failure to issue, modification, or failure of renewal of any Permit, if such act or event did not arise in connection with or be related to the negligence or the willful or wrongful action or inaction of the Party relying thereon and that neither the contesting in good faith of any of the same nor the reasonable failure to so contest shall be construed as negligence or the willful or wrongful action or inaction of such Party;

(D) a Change in Law;

(E) the loss or inability to obtain any Utility service necessary for the operation and maintenance of, as applicable, the WTE Facility, the RDF Facility, or both, directly resulting in a partial or total curtailment of operations of, as applicable, the WTE Facility, the RDF Facility, or both or the Work for reasons other than, as applicable, Company Fault or SPSA Fault.

(F) the failure of any Subcontractor, to furnish services, materials, chemicals, Utilities or equipment on the dates agreed to; provided (i) such failure is the result of an act, event or condition outside of its reasonable control and not due to such Subcontractor's negligence or willful misconduct, (ii) such failure materially and adversely affects the Company's ability to perform its obligations and (iii) the Company is not able reasonably to obtain substitute services, material, chemicals, Utilities or equipment on the agreed upon dates.

(2) None of the following acts, events or conditions shall constitute an Uncontrollable Circumstance under this Agreement:

(A) any act, event or condition which is caused by the negligence, error, omission or wrongful or intentional action or inaction of the Party relying on the claim of Uncontrollable Circumstance or of any of its Affiliates, any of its respective Subcontractors or any of its Affiliates or their respective agents or employees;

(B) any act, event or condition reasonably foreseeable prior to the occurrence of such act, event or condition, which a diligent Party could reasonably have been expected to (i) take into account in a reasonably timely manner prior to such occurrence and (ii) prevent or adequately protect against using commercially reasonable efforts;

(C) economic infeasibility, general economic conditions, interest or inflation rates or currency fluctuations;

(D) any labor strike, work stoppage or slowdown on the part of the Company's or SPSA's or any of their Affiliate's employees, unless continued performance would result in a breach of the peace;

(E) subject to the definition of a Change in Law regarding sales taxes, any order, injunction or judgment of any Governmental Authority interpreting federal, State, or local tax laws;

(F) weather conditions in the geographic area of the Facilities Site, other than those listed in (1)(A) of this definition;

(G) Equipment failure, except due to acts, events or conditions specifically enumerated herein as an Uncontrollable Circumstance;

(H) changes in the financial condition of SPSA, the Company, the Guarantor, Affiliates or any subcontractor or supplier affecting the affected Party's ability to perform its obligations under this Agreement;

(I) Except to the extent due to a Change in Law, union or labor work rules, requirements or demands which have the effect of increasing the number of employees employed or otherwise increasing the cost to the Company of managing, operating and maintaining the Facilities;

(J) any impact of prevailing wage or similar law, customs or practices on the Company's management, operation, maintenance and costs;

(K) any Change in Law occurring outside of the United States;

(L) any Change in Law regarding the quality, condition or disposal of any or all Acceptable Waste, Processible Waste, Non-Processible Waste, Prohibited Waste or Residue, the terms and conditions of which do not impose more stringent or burdensome requirements on the Facilities or the Company or both than are imposed on the Facilities or the Company of both by this Agreement at the time of such asserted Change in Law; and

(M) any change in any Subcontractor or Affiliate or any act, event or condition that affects any Subcontractor or Affiliate that, in either case, results in increased costs for any service, material, supply or chemical provided or to be provided under this Agreement.

"U.S. Navy" means the United States Department of Navy.

"Utility" or "Utilities" means individually or collectively, as applicable, telephone, electric energy (kWh), natural gas (therms), fuel oil (btu's or gallons), wastewater (gallons), and

water (gallons) plus all non-variable costs, including, as applicable, all demand charges, procurement, management and administrative costs, transportation, transmission and distribution costs, ancillary service costs and similar non-variable charges, inclusive, in all cases, of sales taxes.

“Virginia Beach Landfill” means the Landfill described in that certain Agreement for Disposal of Ash and Residue dated as of August 5, 1984, between SPSA and the City of Virginia Beach, as amended.

“Week(s)” or “Weekly” means a calendar week commencing at 12:00 a.m. (Norfolk, Virginia time) on Monday and ending at midnight on the immediately following Sunday.

“Wheelabrator” shall have the meaning set forth in the recitals.

“Withholding(s)” or “Withhold” or “Withheld” shall have the meaning specified in Section 8.2.8.1.

“Work” means all obligations, duties, responsibilities and activities which the Company is responsible for performing or causing to be performed pursuant to the requirements of this Agreement.

“WTE Facility” means the WTE Facility as described in Schedule 1 (Description of the Facilities).

Section 2.2 Terms Generally. Whenever the context may require any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation,” except as the context may otherwise require. The words “approval” and “consent” shall be deemed to be followed by the phrase “which shall not be unreasonably withheld, conditioned or unduly delayed” except as the context may otherwise require. The word “or” is not exclusive. Words in the singular number include words in the plural and vice versa unless the context of the usage of such term clearly indicates otherwise. Accounting terms that are used, but not otherwise defined herein, are to be construed and interpreted in accordance with GAAP as described in Accounting Standards Board SAS No. 69, as amended or substituted, and established by various pronouncements of the Accounting Principles Board, the Financial Accounting Standards Board and the American Institute of Certified Public Accountants. All references to “dollars” or “\$” or “US\$” in this Agreement refer to United States dollars, which is the currency used for all purposes in this Agreement.

SECTION 3 OBLIGATIONS OF THE COMPANY

On and after the Commencement Date and through the Term, the Company shall perform the following in return for the Monthly Fee and any such other compensation as may be provided for pursuant to Section 8 unless otherwise specifically stated:

Section 3.1 Performance Guarantees. The Company shall manage, operate and maintain the Facilities to meet the Performance Guarantees, except as otherwise provided in this Agreement.

Section 3.2 Management, Operation and Maintenance. Subject to the more specific requirements, exceptions and limitations set forth in this Agreement, the Company shall:

(a) Provide continuous operation and maintenance of the Facilities in accordance with the requirements of this Agreement.

(b) Subject to the provisions of Section 7.1.3, receive and accept all SPSA Acceptable Waste at the RDF Facility.

(c) Produce Steam Energy from the Processing of Processible Waste in accordance with all terms and conditions of the Steam Agreement.

(d) Subject to the provisions of Section 7.1.3 relating to diverted waste, handle, process and load Non-Processible Waste, Processible Waste not Processed at the WTE Facility, Residue and, as applicable, pursuant to the terms of this Agreement, Prohibited Waste, onto trucks provided by the Company or its Subcontractors for transport by the Company or its Subcontractors to the Landfill(s) for disposal or other uses in accordance with Applicable Law.

(e) Perform all corrective, predictive, preventive and routine maintenance to the Equipment and Facilities, including repairs and replacements, to maintain the Equipment, Facilities and Facilities Site, including all property damaged or otherwise adversely impacted, whether on or off the Facilities Site, as a result of the Work, such that the Equipment, Facilities, Facilities Site, buildings, roads, grounds, fixtures and other appurtenances, or any one or more of the foregoing, are kept and maintained in good physical, mechanical and operational condition and neat, orderly and clean appearance consistent with Prudent Industry Practices.

(f) Maintain the Facilities Site, including roads, grounds and other appurtenances in good repair and in a neat, orderly and litter-free condition.

(g) Perform all testing and prepare all reports as required by this Agreement.

(h) Exercise all reasonable efforts to minimize service disruptions, neighborhood impacts and other inconveniences due to the management, operation, maintenance, repair or replacement activities of the Company, or any combination of such foregoing activities.

(i) Provide qualified management, supervision and personnel necessary to perform the Work.

(j) Procure, provide and implement or cause to be procured, provided and implemented, in a timely manner and as necessary and appropriate consistent with at least Prudent Industry Practices to perform the obligations of the Company in a timely manner under this Agreement, all materials, supplies, chemicals, Reagents, Utilities (including telephone service for all SPSA's RDF Assets), Spare Parts and Equipment; provided, however, for any Billing Month, the Company shall only be responsible for the first one hundred dollars (\$100.00) of any costs incurred relative to any long-distance telephone calls initiated by SPSA at any of SPSA's RDF Assets during such Billing Month.

(k) Perform all inspections or testing or both and prepare all reports as required by this Agreement.

(l) At all times, maintain or have immediate access to an available inventory of Spare Parts adequate to meet its obligations pursuant to this Agreement and to complete Emergency repairs or replacements to the Facilities.

(m) Receive and accept all Authorized Hauler Acceptable Waste delivered by or on behalf of SPSA at the RDF Facility.

(n) Subject to Section 7.8, reject all Out-of-State Waste delivered to the RDF Facility.

(o) Supply or cause to be supplied to each SPSA Transfer Station such number of trailers and trucks necessary to receive loads of and transport all Non-Processible Waste and all diverted Acceptable Waste from SPSA Transfer Stations in accordance with Section 7.1.6 and Section 7.1.7, respectively.

(p) Remove, transport and dispose of all Non-Processible Waste and all diverted Acceptable Waste to Company Landfill(s) in accordance with Section 7.1.6 and Section 7.1.7, respectively.

Unless otherwise specified in this Agreement, the Company shall be solely responsible for all means, methods, techniques, sequences, procedures and safety programs or any combination of the foregoing in connection with the performance of the Work.

If the Company fails to meet any of its obligations specified in Section 3.2(d), Section 3.2(e), Section 3.2(j), or Section 3.2(l) and the Service Fee is not undergoing Adjustment for the same failure to perform such obligation, SPSA's Authorized Representative may subject the Company to the Withholding in and pursuant to and in accordance with Section 8.2.8.1.9.

Section 3.3 Compliance with Law. The Company shall perform all Work contemplated under this Agreement in compliance with at least all Applicable Laws and the Company shall ensure that all Subcontractors performing services relative to the Facilities or the

Facilities Site or both shall comply with at least all Applicable Laws in the performance of such services. For purposes of clarity, the Company (and the Company shall ensure that all Subcontractors performing services relative to the Facilities or the Facilities Site or both) shall comply with the more stringent of (a) Applicable Laws or (b) the duties, obligations, requirements, standards and guarantees of this Agreement; provided, however, compliance with the foregoing in (b) shall not be a violation of Applicable Laws.

The Company covenants and agrees that the Company shall comply with this Section 3.3 relative to the isolation and management of Prohibited Waste. The Company shall protect, indemnify and hold harmless the SPSA Indemnified Parties from and against all Losses and shall defend the SPSA Indemnified Parties in any Legal Proceeding for Losses incurred or assessed against the SPSA Indemnified Parties pursuant to any Applicable Law arising from or caused by the Company's breach of such covenant and agreement.

Section 3.4 Management and Labor Personnel.

Section 3.4.1 General. The Parties agree that the retainage and assignment by the Company of qualified, experienced management, technical, supervisory and skilled personnel is of foremost importance to the successful implementation, development and completion of the Work. The Company shall secure and provide appropriate personnel skilled in the Work. The Company shall also staff the Facilities consistent with Prudent Industry Practices to enable the Company to perform all of its obligations and duties under this Agreement in a continuous basis (twenty-four (24) hours per Day, seven Days per Week) and in a timely and efficient manner. The Company warrants that as of the Commencement Date, it has the experience and capability to perform the Work and shall continually furnish sufficient competent, professional, technical, supervisory and other personnel during the Term consistent with Prudent Industry Practice. The Company's employees and personnel performing services relative to the Facilities or the Facilities Site or both shall be fully qualified, trained and, to the extent required by Governmental Authorities, validly licensed to perform such Work. The Company shall cause all of its employees and personnel performing Work to at all times maintain and keep current all personnel training, licenses and certifications, as applicable.

Section 3.4.2 Affected Employees Orientation. Within thirty (30) Days after the Contract Date, the Company shall, after giving at least three (3) Days prior written notice to all Affected Employees, conduct one or more interviews and career planning meetings and orientation meetings for all Affected Employees at the Company's sole cost and expense. The meetings shall orient the Affected Employees to the Company, including a description of its management, operation and maintenance policies and procedures, its plan for providing services under this Agreement, its hiring and promotion policies, and its compensation and benefits package. SPSA shall exercise all reasonable effort to cooperate with the scheduling of such meeting and interviews.

Section 3.4.3 Hiring. No later than thirty (30) Days prior to the Commencement Date, the Company shall offer regular, full-time employment at the Facilities to all Affected Employees subject to each applicable Affected Employee passing a standard Company drug screening and background test. Such tests shall be consistent with the Company's pre-hiring

requirements for other similarly situated employees. The Company may require that all Affected Employees complete physical examinations by a licensed physician prior to their commencement of their employment with the Company or its Affiliate, but the results of such physical examinations shall in no way affect their offer of employment from the Company. No later than the Commencement Date, the Company shall have employed and be prepared to provide a sufficient number of qualified and appropriately trained personnel to meet its obligations under this Agreement.

All Affected Employees accepting employment by the Company pursuant to the first sentence of the immediately preceding paragraph of this Section 3.4.3 shall be retained by the Company as regular, full-time employees or management, as applicable, at, to or on the Facilities until the first anniversary of the Commencement Date (the "Covered Period"), and thereafter shall be subject to the same terms and conditions of employment as other comparable Company employees. During the Covered Period, the Company may terminate the employment of any Affected Employee once hired only under the following circumstances:

- (a) the applicable Affected Employee voluntarily quits or resigns his or her employment;
- (b) the applicable Affected Employee voluntarily elects to take an early retirement, severance or other incentive termination package sponsored and funded by the Company; or
- (c) the applicable Affected Employee is terminated for Cause as such term is defined herein.

Section 3.4.4 Training. The Company shall ensure that all management and personnel be recertified or relicensed, as applicable, as required or recommended pursuant to Applicable Law.

Section 3.4.5 Wages and Salaries. The Company shall provide its management and personnel, including the Affected Employees, with all wages and salaries. Beginning on the Commencement Date and continuing until at least the first anniversary of the Commencement Date, the Company shall pay each of the Affected Employees wages and salaries at least equal to (a) the then existing wages and salaries of such Affected Employee as of the Contract Date (taking into account any FICA, Medicare, similar taxes or charges and payments applicable to the Affected Employees), *plus* (b) an amount equal to five percent (5%) of such Affected Employee's hourly wage or base salary (which 5% increase shall be paid ratably and periodically in the ordinary pay cycle). Nothing in this Section 3.4.5 shall prevent the Company from (i) including in its package of management and personal wages and salaries such additional or increased wages and salaries as the Company may propose and provide (in excess of such 5% increase of base salary and hourly wage); or (ii) except during the period beginning on the Commencement Date and ending on the one year anniversary thereof, modifying the wages and salaries provided to such Affected Employees at any time and from time to time during the Term (which may result in increases or decreases in wages and salaries), but only to the extent such modifications are consistent with those applicable to similarly situated employees of the Company.

Section 3.4.6 Affected Employee Benefits. During the Term, the Company shall provide or cause to be provided to the Affected Employees during their employment at the Facilities by the Company or its Affiliates with (a) an employee benefits plan having terms, conditions and benefits of which are reasonably comparable to the benefit plan provided to similarly situated employees of the Company as of the Contract Date (except for the Company's 401(k) plan, which is addressed in (b) below), which plan shall be maintained in a manner, consistent with Applicable Law, that does not result in the modification of any benefit formula or any provision that would reduce the accrual of such benefits; (b) following a ninety (90) Day waiting period after the Commencement Date, if applicable, a 401(k) plan of defined contribution benefits funded exclusively through voluntary contributions by such Affected Employees (to the extent such a plan can be provided under Applicable Law, including the defined contribution pension plan tax qualifications of the Internal Revenue Code); (c) a plan of health benefits that are reasonably comparable to the health benefits provided by SPSA as of the Contract Date; (d) a plan of welfare benefits, not described in (c) above, that are reasonably comparable to the welfare plan benefits provided by SPSA as of the Contract Date; (e) a plan of life insurance benefits reasonably comparable to the life insurance benefits plan provided to SPSA employees as of the Contract Date; and (f) a package of other payroll policies that are reasonably comparable to the package of payroll policies provided by SPSA as of the Contract Date. The Company's benefits package for Affected Employees shall have no elimination periods, preexisting condition provision or any other limitations on immediate coverage. The Company may, by at least thirty (30) Days Notice to SPSA and each Affected Employee before the Closing Date, defer the commencement of health and medical benefits to Affected Employees for a period of ninety (90) Days following the Commencement Date; provided, that in the event of such deferral and as a condition thereto, during the 90-day waiting period, the Company shall pay all COBRA premium payments (both the employer and employee portions) for all health and medical coverage for all Affected Employees. Nothing in this Section 3.4.6 shall be construed to prevent the Company from (i) including in its package of benefits such additional employee benefits as the Company may propose; or (ii) modifying the benefits and payroll policies provided to such Affected Employees at any time and from time to time during the Term (which may have the effect of increasing or decreasing such benefits), but only to the extent such modifications are consistent with those applicable to other similarly situated employees of the Company.

Section 3.4.7 Crediting of Years of Service and Accrued Time. The Company shall recognize each Affected Employee's years of service with SPSA (determined as of the Commencement Date without regard to any accrued annual leave, accrued sick leave or accrued compensatory time) as years of service with the Company for the following purposes: (a) any job-related matter based on seniority (such as off-day, shift preference, overtime, etc.) to the extent that the Company uses seniority for such job-related matters; (b) determining eligibility for and vesting under (but not benefit accrual or contributions to) the Company's employee benefit plans; and (c) determining eligibility for and amount of vacation, sick leave and any other payroll policies of the Company. The Company shall make reasonable accommodations to allow

Affected Employees who have existing plans for vacation or leave during the calendar year in which the Commencement Date occurs to take such time off without pay or penalty.

Section 3.4.8 Enforcement. Failure of the Company to comply with any of its obligations under this Section 3.4 shall subject the Company to the liquidated damages specified in Section 8.2.8.1.1. For purposes of clarity, each of the obligations of the Company under this Section 3.4 that are separate and distinct obligations shall each be subject to a separate liquidated damage specified in Section 8.2.8.1.1.

Section 3.5 Facilities Manager. SPSA has selected the Company to perform the services contemplated under this Agreement based, in part, on the past successful experience and expertise of the designated Facilities Manager. The Facilities Manager shall be empowered to make Day-to-Day decisions on behalf of the Company which are related to the Work and shall serve as the Company's primary interface with SPSA in all such matters unless the Company, by written notice from the Company's Authorized Representative to SPSA's Authorized Representative, specifies otherwise. The Facilities Manager and his or her designee shall act in good faith and diligence and fully cooperate with SPSA and SPSA's Authorized Representative in all matters relating to the Work to be performed by the Company hereunder. The Company shall make the Facilities Manager, or his or her designee, available to SPSA twenty-four (24) hours per Day and the Facilities Manager, or his or her designee, shall attend all Board meetings and make such presentations as may be reasonably necessary or required by the Board. The Facilities Manager shall be located at and dedicated exclusively to the Facilities and shall not perform other services for the Guarantor, any Affiliate or any other waste-to-energy facility without the prior written approval of SPSA's Authorized Representative.

Section 3.6 Company Relationships. The Company, the Company's Authorized Representative and the Facilities Manager (if such Entity is not also the Company's Authorized Representative) shall (a) establish, actively pursue and maintain during the Term, business-like, responsible and responsive working relationships with SPSA's Authorized Representative, SPSA's management staff and other officials and representatives of SPSA and all Governmental Authorities and their representatives with whom the Company has dealings regarding the Facilities or this Agreement; (b) prior to initiating contact and pursuing dialogue with Governmental Authorities during the period between the Contract Date and the Commencement Date regarding the Company's obligations under this Agreement, (i) except as otherwise (A) authorized in writing by SPSA's Authorized Representative or (B) required by Applicable Law, meet with and coordinate all such activities with SPSA's Authorized Representative and (ii) in conjunction with SPSA's Authorized Representative, develop protocols during the period between the Contract Date and the Commencement Date for Company contact, meetings and dialogue with such agencies as may be established and directed by SPSA's Authorized Representative; and (c) coordinate and conduct meetings with SPSA staff and consultants and neighboring jurisdictions, as requested by SPSA's Authorized Representative. During the Term, the Company's Authorized Representative shall (i) keep SPSA's Authorized Representative informed of, and shall reasonably consult with SPSA with respect to, all matters involving the Governmental Authorities relating in any way to the Facilities, the Company's performance of the Work or this Agreement, and (ii) coordinate and conduct meetings with SPSA staff and consultants and neighboring jurisdictions, as requested by SPSA's Authorized Representative.

Section 3.7 Security and Safety Program.

Section 3.7.1 Security Program. The Company shall (a) require that all of its employees and Subcontractors comply with all Applicable Laws, including those applicable to the monitoring, implementation and enforcement of security measures, (b) develop security manuals for the Facilities and assure that all of the Company's employees and Subcontractors are trained in the security measures specific to the Facilities, (c) establish and maintain security procedures for the Facilities for the protection of employees of the Company and all other Entities, including invitees and permittees at the Facilities or on the Facilities Site in connection with the operation and maintenance thereof, at a level consistent with the more stringent of Applicable Law and Prudent Industry Practices, and (d) comply with all Applicable Laws relating to the security of third parties or property, or both, at the Facilities or on the Facilities Site or their protection at the Facilities or on the Facilities Site, or both, from damage, injury or loss. The Company shall conduct a security audit of the Facilities and furnish to SPSA's Authorized Representative a written report of such audit within one hundred eighty (180) Days after the Commencement Date. An update of such report shall be furnished to SPSA's Authorized Representative within one hundred eighty (180) Days after each Billing Year thereafter during the Term. After completion of the initial security audit, the Company shall develop a site-specific multipoint security program including the conduct of appropriate employee training and the formation of a security committee to encourage employee interest and involvement in security matters, the development of appropriate security forms and checklists for use by employees, and, where appropriate, the implementation of changes in procedures. A written report describing the multipoint security program will be provided to SPSA's Authorized Representative within one hundred eighty (180) Days after the Commencement Date, and an update will be furnished on the anniversary of each Billing Year thereafter during the Term.

Section 3.7.2 Safety Program. The Company shall (a) require that all of its employees and Subcontractors comply with Applicable Laws concerning safety related issues, (b) develop safety manuals for the Facilities and the Facilities Site and assure that all of the Company's employees and Subcontractors are trained in the safety and health regulations and procedures specific to the Facilities and the Facilities Site, (c) take all reasonable precautions in accordance with the more stringent of Prudent Industry Practices or Applicable Law, to prevent damage, injury or loss, by reason of or related to the operation and maintenance of the Facilities, to any persons or property on the Facilities Site or adjacent property including trees, shrubs, lawns, walks, pavements, roadways, equipment, structures and utilities, (d) comply with all Applicable Laws relating to the safety of third parties or property at the Facilities or on the Facilities Site, or both, or their protection at the Facilities or on the Facilities Site or both from damage, injury or loss, and (e) implement a safety program, the goal of which shall be the identification and management of all hazardous conditions at the Facilities or on the Facilities Site, or both.

Section 3.8 Administrative Permits Requirements. The Company shall (a) apply for, obtain, maintain and pay for the acquisition of and maintain (including the payment of maintenance fees) all Permits (other than SPSA Permits) required for either or both of the Facilities or the Work and the Company's Authorized Representative shall provide copies of all

of the same to SPSA's Authorized Representative upon request. SPSA's Authorized Representative shall, upon the request of the Company's Authorized Representative, assist the Company in the Company's efforts to obtain Permits that are not required to be secured and maintained by SPSA; provided in no event shall SPSA's Authorized Representative's level of assistance be (a) used or relied on by the Company or (b) interpreted or construed as SPSA Fault, in either case, for the failure of the Company to secure such Permits that are not SPSA Permits. The Parties agree that the obligation to obtain such Permits that are not SPSA Permits is solely vested with the Company.

The Company shall secure and pay for the acquisition of and maintain the Permits in connection with the Facilities that are specifically identified in Schedule 10 (Permits) or similar Permits that may be required by a Change in Law, and the Company's Authorized Representative shall provide a copy of such Permits to SPSA's Authorized Representative prior to the Commencement Date. Thereafter, the Company's Authorized Representative shall promptly provide a copy of any such Permit to SPSA's Authorized Representative after any renewal or modification of the same.

Section 3.9 Emergency Procedures Planning. The Company shall, within one hundred eighty (180) Days following the Commencement Date, provide SPSA's Authorized Representative a plan of action to be implemented by the Company in the event an Emergency shall occur. Such plan shall specify the Emergency procedures to be followed and shall be consistent with Applicable Law.

The Company's plan of action shall provide, at a minimum, the following:

(a) The Company shall, upon learning of an Emergency or the probable occurrence of an Emergency, (1) immediately provide oral notice to SPSA's Authorized Representative of the same and (2) as soon as possible, but no later than twenty-four (24) hours, provide Notice to SPSA's Authorized Representative of such event or probable event; provided, however, if Applicable Law shall provide for a more expeditious oral or written notice of any Emergency to SPSA, the Company shall so comply by providing such notice to SPSA's Authorized Representative.

(b) The Company shall interact and cooperate with appropriate departments of the public entities comprising SPSA and other jurisdictions.

(c) The Company shall supply standby employees from normal Facilities staff ready to address any Emergency in an expeditious manner.

The plan shall be reviewed and updated by the Company as frequently as necessary, but at least annually and no later than April 1 of each Billing Year (exclusive of the first Billing Year), and such updated plan shall be submitted to the SPSA's Authorized Representative by such date.

Failure of the Company to prepare, provide to SPSA's Authorized Representative, comply with its Emergency plan, including any update to the same, and comply with all of the

other requirements of this Section 3.9 shall subject the Company to Withholding as specified in Section 8.2.8.1.2.

Section 3.10 Housekeeping and Maintenance of Buildings and Grounds. The Company shall continually and on a daily basis maintain the Facilities and the Facilities Site in a clean, neat, orderly, and litter free condition consistent with Prudent Industry Practices. Without limiting the generality of the foregoing, the Company shall maintain within the Facilities Site all grounds, landscaping and drainage systems, including, but not limited to, storm water drainage systems, manholes, inlets, headwalls, flared-end sections, cleanouts and rip-raps. In furtherance of assuring the Company's compliance with its obligations under this Section 3.10, SPSA shall have the right to Withhold amounts from payments to the Company pursuant to, as applicable, Sections 8.2.8.1.3, 8.2.8.1.4 and 8.2.8.1.5.

Section 3.11 Repairs and Maintenance; SPSA Truck Maintenance Facility.

(a) The Company shall, at the Company's sole cost and expense, perform in a timely and diligent manner all maintenance, repairs and replacements to the Facilities, including SPSA's Roadways and SPSA's Tipping Floor, in accordance with the more stringent of Prudent Industry Practices, Applicable Laws or the terms and conditions of this Agreement ("Standards of Maintenance"), provided that the foregoing shall not be a violation of Applicable Law.

(b) For the period starting on the Commencement Date and ending one hundred eight (180) Days thereafter (the "Transition Period"), the Company shall provide continuous service of water and wastewater to SPSA's Truck Maintenance Facility. The cost and expense of usage of water and wastewater service for SPSA's Truck Maintenance for the duration of the Transition Period shall be borne solely by the Company; provided, that SPSA's usage of such utilities is reasonably consistent with SPSA's historic usage. During the Transition Period, SPSA shall obtain separate connections and metering for water and wastewater service, and upon the activation of such utility services, the Company shall no longer be obligated to provide such utility services to SPSA's Truck Maintenance Facility.

Section 3.12 Ownership and Title. The Facilities, other than SPSA's RDF Assets as of the effective date of the Purchase and Sale Agreement, are titled in the name of and owned by the Company. Except with respect to any interests, if any, the U.S. Navy may have in SPSA's RDF Assets under the U.S. Navy easements, SPSA's RDF Assets are titled in the name of and owned by SPSA.

The Company further warrants and guarantees, and shall require all Subcontractors performing Work on SPSA's Roadways and SPSA's Tipping Floor to warrant and guarantee, that all materials, supplies and related items relative to or for use involving the maintenance, repairs and replacements of SPSA's Roadways and SPSA's Tipping Floor shall, upon completion of the Work, be owned by SPSA, and the Company, any Subcontractor or other Entity performing the Work or providing the materials, supplies or related items shall not have or retain any interest, lien, encumbrance or other security or ownership interest in the same. In the event any claim is asserted that could adversely affect such title, the Company shall, and shall cause the applicable Subcontractor to, at no cost to SPSA, protect, indemnify and hold SPSA

harmless from and against all Losses and shall defend the SPSA Indemnified Parties in any Legal Proceeding or in connection with the title to all such Work, materials, and supplies, and shall obtain good and marketable title to the same on behalf of SPSA.

Upon the earlier to occur of (a) the end of the Term or (b) any termination of this Agreement pursuant to Section 13, SPSA shall, subject to approval of the U.S. Navy, sell to the Company and the Company shall purchase, on an "as is, where is" condition at such time, SPSA's RDF Assets for one dollar (\$1.00). SPSA warrants and guarantees that at the time of such sale, SPSA's RDF Assets shall be free and clear of any encumbrance, lien or security interest in such assets except those interests, if any, that the U.S. Navy may have with respect to such assets. Except with respect to any interests the U.S. Navy may have in SPSA's RDF Assets at the time of such sale to the Company, the Company shall receive good and marketable title and SPSA shall, to the extent permitted by Applicable Law (and without waiving its sovereign immunity), protect, indemnify and hold the Company harmless from and against all Losses arising from any claim affecting title to any of SPSA's RDF Assets and shall defend the Indemnified Parties in any Legal Proceeding in connection with any adverse claim affecting title to SPSA's RDF Assets; provided, however, such adverse claim shall not have arisen from the acts or omissions of the Company or its Affiliates or agents.

Section 3.13 Access to the Facilities.

Section 3.13.1 Access to the Facilities. The Company shall provide SPSA's Authorized Representative and his or her agents (including the Consulting Engineer(s)) upon reasonable notice and with the full cooperation of the Company, access to and rights to visit and inspect the Facilities and the Facilities Site, during normal business hours for any reason related to this Agreement, including to photograph, verify, sample, test, and enforce the Company's compliance with the Work and to exercise and implement SPSA's rights and obligations under this Agreement; provided, however, any such sampling or testing shall be conducted in accordance with protocols established in writing therefor by the Parties or deemed established therefor by dispute resolution pursuant to Section 14 and provided further, that the frequency of such sampling and testing does not unreasonably interfere with the Company's operation and maintenance of, as applicable, the WTE Facility or the RDF Facility. Further, the Company shall provide a vehicle parking area in close proximity to the Facilities on the Facilities Site and with respect to SPSA's employees, agents and consultants performing services at SPSA's Scales and Scalehouses, vehicle parking area within fifty (50) yards of such scales and scalehouses.

Section 3.13.2 Access to Data and Records. SPSA's Authorized Representative, the Consulting Engineer(s) and SPSA's employees, representatives and agents, with the full cooperation of the Company, shall, at SPSA's sole cost and expense, have, during normal business hours and upon reasonable notice to the Company, access to review and copy, in accordance with and as may be limited by Applicable Law, all Records, in Native Electronic Format (including metadata) or otherwise, that are made or received by the Company in connection with this Agreement and that are reasonably necessary to document or substantiate the Company's performance of its obligations under this Agreement. The Records will be made available by the Company for audit or inspection purposes by SPSA. The Company shall have

the right to deny access to SPSA to review and copy Records to the extent Records are privileged or protected from disclosure by Applicable Law.

Section 3.13.3 Compliance with Company's Rules. Relative to SPSA's inspections and visits as described in this Section 3.13, SPSA's Authorized Representative, the Consulting Engineer and SPSA's representatives and agents and representatives of Governmental Authorities shall comply with all of the Company's safety rules and regulations with respect to their inspection or visit to the Facilities or Facilities Site, or both, and shall not unreasonably interfere with Facilities operations and maintenance; provided, however, such compliance shall only be applicable to the extent such rules and regulations are applicable to the Company's visitors and invitees. The Company agrees that its rules and regulations regarding access to the Facilities and Facilities Site shall be designed not to restrict access, but rather to address appropriate security, operational or safety issues that may be reasonably encountered on such visits. To the extent permitted by Applicable Law (and without waiving its sovereign immunity), SPSA shall indemnify and hold the Company harmless and defend the Company in any Legal Proceeding relative to any Loss arising from or in connection with inspections or visits of SPSA's employees, representatives or agents, provided that such Loss is solely the result of SPSA Fault.

Section 3.13.4 Tours of The Facilities. The Company shall schedule and provide tours of the Facilities and Facilities Site upon reasonable notice by SPSA's Authorized Representative. SPSA's Authorized Representative may schedule and conduct as many tours as desired upon reasonable notice to the Company's Authorized Representative, provided that any such tours shall not, individually or collectively, unreasonably interfere with Facilities operations and maintenance. Literature describing the Facilities and their operation, if provided by SPSA's Authorized Representative, shall be distributed during the tour and to the general public. The Company shall have portable public address systems available for use by the Company and SPSA in addressing such groups. The Company shall also secure, maintain and supply a sufficient number of clean hardhats and safety glasses for use by tour groups when touring the Facilities and the Facilities Site. The Company shall replace such hardhats and safety glasses as appropriate in order to maintain good public relations.

Section 3.13.5 Weighing. The Company shall operate and maintain weigh scales and customary technology infrastructure (including computerized record-keeping hardware and software) and weigh scale records serving the Company Landfill(s) for the purpose of determining the total Tons of Non-Processible Waste and Acceptable Waste delivered to the Company Landfill(s) from SPSA Transfer Stations in accordance with Section 7.1.6 and Section 7.1.7, respectively. The Company shall periodically check the tare weight of vehicles delivering or removing Solid Waste to or from the SPSA Transfer Stations and Company Landfill(s). SPSA shall have the right for a SPSA employee to visit from time to time at the Company Landfill scalehouse(s) to observe scalehouse operations, provided that such visits must be scheduled in advance with the Company's Authorized Representative and such employee shall not unreasonably interfere with scalehouse operations.

Section 3.13.6 Calibration of Weigh Scales. The Company, at its sole cost and expense, shall cause the weigh scales at the Company Landfill(s) to be tested and calibrated by an

independent third party experienced in the testing and calibration of such types of weigh scales, as often as is required by Applicable Law. SPSA may request more frequent testing of the weigh scales at SPSA's sole cost and expense. If, at any time, testing of the weigh scales indicates that the scales do not meet the accuracy requirements of Applicable Law, the Parties shall reasonably estimate the quantity of Non-Processible Waste or Acceptable Waste (or both) on the basis of truck data and by assuming, for purposes of such estimate, that the weigh scale inaccuracy occurred on a linear basis from the test date most recently preceding the test demonstrating such inaccuracy. These estimates shall take the place of actual weighing records until correction of the weigh scales is completed.

Section 3.14 Security at the Facilities, Confidentiality of Security Measures. The Company shall be responsible for the Facilities security, including the administration and implementation of the security procedures for the Facilities. Without limiting the generality of the foregoing, access to the Facilities and the Facilities Site shall only be given to the Company's employees, Subcontractors, Affiliates, Company's invitees, Solid Waste haulers, Governmental Authorities, those Entities permitted by Section 3.13 and such other Persons as determined by the Company's Authorized Representative. The access gates to the WTE Facility shall remain closed at all times except when admitting such employees, Subcontractors, Affiliates, Company's invitees, haulers, Governmental Authorities and Entities. Nothing in this Section 3.14 or otherwise in this Agreement shall restrict the access of SPSA, its employees, subcontractors, agents and invitees to the RDF Facility or SPSA's Truck Maintenance Facilities.

The Company agrees that things such as vulnerability analyses of the Facilities and various security measures used to make the Facilities and the Facilities Site less vulnerable to sabotage or terrorism are not to be disseminated outside of the Facilities Site nor disclosed to other Entities. If the Company receives any request by any Entity for such information, the Company shall determine if the request is of such a nature that Governmental Authorities should be contacted and if so, immediately contact appropriate Governmental Authorities of such request and in any event, comply with Applicable Law.

Section 3.15 Taxes and Contributions. The Company shall pay when due all taxes, duties, fees and similar impositions of Governmental Authorities imposed on the Company under Applicable Law by reason of the Company's performance of the Work including, but not limited to, sales, excise, storage, consumption taxes, license and registration fees, income, profit, franchise, Company's real and personal property taxes (but not taxes on SPSA's RDF Assets); employment taxes and consistent with Section 3.4, contributions imposed by Applicable Law or trade union contracts with respect to or measured by compensation (wages, salaries, benefits or other) paid to employees of the Company, including taxes and contributions for unemployment compensation insurance, retirement benefits, health and welfare funds, pensions and annuities and disability insurances. This Section 3.15 shall not be construed to limit or affect SPSA's obligation to reimburse the Company for Pass Through Costs in accordance Section 8.2.7 of this Agreement.

The Company shall protect, indemnify and hold harmless SPSA from and against all Losses and shall defend the SPSA Indemnified Parties in any Legal Proceeding resulting from or arising out of or in connection with SPSA's or its Subcontractor's or both failure to make timely

payment or comply with the reporting, filing or other procedural requirements under Applicable Law with respect to payments required under this Section 3.15.

Section 3.16 Acceptance of Facilities and Facilities Site As-Is. The Company represents that the Company has satisfied itself as to the nature and location of the Work, the specific local site conditions, the environmental and physical conditions at the Facilities and the Facilities Site, the character of the Facilities and Facilities Site and labor conditions and all matters that may affect the performance of the Work and the cost thereof. Any failure by the Company to make such determinations shall not relieve the Company of responsibility for performing the Work in accordance with this Agreement without claim for additional compensation or any other issues, except as otherwise expressly recognized in this Agreement.

Section 3.17 Retention of Records. During the Term, the Company shall retain all Records received by the Company. The Records shall be maintained in hard copy and in Native Electronic Format (including metadata), where applicable, in a form reasonably acceptable to SPSA's Authorized Representative. In addition to providing to SPSA's Authorized Representative and SPSA's employees, representatives and agents access to review and copy such Records during the Term in accordance with Section 3.13.2, the Company shall, subject to Section 3.13.2, provide to SPSA's Authorized Representative all Records in Electronic Format (including metadata), where applicable, and in hard copy, where applicable, and in any case, in a form reasonably acceptable to SPSA's Authorized Representative, at the end of the Term. At the request of SPSA's Authorized Representative, the Company shall deliver or transmit to SPSA on a regular basis throughout the Term, rather than only at the end of the Term, those Records designated by SPSA's Authorized Representative.

The Company recognizes and agrees that there might arise instances in which SPSA reasonably anticipates that SPSA or one or more of its agents, officials, servants, employees or consultants might be named as a party to litigation, but in which the Company, although it does not reasonably anticipate that it or one or more of its agents, directors, officers, employees, advisors or Subcontractors might be named as a party to such potential litigation, nevertheless possesses documents, data, or other information potentially relevant to such anticipated litigation. In such instances the Company shall, at the direction of SPSA's Authorized Representative, institute a "litigation hold" under which the Company shall retain all documents, data, or other information (regardless of whether such documents, data or other information constitute Records) potentially relevant to the anticipated litigation until otherwise instructed by SPSA's Authorized Representative. In such instances, SPSA shall reimburse the Company for the actual and direct costs, exclusive of profit, of instituting such litigation hold that exceed the costs the Company would have incurred in retaining the documents, data and other information described in this paragraph in accordance with the Company's ordinary retention policies and procedures. The Company understands and agrees that it may be required to retain the documents, data, and other information described in this paragraph in Native Electronic Format (including metadata).

Section 3.18 Steam Agreement.

Section 3.18.1 Compliance. The Company shall comply in all respects with the terms, conditions and obligations under the Steam Agreement. The Company shall promptly deliver to SPSA's Authorized Representative all notices and other documentation received from the U.S. Navy or any Governmental Authority relating to the Company's failure or alleged failure to perform in accordance with any of the terms, conditions or obligations under the Steam Agreement.

Section 3.18.2 Modification. The Company shall not take any action that will (a) result in a reduction of any payment rates under and pursuant to the terms of any Steam Agreement or (b) modify any Steam Agreement in such a manner so as to likely result in an increase in the Company's risk of default under and pursuant to Section 12.2.9, in either case, unless the Parties execute an amendment to this Agreement providing compensation designed to place SPSA in the same economic and risk position as if the applicable payment rates had remained as calculated under the applicable Steam Agreement prior to any such Company action, and in the case of (b), an equitable adjustment to this Agreement that would reasonably compensate SPSA for such increased risk or place SPSA in the same or reasonably similar risk or cost position SPSA occupied under the applicable Steam Agreement prior to any such Company action.

Section 3.19 Landfill.

Section 3.19.1 Landfill Disposal. The Company shall, by ownership or contractual arrangement, secure and maintain or cause to be maintained at all times on and after the Commencement Date through the Term, one or more Landfills for the disposal of Residue, Acceptable Waste, Processible Waste, Non-Processible Waste and Prohibited Waste delivered to or resulting from the Sorting or Processing at the Facilities, or from deliveries from SPSA Transfer Stations pursuant to Section 7.1.6 and Section 7.1.7 that the Company is obligated to dispose of or arrange for the disposal of pursuant to the terms and conditions of this Agreement.

Section 3.19.2 Transportation to the Landfill. On and after the Commencement Date and through the Term, the Company shall have, by ownership or contractual arrangement, secured and shall thereafter maintain in effect at all times, transportation of all of the types of waste referenced in Section 3.19.1 that the Company is obligated to transport or arrange for the transportation of from, as applicable, the RDF Facility or the WTE Facility, or both, to the Landfill(s) for disposal pursuant to the terms and conditions of this Agreement.

Section 3.19.3 Transportation and Disposal Costs. Unless otherwise specifically provided in this Agreement, the Company shall be solely responsible for all costs and expenses relative to the loading onto hauling vehicles, transporting and disposal of the types of wastes referred to in Section 3.19.1 that the Company is obligated to perform or to arrange for the performance of pursuant to the terms and conditions of this Agreement.

Section 3.19.4 Enforcement. Failure of the Company to comply with its obligations under this Section 3.19 shall subject the Company to liquidated damages pursuant to

Section 8.2.8.1.10.

Section 3.20 Compliance With Schedules. The Company shall comply with each and every provision of the Schedules. Unless a damage, liquidated damage or Withholding is otherwise expressly recognized under this Agreement relative to compliance with any requirement of any Schedule and an Adjustment is being implemented pursuant thereto relative to the failure of the Company to comply with any provision of any Schedule, failure of the Company to comply with any requirement of any Schedule shall subject the Company to Withholdings pursuant to Section 8.2.8.1.7.

**SECTION 4
OBLIGATIONS OF SPSA**

On and after the Commencement Date and throughout the Term and subject to the more specific requirements, limitations and exceptions specified in this Agreement, SPSA shall perform the following at its sole cost and expense, unless otherwise specifically stated in this Agreement:

Section 4.1 Payment of Service Fee. SPSA shall pay, or cause to be paid, the Service Fee and any other amounts due to the Company at such times and in such amounts as specified in Section 8.

Section 4.2 Acceptance of Authorized Hauler Acceptable Waste at SPSA Transfer Stations.

Section 4.2.1 Acceptance of Authorized Hauler Acceptable Waste.

(a) Subject to the terms and conditions of this Section 4.2, beginning on the Commencement Date and throughout the Term, SPSA shall receive and accept Authorized Hauler Acceptable Waste from Authorized Haulers at SPSA Transfer Stations at the Company's sole cost and expense determined pursuant to Section 8.2.4 and Section 8.2.5.2. The Company shall require that (i) all Authorized Haulers abide by all rules, regulations, policies and procedures established by SPSA from time to time relating to SPSA Transfer Stations (including without limitation rules regarding compaction of Acceptable Waste, the types or sizes of vehicles that may access SPSA Transfer Stations and any restrictions required to ensure compliance with conditions of permits issued to SPSA for operation of SPSA Transfer Stations), (ii) all Authorized Hauler vehicles be licensed and permitted in accordance with Applicable Law and insured in accordance with industry standards, (iii) all Authorized Haulers obtain and maintain (at their expense) (A) worker's compensation insurance, (B) employer's liability insurance having a minimum limit of liability of one million dollars (\$1,000,000) per occurrence, (C) comprehensive general liability primary insurance having a minimum combined single limit of liability of one million dollars (\$1,000,000) per occurrence, (D) comprehensive automobile liability primary insurance applicable to all owned, hired and non-owned vehicles having a minimum combined single limit of liability of one million dollars (\$1,000,000) per occurrence, (E) environmental impact liability insurance of five million dollars (\$5,000,000) per occurrence,

and (F) excess (of (a)(iii)(B), (C) and (D) above) liability insurance having a minimum limit of liability of five million dollars (\$5,000,000) per occurrence, (iv) SPSA shall be named as an additional insured under all Authorized Hauler's insurance policies, and (v) all Authorized Hauler personnel and vehicles entering SPSA Transfer Stations have identification reasonably satisfactory to SPSA. The Company shall include or cause to be included in all waste disposal agreements for delivery of Authorized Hauler Acceptable Waste to SPSA Transfer Stations provisions establishing that SPSA is an intended third party beneficiary of such agreement and that SPSA is authorized to enforce such agreement against the Authorized Hauler in its own name or in the name of the Company. The Company shall promptly take any enforcement action, up to and including termination, available to the Company under the agreements among the Company or its Affiliate, the Authorized Hauler and SPSA which may be requested by SPSA in connection with any failure by the Authorized Hauler to comply with the provisions thereof in its operations at or affecting SPSA Transfer Stations or SPSA or SPSA employees, agents, or invitees.

(b) Prior to SPSA's acceptance of deliveries of Authorized Hauler Acceptable Waste from any Authorized Hauler at SPSA Transfer Stations, and subject to SPSA's written confirmation to the Company that such information has been received by SPSA and is satisfactory to SPSA, the Company shall deliver or cause to be delivered to SPSA's Authorized Representative each of the following with respect to such Authorized Hauler: (i) a fully executed solid waste disposal agreement in the form attached hereto as Schedule 26 (Form of Solid Waste Disposal Agreement), as the same may be modified or amended by the Company, provided that such modifications or amendments shall be reasonably acceptable to SPSA, between the Company or its Affiliate and the Authorized Hauler, (ii) the name, address, contact phone number(s) and fax number of the Authorized Hauler, (iii) the estimated number of Tons of Authorized Hauler Acceptable Waste the Authorized Hauler intends to deliver to each SPSA Transfer Station during the calendar year, (iv) the Authorized Hauler's identification numbers (i.e., bar code number) assigned to each Authorized Hauler vehicle and/or vehicle license plate numbers for each vehicle to be used by such Authorized Hauler in the delivery of Authorized Hauler Acceptable Waste to SPSA Transfer Stations, and (v) a binder or certificate of insurance providing proof of the requisite insurance coverages specified in Section 4.2.1(a) and naming SPSA as an additional insured (which delivery shall be updated annually with respect to each Authorized Hauler). The information described in the immediately preceding sentence shall be updated and delivered to SPSA's Representative from time to time upon any change and upon each anniversary of the Commencement Date during the Term of this Agreement. SPSA reserves the right to reject, in its sole discretion, deliveries of Solid Waste at SPSA Transfer Stations from any Entity not otherwise approved by SPSA as an Authorized Hauler. At no time shall the Company amend or modify its delivery agreements with the Authorized Haulers if such action would affect SPSA's rights, remedies or obligations thereunder, without SPSA's prior written approval. The Company shall provide, upon request by SPSA, copies of all licenses, permits and insurance of any Authorized Hauler. SPSA may deny entry and restrict all future deliveries by any Authorized Hauler at SPSA Transfer Stations who fails to abide by all of SPSA's rules, regulations, policies and procedures, to the extent consistently applied, relating to SPSA Transfer Stations. The Company shall protect, indemnify and hold SPSA harmless from and against any and all Losses and shall defend the SPSA Indemnified Parties in any Legal Proceeding related to or arising out of all acts or omissions of any and all Authorized Haulers and their respective

officers, employees, agents or contractors, including without limitation their negligence, willful misconduct or failure to comply with Applicable Law.

(c) Failure of the Company to comply with any of the terms and conditions of this Section 4.2.1 shall subject the Company to Withholdings pursuant to Section 8.2.8.1.12.

Section 4.2.2 SPSA's Rejection Rights.

(a) SPSA may reject, in its sole discretion, tenders by Authorized Haulers to SPSA's Transfer Stations of:

(1) Authorized Hauler Acceptable Waste delivered at times other than during the Transfer Station Receiving Times;

(2) Authorized Hauler Acceptable Waste deliveries in excess of the per Day or per Week limits specified in Schedule 9 (Authorized Hauler Acceptable Waste Cap);

(3) Authorized Hauler Acceptable Waste deliveries in excess of the limits specified in Schedule 9 (Authorized Hauler Acceptable Waste Cap) in any consecutive four (4) Week period or in any Billing Year;

(4) any Authorized Hauler Acceptable Waste delivery that a particular SPSA Transfer Station is unable to receive or process as a result of (A) an Uncontrollable Circumstance or (B) Company Fault;

(5) Prohibited Waste;

(6) Outside-Area Waste;

(7) Out-of-State Waste;

(8) Authorized Hauler Acceptable Waste deliveries during scheduled downtimes for maintenance at particular SPSA Transfer Station(s);

(9) Authorized Hauler Acceptable Waste that cannot be accepted at particular SPSA Transfer Station(s) due to a mechanical breakdown or failure of equipment or vehicles, including any breakdown or failures outside or separate from the SPSA Transfer Station;

(10) Authorized Hauler Acceptable Waste under circumstances wherein SPSA discovers that Hazardous Waste or bio-medical waste has been delivered to particular SPSA Transfer Station(s) and the requirements associated with the hauling, loading, transport or disposition of such waste are expected to unreasonably delay the receipt or handling of such Authorized Hauler Acceptable Waste; or

(11) Authorized Hauler Acceptable Waste during periods in which particular SPSA Transfer Station(s) is closed for repairs or for other reasons in the ordinary course of business.

SPSA shall have the right to deny entry to SPSA Transfer Stations of vehicles and personnel not possessing the required identification, irrespective of whether such Entity is an Authorized Hauler. Nothing in this Section 4.2 or otherwise in this Agreement shall be construed to limit SPSA's right to close any SPSA Transfer Station for any purpose specified in this Section 4.2.2, or to create any obligation on the part of SPSA to provide any alternative delivery point during any period of any closure; provided, that to the extent another SPSA Transfer Station is available to receive Authorized Hauler Acceptable Waste, the Authorized Hauler may deliver such waste to any such other SPSA Transfer Station, subject to the terms and conditions of this Section 4.2. SPSA shall provide notice to the Company's Authorized Representative of scheduled downtimes for maintenance at particular SPSA Transfer Station(s).

(b) The Company shall restrict all Authorized Haulers from delivering any Prohibited Waste to SPSA Transfer Stations. The Company agrees that if any Prohibited Waste is delivered by an Authorized Hauler to any SPSA Transfer Station, upon notice by SPSA to the Company's Authorized Representative, the Company shall promptly remove or arrange for removal of the waste from SPSA Transfer Station at no expense to SPSA. If SPSA, in its sole discretion deems it necessary or appropriate for the protection of property, human health or the environment, or for the continuing safe and efficient operation of SPSA Transfer Stations, or if the Company fails to remove Prohibited Waste expeditiously after a request to do so by SPSA, SPSA may remove or cause to be removed Prohibited Waste delivered by the Authorized Hauler and charge the Company the actual costs for removing and disposing of such waste, including reasonable attorneys fees resulting from such delivery. SPSA shall reasonably cooperate with the Company in identifying the Authorized Hauler who generated or delivered such Prohibited Waste. Thereafter, SPSA may refuse to accept waste from such Authorized Hauler that delivered such Prohibited Waste until such time as the Authorized Hauler has taken sufficient corrective actions and measures reasonably satisfactory to SPSA to ensure that the Authorized Hauler will not deliver Prohibited Waste to any SPSA Transfer Station in the future. SPSA may refuse to accept, for the remaining Term, waste from any Authorized Hauler that fails to take corrective actions and measures reasonably satisfactory to SPSA within sixty (60) days following the delivery of Prohibited Waste by such Authorized Hauler at any SPSA Transfer Station.

(c) Nothing in this Agreement shall be construed to mean that SPSA's receipt of Authorized Hauler Acceptable Waste, or the delivery of Prohibited Waste at SPSA's Transfer Stations, creates on the part of SPSA any ownership interest in, or confers on SPSA any title to such Acceptable Waste or Prohibited Waste.

Section 4.2.3 Weighing of Authorized Hauler Acceptable Waste. SPSA shall operate and maintain scales and associated computer and record-keeping equipment at SPSA Transfer Stations and weigh scales records for the purpose of recording the total number of Tons of Authorized Hauler Acceptable Waste delivered to SPSA Transfer Stations. SPSA shall periodically check, confirm and record the tare weight of vehicles of Authorized Haulers

delivering Authorized Hauler Acceptable Waste to SPSA Transfer Stations no less frequently than once per quarter.

Section 4.2.4 SPSA Delivery of Data and Information to Company. No later than by 12:00 noon on the third (3rd) Business Day following the delivery of Authorized Hauler Acceptable Waste to a SPSA Transfer Station, SPSA shall provide the Company with the following data to assist and facilitate the Company's preparation of invoices to the Authorized Haulers with whom the Company has contracted: (a) the name of the Authorized Hauler, (b) the date and approximate time of delivery of Authorized Hauler Acceptable Waste by such Authorized Hauler, (c) identification or license plate number for such Authorized Hauler, and (d) the quantity (in Tons) of Authorized Hauler Acceptable Waste delivered to SPSA Transfer Station(s), with separate totals for Tons of Non-Processible Waste (which are designated and weighed in as Non-Processible Waste at SPSA's incoming weigh scales at SPSA Transfer Stations) and Processible Waste delivered by each Authorized Hauler. If requested by the Company's Authorized Representative, SPSA shall make available to the Company copies of all weigh scale records of SPSA Transfer Stations and SPSA's Landfill related to waste delivered to such locations in connection with this Agreement.

Section 4.2.5 Calibration of Scales at SPSA Transfer Stations. SPSA, at its sole cost and expense, shall cause the weigh scales at SPSA Transfer Stations to be tested and calibrated by an independent third party experienced in the testing and calibration of such weigh scales, as often as is required by Applicable Law. The Parties agree that the State is an experienced, independent third party for purposes of the preceding sentence. The Company may request more frequent testing of the weigh scales at the Company's sole cost and expense, provided, such testing shall not unreasonably interfere with SPSA's operations and the operation and maintenance of SPSA Transfer Stations.

Section 4.2.6 Unavailability of Scale Records. In the event that actual data from the scales at SPSA Transfer Stations is not available to SPSA, SPSA shall estimate the quantity of Authorized Hauler Acceptable Waste delivered to the SPSA Transfer Stations and shall provide such estimates to the Company.

Section 4.3 Delivery of SPSA Acceptable Waste and Authorized Hauler Acceptable Waste; Sorting. SPSA shall deliver, or cause to be delivered, to the RDF Facility, (a) SPSA Acceptable Waste in the amounts and during the times specified in Section 7; and (b) all Authorized Hauler Acceptable Waste received by SPSA, which deliveries shall be at the Company's sole cost and expenses as specified in Section 8.2.4. SPSA shall not receive any Acceptable Waste at the SPSA Transfer Stations (excluding the Suffolk Landfill) other than SPSA Acceptable Waste, Authorized Hauler Acceptable Waste or Acceptable Waste delivered by non-contract haulers or residents of the Member Communities. The Parties acknowledge that once commingled at SPSA Transfer Stations, SPSA Acceptable Waste includes Authorized Hauler Acceptable Waste for all purposes of this Agreement, provided that Authorized Hauler Acceptable Waste shall not be counted for purposes of determining SPSA's Annual Delivery Guarantee or for SPSA Excess Tonnage. At no time after weighing at SPSA Transfer Stations shall SPSA be required to segregate or deliver Authorized Hauler Acceptable Waste in separate loads or deliveries to the RDF Facility. SPSA's hauling cost and expense for delivery of the

Authorized Hauler Acceptable Waste shall be determined pursuant to Section 8.2.4. SPSA shall (i) use commercially reasonable efforts which are consistent with past practices to identify and segregate Authorized Hauler Acceptable Waste delivered to a SPSA Transfer Station (a) in vehicles other than vehicles with on-board compaction equipment, or (b) in roll-off boxes and trailers which SPSA reasonably believes have not been filled using compaction equipment and (ii) load such Non-Processible Waste into trailers provided by the Company or NP Hauler. Except as provided herein, SPSA shall have no other obligation to Sort SPSA Acceptable Waste or Authorized Hauler Acceptable Waste at SPSA Transfer Stations. After the Commencement Date, the Company and SPSA shall work together in good faith to improve the efficiency of the operations of SPSA Transfer Stations, including revising and updating the process used to identify and segregate Authorized Hauler Acceptable Waste delivered to SPSA Transfer Stations; provided that such operational or other improvements shall not result in additional cost or expense to SPSA. The Company shall pay SPSA the Loading Fee specified in Section 8.2.5.2 for loading Non-Processible Waste or Acceptable Waste in diversion events specified in Section 7.1.7 (or both) into trailers provided by the Company.

Section 4.4 Scales and Scalehouses Operation and Maintenance. SPSA shall operate, maintain, repair and replace, as necessary and appropriate in accordance with Prudent Industry Practices, SPSA's Scales and Scalehouses. SPSA shall operate the incoming (and not outgoing) SPSA's Scales and Scalehouses twenty-four (24) hours per day, seven (7) days per week, 365 days per year basis. The Company may, at the Company's sole cost and expense, and with the reasonable cooperation of SPSA, install at SPSA's Scales and Scalehouses, software programs providing weighing, ticketing and other functions or other data communicating software and radiation detection devices, provided, such installation or maintenance shall not unreasonably interfere with SPSA's operation of SPSA's Scales and Scalehouses. Following their installation, the Company shall maintain such software and detection devices at its sole cost and expense.

Section 4.5 Access to RDF Facility. SPSA shall provide the Company and its invitees unrestricted access and ingress and egress rights to SPSA's Roadways and Tipping Floor.

Section 4.6 SPSA Landfill. Subject to the terms and conditions set forth in this Section 4.6, SPSA shall make available SPSA's Landfill(s) for disposal of Residue generated at the Facilities. Unless otherwise specifically provided in this Agreement, the Company shall be solely responsible for all costs and expenses of the handling and loading onto hauling vehicles, transporting and disposal of the types of wastes referenced in Section 3.19.1. The Company shall pay SPSA the Residue Disposal Fee for the disposal of all Residue at SPSA's Landfill based on the cost and pricing schedule set forth in Section 8.2.5. SPSA may direct, by providing ten (10) Days Notice to the Company, the particular SPSA Landfill to which the Company may deliver Residue.

Section 4.6.1 SPSA's Rejection Rights.

(a) SPSA may reject, in its sole discretion, tenders of Residue delivered to SPSA's Landfill(s) by on behalf of the Company:

- (1) at times other than during Landfill Receiving Time;

(2) in excess of Three Hundred Thousand (300,000) Tons of Residue in any Billing Year delivered to the Virginia Beach Landfill;

(3) in the event SPSA's Landfill is unable to receive or process as a result of (A) an Uncontrollable Circumstance, (B) Company Fault, or (C) the application of pertinent provisions of this Agreement excusing or modifying SPSA's obligation to accept and receive Residue;

(4) which does not meet or otherwise satisfy requirements for disposal under Applicable Law;

(5) at a particular SPSA Landfill if SPSA has given Notice to the Company in accordance with Section 4.6 to dispose of Residue at another SPSA Landfill;

(6) in the event SPSA's Landfill(s) reaches landfill capacity limits; or

(7) Non-Qualifying Residue.

(b) SPSA shall have the right to deny entry to SPSA's Landfill of vehicles and personnel not possessing the required identification.

(c) Nothing in Section 4.6 or otherwise in this Agreement shall be construed to limit SPSA's right to close any SPSA Landfill for any purpose specified in this Section 4.6.1, or to create any obligation on the part of SPSA to provide any alternative delivery point during any period of any closure. In no event shall SPSA have any obligation (i) to undertake any expansion of SPSA's Landfill(s), or (ii) maintain or cause to be maintained any Landfill or any capacity at SPSA's Landfill(s) for disposal of any ash, Residue, Non-Processible Waste or any other waste.

(d) SPSA shall have the right, in its sole discretion, to reject any and all deliveries of any other type of waste delivered to SPSA's Landfill not otherwise expressly specified in this Section 4.6. In no event shall the Company deliver Processible Waste or Prohibited Waste to SPSA's Landfill(s). If any Hazardous Waste is delivered by or on behalf of the Company at SPSA's Landfill, upon notice to the Company, the Company shall promptly remove the material and clean-up, remediate and/or restore SPSA's Landfill satisfactory to SPSA, in its sole discretion and, upon failure of the Company to remove such material after prompt demand, SPSA may cause such material to be removed and the Company shall pay SPSA the costs for the transportation and disposal of the material at a permitted Hazardous Waste management facility and the clean-up, remediation and/or restoration costs of SPSA's Landfill.

(e) The Company shall protect, indemnify and hold SPSA Indemnified Parties harmless from and against any and all Losses, including any sums paid or expended by SPSA to any Governmental Authority as a fine, penalty or damages for any violation of any Applicable Law and to remediate, clean-up or remove any Hazardous Waste, and shall defend the SPSA Indemnified Parties in any Legal Proceeding related to or arising out of (i) the acts or omissions

of the Company, its officers, employees, agents and Subcontractors, and (ii) the characteristics of the Residue and Non-Processible Waste delivered to SPSA's Landfill pursuant to this Agreement.

Section 4.7 Maintenance of Warranties and Guarantees. SPSA shall maintain and keep in force all warranties and and guarantees on Equipment that is part of and used at the Facilities and enforce the same to the extent the Company does not have the legal ability to effect the same.

Section 4.8 SPSA Relationships. SPSA and SPSA's Authorized Representative shall establish, actively pursue and maintain during the Term, business-like, responsible and responsive working relationships with the Company, the Company's Authorized Representative, staff and other officials and representatives of the Company with whom SPSA has dealing regarding the Facilities or this Agreement.

Section 4.9 Compliance with Law. SPSA shall perform all of its obligations contemplated under this Agreement in compliance with at least all Applicable Laws and SPSA shall require that all of its subcontractors performing services relative to SPSA obligations hereunder shall comply with at least all Applicable Laws.

Section 4.10 General. SPSA shall retain those responsibilities and obligations that are not contained in this Section 4 but are otherwise expressly identified in this Agreement as a SPSA obligation. Notwithstanding anything to the contrary, nothing in this Agreement shall be construed to restrict SPSA's right to (a) sell, transfer, or otherwise dispose of SPSA's Transfer Stations or SPSA's Landfill, or (b) contract with a third party for the operation of SPSA's Transfer Stations or SPSA's Landfill; provided, however, that any such transaction shall not relieve SPSA from its obligations under this Agreement and SPSA shall cause such purchaser, transferee or third party to assume SPSA's obligations hereunder directly associated with such assets. To the extent permitted by Applicable Law, during the Term, (i) any sale, transfer or conveyance by SPSA or contract or agreement with a third party for the operation of SPSA Transfer Stations will be effected by a public procurement process, and (ii) SPSA shall not deny the Company or its Affiliates the right to participate in such procurement process.

SECTION 5 REPORTING REQUIREMENTS

Section 5.1 Data Submissions, Monthly Reports, Monthly Meetings. On or before the fifteenth (15th) Day of each Billing Month, the Company's Authorized Representative shall deliver the Monthly Report to SPSA's Authorized Representative in as many copies as reasonably requested by SPSA's Authorized Representative. At the request of SPSA's Authorized Representative, the Company's Authorized Representative shall supply the data and information contained in the Monthly Report in an electronic format reasonably acceptable to SPSA's Authorized Representative.

Once each Billing Month or on a more frequent basis as may be reasonably requested by SPSA's Authorized Representative, the Company's Authorized Representative shall meet with SPSA's Authorized Representative, SPSA staff and other representatives and agents, including the Consulting Engineer(s), to review the Monthly Report, operations, maintenance and other reports, on-going items, data and other information relating to the Parties' obligations under this Agreement.

Section 5.2 Failure to Comply. Failure of the Company's Authorized Representative to provide the reports containing the information and data by the due dates specified in this Section 5 shall subject the Company to Withholdings in accordance with Section 8.2.8.1.6.

SECTION 6 MAINTENANCE INSPECTIONS AND SPSA RIGHTS

Section 6.1 Consulting Engineer Inspections and Reports. To give effect to Section 3.11, SPSA's technical representative(s) or the Consulting Engineer(s), or both, shall have the right, commencing thirty (30) Days following the Commencement Date and as frequently thereafter as SPSA's Authorized Representative shall determine, to conduct an inspection, over one or more Days, of SPSA's Roadways and SPSA's Tipping Floor and with the reasonable cooperation of the Company to determine if SPSA's Roadways and SPSA's Tipping Floor are being repaired, replaced and maintained in accordance with Section 3.11. Such inspections shall be conducted in a manner that does not unreasonably interfere with the Company's business operations and the operation and maintenance of the Facilities. Within fifteen (15) Business Days following the completion of such inspection, SPSA's technical representative(s) or the Consulting Engineer or both shall file a written report with SPSA's Authorized Representative and the Company's Authorized Representative of its findings. To the extent that SPSA's Roadways and SPSA's Tipping Floor do not comply with the Standards of Maintenance, such written report shall so identify such items and specify in reasonable detail as to how such items are not in compliance (the "Punch List Items"). The report shall further identify the Cure that the Company shall pursue to bring such Punch List Items into compliance with the Standards of Maintenance, on an item-by-item basis, including the proposed timeframe, by which each Punch List Item must achieve compliance. In establishing such proposed timeframe(s), SPSA's technical representative(s) or the Consulting Engineer(s), or both, shall take into account the time necessary to purchase or acquire the material, equipment and services needed to Cure each such Punch List Item, the Work necessary to bring each such Punch List Item into compliance, the priority of such Work relative to maintaining the Performance Guarantees and the Company's other obligations under this Agreement, the availability of equipment or Subcontractors or both to perform the Work, the time for review pursuant to Section 6.2, the potential for coordination of such Work with scheduled outages relative to applicable portions of the Facilities and other relevant factors.

Section 6.2 Resolution of Disagreements Upon receipt of SPSA's technical representative(s)' or the Consulting Engineer's (or both) report, the Company's Authorized Representative shall have ten (10) Business Days thereafter to provide SPSA's Authorized Representative with written notice of its disagreement, if any, on an item-by-item basis, with the

findings of SPSA's technical representative(s) or the Consulting Engineer or both. Such notice shall specify in reasonable detail the basis for the Company's Authorized Representative's disagreement with each contested Punch List Item. Failure of the Company's Authorized Representative to give such notice within such ten (10) Business Day period shall be deemed acceptance or approval of SPSA's technical representative(s)' or the Consulting Engineer's (or both) report. If the Company's Authorized Representative gives such notice to SPSA's Authorized Representative, the Authorized Representatives, SPSA's technical representative(s) and, as applicable, the Consulting Engineer shall meet within ten (10) Business Days after the delivery of such notice by the Company's Authorized Representative in an effort to resolve the disputed portions of SPSA's technical representative(s)' or the Consulting Engineer's (or both) report and agree on a final schedule pursuant to which a Cure shall be implemented with respect to each Punch List Item (the "Timeframe"). If the Authorized Representatives, SPSA's technical representative(s) and as applicable, the Consulting Engineer resolve some or all such disputed portions of the report, the report will be amended accordingly, redelivered by SPSA's technical representative(s) or the Consulting Engineer or both to the Authorized Representatives within five (5) Business Days after such resolution and the Company shall diligently pursue the necessary Cures identified in the amended report that are no longer in dispute. If, within ten (10) Business Days after the initial meeting of SPSA's technical representative(s) and, as applicable, the Consulting Engineer and the Authorized Representatives to resolve the disputed portions of SPSA's technical representative(s)' or the Consulting Engineer's (or both) report, resolution is not achieved as to all contested items, the Company may refer the remaining disputed items to dispute resolution pursuant to Section 14. Failure of the Company to refer the matter to dispute resolution within thirty (30) Business Days shall be deemed a waiver of its objections and its right to so refer the matter to dispute resolution and the SPSA's technical representative(s)' or the Consulting Engineer's (or both) report and proposed Cure and Timeframe for each Punch List Item not disputed within such time period shall be deemed final and the Company shall comply with the same.

Section 6.3 Withholding and Payment of Withheld Amounts. To encourage the Company to effect a Cure within the Timeframe, SPSA's Authorized Representative, effective on (a) the first Day following the last Day in the Timeframe or (b) at any time thereafter, may Withhold and set-off pursuant to Section 8.2.8.1.11 up to two thousand dollars (\$2,000.00) per Day, adjusted pursuant to the Adjustment Factor, from payment of the Company's monthly invoice until all non-compliant items are completed; provided; however, such continued per Day Withholding shall cease effective on the date that the Company completes corrective or curative action of all outstanding non-compliant Punch List Items. SPSA's Authorized Representative shall give the Company's Authorized Representative two (2) Days prior written notice of the per Day Withholding to be applied prior to implementing such Withholding. Upon completion of all non-compliant Punch List Items, SPSA shall release the accumulated Withholding collected pursuant to Section 6.3 and shall pay the Company any such accumulated Withholding amount as part of the Company's next monthly invoice for Work performed. No interest shall be paid by SPSA on such Withholding and any such interest shall accrue to the benefit of SPSA; provided, however, if the Withholding is determined to be wrongful by a mediator or in a judicial forum, then SPSA shall promptly refund such Withholding with interest accruing at the Interest Rate from the date of the Withholding until the date refunded.

Except as otherwise provided in this Section 6.3, in no event shall SPSA pay or be required to pay the Company any amount in excess of the total amount Withheld by SPSA pursuant to this Section 6.3, and the Company waives any and all claims it could have or assert to any payment from SPSA in excess of such Withheld amount.

SECTION 7
DELIVERY OF SPSA ACCEPTABLE WASTE; SORTING; PROCESSING OF
PROCESSIBLE WASTE; REJECTION RIGHTS; PROCESSIBLE WASTE
COMPOSITION; NONPROCESSIBLE WASTE; STORAGE; RESIDUE

Section 7.1 Delivery and Receipt of SPSA Acceptable Waste.

Section 7.1.1 Annual Delivery Guarantee of SPSA Acceptable Waste; SPSA Excess Tonnage. Beginning on the Commencement Date and continuing each Billing Year for the remainder of the Term, SPSA shall deliver, or cause to be delivered to the RDF Facility, five hundred thousand (500,000) Tons of SPSA Acceptable Waste each Billing Year (“Annual Delivery Guarantee”), pro rata for a Billing Year less than a full twelve (12) months, in accordance with this Section 7. With respect to such deliveries, SPSA shall make reasonable efforts to deliver, or to cause to be delivered, SPSA Acceptable Waste on a relatively equal and consistent basis over each Billing Year subject to normal seasonal SPSA Acceptable Waste quantity variations and other factors. During the Term, SPSA shall use commercially reasonable efforts to deliver or cause to be delivered to the RDF Facility all SPSA Acceptable Waste that SPSA receives at SPSA’s Transfer Stations; provided, however, after the date in any Billing Year that SPSA has satisfied its Annual Delivery Guarantee, SPSA, in its sole discretion, may deliver SPSA Acceptable Waste not otherwise commingled with Authorized Hauler Acceptable Waste or Non-Contract Waste (or both), to any Landfill or other facility of SPSA’s choice. Following SPSA’s satisfaction of the Annual Delivery Guarantee in any Billing Year, if SPSA elects to deliver all or a portion of SPSA Excess Tonnage to any Landfill or facility other than the RDF Facility and the Company requires additional Acceptable Waste at the RDF Facility, then the Company may deliver Notice to SPSA’s Authorized Representative requesting that SPSA deliver SPSA Excess Tonnage to the RDF Facility for such Billing Month. Following the receipt of such Notice, SPSA may, in its sole discretion, deliver SPSA Excess Tonnage to the RDF Facility at no charge to SPSA. Except as otherwise provided in this Section 7, the Company shall receive and accept SPSA Excess Tonnage delivered by or on behalf of SPSA at the RDF Facility. Notwithstanding anything in this Agreement to the contrary, (i) except as set forth in clause (ii) below, the incoming weigh scale records at SPSA’s Transfer Stations shall be dispositive for purposes of (A) calculating the number of Tons of SPSA Acceptable Waste delivered to the RDF Facility, and (B) measuring whether the Annual Delivery Guarantee has been satisfied, (ii) with respect to Portsmouth waste, U.S. Navy waste and other SPSA contract waste delivered directly to the RDF Facility, the incoming weigh scale records at the RDF Facility shall be used in computing Tons received for purposes of the Annual Delivery Guarantee, and (iii) in no event shall Authorized Hauler Acceptable Waste or Non-Contract Waste (or both) be counted for purposes of determining the Annual Delivery Guarantee or SPSA Excess Tonnage.

Section 7.1.2 Delivery Waiting Times. Notwithstanding the foregoing in Section 7.1.1, SPSA shall have no obligation to deliver, or to cause to be delivered, SPSA Acceptable Waste in circumstances where the queue for vehicles hauling SPSA Acceptable Waste or Authorized Hauler Acceptable Waste (or both) to the RDF Facility extends beyond the driveway entrance to the RDF Facility along Victory Boulevard (the “Maximum Waiting Time”). SPSA Acceptable Waste delivered or intended to be delivered to the RDF Facility by or on behalf of SPSA that is diverted to the Landfill or other permitted disposal facility for disposal as a consequence of the immediately preceding sentence in this Section 7.1.2 shall, for purposes of the second sentence of Section 7.1.3(b) only, be SPSA Acceptable Waste delivered to SPSA’s Tipping Floor that the Company did not accept due to Company Fault, unless Maximum Waiting Time is exceeded (a) due to a mechanical breakdown of SPSA vehicles on SPSA’s Roadways to the RDF Facility or on SPSA’s Tipping Floor which obstruct or prevent the disposal of waste on SPSA’s Tipping Floor, or (b) the result of the Company’s discovery that Prohibited Waste or bio-medical waste has been delivered to SPSA’s Tipping Floor by SPSA and the requirements associated with managing such events, then the Tons of SPSA Acceptable Waste diverted to the Landfill or other permitted disposal facility as a result of the occurrence of (a) or (b) or both shall not be credited, for the applicable Billing Year, towards the Annual Delivery Guarantee. All such diverted SPSA Acceptable Waste that is delivered to the Landfill or other permitted disposal facility for disposition, including hauling, labor and disposal costs, shall be at the sole cost and expense of the Company pursuant to Section 3.19 and 8.2.6.

Section 7.1.3 Rejection of Deliveries.

(a) Company’s Rejection Rights. Except as expressly provided in this Agreement, the Company may reject at the RDF Facility tenders by or on behalf of SPSA of:

(1) Acceptable Waste delivered to the RDF Facility in excess of (i) Eighteen Thousand Six Hundred Fifty (18,650) Tons per Week, (ii) Seventy Four Thousand Six Hundred (74,600) Tons in any consecutive four (4) Week period, or (iii) Three Thousand Two Hundred (3,200) Tons in a day, in each case, when no WTE Facility boiler unit(s) are down for Scheduled Maintenance or unscheduled maintenance; provided, that the Company shall not have the right to reject tenders of SPSA Acceptable Waste (as commingled with Authorized Hauler Acceptable Waste) if there is available capacity to receive, Sort and store such SPSA Acceptable Waste at the RDF Facility and receive and Process Processible Waste at the WTE Facility to the fullest extent possible and consistent with Prudent Industry Practices;

(2) SPSA Acceptable Waste which the RDF Facility is unable to receive, Sort and store or Processible Waste which the WTE Facility is unable to receive and Process, or both, that is directly the result of (A) an Uncontrollable Circumstance, or (B) SPSA Fault;

(3) Prohibited Waste;

(4) SPSA Acceptable Waste which cannot be accepted at the RDF Facility due to a mechanical breakdown of SPSA vehicles on SPSA’s Roadways to the RDF

Facility or SPSA's Tipping Floor, provided that such event unreasonably delays deliveries of SPSA Acceptable Waste to the RDF Facility; and

(5) SPSA Acceptable Waste under circumstances wherein the Company discovers that Hazardous Waste or bio-medical waste has been delivered to SPSA's Tipping Floor and the requirements associated with the loading, transport or disposition or any one or more of the foregoing of such waste from SPSA's Tipping Floor unreasonably delays the delivery of SPSA Acceptable Waste to the RDF Facility.

In the event the Company is unable to receive tenders of SPSA Acceptable Waste at the RDF Facility as a result of Section 7.1.3(a), the Company shall provide Notice to SPSA in accordance with Section 9.1. Thereafter, subject to Section 9, the Company shall instruct SPSA's Authorized Representative to load Acceptable Waste into trailers at SPSA Transfer Stations supplied by the Company or NP Hauler and the Company or the NP Hauler shall transport, remove and dispose of such waste at Company Landfill(s) in accordance with Section 7.1.7 until such time as the Company is able to receive and Process Processible Waste at the RDF Facility. In no event shall the Company have the right to reject deliveries of SPSA Acceptable Waste in favor of Third Party Acceptable Waste. The Company shall pay SPSA the disposal fee specified in Section 8.2.6 for disposing of Acceptable Waste that is rejected due to Maximum Waiting Time. Notwithstanding anything to the contrary in this Agreement, in no event shall the Company reject tenders of SPSA Acceptable Waste delivered by or on behalf of the City of Portsmouth or the U.S. Navy at the RDF Facility; provided that, if the Company has the right to reject such waste pursuant to Section 7.1.3(a) and the Company provided Notice to SPSA in accordance with Section 7.1.3(a), then such deliveries of SPSA Acceptable Waste shall not be counted as being accepted at the RDF Facility for purposes of determining the Annual Processing Guarantee.

(b) Effect of Company's Rejection Rights on Annual Delivery Guarantee. All SPSA Acceptable Waste which is not accepted by the Company at the RDF Facility as a result of the application of Section 7.1.3(a)(1) (subject to the proviso at the end thereof), (2)(B), (3), (4) and (5) shall not be credited to the Annual Delivery Guarantee. All other SPSA Acceptable Waste which is loaded by SPSA into Company or NP Hauler-supplied trailers at SPSA Transfer Stations and disposed of by the Company at Company Landfill(s) shall be credited to the Annual Delivery Guarantee, including (i) pursuant to Section 7.1.3(a)(2)(A) or (ii) due to Company Fault.

Section 7.1.4 Tipping Floor Management. SPSA's Tipping Floor shall be operated and managed by the Company so as to (a) maximize the receiving, Sorting and storage of Acceptable Waste, (b) maximize the loading, transporting and removal from SPSA's Tipping Floor and the RDF Facility for disposal at a Landfill or other permitted disposal location all Non-Processible Waste and except as specifically provided in Section 7.3, Prohibited Waste, (c) maximize the efficient and continuous delivery to and Processing of Processible Waste at the WTE Facility, and (d) minimize hauler or waste delivery vehicle turnaround times. If temporary storage of Acceptable Waste on SPSA's Tipping Floor is required, the Company shall, to the extent allowable by Applicable Law, store Acceptable Waste on SPSA's Tipping Floor so as not to impede deliveries. All Acceptable Waste stored on SPSA's Tipping Floor shall be sorted as soon as possible with the Processible Waste removed for Processing and the Non-Processible

Waste removed for disposal at the Landfill or other permitted disposal facility as efficiently and quickly as possible so that SPSA's Tipping Floor shall be available for SPSA Acceptable Waste and hauling vehicles will be able to minimize their turnaround times. The Company shall coordinate the need for bypassing of Acceptable Waste with SPSA on an as needed basis while taking into account the last sentence of Section 7.1.3(a); provided, that the Company shall pay the cost and fees associated with such diverted waste pursuant to Section 8.2.6.

Failure of the Company to comply with its obligations under this Section 7.1.4 shall subject the Company to Withholdings pursuant to Section 8.2.8.1.8.

Section 7.1.5 Notice of Scheduled Maintenance. The Company's Authorized Representative shall provide to SPSA's Authorized Representative a written schedule for its Scheduled Maintenance of each boiler unit at the WTE Facility at least sixty (60) Days prior to each Billing Year, except that the Company's Authorized Representative shall provide such written schedule relative to the first Billing Year to SPSA's Authorized Representative no later than the Commencement Date. The Company's Authorized Representative may, upon two (2) Weeks' prior written notice to SPSA's Authorized Representative, change the Scheduled Maintenance scheduled to occur on and after such two (2) Week period.

Section 7.1.6 Disposal of Non-Processible Waste from SPSA Transfer Stations.

(a) The Company shall cause all Non-Processible Waste at SPSA Transfer Stations and segregated by SPSA pursuant to Section 4.3 to be removed from SPSA Transfer Stations and disposed of at a Landfill selected by the Company, but excluding any SPSA Landfill (the "Company Landfill(s)"). The Company shall be responsible for all costs, expenses and fees, including trailers, transportation, disposal and tipping, associated with the removal, transportation and disposal of such Non-Processible Waste. SPSA shall load all segregated Non-Processible Waste at SPSA Transfer Stations into trailers provided by the Company or NP Hauler in consideration for the Loading Fee specified in Section 8.2.5.2.

(b) The Company shall continually and on a daily basis supply or cause to be supplied an adequate and appropriate number of trailers and trucks to receive and transport all Non-Processible Waste from each SPSA Transfer Station to the Company Landfill(s). The Company shall promptly remove and transport, in an orderly and timely manner, all trailers containing Non-Processible Waste from each SPSA Transfer Station throughout each Day as is necessary to ensure the smooth and efficient operation of SPSA Transfer Stations. The Company shall fully cooperate with SPSA in arranging for the timely and efficient removal of Non-Processible Waste from SPSA Transfer Stations, including complying with all reasonable requests by SPSA (whether oral or written) to supply additional trailers and to transport and remove existing trailers from SPSA Transfer Stations. The Company shall remove all Company-supplied or NP Hauler trailers containing a full load of Non-Processible Waste by 4:00 p.m. (Norfolk, Virginia time) on the Day such trailer is loaded, or such other shorter time period required by Applicable Law or as reasonably requested by SPSA.

(c) The Company shall, and shall cause any Subcontractor receiving, transporting or disposing Solid Waste from SPSA Transfer Stations to the Company Landfill(s) (the

“NP Hauler”), to (i) abide by all rules, regulations, policies and procedures established by SPSA from time to time relating to SPSA Transfer Stations (including without limitation the types and size of vehicles, trailers and other equipment that may access or be used at SPSA Transfer Stations and any restrictions required to ensure compliance with conditions of Permits issued to SPSA for operation of SPSA Transfer Stations), (ii) obtain and maintain in effect at all times all necessary licenses, permits and insurance for all vehicles and equipment used by them at SPSA Transfer Stations or Facilities in compliance with Applicable Law and otherwise consistent with industry standards, (iii) obtain and maintain (at its or their own cost and expense) (A) worker’s compensation insurance, (B) employer’s liability insurance having a minimum limit of liability of one million dollars (\$1,000,000) per occurrence, (C) comprehensive general liability primary insurance having a minimum combined single limit of liability of one million dollars (\$1,000,000) per occurrence, (D) comprehensive automobile liability primary insurance applicable to all owned, hired and non-owned vehicles having a minimum combined single limit of liability of one million dollars (\$1,000,000) per occurrence, (E) environmental impact liability insurance of five million dollars (\$5,000,000) per occurrence, and (F) excess (of (a)(iii)(B), (C) and (D) above) liability insurance having a minimum limit of liability of five million dollars (\$5,000,000) per occurrence, (iv) require that SPSA be named as an additional insured under all insurance policies, and (v) ensure that all personnel and vehicles entering SPSA Transfer Stations have identification reasonably satisfactory to SPSA. The Company shall include or cause to be included in all agreements with NP Hauler(s) provisions establishing that SPSA is an intended third party beneficiary of such agreement and that SPSA is authorized to enforce such agreement against such Entity in its own name or in the name of the Company. The Company shall promptly take any enforcement action, up to and including termination, available to the Company under the agreements between the Company or its Affiliate and the NP Hauler(s) which may be requested by SPSA in connection with any failure by the NP Hauler to comply with the provisions thereof in its operations at or affecting SPSA Transfer Stations or SPSA or SPSA employees, agents or invitees.

(d) If the Company or any NP Hauler fails to remove any Company or NP Hauler-supplied trailer containing a full load of Non-Processible Waste from a SPSA Transfer Station before 4:00 p.m. (Norfolk, Virginia time) on any Day, then the Company shall pay SPSA the penalty specified in Section 8.2.8.1.14.

(e) The Company shall protect, indemnify and hold SPSA Indemnified Parties harmless from and against any and all Losses, including any sums paid or expended by SPSA to any Governmental Authority as a fine, penalty or damages for any violation of any Applicable Law, relating to, arising out of, or resulting from the removal, disposal or failure to remove and properly dispose of Non-Processible Waste from SPSA Transfer Stations.

Section 7.1.7 Diversion of Acceptable Waste from SPSA Transfer Stations.

(a) Subject to the provisions of Section 7.1.6, to the extent that the RDF Facility is unable to receive SPSA Acceptable Waste due to (i) Scheduled Maintenance, (ii) unscheduled maintenance, (iii) Uncontrollable Circumstance(s), (iv) SPSA Fault, (v) in excess of the limits specified in Section 7.1.3(a)(1), or (vi) Company Fault, the Company shall provide prompt Notice to SPSA requesting that all Acceptable Waste (including SPSA Acceptable Waste, Authorized Hauler Acceptable Waste and Non-Contract Waste) be diverted to Company Landfill(s) whereupon

SPSA shall load Acceptable Waste into trailers provided by the Company or its NP Hauler which the Company or its NP Hauler shall transport and dispose at Company Landfill(s). Each such diversion Notice shall (i) provide an estimate of the expected duration of such Acceptable Waste diversion to Company Landfill(s), (ii) describe its probable effects on the performance of the Company's obligations hereunder, and (iii) specify the SPSA Transfer Stations affected by such diversions, including the estimated number of loads to be diverted from each SPSA Transfer Station per day. Any SPSA Acceptable Waste (not including Authorized Hauler Acceptable Waste or Non-Contract Waste (or both)) diverted from the RDF Facility pursuant to Section 7.1.7(a)(i), (ii), (iii) or (vi) shall be credited towards the Annual Delivery Guarantee. Notwithstanding the provisions of this Section 7.1.7, the Company shall not, and shall have no right to, divert SPSA Acceptable Waste from SPSA's Transfer Stations at any time that the Company is receiving Outside-Area Waste or Out-of-State Waste at the RDF Facility. The Company shall be responsible for all costs, expenses, and fees, including trailers, transportation, disposal and tipping, associated with the diversion, transportation and disposal of Acceptable Waste. SPSA shall load Acceptable Waste at the SPSA Transfer Stations into trailers provided by the Company or its NP Hauler in consideration for payment by the Company to SPSA of the Loading Fee specified in Section 8.2.5.2.

(b) During all such times that Acceptable Waste, including SPSA Acceptable Waste and Authorized Hauler Acceptable Waste, is being diverted from the RDF Facility as a result of any of the events specified in Section 7.1.7(a), the Company shall continually and on a daily basis deliver, or cause the NP Hauler to deliver, an adequate and appropriate number of trailers and trucks to receive loads of all such waste at SPSA Transfer Stations. The Company shall promptly remove and transport, in an orderly and timely manner, all trailers containing SPSA Acceptable Waste from each SPSA Transfer Station throughout each Day as is necessary to ensure the smooth and efficient operation of SPSA Transfer Stations. The Company shall fully cooperate with SPSA in arranging for the timely and efficient removal of Acceptable Waste from SPSA Transfer Stations, including complying with all reasonable requests by SPSA (whether oral or written) to supply additional trailers and to transport and remove existing trailers from SPSA Transfer Stations. The Company shall remove, or cause its NP Hauler to remove, all Company-supplied or contracted trailers containing a full load of Acceptable Waste by 4:00 p.m. (Norfolk, Virginia time) on the Day such trailer is loaded, or such other shorter time period required by Applicable Law or as reasonably requested by SPSA.

(c) If the Company or any NP Hauler fails to remove any Company or NP Hauler-supplied trailer containing Acceptable Waste during a diversion pursuant to this Section 7.1.7 from a SPSA Transfer Station before 4:00 p.m. (Norfolk, Virginia time) on any Day, then the Company shall pay the penalty specified in Section 8.2.8.1.14.

(d) The Company shall protect, indemnify and hold SPSA Indemnified Parties harmless from and against any and all Losses, including any sums paid or expended by SPSA to any Governmental Authority as a fine, penalty or damages for any violation of any Applicable Law, relating to, arising out of, or resulting from the removal, disposal or failure to remove and properly dispose, of Acceptable Waste from SPSA Transfer Stations.

Section 7.2 Processing Guarantee, Delivery of SPSA Acceptable Waste. During each Billing Year, but subject to Company's rejection rights during any Billing Month specified in Section 7.1.3(a) or the Company's diversion rights specified in Section 7.1.7, the Company shall

receive and accept SPSA Acceptable Waste and Third Party Acceptable Waste (if any) delivered to the RDF Facility, Sort the same and Process Processible Waste through the WTE Facility in an amount at least equal to the Annual Processing Guarantee.

Section 7.3 Inadvertent Deliveries of Prohibited Waste.

Section 7.3.1 Inadvertent Deliveries. SPSA shall exercise reasonable efforts to deliver, or to cause to be delivered, only SPSA Acceptable Waste to the RDF Facility and to minimize the quantities of Prohibited Waste delivered to the RDF Facility. However, the Company and SPSA agree that inadvertent deliveries to or acceptance or Sorting of other than SPSA Acceptable Waste at the RDF Facility shall not constitute a breach of SPSA's or the Company's obligations hereunder and shall not be deemed to be a SPSA Fault or Company Fault.

Section 7.3.2 Removal of Unacceptable Waste and Non-Processible Waste; Segregation and Removal of Hazardous Waste and other Prohibited Waste.

Section 7.3.2.1 Unacceptable Waste; Non-Processible Waste. Unacceptable Waste which is delivered by or on behalf of SPSA to the RDF Facility shall be removed by the Company and placed by the Company in a segregated area of the RDF Facility or in one or more roll-off containers provided by the Company and located in the vicinity of SPSA's Tipping Floor in an area that does not impede or serve as an obstacle for the delivery of Acceptable Waste to the RDF Facility. The Company shall promptly remove such segregated Unacceptable Waste and filled roll-off containers from the RDF Facility for disposal or other permitted disposition in accordance with Applicable Law. Such removal and disposition shall be at the Company's sole cost and expense. Unacceptable Waste which are white goods and that may contain refrigerants (refrigerators, freezers, air conditioning units and the like) shall be removed from the RDF Facility by a licensed contractor provided or engaged by the Company at the Company's sole cost and expense. Unacceptable Waste delivered by or on behalf of SPSA shall not be counted, towards SPSA's obligation to deliver the Annual Delivery Guarantee.

The Company shall remove or cause to be removed from the RDF Facility at the Company's sole cost and expense, all Non-Processible Waste resulting from the Sorting of Acceptable Waste delivered to the RDF Facility for loading, transport and disposal at a Landfill or other permitted disposition under Applicable Law. Such loading and transport shall be performed in such a manner and on a continuous basis such that SPSA's Tipping Floor will be available for deliveries of Acceptable Waste and haulers delivering SPSA Acceptable Waste turnaround time will be minimized.

Section 7.3.2.2 Sale of Recovered Materials. The Company shall have the sole right, at the Company's option, and pursuant to such terms and conditions as the Company determines in its sole discretion, to sell, trade, donate or otherwise alienate any and all Recovered Materials, solely for the account of the Company.

Section 7.3.2.3 Hazardous Waste. Hazardous Waste shall not be intentionally delivered by or on behalf of SPSA or accepted at the RDF Facility by the Company.

In the event that Hazardous Waste is delivered by or on behalf of SPSA and deposited on SPSA's Tipping Floor at the RDF Facility, the Company's traffic control director at the RDF Facility and the Company's Authorized Representative shall immediately follow the procedures in the Hazardous Waste Contingency Plan ("HWCP") and comply with the requirements of Section 7.7.2.

As part of the Conditions Precedent, the Company shall provide a HWCP to SPSA for its review and approval. The HWCP shall address procedures to be followed in the event solid, liquid or gaseous Hazardous Waste materials or suspected Hazardous Waste materials are detected on or at the Facilities or on the Facilities Site and comply with those requirements specified in Section 7.7.2.

Upon receipt of the HWCP, SPSA's Authorized Representative shall review the same and shall, if at all, provide written comments thereon, if any, within thirty (30) Days following SPSA's Authorized Representative's receipt of the HWCP. The Company's Authorized Representative shall review such comments and modify the HWCP to the extent the Company's Authorized Representative deems that some or all of such comments have merit and that the HWCP should be modified to incorporate the same. The Company shall finalize its revised HWCP within thirty (30) Days following its receipt of SPSA's Authorized Representative's comments and provide a copy of such finalized and revised HWCP to SPSA's Authorized Representative. The Company's employees shall be trained and equipped to implement and perform the procedures in the HWCP. If Hazardous Waste is inadvertently accepted by the RDF Facility, the Company shall immediately (a) close off the affected area, (b) provide SPSA's Authorized Representative notice of such event, and (c) if the hauler delivering such Hazardous Waste can be identified, such hauler shall be responsible for its removal and disposal at such hauler's sole cost and expense. If such hauler cannot be identified, the Company shall provide for the clean-up, transportation and disposal of the waste at a permitted Hazardous Waste management facility with the clean-up, transportation and disposal charge (the "Hazardous Waste Costs") to be paid by the Company and SPSA. The Company shall be responsible for seventy-five percent (75%) of the Hazardous Waste Costs and SPSA shall be responsible for twenty-five percent (25%) of the Hazardous Waste Costs, with such amounts to be paid by SPSA pursuant to Section 8.2.8.2.6. The Company shall exercise all reasonable efforts to mitigate or limit Hazardous Waste Costs.

Section 7.3.2.4 Other Prohibited Waste. Prohibited Waste that is neither Hazardous Waste nor Non-Processible Waste shall be handled in accordance with the provisions of Section 7.3.2.1 if the material is permitted to be disposed of at a Landfill. If such Prohibited Waste is not permitted to be accepted at a Landfill, it shall not be accepted at the RDF Facility or a Landfill and the hauler delivering such Prohibited Waste shall be responsible for its disposal at such hauler's sole cost and expense. If the hauler delivering the Prohibited Waste cannot be identified, the HWCP shall be applicable and the Parties shall perform their respective obligations pursuant to the last two sentences of Section 7.3.2.3 as if such Prohibited Waste is Hazardous Waste except that such Prohibited Waste shall be disposed of at a permitted Prohibited Waste management facility.

Section 7.4 Weighing of SPSA Acceptable Waste, SPSA Data, Operation of the Scale House, Invoicing of Revenues, Calibration of Scales.

Section 7.4.1 Weighing. SPSA shall operate and maintain SPSA's Scales and Scalehouses and associated computer equipment and weigh scales records, for the purpose of determining the total Tons of Acceptable Waste delivered to the RDF Facility, Tons of Processible Waste Processed at the WTE Facility and the Tons of Residue, Unacceptable Waste and Non-Processible Waste leaving the RDF Facility or the WTE Facility, or both, and to be delivered to a Landfill or other permitted disposal location, as well as the Tons of Recovered Materials and Prohibited Waste which leave the Facilities Site. For purposes of clarity, all SPSA Acceptable Waste, Third Party Acceptable Waste, Processible Waste, Non-Processible Waste, Recovered Materials and Prohibited Waste (a) delivered to the Facilities Site or (b) removed and transported off of the Facilities Site for disposition shall be weighed at and by SPSA's Scales and Scalehouses. SPSA shall periodically check the tare weight of vehicles delivering or removing, or both, Solid Waste to or from, or both, the Facilities. The Company shall have the right to have an employee present from time to time in SPSA's scalehouses during the Receiving Time to observe scale house operations, provided that such observation time must be scheduled in advance with SPSA's Authorized Representative and that such employee shall not unreasonably interfere with scale house operations.

Section 7.4.2 SPSA Delivery of Data and Information to Company. SPSA shall provide the Company with the following data and information necessary for preparation of the Company's invoices to SPSA and other Entities with whom the Company may contract for the delivery and removal of wastes from the Facilities and Facilities Site for each Billing Month no later than by 12:00 noon on the third (3rd) Business Day following the last Day of the Billing Month: (a) the total quantity of SPSA Acceptable Waste delivered to the RDF Facility during the preceding Billing Month; (b) the total quantity of Third Party Acceptable Waste delivered to the RDF Facility by or on behalf of each Authorized Hauler with whom the Company may contract for the delivery of Third Party Acceptable Waste to the RDF Facility (other than SPSA Acceptable Waste) for each Billing Month, with separate totals for Processible and Non-Processible Waste (which are designated and weighed in as Non-Processible Waste at SPSA's incoming weigh scales at SPSA Transfer Stations) delivered by Authorized Hauler; (c) the total quantity of Non-Processible Waste removed from the RDF Facility originating from Acceptable Waste delivered to the RDF Facility during the preceding Billing Month; (d) the quantity of SPSA Acceptable Waste delivered, or attempted to be delivered, to the RDF Facility and which the Company was obligated to accept but was not accepted and was delivered to a Landfill or other permitted disposal facility by or on behalf of SPSA during the preceding Billing Month; (e) the total quantity of Residue removed from the WTE Facilities (as weighed in at SPSA's Landfill(s)) during the preceding Billing Month; (f) the quantity of Prohibited Waste by type of waste that was delivered by or on behalf of SPSA to the RDF Facility and accepted by the Company at the RDF Facility and that was neither Sorted nor Processed and was transferred to either a Landfill or other permitted facility for disposition during the preceding Billing Month; (g) the quantity of Ferrous Metals and Non-Ferrous Metals transported off of the Facilities Site; and (h) the Adjustments for the previous Billing Month pursuant to Section 8.2.8. If requested by the Company's Authorized Representative, SPSA shall make copies of all weight scale records from SPSA's Scales and Scalehouses available to the Company.

Section 7.4.3 Unavailability of Scale Records. In the event that actual data from SPSA's Scales and Scalehouses for the preceding Billing Month is not available to SPSA, SPSA shall estimate the quantity of waste deliveries and removal from the Facilities by types of waste (as specified in Section 7.4.1 and 7.4.2) delivered to, as applicable, the RDF Facility or the WTE Facility or both and such estimates shall be the basis for the Company's invoices for the Billing Month. Any estimate of such weight data shall be adjusted in any succeeding Billing Month if and when such information becomes available to SPSA, and shall be included in the Service Fee as an Adjustment pursuant to Section 8.2.8.2.2.

Section 7.4.4 System Revenues. The Company shall be responsible for the preparation, mailing and collection of all invoices or assessments for users of the Facilities and the collection of Facilities revenues.

Section 7.4.5 Calibration of Weigh Scales. SPSA, at its sole cost and expense, shall cause the weigh scales at SPSA's Scales and Scalehouses to be tested and calibrated by an independent third party experienced in the testing and calibration of these types of weigh scales, as often as is required by Applicable Law. Either Party may request more frequent testing of the weigh scales at the requesting Party's sole cost and expense. If, at any time, testing of the weigh scales indicates that the scales do not meet the accuracy requirements of Applicable Law, the Parties shall estimate the quantity of the various types of wastes referenced in Section 7.4.1 and 7.4.2 on the basis of truck data and by assuming, for purposes of such estimate, that the weigh scale inaccuracy occurred on a linear basis from the test date most recently preceding the test demonstrating such inaccuracy. These estimates shall take the place of actual weighing records until correction of the weigh scales is completed.

Section 7.5 Storage. The Company shall store Acceptable Waste on SPSA's Tipping Floor in the RDF Facility designed for that purpose. No Acceptable Waste, Processible Waste, Non-Processible Waste, Prohibited Waste, Recovered Materials or Residue may be stored or retained outside of the walls of, as applicable, the RDF Facility or the WTE Facility structure; provided, that the Company may temporarily store Recovered Materials in totally enclosed vehicles or trailers located on the Facilities Site prior to their removal for disposal or sale.

Section 7.6 Composition of SPSA Acceptable Waste.

Section 7.6.1 Composition Not Guaranteed. Nothing in this Agreement shall be construed to mean, and the Company understands and agrees that SPSA does not in any manner guarantee the composition of any SPSA Acceptable Waste, including the proportion of any material contained therein, the energy value contained therein, or any other physical or chemical property of SPSA Acceptable Waste, nor shall the Company be required to guarantee the composition of Residue.

Section 7.6.2 Impact of Recycling. The Parties expressly recognize that changes to the provisions of Applicable Law which mandates recycling or changes in SPSA policy or those of any of its member jurisdictions that encourages recycling, whether in effect on the Contract Date, or as a result of a Change in Law, may reduce the total SPSA Acceptable Waste

available for delivery to the RDF Facility and that such reduction in available SPSA Acceptable Waste may adversely affect the ability of either Party to meet its obligations under this Agreement. The Parties agree that to the extent that any public or private recycling program or activity conducted in compliance with and pursuant to any recycling plan which materially and adversely affects the ability of either Party to meet any obligation or guarantee set forth in this Agreement due to a Change in Law or a change by SPSA or any of its member jurisdictions policy, that either Party's obligation or guarantee shall be deemed to have been impacted by the occurrence of an Uncontrollable Circumstance.

Section 7.6.3 Ownership. Nothing in this Agreement shall be construed to mean that receiving Acceptable Waste, or the inadvertent delivery of Prohibited Waste at the Facilities Site, creates on the part of SPSA or the Company, any ownership interest in, or confers on SPSA or the Company any title to, such Acceptable Waste or Prohibited Waste.

Section 7.6.4 Scavenging of Solid Waste. The Company shall not permit scavenging of any Solid Waste at the Facilities or the Facilities Site by the Company's staff, SPSA staff or any customer or Subcontractor. SPSA shall, as necessary and appropriate, cooperate with the Company in such Company obligation.

Section 7.7 Screening Of Delivered Waste.

Section 7.7.1 Load Checking Program. Any deliveries of Prohibited Waste shall be rejected if discovered at the Facilities. The Company shall develop and implement a load-checking program consistent with at least Prudent Industry Practices to (a) detect and discourage attempts to dispose of Prohibited Waste at the Facilities and (b) handle Prohibited Waste which may have been received or delivered inadvertently.

Section 7.7.2 Refusal or Rejection. Should the Company discover that any Prohibited Waste has been delivered to the Facilities, the Company shall:

(a) Comply with the specific requirements provided in Section 7.3.2 for inadvertent deliveries of Prohibited Waste.

(b) For deliveries of Hazardous Waste and Prohibited Waste, immediately provide oral notification to SPSA of the delivery and include in such notification all available information concerning the generator, hauler, or other Entity responsible for generating and/or delivering the Hazardous Waste to the Facilities, including the vehicle license number, physical description, waste description and other information that is available. The Company shall make every reasonable attempt to identify (1) the Entity known to have deposited such material and (2) the source of such waste. The Company shall provide written notification to SPSA's Authorized Representative of such delivery and such relevant information (to the extent known) within three (3) hours following the Company's discovery of such delivery.

(c) For deliveries of Prohibited Waste that are not Hazardous Waste and for which the hauler is identified and is still on the Facilities Site, subject to the requirements of Applicable Law, immediately order and direct the hauler to leave the Facilities Site with the

hauler's entire load of waste or, at the discretion of the Company's traffic control director on SPSA's Tipping Floor, the hauler may remove only the Prohibited Waste if the Prohibited Waste can be removed from the Acceptable Waste and loaded into the hauler's vehicle without impact on Facilities operations. The hauler will be required to reweigh at the weigh scales at SPSA's Scales and Scalehouses upon exiting the RDF Facility so as to accurately determine the amount of Acceptable Waste delivered to the RDF Facility; and

(d) In the case of Section 7.7.2(c) above, the hauler shall (i) be redirected by the Company to a Landfill if the Prohibited Waste is not Hazardous Waste and the Prohibited Waste is permitted to be accepted at a Landfill, or (ii) be directed that the hauler deliver the waste to an appropriately permitted disposal site if the waste is not permitted to be accepted at a Landfill, and in either case, the Company shall notify SPSA's scalehouse at the RDF Facility and in the case of (d)(ii), SPSA's Authorized Representative shall be notified.

Section 7.7.3 Training. The Company's equipment and crane operators and traffic control directors shall be trained to identify Prohibited Waste, and shall possess site-specific training relative to acceptable fuel. The training program shall emphasize familiarity with containers and labels typically used for Prohibited Waste.

Section 7.8 Outside-Area Waste; Out-of-State Waste; Projected Monthly Waste Shortfall. Except as otherwise expressly provided in this Section 7.8, the Company shall not, directly or indirectly, receive or accept Out-of-State Waste at the Facilities. If, after consultation with SPSA, the Company reasonably determines that the amount of SPSA Acceptable Waste (including commingled Authorized Hauler Acceptable Waste) that will be delivered to the RDF Facility during any Billing Month will be less than sixty-two thousand five hundred (62,500) Tons (such projected deficiency, expressed in Tons, being referred to as the "Projected Monthly Waste Shortfall"), then to the extent the Company will require additional waste to satisfy the Company's requirement for waste to operate the WTE Facility at its design capacity, the Company may acquire additional waste up to the amount of the Projected Monthly Waste Shortfall as follows: (i) first, the Company shall use all reasonable efforts to obtain Third Party Acceptable Waste composed primarily of Processible Waste created or generated in the SPSA Service Area, and (ii) second, the Company shall use all reasonable efforts to obtain Outside-Area Waste to satisfy any remaining Projected Monthly Waste Shortfall. If, notwithstanding the Company's reasonable efforts to obtain Third Party Acceptable Waste created or generated in the SPSA Service Area and Outside-Area Waste to satisfy the Projected Monthly Waste Shortfall in a particular Billing Month, there remains a waste shortfall, the Company may receive and accept at the RDF Facility Out-of-State Waste in such Billing Month, but only in such amount necessary to satisfy the portion of the remaining Projected Monthly Waste Shortfall for that month. In no event shall the Company have the right to reject deliveries of SPSA Acceptable Waste in favor of Third Party Acceptable Waste, Outside-Area Waste or Out-of-State Waste. The Company shall maintain reasonably detailed records demonstrating the Company's efforts to obtain Third Party Acceptable Waste created or generated in the SPSA Service Area and Outside-Area Waste, copies of which shall be delivered to SPSA with its monthly invoice specified in Section 8.3 for any Billing Month in which the Company received or accepted Out-of-State Waste at the RDF Facility. This Section 7.8 shall not restrict the Company from

receiving or accepting at the Facilities Special Waste created or generated outside the SPSA Service Area.

Section 7.9 Residue Testing Procedures. The Company shall provide to SPSA within ten (10) Days following the execution of this Agreement by SPSA its proposed Residue testing procedures describing in reasonable detail the procedures to be followed by the Company to test Residue for TCLP metals, pH levels and moisture content and shall be based substantially on the TCLP. SPSA's Authorized Representative shall review the Company's proposed Residue testing procedures and provide written comments thereon (if any) within fifteen (15) Days following receipt thereof. The Company's Authorized Representative shall thereafter consult with SPSA and proceed to finalize its Residue test procedures within ten (10) Days, as modified to reasonably incorporate SPSA's comments, if any (as so finalized, hereinafter the "RTP"). The Company's employees shall be trained and equipped to implement and perform the RTP. The Company shall provide to SPSA within ten (10) Days after the Company's receipt, all Residue testing results.

SECTION 8 SERVICE FEE

Section 8.1 General. Commencing with the first Billing Month and for each Billing Month thereafter, SPSA shall pay to the Company a Service Fee for Work properly performed pursuant to the terms of this Agreement and in accordance with the formula set forth in Section 8.2.1, as further detailed in Sections 8.2 et. seq. Payment of the Service Fee shall be on a "put or pay" basis, subject to the terms and conditions set forth herein. The Company understands and agrees that, during the period between the Contract Date and the Commencement Date, it shall receive no compensation, and no compensation shall accrue, including (a) any Pass Through Cost and (b) all insurance premiums and deductibles. The Parties acknowledge that the Company's pricing of the Annual Fee takes into account any and all Work performed and all liability incurred by the Company in satisfying all conditions precedent during the period between the Contract Date and the Commencement Date. Unless otherwise expressly set forth in this Agreement, the Service Fee shall be the sole and exclusive compensation to be paid to the Company for the Work. 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, minus Steam 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 Adjustments specified in Section 8.2.8, all in accordance with the Service Fee formula specified in Section 8.2.1.

Section 8.2 Monthly Payment Calculation.

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

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

Where:

SF	=	Service Fee
MF	=	Monthly Fee (<u>Section 8.2.2</u>)
ETF	=	Excess Tonnage Fee (<u>Section 8.2.2.1</u>)
SER	=	Steam 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

Section 8.2.2 Monthly Fee. For the period beginning on the Commencement Date and continuing through the end of the Term, for the applicable Billing Month, the monthly fee (“Monthly Fee”) shall be (a) the Annual Fee (pro rata for the Billing Year less than a full twelve (12) months) divided by (b) twelve (12), pro rata for a Billing Month less than a calendar month. SPSA shall pay to the Company the Monthly Fee. The Monthly Fee covers all Work required by this Agreement, except as otherwise specifically provided for herein.

Except as expressly provided in this Agreement, if the Company is unable to Sort Acceptable Waste or Process Processible Waste (or both) due to (i) the occurrence of an

Uncontrollable Circumstance, (ii) Company Fault, or (iii) Scheduled Maintenance, the Company shall nevertheless be required to accept all Acceptable Waste delivered to the RDF Facility, including SPSA Acceptable Waste, and the Company shall load, transport, and dispose of, or arrange for the loading, transportation and disposal of, all such Acceptable Waste so delivered, all for the compensation provided herein. It is the intent of the foregoing sentence that, except as expressly provided in this Agreement, notwithstanding an Uncontrollable Circumstance, Company Fault or Scheduled Maintenance which prevents Sorting or Processing (or both), the Company shall nevertheless provide waste disposal services to SPSA at the RDF Facility for the compensation provided herein.

Section 8.2.2.1 Excess Tonnage Fee. The Excess Tonnage Fee for each Ton of SPSA Excess Tonnage received at the RDF Facility during the Billing Month shall be Thirty-Six Dollars (\$36.00), as multiplied by the Adjustment Factor pursuant to Schedule 14 (Adjustment Factor); provided, however, if the Company delivers Notice to SPSA requesting the delivery of SPSA Excess Tonnage pursuant to Section 7.1.1, then the Excess Tonnage Fee for each Ton of SPSA Excess Tonnage received at the RDF Facility for the Billing Month shall be zero dollars (\$0.00).

Section 8.2.3 Revenue From Steam Energy. SPSA shall be entitled to receive from the Company monthly an amount equal to ten percent (10%) of the gross revenues (including fixed and variable revenues) received by the Company from the sale of Steam Energy pursuant to the Steam Agreement with respect to the Billing Month; provided, SPSA shall not be entitled to receive any steam energy revenues for and with respect to any Day(s) in which SPSA is prevented from delivering SPSA Acceptable Waste to the RDF Facility due to an Uncontrollable Circumstance which interrupts or reduces steam service under the Steam Agreement and directly results in reduced steam energy revenues. 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) revenues from Steam Energy on and 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 and SPSA's applicable share of such Steam Energy revenues shall be paid to SPSA by the Company as an offset in calculating the Service Fee in accordance with Section 8.2.1 and pursuant to the applicable terms of this Agreement and (b) 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 and SPSA shall have the right to receive and enjoy all steam energy revenues accrued prior to the Commencement Date. The Company shall provide SPSA with its monthly statement and invoice pursuant to Section 8.3, all supporting documentation, copies of all checks and statements relative to the Company's receipt of Steam Energy revenues and backup materials and information reasonably requested by SPSA to substantiate the Steam Energy revenues.

Section 8.2.4 SPSA Hauling Fee. SPSA shall be entitled to receive for each Billing Month a hauling fee for each Ton of Authorized Hauler Acceptable Waste delivered to

the RDF Facility (the “SPSA Hauling Fee”) based on the rate specified in Schedule 6 (SPSA Transfer Station Hauling Rates), as multiplied by the Adjustment Factor and adjusted by the Fuel Surcharge specified in Schedule 7 (Fuel Surcharge), for the specific SPSA Transfer Station at which the Authorized Hauler Acceptable Waste was delivered by the Authorized Hauler.

Section 8.2.5 Residue Disposal Fee; Loading Fee. SPSA shall be entitled to receive from the Company for each Billing Month (a) the Residue disposal fee calculated pursuant to Section 8.2.5.1 (the “Residue Disposal Fee”) and (b) the fee for loading Non-Processible Waste or diverted Acceptable Waste (or both) calculated pursuant to Section 8.2.5.2 (the “Loading Fee”).

Section 8.2.5.1 Residue Disposal Fee.

Section 8.2.5.1.1 Qualifying Residue. The Residue Disposal Fee for each Ton of Qualifying Residue delivered by or on behalf of the Company to SPSA’s Landfill(s) (if available) shall be Zero Dollars (\$0.00); provided, however, for the period beginning on January 1, 2015 and continuing until such time as the Suffolk Landfill reaches capacity limits, if the Suffolk Landfill has not been expanded by SPSA and SPSA has not contracted for or acquired any other additional disposal capacity at any other Landfill, then the Residue Disposal Fee for each Ton of Qualifying Residue delivered by or on behalf of the Company to SPSA’s Landfill(s) shall be Five Dollars (\$5.00).

Section 8.2.5.1.2 Dry Residue. The Residue Disposal Fee for each Ton of Dry Residue delivered by or on behalf of the Company to SPSA’s Landfill(s) (if available) shall be Thirty Dollars (\$30.00), as multiplied by the Adjustment Factor pursuant to Schedule 14 (Adjustment Factor).

Section 8.2.5.1.3 Residue Testing. The Company shall, no less than quarterly, test such Residue in accordance with the RTP and deliver to SPSA’s Authorized Representative a written report certifying that the Residue delivered to SPSA’s Landfill(s) during the reporting period has met the Moisture Content Limits and supplying the test results and all other information required to be provided to SPSA as described in the RTP. SPSA or the Consulting Engineer, or both, may perform their own analyses in accordance with the procedures contained in the RTP on such Residue delivered at SPSA’s Landfill(s) from time to time during the reporting period. If the Company, in its quarterly report delivered to SPSA, certified that the Residue delivered to SPSA’s Landfill in the previous quarter met the Moisture Content Limits and the moisture content analyses performed by SPSA or its Consulting Engineer on Residue delivered to SPSA’s Landfill(s) performed at any time during the relevant quarter reflects that the Residue does not meet the Moisture Content Limits, then SPSA may re-characterize the Residue disposed of at SPSA’s Landfill(s) during such period as Dry Residue, in which case the Company shall pay SPSA the Residue Disposal Fee based on the amount (in Tons) of Dry Residue SPSA reasonably estimates was delivered to SPSA’s Landfill(s) during the relevant period in question.

Section 8.2.5.2 Loading Fee.

SPSA shall be entitled to receive from the Company for each Billing Month an amount equal to (a) the Loading Rate multiplied by (b) the aggregate Tons of Non-Processible Waste

removed by or on behalf of the Company or the NP Hauler from SPSA Transfer Stations. In addition, if Acceptable Waste is diverted to Company Landfill(s) pursuant to Section 7.1.7, SPSA shall be entitled to receive from the Company for each Billing Month an amount equal to (x) the Loading Rate multiplied by (y) the aggregate Tons of Acceptable Waste removed by or on behalf of the Company or the NP Hauler from SPSA Transfer Stations. For purposes of calculating the Loading Fee pursuant to this Section 8.2.5.2, the incoming weigh scales at the Company Landfill(s) shall be dispositive for establishing the aggregate Tons of Non-Processible Waste removed, and SPSA Acceptable Waste diverted, from SPSA Transfer Stations.

Section 8.2.6 Diverted Waste Costs. If, during a Billing Month, SPSA Acceptable Waste is diverted from the RDF Facility pursuant to Section 7.1.2, the diverted waste costs (the "Diverted Waste Costs"):

(a) if SPSA's Landfill(s) is open and available to accept such diverted SPSA Acceptable Waste, then the Company shall pay to SPSA an amount equal to (i) the product of (A) the Tons of SPSA Acceptable Waste diverted from the RDF Facility to SPSA's Landfill(s) during such Billing Month, multiplied by (B) the Blended Tipping Fee, plus (ii) the product of (A) the Tons of SPSA Acceptable Waste diverted from the RDF Facility to SPSA's Landfill(s) during such Billing Month, multiplied by (B) the surcharge set forth in the following table based on the aggregate amount (in Tons) of diverted SPSA Acceptable Waste delivered to SPSA's Landfill(s) in the current Billing Year:

Aggregate Tons of diverted waste delivered to SPSA's Landfill(s) in the current Billing Year	Surcharge per Ton
Up to 40,000 Tons	\$0
40,000 Tons to 54,999 Tons	\$30
55,000 Tons to 69,999 Tons	\$60
70,000 Tons and greater	\$75

(b) if SPSA's Landfill(s) is not open or available to accept such SPSA Acceptable Waste and SPSA is required to dispose of such SPSA Acceptable Waste at another Landfill, then Company shall pay to SPSA the higher of (i) the product of (A) the Tons of SPSA Acceptable Waste diverted from the RDF Facility to a Landfill(s) during such Billing Month, multiplied by (B) the Blended Tipping Rate, and (ii) the sum of (A) the actual transportation, labor and disposal costs and expenses incurred by SPSA for the disposal of such waste, plus (B) the product of (x) the Tons of SPSA Acceptable Waste diverted from the RDF Facility to a Landfill during such Billing Month, multiplied by (y) fifteen dollars (\$15.00) per Ton.

Section 8.2.7 Pass Through Costs.

Section 8.2.7.1 Company Declared Change in Law. The costs and expenses to Cure a Change in Law or SPSA Fault, subject to the terms, conditions and cost limitations specified in Sections 9.1.1 and 10 (the “Pass Through Costs”), shall not be included in the Annual Fee and shall be paid by the Company. Such Pass Through Costs shall then be invoiced to SPSA as part of the Company’s invoice for services rendered each Billing Month upon the Company’s provision of Cost Substantiation to SPSA. SPSA shall thereafter reimburse such Pass Through Costs to the Company, all in accordance with the requirements of this Agreement. The Company shall exercise all reasonable efforts to obtain good faith estimates for all Pass Through Costs reasonably anticipated for the next Billing Year and the Company shall supply those estimates to SPSA at least eight (8) months prior to the beginning of the next Billing Year.

Section 8.2.7.2 SPSA Declared Change in Law. The costs and expenses to Cure a SPSA declared Change in Law, subject to the terms, conditions and cost limitations specified in Sections 9.1.2 and 10 (the “SPSA Facility Pass Through Costs”) shall be separately invoiced to the Company as part of SPSA’s invoice for services rendered each Billing Month. The Company shall thereafter reimburse such SPSA Facility Pass Through Costs to SPSA, all in accordance with the requirements of this Agreement. SPSA shall use all reasonable efforts to obtain good faith estimates for all SPSA Facility Pass Through Costs reasonably anticipated for the next Billing Year and SPSA shall supply those estimates to the Company at least eight (8) months prior to the beginning of the next Billing Year.

Section 8.2.8 Adjustments. The Adjustments shall be calculated as follows:

Section 8.2.8.1 Actual and Liquidated Damages; Withholdings or Reimbursements of Withholdings; and Credits and Set-Offs. The Company shall pay to SPSA the following as liquidated damages or SPSA shall, as applicable, withhold (“Withhold” or “Withholding”) the following, in either case, as an Adjustment. Any reimbursement of Withholdings pursuant to this Section 8.2.8.1 that may be due and owing to the Company pursuant to the terms of this Agreement shall be paid by SPSA as part of the Company’s invoice for the second Billing Month following the Billing Month in which the Withholding rights of SPSA ended relative to the Company’s failure to comply with its applicable obligation under this Agreement.

Section 8.2.8.1.1 Management and Labor Personnel. If the Company fails to meet the requirements relative to Affected Employee specified in Section 3.4, SPSA’s Authorized Representative may provide written notice of such noncompliance to the Company’s Authorized Representative. If the Company fails to Cure such noncompliance specified in such notice within ten (10) Days relative to Section 3.4.1 through 3.4.7, SPSA may thereafter assess liquidated damages against the Company in the amount of five hundred dollars (\$500.00) per Day, adjusted by the Adjustment Factor, until such time as such noncompliance has been Cured by the Company, provided that the Company’s Authorized Representative has provided SPSA’s Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.2 Emergency Plan. If the Company fails to comply with its emergency plan or the requirements of Section 3.9 or both, SPSA may provide

prior written notice of such noncompliance to the Company's Authorized Representative. If the Company fails to Cure such noncompliance specified in such notice within ten (10) Business Days after SPSA's Authorized Representative has provided the Company's Authorized Representative with such notice, SPSA may thereafter Withhold from the Company the amount of two thousand five hundred dollars (\$2,500.00) per Day, adjusted by the Adjustment Factor, until such noncompliance has been Cured by the Company, provided that the Company's Authorized Representative has provided to SPSA's Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.3 Litter Control. If the Company fails to control litter on the Facilities Site in conformance with Section 3.10, SPSA's Authorized Representative may provide written notice of such noncompliance to the Company's Authorized Representative. If the Company fails to Cure such noncompliance specified in such notice within two (2) Business Days after SPSA's Authorized Representative has provided the Company's Authorized Representative with such notice, SPSA may thereafter Withhold from the Company the amount of five hundred dollars (\$500.00) per Day, adjusted by the Adjustment Factor, until such noncompliance has been Cured by the Company, provided that the Company's Authorized Representative has provided to SPSA's Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.4 Landscaping and Vegetation. If the Company fails to meet its landscaping obligations or maintain vegetation or both on the Facilities Site as required by Section 3.10, SPSA's Authorized Representative may provide written notice of such noncompliance to the Company's Authorized Representative. If the Company fails to Cure such noncompliance specified in such notice within five (5) Business Days after SPSA's Authorized Representative has provided the Company's Authorized Representative with such notice, SPSA may thereafter Withhold the amount of five hundred dollars (\$500.00) per Day, adjusted by the Adjustment Factor, for each area identified in such notice until such noncompliance has been Cured by the Company, provided that the Company has provided to SPSA's Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.5 Other Housekeeping Obligations. If the Company fails to meet any other of its obligations specified in Section 3.10 for which the Service Fee is not already undergoing an Adjustment pursuant to Sections 8.2.8.1.3 or 8.2.8.1.4, SPSA's Authorized Representative may provide written notice of such noncompliance to the Company's Authorized Representative. Such written notice shall describe in reasonable detail the items not in compliance with such housekeeping obligations. If the Company fails to remedy such noncompliance specified in such notice within five (5) Business Days after SPSA's Authorized Representative has provided the Company's Authorized Representative with such notice, SPSA may thereafter Withhold the amount of one thousand dollars (\$1,000.00) per Day, adjusted by the Adjustment Factor, until such noncompliance has been Cured by the Company, provided that the Company's Authorized Representative has provided to SPSA's Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.6 Failure to Make Submittals. If the Company fails to file and submit by the due dates those Monthly Reports specified in Section 5, SPSA may

Withhold for every three (3) Business Days that such filings and submittals are late, five thousand dollars (\$5,000.00), adjusted by the Adjustment Factor, until such date as the Company makes the required filings and submittals.

Section 8.2.8.1.7 Failure to Comply With Schedules. If the Company (a) fails to comply with the requirements of the Schedules as provided in Section 3.20 and (b) is not otherwise undergoing an Adjustment pursuant to Section 8.2.8 for the same failure to comply with its obligation under this Agreement, SPSA's Authorized Representative may provide written notice of such noncompliance to the Company's Authorized Representative. If the Company fails to Cure such noncompliance specified in such notice within five (5) Business Days after SPSA's Authorized Representative has provided the Company's Authorized Representative with such notice, SPSA may thereafter Withhold one thousand dollars (\$1,000.00) per Day, adjusted by the Adjustment Factor, until such noncompliance has been Cured by the Company, provided that the Company's Authorized Representative has provided to SPSA's Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.8 Failure to Operate and Maintain SPSA's Tipping Floor and SPSA's Roadways. If the Company fails to comply with any of the requirements of Section 7.1.4, SPSA's Authorized Representative may provide written notice to the Company's Authorized Representative of such noncompliance. If the Company fails to Cure such noncompliance specified in such notice within one (1) Business Day after SPSA's Authorized Representative has provided the Company's Authorized Representative with such notice, SPSA may thereafter Withhold one thousand dollars (\$1,000.00) per Day, adjusted by the Adjustment Factor, until such noncompliance has been Cured by the Company, provided that the Company's Authorized Representative has provided reasonable evidence of such Cure to SPSA's Authorized Representative.

Section 8.2.8.1.9 Failure to Comply with Management, Operation and Maintenance Obligations. If the Company fails to meet any of its obligations specified in Section 3.2(d), 3.2(e), 3.2(j) or 3.2(l) for which the Service Fee is not already undergoing an Adjustment pursuant to such Section 3.2(d), 3.2(e), 3.2(j) or 3.2(l), as applicable, SPSA's Authorized Representative may provide written notice of such noncompliance to the Company's Authorized Representative. Such written notice shall describe in reasonable detail the items not in compliance. If the Company fails to remedy such noncompliance specified in such notice within two (2) Business Days after SPSA's Authorized Representative has provided the Company's Authorized Representative with such notice, SPSA may thereafter Withhold the amount of one thousand dollars (\$1,000.00) per Day, adjusted by the Adjustment Factor, until such noncompliance has been Cured by the Company, provided that the Company's Authorized Representative has provided to SPSA's Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.10 Failure to Maintain Waste Transportation and Disposal Services. If the Company fails to maintain transportation and Landfill disposal services for Residue, Acceptable Waste, Processible Waste, Non-Processible Waste and Prohibited Waste all in accordance with the requirements of Section 3.19, unless such failure is due to an Uncontrollable Circumstance or SPSA Fault, SPSA's Authorized Representative may

provide written notice of such noncompliance to the Company's Authorized Representative. If the Company fails to Cure such noncompliance specified in such notice within five (5) Days, SPSA may thereafter assess liquidated damages against the Company in the amount of three thousand dollars (\$3,000.00) per Day, adjusted by the Adjustment Factor, until such time as such noncompliance has been Cured by the Company, provided that the Company's Authorized Representative has provided SPSA's Authorized Representative reasonable evidence of such Cure.

Section 8.2.8.1.11 Failure to Cure to Meet the Standards of Maintenance by the Timeframe. Failure of the Company to effect a Cure within the Timeframe to bring, as applicable, SPSA's Roadways or SPSA's Tipping Floor, or both, into compliance with the Standards of Maintenance shall subject the Company to a Withholding and set-off pursuant to the terms and conditions of Section 6.3. Any amounts Withheld shall, upon completion of the Cure pursuant to Section 6.3, be reimbursed pursuant to the terms and conditions of Section 6.3.

Section 8.2.8.1.12 Authorized Haulers. If the Company fails to comply with any of the requirements set forth in Section 4.2.1 with respect to the Authorized Haulers, SPSA's Authorized Representative may provide written notice of such noncompliance to the Company's Authorized Representative. If the Company fails to Cure such noncompliance specified in such notice within five (5) Business Days after such notice is given, SPSA may thereafter Withhold from the Company the amount of two thousand dollars (\$2,000.00) per Day, adjusted by the Adjustment Factor, until such noncompliance has been Cured by the Company.

Section 8.2.8.1.13 Non-Contract Waste received at SPSA Transfer Stations. The Company shall be entitled to receive from SPSA in each Billing Month an amount equal to the tipping fees received by SPSA from non-contract Entities for disposal of Non-Contract Waste at SPSA Transfer Stations (excluding the SPSA Transfer Station located at the Suffolk Landfill) during such Billing Month. For avoidance of doubt, this Section 8.2.8.1.13 shall not apply to any tipping fees or other amounts received by SPSA from any Entity having a contract with SPSA, including, but not limited to, the Member Communities and the U.S. Navy. To the extent permitted by Applicable Law, SPSA shall not reduce tipping rates below sixty dollars (\$60.00) per Ton for Non-Contract Waste received at SPSA Transfer Stations (excluding the SPSA Transfer Station located at the Suffolk Landfill) without the Company's consent.

Section 8.2.8.1.14 Non-Processible Waste and Acceptable Waste Disposal. The Company shall pay SPSA in the Billing Month of assessment, as a penalty, for each Company or NP Hauler supplied trailer containing a full load of Non-Processible Waste or Acceptable Waste (or both) remaining at any SPSA Transfer Station after 4:00 p.m. (Norfolk, Virginia time) on any Day, an amount equal to (i) five thousand dollars (\$5,000), *plus* (ii) the actual transportation, labor and disposal costs and expenses incurred by SPSA to dispose of such Solid Waste.

Section 8.2.8.2 Miscellaneous Adjustments.

Section 8.2.8.2.1 Compliance with a Change in Law or the Removal of SPSA Fault. SPSA shall pay to the Company the cost for coming into compliance with a Change in Law or the removal of SPSA Fault pursuant to and as limited by Section 10.1. The Company shall be solely liable for the cost for removal of the impact of an Uncontrollable Circumstance, including a Change in Law except as specifically recognized in Sections 9 and 10.1.

Section 8.2.8.2.2 Scale Record True-Up. If, pursuant to Section 7.4.3, SPSA estimated the Tons of the types of waste delivered to the RDF Facility and removed from the Facilities for disposal or other disposition in a prior Billing Month due to the unavailability of actual data, and thereafter actual data or information becomes available to SPSA relative to such deliveries for such Billing Month, the Service Fee for the Billing Month in which such actual data is received shall be adjusted accordingly by an appropriate Adjustment.

Section 8.2.8.2.3 DEQ Fees, Fines, Administrative Actions, Notices of Violations and Lawsuits.

Section 8.2.8.2.3.1 Fees. The Company shall pay application, renewal and inspection fees for all Permits as may be required by the DEQ or any other Governmental Authority for the ownership, operation and maintenance of the Facilities.

Section 8.2.8.2.3.2 Fines and Penalties Caused by a Change in Law or the Company. The Company shall pay any fines or penalties imposed by any Governmental Authority and any related costs incurred by SPSA for Permit violations that were not caused by SPSA Fault (except in either case, as specifically recognized as a SPSA obligation pursuant to Sections 9 and 10.1), and the Company shall reimburse SPSA for the same to the extent paid, if at all, by SPSA. SPSA shall be liable for the costs to come into compliance with a SPSA Fault but only to the extent recognized and as limited by Sections 9 and 10.1. The Company shall pay, and be solely responsible for all costs, fees and expenses of performing all work included in administrative orders, notices or similar directives of violation that were the result of the Company Fault or, subject to SPSA's responsibility for certain costs and fees expressly provided in Section 8.2.8.2.3.3, caused by the occurrence of a Change in Law.

If the Company is required to pay any fine or penalty imposed by any Governmental Authority for Permit violation consistent with the first paragraph of this Section 8.2.8.2.3.2 the amount of which totals (a) at least fifty thousand dollars (\$50,000.00) per violation or (b) on an accumulated basis to date for a Billing Year, seventy-five thousand dollars (\$75,000.00) or more, SPSA shall have the right to request, by giving at least five (5) Business Days prior written notice to the Company's Authorized Representative, that the regional vice president of the Company or Wheelabrator (if different), or both, as determined by SPSA, appear in person before the Board to explain why such current or accumulated payments were or are necessary. If, after the Company's Authorized Representative's receipt of such written notice and the passing of at least such five (5) Business Days thereafter, the regional vice president of the Company or Wheelabrator (if different), or both if requested by SPSA fail to schedule an appearance before the Board at one of the next three (3) regularly scheduled meetings of such Board, or fail to appear at such scheduled meeting, such failure shall be a Company Event of

Default. In the event the Company believes the regulatory fine or penalty is unjustified, the Company shall have the right to contest the regulatory fine or penalty at its sole cost and expense.

Section 8.2.8.2.3.3 Fines and Penalties Caused By SPSA Fault. SPSA shall pay any fines or penalties imposed by DEQ, EPA or any Governmental Authority for Permit violations that were caused by the occurrence of a SPSA Fault, but only to the extent recognized in Sections 9 and 10.1. The Company shall be liable for any other such fines or penalties imposed by the DEQ, EPA or any other Governmental Authority, including a Permit violation occurring as a result of an Uncontrollable Circumstance, provided that for purposes of this Section 8.2.8.2.3.3, the Company's liability for an Uncontrollable Circumstance includes a Change in Law but only to the extent SPSA is not liable for such Change in Law as determined and as limited pursuant to Sections 9 and 10.1. Additionally, SPSA shall pay the costs of Work performed pursuant to administrative orders or notices of violation that were the result of the occurrence of a Change in Law or SPSA Fault (to the extent SPSA is liable for such Change in Law pursuant to Sections 9 and 10.1), provided that the Company shall be liable for any such costs to the extent SPSA's not liable for such costs. In the event the Company believes the regulatory fine is unjustified, it shall be the Company's responsibility to contest the regulatory fine at its sole cost and expense.

Section 8.2.8.2.3.4 True-up of Adjustment Factor. At the commencement of each Billing Year, current indices used for calculating and applying the Adjustment Factor may not be available. In such event, an estimate of the Adjustment Factor, using the most recent published value of each non-current index, shall be used each Billing Month of the Billing Year until all applicable indices are current and available. At such time, SPSA shall adjust the respective amount in accordance with Schedule 14 (Adjustment Factor) and shall use the current indices and apply the same to all invoices previously received by SPSA for such Billing Year to determine the aggregate adjustment necessary. The resulting calculated amount shall be included as an Adjustment to the invoice for the next Billing Month.

Section 8.2.8.2.4 Property Taxes. The Parties acknowledge that the Company has estimated that the local real estate tax for the Facilities for each Billing Year at One Million Dollars (\$1,000,000) (the "Estimated Real Property Tax"), as multiplied by the Adjustment Factor pursuant to Schedule 14 (Adjustment Factor) throughout the Term. In the event the actual real property taxes paid by the Company for the Facilities in any Billing Year is greater than the Estimated Real Property Tax, the Company shall be entitled to receive from SPSA an amount equal to the product of (a) the amount by which the Facilities real property taxes (less any reductions or other credits in other taxes) is greater than the Estimated Real Property Tax during such Billing Year, multiplied by (b) the SPSA Responsible Percentage. In the event the actual real property taxes paid by the Company for the Facilities in each Billing Year is less than the Estimated Real Property Tax, SPSA shall be entitled to receive from the Company an amount equal to the product of (A) the amount by which the Facilities real property taxes during such Billing Year is less than the Estimated Real Property Tax, multiplied by (B) the SPSA Responsible Percentage. The increase or reduction in real property taxes shall be effected by an Adjustment to the Service Fee contemplated by this Section.

Section 8.2.8.2.5 Special Waste. SPSA shall be entitled to receive from the Company for each Billing Month an amount equal to ten percent (10%) of the gross revenues received by the Company from the delivery of Special Waste at the RDF Facility pursuant to Sourced Special Waste Contracts. The Company shall provide SPSA with its monthly statement and invoices pursuant to Section 8.3, all supporting documentation and copies of all agreements, invoices, checks and statements relative to the Company's receipt of revenues from Special Waste and back-up materials and information reasonably requested by SPSA to substantiate the revenues received from the Company relating to Special Waste.

Section 8.2.8.2.6 Hazardous Waste. The Company shall be entitled to receive from SPSA for each Billing Month an amount equal to twenty-five percent (25%) of the Hazardous Waste Costs, if any, actually paid by the Company during the previous month. The Company shall provide SPSA with all statements, invoices and supporting documentation and copies of all agreements, invoices, checks and statements relative to the Hazardous Waste Costs.

Section 8.2.8.2.7 Annual Non-Processible Revenue Share. The Company shall pay to SPSA the ANP Revenue Share, calculated pursuant to Schedule 24 (ANP Revenue Share Calculation), during each Billing Month.

Section 8.3 Invoices, Method of Payment.

Section 8.3.1 Monthly Invoice. The Company shall deliver to SPSA, no later than the fifth (5th) Day following the receipt of the information described in Section 7.4.2 from SPSA, the information set forth on Table 2 of Schedule 19 (Form of the Company's Monthly Invoice) for the immediately preceding Billing Month. Based on the information supplied by the Company, SPSA shall deliver to the Company, no later than the seven (7) Days following its receipt of the information described in the immediately preceding sentence, the information set forth on Table 1 of Schedule 19 (Form of the Company's Monthly Invoice) for the immediately preceding Billing Month. The Company shall submit its invoice to SPSA on or after the end of the Billing Month for which payment is requested. In preparing its invoice, the Company shall use and comply with the form and content of the Company's invoice attached hereto as Schedule 19 (Form of Company's Monthly Invoice). The Parties may, by mutual agreement, revise the form and content of the invoice form in Schedule 19 (Form of Company's Monthly Invoice). The Company shall attach all documentation and information necessary to justify payment by SPSA to the Company or credit from the Company to SPSA.

To the extent SPSA is liable for the payment of insurance deductibles pursuant to Section 11.3.2, the Company shall submit to SPSA a separate invoice for such deductible amount on and after the Billing Month in which final liability has finally been determined. The Company shall attach all documentation and information necessary to justify payment by SPSA of such deductible amount. SPSA shall pay the justified deductible amount within thirty (30) Days after the date of receipt by SPSA of a properly formatted invoice containing the required documentation and free from errors. If SPSA disputes such deductible amount, including the lack of supporting documentation or data, the Parties shall comply with the applicable provisions of Section 8.3.2 regarding such disputed invoice.

Section 8.3.2 Payment to the Company. SPSA shall pay the Company the Service Fee within thirty (30) Days after the date of receipt by SPSA of a properly formatted invoice, consistent with Schedule 19 (Form of Company's Monthly Invoice) containing the required documentation and free of errors. If SPSA reasonably disputes any item in an invoice the Company submits, including lack of appropriate supporting documentation or data, SPSA's Authorized Representative shall delete the amount of the disputed item and pay the remainder of the invoice. SPSA's Authorized Representative shall promptly notify the Company's Authorized Representative of the disputed items and request resubmittal on the next monthly invoice, if applicable. If the due date for payment is not a Business Day, payment is due on the next Business Day following that date. If SPSA fails to remit the full amount payable when due, interest on the unpaid portion shall accrue at the Interest Rate pursuant to Section 16.19.

Section 8.3.3 Payment to SPSA. In the event any payments are due SPSA hereunder, SPSA may deduct the same from the amount due to Company using a credit or offsetting invoice which shall be presented to the Company on or before the time for payment specified in Section 8.3.2 hereof, or SPSA may invoice the Company in accordance with the procedures under Section 8.3.1.

Section 8.3.4 Reasonable Estimate of the Aggregate Service Fee. No later than January 1 of each Billing Year, the Company shall provide SPSA with a written statement, which statement shall not be binding on the Company, setting forth its reasonable estimate of the aggregate Service Fee for the immediately succeeding Billing Year, and the calculations upon which said statement were based.

Section 8.3.5 Dispute. Notwithstanding anything in this Agreement to the contrary, if a good faith dispute arises between the Parties concerning any invoice, either Party may submit the matter to dispute resolution pursuant to Section 14. Moreover, if the resolution of any good faith dispute determines that one Party has overpaid the other Party, then such overpaid amount shall be refunded promptly with interest accruing at the Interest Rate pursuant to Section 16.20 from the date the overpaid amount was paid until the date of refund of the resolved amount.

Section 8.4 Annual Adjustment.

Section 8.4.1 Annual Processing Guarantee Shortfall Damages. If, in any Billing Year, the Company fails to meet the Annual Processing Guarantee, then the Company shall pay to SPSA an amount equal to (a) the product of (1) the difference between eighty percent (80%) and the actual percentage of Acceptable Waste Processed at the Facilities, calculated pursuant to Schedule 13 (Performance Calculations and Test Procedures), multiplied by (2) the total Tons of SPSA Acceptable Waste delivered to the RDF Facility during such Billing Year, multiplied by (b) the Blended Tipping Fee ("Annual Processing Guarantee Shortfall Damages").

Section 8.4.2 Steam Energy Delivery Guarantee Shortfall Damages. If, in any Billing Year, the Company fails to satisfy the Steam Energy Delivery Guarantee and such failure affects the revenues received from the U.S. Navy, then the Company shall pay to SPSA the

difference between (a) the Steam Energy revenues SPSA should have received for such Billing Year had the Company met the Steam Energy Delivery Guarantee and (b) the amount of Steam Energy revenues SPSA actually received for such Billing Year (“Steam Energy Delivery Guarantee Shortfall Damages”). To the extent that the Company did not meet the Steam Energy Delivery Guarantee due to the occurrence of an Uncontrollable Circumstance or SPSA Fault, the amount of the deficiency in Steam Energy deliveries attributable to the period during such Uncontrollable Circumstance or SPSA Fault shall not be included in the above calculations.

Section 8.4.3 Annual Reconciliation Invoice. Following the end of each Billing Year during the Term, SPSA shall deliver to the Company an annual settlement statement and invoice setting forth any amounts due in accordance with this Section 8.4. The annual reconciliation invoice shall be prepared in accordance with Schedule 21 (Form of Annual Reconciliation Invoice) and shall be supported by sufficient back-up documentation.

Section 8.4.4 Annual Payment. The Company shall pay SPSA the amounts due under this Section 8.4 within thirty (30) Days after the date of receipt by the Company of an invoice prepared in accordance with Schedule 21 (Form of Annual Reconciliation Invoice). If the Company disputes the amount of the annual reconciliation payment, then the Company shall nevertheless pay to SPSA the amount invoiced and the disputed amount shall be submitted to dispute resolution pursuant to Section 14.1. If any portion of such disputed amount is finally resolved in favor of the Company, then such amount shall be promptly reimbursed by SPSA to the Company.

SECTION 9 UNCONTROLLABLE CIRCUMSTANCES AND SPSA FAULT

Section 9.1 Uncontrollable Circumstances.

(a) Neither SPSA nor the Company shall be liable to the other for any failure or delay in performance of any obligation under this Agreement due to the occurrence of an Uncontrollable Circumstance except as expressly provided herein. If either Party claims the occurrence of an Uncontrollable Circumstance as a basis for not performing any of its obligations under this Agreement, then the Party making such claim shall (i) provide prompt notice, including written notice, to the other Party of the occurrence of the Uncontrollable Circumstance; (ii) provide an estimate of its expected duration; (iii) describe its probable effect on the performance of its obligations hereunder; (iv) exercise all reasonable efforts to continue to perform its obligations hereunder to the extent not prevented by the Uncontrollable Circumstance; (v) subject to and in accordance with Section 10 regarding a Change in Law or SPSA Fault, expeditiously take action to Cure the Uncontrollable Circumstance; (vi) exercise all reasonable efforts to mitigate or limit damages to the other Party; and (vii) provide prompt notice, including written notice, to the other Party of the cessation of the Uncontrollable Circumstance which gave rise to its inability to perform.

(b) Subject to Section 9.1.1 or 9.1.2, as applicable, the Party claiming that an Uncontrollable Circumstance has occurred shall perform or cause to be performed, any obligation not prevented by the Uncontrollable Circumstance, and Cure and/or mitigate, as applicable, the effects of the Uncontrollable Circumstance regardless of cost and at such Party's sole cost and expense and regardless of whether such Party incurs increased costs or decreased revenues, or both, relative to the performance of the Work or such Party's obligations under this Agreement.

(c) Notwithstanding any provision in this Agreement that may be interpreted to the contrary, neither Party shall be relieved from any payment obligation under and pursuant to the term and conditions of this Agreement during the occurrence and continuance of an Uncontrollable Circumstance.

Section 9.1.1 Company Declared Change in Law.

(a) Subject to the following paragraphs of this Section 9.1.1, if the Company declares or asserts that an Uncontrollable Circumstance shall have occurred and such Uncontrollable Circumstance resulted in increasing its costs to perform the Work or that its revenues have decreased, the Company shall nevertheless continue to perform its obligations under this Agreement that it is not prevented from performing by the Uncontrollable Circumstance regardless of its increased costs and/or decreased revenues relative to such performance. The Company shall be solely liable for any increase in costs and/or decrease in revenues as a consequence of the occurrence and continuance of an Uncontrollable Circumstance.

(b) Notwithstanding Section 9.1.1(a), if the Uncontrollable Circumstance that has occurred is a Change in Law, and such Change in Law increases the Company's costs with respect to the Work by an amount greater than the SPSA Cost Threshold for such Billing Year, as multiplied by the Adjustment Factor, then SPSA shall, subject to Sections 9.1.1, 10 and 13.3, be liable for the following:

(i) If the Company, to comply with such Change in Law, is required to change the Work which change does not necessitate capital expenditures to alter the Facilities, then, subject to Sections 9.1.1, 10 and 13.3, SPSA shall be liable for the amount by which (A) the product of (1) the total increased costs of the Company through the end of the earlier to occur of the repeal or change in the monetary impact of such Change in Law, or the end of the Term, multiplied by (2) the SPSA Responsible Percentage, exceeds (B) the SPSA Cost Threshold.

(ii) If the Company, to comply with such Change in Law, is required to change the Work which change necessitates a capital alteration or the addition of a capital project to the Facilities, then, subject to Sections 9.1.1, 10 and 13.3, SPSA shall be liable for the amount by which (A) the product of (1) the total capital cost of such capital alteration or capital project as itemized on a straight-line depreciation basis (not accelerated) using the asset depreciable range period for the applicable capital item as set forth in Section 168 of the Internal

Revenue Code multiplied by (2) the SPSA Responsible Percentage, exceeds (B) the SPSA Cost Threshold.

(c) In no event shall SPSA have any liability for the Company's increased costs relative to the Work as a consequence of the impact of a Change in Law after the end of the Term. Further, any SPSA payment under this Section 9.1.1 for which it is liable shall be applied as an Adjustment to the Service Fee and amortized over the remaining Term, provided that no cost increases incurred by the Company shall be accelerated or accumulated such that an amortized period for payment of such costs are not properly recognized under applicable GAAP Standards or Section 168 of the Internal Revenue Code, or both. With respect to the cost of capital to purchase, fabricate and install any capital alteration or capital project implemented or to be implemented pursuant to this Section 9.1.1 and Section 10, the Company, with the reasonable cooperation of SPSA, shall exercise all reasonable efforts to maximize the reduction of such capital costs of the capital alteration or capital project.

(d) If the Parties shall not have resolved the impacts of the Change in Law within forty-five (45) Days following the Company's Authorized Representative's Notice to SPSA's Authorized Representative of the occurrence of the Change in Law or in the event SPSA disputes the costs or expenses proposed by the Company to effect the Cure, either Party may refer the matter to dispute resolution pursuant to Section 14. During the pendency of any such dispute resolution, the Company shall not be relieved of its obligations to perform the Work not prevented by the Change in Law on the basis or increased costs or decreased revenues or both and SPSA shall have no obligation to make any payments to the Company as Pass Through Costs under this Agreement.

(e) Any resolution of the monetary impact of the Change in Law on the Company's Work shall, relative to increased costs, be based on the Company's Direct Costs, subject to Cost Substantiation, inclusive of Markup from and after the date of the Company's Authorized Representative's Notice to SPSA's Authorized Representative that a Change in Law has occurred.

Section 9.1.2. SPSA Declared Uncontrollable Circumstances and Change in Law.

(a) If SPSA declares or asserts that an Uncontrollable Circumstance shall have occurred on the basis that its costs to perform its obligations under this Agreement have increased and/or that its revenues have decreased, or both, it shall nevertheless continue to perform its obligations under this Agreement that it is not prevented from performing by the Uncontrollable Circumstance, including its payment obligations pursuant to terms and conditions of this Agreement, regardless of its increased costs or decreased revenues, or both, relative to such performance; provided that SPSA shall nevertheless have its rights that are provided to it under this Agreement, with particular reference to Sections 10 and 13.3.

(b) Notwithstanding Section 9.1.2(a), if the Uncontrollable Circumstance that has occurred is a Change in Law and such Change in Law increases SPSA's costs with respect to any of its obligations under this Agreement by an amount greater than two hundred thousand dollars (\$200,000) (the "Company Cost Threshold") for such Billing Year, as

multiplied by the Adjustment Factor, then the Company shall, subject to Sections 9.1.2 and 10, be liable to SPSA for the following:

(i) If SPSA, to comply with such Change in Law, is required to change its work performed in connection with this Agreement which change does not necessitate capital expenditures to alter the SPSA Facilities, then, subject to Sections 9.1.2 and 10, the Company shall be liable to SPSA for the amount by which (A) the product of (1) the total increased costs of SPSA through the end of the earlier to occur of the repeal or change in the monetary impact of such Change in Law, or the end of the Term, multiplied by (2) the Company Responsible Percentage, exceeds (B) the Company Cost Threshold.

(ii) If SPSA, to comply with such Change in Law, is required to change its work performed in connection with this Agreement which change necessitates a capital alteration or the addition of a capital project to the SPSA Facilities, then, subject to Sections 9.1.2 and 10, the Company shall be liable to SPSA for the amount by which (A) the product of (1) the total capital cost of such capital alteration or capital project as itemized on a straight-line depreciation basis (not accelerated) using the asset depreciable range period for the applicable capital item as set forth in Section 168 of the Internal Revenue Code multiplied by (2) the Company Responsible Percentage, exceeds (B) the Company Cost Threshold.

(c) In no event shall the Company have any liability for SPSA's increased costs relative to its work performed in connection with this Agreement as a consequence of the impact of a Change in Law after the end of the Term. Further, any Company payment under this Section 9.1.2 for which it is liable shall be applied as an Adjustment to the Service Fee and amortized over the remaining Term, provided that no cost increases incurred by SPSA shall be accelerated or accumulated such that an amortized period for payment of such costs are not properly recognized under applicable GAAP Standards or Section 168 of the Internal Revenue Code, or both. With respect to the cost of capital to purchase, fabricate and install any capital alteration or capital project implemented or to be implemented pursuant to this Section 9.1.2 and Section 10, SPSA shall exercise all reasonable efforts to maximize the reduction of such capital costs of the capital alteration or capital project.

(d) If the Parties shall not have resolved the impacts of the Change in Law within forty-five (45) Days following SPSA's Authorized Representative's Notice to the Company's Authorized Representative of the occurrence of the Change in Law or in the event the Company disputes the costs or expenses proposed by SPSA to effect the Cure, either Party may refer the matter to dispute resolution pursuant to Section 14. During the pendency of any such dispute resolution, SPSA shall not be relieved of its obligations to perform its work hereunder not prevented by the Change in Law on the basis or increased costs or decreased revenues or both and the Company shall have no obligation to make any payments to SPSA as Pass Through Costs under this Agreement.

(e) Any resolution of the monetary impact of the Change in Law on SPSA's obligations under this Agreement shall, relative to increased costs, be based on SPSA's Direct Costs, subject to Cost Substantiation, inclusive of Markup from and after the date of

SPSA's Authorized Representative's Notice to the Company's Authorized Representative that a Change in Law has occurred.

Section 9.2 SPSA Fault.

(a) If the Company claims the occurrence of SPSA Fault as a basis for not performing its obligations under this Agreement, then the Company's Authorized Representative shall (i) provide prompt notice, including written notice, to SPSA's Authorized Representative of the occurrence of SPSA Fault; (ii) provide an estimate of the expected duration of its impact; (iii) describe its probable effect on the performance of the Work; (iv) exercise all reasonable efforts to continue to perform the affected Work to the extent not prevented by the impact of SPSA Fault; (v) subject to and in accordance with Section 10, expeditiously take such action(s) approved by SPSA's Authorized Representative to Cure SPSA Fault; (vi) exercise all reasonable efforts to mitigate or limit damages to SPSA; and (vii) provide prompt notice, including written notice, to SPSA of the cessation of the impact of SPSA Fault. If the Company declares or asserts that a SPSA Fault shall have occurred which caused its costs to perform the Work to increase or its revenues to decrease, or both, the Company shall nevertheless continue to perform its obligations under this Agreement that it is not prevented from performing by the occurrence and impact of SPSA Fault regardless of its increased costs or reduction in revenues, or both, if the provisions of this Agreement, by way of performance damages payable by SPSA, Pass Through Costs, the execution of an amendment to this Agreement or by other mechanism, have addressed the Company's increased costs or reduction in revenues under this Agreement.

(b) To the extent that this Agreement does not provide for specific remedies to address any such Company increase in costs or reduction in revenues or SPSA does not abide by or implement a remedy under this Agreement as a result of SPSA Fault, then, to the extent such costs or reduction in revenues are not limited or mitigated, by way of liquidated damages, SPSA's limitation of liability or other limiting or restrictive provision under this Agreement, the Company, upon the expiration of fifteen (15) Business Days following the Company's Authorized Representative's Notice to SPSA's Authorized Representative of the occurrence of SPSA Fault as required under this Section 9.2, in which the Company's Authorized Representative shall have declared or asserted that its costs to perform the Work have increased or its revenues have decreased as a result, SPSA shall proceed with reasonable due diligence to resolve the monetary impacts of SPSA Fault on the Company's performance of the Work consistent with the terms of this Agreement, it being recognized by the Parties that the terms of this Agreement may have addressed or precluded payment of any additional compensation by SPSA in which case the Parties rights and procedures described in this Section 9.2 shall not be applicable. Such monetary impacts shall include any monetary impacts on the Company on and after the date on which SPSA Fault occurred, provided that the Company's Authorized Representative's Notice to SPSA's Authorized Representative occurred within fifteen (15) Days after the occurrence of SPSA Fault. If the Company's Authorized Representative fails to provide such Notice to SPSA's Authorized Representative within such fifteen (15) Day period, then the monetary impact of SPSA Fault on the Company shall be those occurring on and after such Notice is delivered to SPSA's Authorized Representative. If the Parties shall not have resolved the monetary impacts of SPSA Fault within forty-five (45) Days following the Company's

Authorized Representative's Notice to SPSA's Authorized Representative of the occurrence of SPSA Fault, either Party may refer the matter to dispute resolution pursuant to Section 14.

(c) If SPSA Fault has been referred to dispute resolution pursuant to the immediately preceding paragraph of this Section 9.2, the Company shall not be relieved of its obligation to perform the Work not prevented by SPSA Fault on the basis of increased costs or decreased revenues, or both, during the pendency of such dispute resolution; provided, however, that the Company shall nevertheless have its rights that are provided to it under this Agreement. Any resolution of the monetary impact of SPSA Fault on the Company's Work shall, relative to increased costs or decreased revenues, or both, be based on the Company's Direct Costs, subject to Cost Substantiation, inclusive of Markup, unless a different monetary calculation is expressly recognized under this Agreement.

SECTION 10 CURE FOR CHANGE IN LAW OR SPSA FAULT

Section 10.1 Cure of Impact Due to a Change in Law or SPSA Fault.

(a) If a Change in Law or SPSA Fault occurs that would result in a Pass Through Cost to SPSA, the Company shall deliver Notice to SPSA's Authorized Representative of such Pass Through Cost (a "Company Change in Law Notice"). The Company Change in Law Notice shall include a sworn statement signed by the Company's Authorized Representative accompanied by full and complete certified documentation presented for approval by SPSA, including the following items: (i) discussion of pre-existing conditions and costs; (ii) changed conditions and costs; (iii) fully documented Cost Substantiation and cost analyses and detailed cost records; (iv) an allocation of SPSA's percentage of costs associated with the Cure of the Change in Law in accordance with Section 9.1.1(b); (v) with respect to a Change in Law requiring a capital alteration or the addition of a capital project to the Facilities, the useful life (asset depreciable range period) of the capital improvements and a calculation of the amortization of the Cure costs of the Change in Law in accordance with Section 9.1.1(b)(ii); and (vi) such other information as may be reasonably requested by SPSA for evaluation of the Pass Through Cost. The Company shall make available to SPSA and its auditors and advisors all records and work product used in preparing the Company Change in Law Notice. In the event SPSA disputes any aspect of the Change in Law Notice, SPSA shall have the right, within ninety (90) Days after its receipt of the Change in Law Notice, to deliver Notice (a "SPSA Objection Notice") to the Company's Authorized Representative setting forth in reasonable detail SPSA's basis for such dispute and SPSA's determination of such Pass Through Cost, if any, including SPSA's calculation thereof and the basis for such calculations. If SPSA does not deliver a SPSA Objection Notice to the Company within ninety (90) Days after SPSA's receipt of the Company Change in Law Notice, then the Parties hereto will be deemed to have agreed to the Pass Through Costs set forth in the Company Change in Law Notice and such Pass Through Costs shall be paid by SPSA in accordance with Section 8.2.7.1. In the event SPSA delivers a SPSA Objection Notice to the Company's Authorized Representative within the 90-Day objection period, the Company and SPSA each shall use their diligent good faith efforts to resolve such dispute within thirty (30) Days after delivery of the SPSA Objection Notice. If the Parties are

unable to resolve the dispute within thirty (30) Days after delivery of the SPSA Objection Notice, then any remaining items in dispute shall be submitted for dispute resolution pursuant to Section 14. Notwithstanding the foregoing, SPSA shall not be obligated to make any payment on any disputed Pass Through Cost pending resolution of such dispute resolution proceeding in accordance with Section 14. Any such resolution shall be subject to SPSA's rights specified in Section 9, this Section 10.1 and Section 13.3.

(b) Nothing in this Section 10.1 shall restrict the Company from commencing or performing any Cure Work; provided, however, the Company shall be responsible for all costs and fees associated with all Cure Work and SPSA's pro rata portion of such Cure Work, if obligated under Section 9.1, shall not be designated as a Pass Through Cost until such time as the matter is resolved pursuant to this Section 10.1 or Section 14.

Section 10.2 Cure of Impact Due to a Change in Law or Company Fault.

(a) If a Change in Law or Company Fault occurs that would result in a SPSA Facility Pass Through Cost to the Company, SPSA shall deliver Notice to the Company's Authorized Representative of such SPSA Facility Pass Through Cost (a "SPSA Change in Law Notice"). The SPSA Change in Law Notice shall include a sworn statement signed by SPSA's Authorized Representative accompanied by full and complete certified documentation presented for approval by the Company, including the following items: (i) discussion of pre-existing conditions and costs; (ii) changed conditions and costs; (iii) fully documented Cost Substantiation and cost analyses and detailed cost records; (iv) an allocation of the Company's percentage of costs associated with the Cure of the Change in Law in accordance with Section 9.1.2(b); (v) with respect to a Change in Law requiring a capital alteration or the addition of a capital project to SPSA's Facilities, the useful life (asset depreciable range period) of the capital improvements and a calculation of the amortization of the Cure costs of the Change in Law in accordance with Section 9.1.2(b)(ii); and (vi) such other information as may be reasonably requested by the Company for evaluation of the SPSA Facility Pass Through Cost. SPSA shall make reasonably available to the Company and its auditors and advisors all records and work product used in preparing the SPSA Change in Law Notice. In the event the Company disputes any aspect of the SPSA Change in Law Notice, the Company shall have the right, within ninety (90) Days after its receipt of the Change in Law Notice, to deliver a written notice (a "Company Objection Notice") to SPSA's Authorized Representative setting forth in reasonable detail the Company's basis for such dispute and the Company's determination of such Pass Through Cost, if any, including the Company's calculation thereof and the basis for such calculations. If the Company does not deliver an Objection Notice to SPSA within ninety (90) Days after the Company's receipt of the SPSA Change in Law Notice, then the Parties hereto will be deemed to have agreed to the SPSA Facility Pass Through Cost set forth in such SPSA Change in Law Notice and such SPSA Facility Pass Through Costs shall be paid by the Company in accordance with Section 8.2.7.2. In the event the Company delivers a Company Objection Notice to SPSA's Authorized Representative within the 90-Day objection period, the Company and SPSA each shall use their diligent good faith efforts to resolve such dispute within thirty (30) Days after delivery of the Company Objection Notice. If the Parties are unable to resolve the dispute within thirty (30) Days after delivery of the Company Objection Notice, then any remaining items in

dispute shall be submitted for dispute resolution pursuant to Section 14. Notwithstanding the foregoing, SPSA shall not be obligated to make any payments on any disputed SPSA Facility Pass Through Cost pending resolution of such dispute resolution proceeding in accordance with Section 14. Any such resolution shall be subject to the Company's rights specified in Section 9 and this Section 10.2.

(b) Nothing in this Section 10.2 shall restrict SPSA from commencing or performing any Cure Work; provided, however, SPSA shall be responsible for all costs and fees associated with all Cure Work and the Company's pro rata portion of such Cure Work, if obligated under Section 9.2, shall not be designated as a SPSA Facility Pass Through Cost until such time as the matter is resolved pursuant to this Section 10.2 or Section 14.

SECTION 11 INDEMNIFICATION, LIMITATION OF LIABILITY, INSURANCE AND SECURITY

Section 11.1 Indemnification.

Section 11.1.1 Indemnification by the Company.

(a) Except as expressly provided in Section 11.2.1, the Company shall indemnify and hold harmless SPSA, the Board and SPSA's agents, officials, servants, subcontractors, employees and consultants (the "SPSA Indemnified Parties") from and against all liability for violation or alleged violation of any Applicable Law (hereinafter in this Section 11.1.1 referred to as "liability") and Losses arising in connection with, or out of, or resulting from the performance of the Work provided for in this Agreement, if any such liability, or Loss (1) is attributable to: (A) bodily injury, sickness, disease, or death; (B) violation of any statutory or regulatory rule designed to protect against bodily injury, sickness, disease, or death; (C) damage to or destruction of tangible property, including any diminution in value and the loss of use resulting therefrom; or (D) any violation of an Applicable Law or any common law duty; and (2) is caused by or results from, in whole or in part, any act or omission of the Company, any tier of Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them or SPSA may be liable, regardless of whether or not it is also caused by or results from any negligent act or omission of any party indemnified hereunder. It is the intent of this Section 11.1.1 that, subject to Section 11.2, the Company shall indemnify SPSA Indemnified Parties for and against all joint and several liability or Loss, or both, of the Company, any Subcontractor, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, and any resulting liability or Losses of any of SPSA Indemnified Parties, including that portion caused in part by SPSA Indemnified Parties. The Parties agree that the first one hundred dollars (\$100.00) of the Service Fee paid by SPSA to the Company pursuant to this Agreement shall be given as separate consideration for this indemnification, and any other indemnification of SPSA by the Company provided for within this Agreement, the sufficiency of such separate consideration being acknowledged by the Company, by the Company's execution of this Agreement.

(b) In any claim against the SPSA Indemnified Parties or any of them by any employee of the Company, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation of the Company under this Section 11.1.1 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Company or any Subcontractor, under workers' compensation acts, disability benefit acts, or other employee benefit acts; provided, however, that such Company obligation shall not be interpreted to require that either Party waive any statutory rights either Party may have. SPSA's Authorized Representative shall give prompt notice to the Company's Authorized Representative of written notices of claims served under Applicable Law. The Parties agree to exercise all reasonable efforts to cooperate with one another to the extent their respective interests may appear.

(c) The Company's obligation to indemnify the SPSA Indemnified Parties for any out-of-pocket expense includes indemnification for all reasonable expenses, court costs, and attorney fees, including those incident to appeals incurred by or imposed upon the SPSA Indemnified Parties in connection with enforcement or defense of the SPSA Indemnified Parties' right to indemnity hereinabove provided. In addition, the Company agrees that the SPSA Indemnified Parties may employ any attorney of their choice or may use SPSA's in-house counsel, if any, to enforce or defend the SPSA Indemnified Parties' right to the indemnity hereinabove provided.

(d) The Company's Indemnification in this Section 11.1.1 shall be in addition to the other indemnification obligations it has to SPSA Indemnified Parties under this Agreement and such indemnifications, to the extent, if any, they may be construed as inconsistent with this Section 11.1.1, shall not supersede this Section 11.1.1.

Section 11.1.2 Indemnification by SPSA.

(a) Except as expressly provided in Section 11.2.2 and to the extent permitted by Applicable Law (without waiving its sovereign immunity), SPSA shall indemnify and hold harmless the Company, and its agents, officers, directors and employees (the "Company Indemnified Parties") from and against all liability for Losses arising in connection with, or out of, or resulting from the negligence or willful misconduct of SPSA, its officers, employees or agents if any such liability, or Loss is attributable to: (A) bodily injury, sickness, disease, or death; (B) violation of any statutory or regulatory rule designed to protect against bodily injury, sickness, disease, or death; (C) damage to or destruction of tangible property, including any diminution in value and the loss of use resulting therefrom; or (D) any violation by SPSA of an Applicable Law or any common law duty.

(b) SPSA's indemnification in this Section 11.1.2 shall be in addition to the other indemnification obligations it has to the Company's Indemnified Parties under this Agreement and such indemnifications, to the extent, if any, they may be construed as inconsistent with this Section 11.1.2, shall not supersede this Section 11.1.2.

(c) To the extent that SPSA is forced to be responsible for any liability or Loss, nothing herein shall be construed to waive any sovereign immunity SPSA may have

under Applicable Law, or to waive the procedural or notice provisions contained therein.

Section 11.2 Limitation and Liability of Exclusion of Consequential Damages.

Section 11.2.1 For the Company. THE PARTIES ACKNOWLEDGE AND AGREE THAT BECAUSE OF THE UNIQUE NATURE OF THIS AGREEMENT, IT IS DIFFICULT OR IMPOSSIBLE TO DETERMINE WITH PRECISION THE AMOUNT OF DAMAGES THAT WOULD OR MIGHT BE INCURRED BY SPSA AS A RESULT OF A BREACH OF THIS AGREEMENT BY THE COMPANY. ACCORDINGLY, THE PARTIES AGREE THAT THE COMPANY SHALL BE LIABLE AND OBLIGATED TO PAY ONLY THOSE DAMAGES (INCLUDING LIQUIDATED DAMAGES) AND OTHER AMOUNTS AS MAY BE SPECIFICALLY DUE AND PAYABLE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND THAT THE DAMAGES (INCLUDING LIQUIDATED DAMAGES) AND OTHER AMOUNTS THAT MAY BECOME DUE PURSUANT TO THE TERMS OF THIS AGREEMENT SHALL CONSTITUTE THE COMPANY'S SOLE DAMAGES TO SPSA AND SPSA'S SOLE REMEDY IN RESPECT OF THE APPLICABLE BREACH. IN NO EVENT, WHETHER BECAUSE OF A BREACH OF ANY WARRANTY CONTAINED IN THIS AGREEMENT OR ANY OTHER CAUSE ARISING OUT OF THE PERFORMANCE OR NON-PERFORMANCE BY THE COMPANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, WHETHER BASED UPON CONTRACT, TORT, WARRANTY OR OTHERWISE, SHALL THE COMPANY'S TOTAL LIABILITY UNDER THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO THREE (3) TIMES THE ANNUAL FEE.

IN NO EVENT, WHETHER BECAUSE OF A BREACH OF WARRANTY CONTAINED IN THIS AGREEMENT OR ANY OTHER CAUSE, WHETHER BASED UPON CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING OUT OF THE PERFORMANCE OR NON-PERFORMANCE BY THE COMPANY, ITS SUBCONTRACTORS OR VENDORS AT ANY TIER, OF THEIR OBLIGATIONS UNDER THIS AGREEMENT, SHALL THE COMPANY, ITS SUBCONTRACTORS OR VENDORS AT ANY TIER, BE LIABLE FOR OR OBLIGATED IN ANY MANNER TO PAY SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR INDIRECT DAMAGES, OR ANY OTHER AMOUNTS; PROVIDED, HOWEVER, NOTHING IN THIS SECTION 11.2.1 SHALL BE CONSTRUED TO LIMIT RESPONSIBILITY OR LIABILITY OF THE COMPANY FOR ACTIONS BROUGHT BY THIRD PARTIES.

Section 11.2.2 For SPSA. THE PARTIES ACKNOWLEDGE AND AGREE THAT BECAUSE OF THE UNIQUE NATURE OF THIS AGREEMENT, IT IS DIFFICULT OR IMPOSSIBLE TO DETERMINE WITH PRECISION THE AMOUNT OF DAMAGES THAT WOULD OR MIGHT BE INCURRED BY THE COMPANY AS A RESULT OF A BREACH OF THIS AGREEMENT BY SPSA. ACCORDINGLY, THE PARTIES AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, SPSA SHALL BE LIABLE AND OBLIGATED TO PAY ONLY THOSE DAMAGES (INCLUDING LIQUIDATED DAMAGES) AND OTHER AMOUNTS AS MAY BE SPECIFICALLY DUE AND PAYABLE IN ACCORDANCE WITH THE TERMS AND LIMITATIONS OF THIS AGREEMENT, AND THAT THE DAMAGES (INCLUDING LIQUIDATED DAMAGES)

AND OTHER AMOUNTS THAT MAY BECOME DUE PURSUANT TO THE TERMS OF THIS AGREEMENT SHALL CONSTITUTE SPSA'S SOLE DAMAGES AND AMOUNTS PAYABLE TO THE COMPANY AND THE COMPANY'S SOLE REMEDY IN RESPECT OF THE APPLICABLE BREACH.

IN NO EVENT, HOWEVER, WHETHER BECAUSE OF A BREACH OF WARRANTY CONTAINED IN THIS AGREEMENT OR ANY OTHER CAUSE, WHETHER BASED UPON CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING OUT OF THE PERFORMANCE OR NON-PERFORMANCE BY SPSA, ITS SUBCONTRACTORS OR VENDORS AT ANY TIER, OF THEIR OBLIGATIONS UNDER THIS AGREEMENT, SHALL SPSA, ITS SUBCONTRACTORS OR VENDORS AT ANY TIER BE LIABLE FOR OR OBLIGATED IN ANY MANNER TO PAY SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR INDIRECT DAMAGES, OR ANY OTHER AMOUNTS; PROVIDED, HOWEVER, NOTHING IN THIS SECTION 11.2.2 SHALL BE CONSTRUED TO LIMIT RESPONSIBILITY OR LIABILITY OF SPSA FOR ACTIONS BROUGHT BY THIRD PARTIES.

Section 11.3 Insurance Requirements.

Section 11.3.1 Obligation to Secure, Maintain and Pay for Insurance Coverage.

Section 11.3.1.1 Insurance Obligations of the Company. Except as otherwise provided in this Section 11.3, the Company, on its own behalf and on behalf of any one directly employed by it for whose acts or omissions it may be liable, shall secure, or cause to be secured, and maintain as part of its Annual Fee the insurance policies with the policy limits specified in Schedule 18 (Insurance) (the "Required Company Insurance") prior to the Commencement Date and during and through the Term.

The Company shall not commence any Work of any kind under this Agreement until all insurance requirements contained in this Section 11.3 have been complied with, and until evidence of such compliance satisfactory to SPSA's Authorized Representative as to form and substance has been filed with SPSA's Authorized Representative. The Company may secure additional insurance coverages and policies not specified or required under this Section 11.3 or Schedule 18 (Insurance) and all such insurance and associated deductible amounts shall not be Required Company Insurance. The cost for such additional insurance coverages and policies shall be borne exclusively by the Company at its sole cost and expense. All Subcontractors will be required to carry insurance limits commensurate with industry standards and with the approval of the Company. No Subcontractor will commence Work until receiving Company approval.

Section 11.3.1.2 Insurance Obligations of SPSA. Except as otherwise provided in this Section 11.3, SPSA shall secure, or cause to be secured, and maintain the insurance policies with the policy limits specified in Schedule 18 (Insurance) at least fifteen (15) Days prior to the Commencement Date (the "Required SPSA Insurance") and evidence of such compliance shall be promptly provided to the Company's Authorized Representative by SPSA's Authorized Representative. The administrative and premium payments for each such policy

shall be borne exclusively by SPSA. Neither the Company nor any of its Subcontractors shall commence any Work of any kind under this Agreement until all Required SPSA Insurance requirements shall have been complied with, and until evidence of the same has been provided to the Company. SPSA may secure in addition to the Required SPSA Insurance, insurance coverages and policies not specified or required under this Section 11.3.1.2 or Schedule 18 (Insurance), and all such insurance costs shall be borne exclusively by SPSA at its sole cost and expense.

Section 11.3.2 Insurance Deductibles. To the extent recognized in this Section 11.3.2 and Schedule 18 (Insurance), the Company shall be responsible to satisfy any and all deductibles and self-insured retentions contained in the insurance coverages required to be secured and maintained by either Party under this Agreement, as well as any excluded loss or losses if the same are within the Company's obligations under this Agreement due to any event caused by an Uncontrollable Circumstance or Company Fault; provided that in all events, the Company shall be liable for any deductibles relative to the Company's Workers' Compensation Insurance. SPSA shall be responsible to satisfy any and all deductibles and self-insured retentions contained in the insurance coverages required to be secured and maintained by SPSA under this Agreement, as well as any deductibles or self-insured retentions, as well as any excluded loss or losses (other than for the Company's Workers' Compensation Insurance for its employees) for events caused by SPSA Fault and shall be invoiced separately by the Company in accordance with the requirements set forth in Section 8.3.2. The insurance coverages required to be secured and maintained by the Company and SPSA under this Agreement ("Required Insurance") shall, to the extent deductible limits are specified, be those specified in Schedule 18 (Insurance), provided they are authorized by Applicable Law. If no insurance deductibles are specified in Schedule 18 (Insurance), the deductibles shall be that amount that the retaining Party may reasonably secure in the insurance marketplace; provided, however, that the Company's liability with respect to such deductibles shall be governed by this Section 11.3.2 and Schedule 18 (Insurance).

Section 11.3.3 Duty to Maintain Insurance. Subject to this Section 11.3, all Required Insurance to be secured and maintained by the Parties under this Agreement shall be continuously maintained through the Term. Failure of the applicable Party to maintain any Required Insurance shall not relieve the applicable Party from any liability under this Agreement, nor shall these requirements be construed to conflict with the obligation of either Party concerning indemnification under this Agreement.

Section 11.3.4 Continuous Coverage. The Company or, as applicable, SPSA, shall assure continuous coverage of any Required Insurance and, as applicable, assure that such Required Insurance is not canceled, is renewed, or not materially changed during the Term. The Company or, as applicable, SPSA shall, at its sole cost and expense, pay such extra premium as required to assure no lapse of Required Insurance coverage for any time period, and the cost and expense of the Company's extra premium shall be exclusively by the Company and the cost and expense of SPSA's extra premium shall be borne exclusively by SPSA.

Section 11.3.5 Insurance Requirements Generally. The following shall be applicable to the insurance policies and coverages required to be secured and maintained

pursuant to this Section 11.3.5:

Section 11.3.5.1 Policies of Insurance; Certificates as Evidence of Insurance. Certificates of Insurance shall be furnished to, as applicable, the Company's Authorized Representative or SPSA's Authorized Representative as early as possible prior to the commencement date of such coverage for such furnished Party's review and approval. Except as provided in Section 11.3.1.2, if a secured policy of Required Insurance is canceled, not renewed or materially changed, the applicable Party shall provide, or cause to be provided, a certificate for the substitute policy to, as applicable, the Company's Authorized Representative or SPSA's Authorized Representative, as early as possible before the commencement of the substitute policy period for the review and approval. If a policy of Required Insurance is renewed without material change, the applicable Party shall supply to, as applicable, the Company's Authorized Representative or SPSA's Authorized Representative, a certificate of insurance which reflects the policy number of such Party's approved policy, lists the coverages provided and shows the policy's effective and termination dates. Each Party shall provide to, as applicable, the Company's Authorized Representative or SPSA's Authorized Representative proof of the Required Insurance coverages in the form of a binder or certificate of insurance of each such policy as far in advance of the renewal as possible. If a certificate is not provided more than fifteen (15) Days before the renewal, a letter from the applicable Party's broker will be sent advising as to the status of the renewal date on which the applicable policies will be bound. On the binding date, a certificate will be provided to, as applicable, the Company's Authorized Representative or SPSA's Authorized Representative. A copy of the actual policy of each required insurance coverage shall be delivered by the procuring Party to, as applicable, the Company's Authorized Representative or SPSA's Authorized Representative as soon as possible after such procuring Party's receipt of the same.

Section 11.3.5.2 Waiver of Subrogation. All Required Insurance shall include a waiver of subrogation rights in favor of the Company and SPSA, to the extent permitted by Applicable Law and with the exception as specifically provided in Schedule 18 (Insurance). The Company and SPSA shall require that any insurance provided by a Subcontractor include a waiver of subrogation in favor of the other Party. It is the intention of the Parties that any insurance policy secured by the Parties, except for Workers Compensation and Employer's Liability insurance, shall protect both Parties and it is intended to be the primary coverage for any losses covered by the insurance policies.

Section 11.3.5.3 Financial Security Requirement/Rating. Any and all companies providing insurance required by Section 11.3 must meet the minimum financial security requirements set forth below. These requirements conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty.

Companies providing Required Insurance under this Agreement must have a current:

- A. Best's Rating no less than A- and current.
- B. Best's Financial Size Category not less than Class IX, except for Pollution Legal Liability Insurance which shall not be less than Class VII.

Companies providing Required Insurance under this Agreement must be licensed or approved by the Insurance Bureau of the State to conduct and transact insurance contracts.

If the issuing company does not meet these minimum requirements, or during the course of coverage fails to meet such requirements and become unsatisfactory to SPSA, Notice shall be mailed to the other Party. The Party responsible for procuring the insurance shall promptly obtain a new policy issued by an issuer that does meet the requirements set forth in this Section 11.3.5.3 and shall submit evidence of the same as required herein.

Section 11.3.5.4 Carrier Renewal and Cancellation Notification. Any policy or policies procured, or caused to be procured, by either Party shall provide by endorsement that the other Party shall, without exception, be given not less than (a) ten (10) Days Notice of any non-payment of insurance premium and (b) sixty (60) Days Notice prior to the carrier's cancellation, non-renewal or material change, or within such other period of Days required by Applicable Law, and that in the case of both (a) and (b), such Notice shall be delivered to the non-procuring Authorized Representative as provided for in this Agreement. Confirmation of this Notice requirement of cancellation, non-renewal, or material change shall appear on the Certificate of Insurance and on any and all insurance policies required by Schedule 18 (Insurance). If any such policy is subject to expiration or cancellation and the procuring Party fails to provide the other Party with written commitments to renew or purchase other such insurance meeting the requirements of this Section 11.3 at least sixty (60) Days prior to the effective date of such expiration or cancellation, or within such other period of Days required by Applicable Law, then the non-procuring Party, shall have the right to purchase or renew such coverage and the obligated procuring Party shall then be obligated to reimburse the purchasing Party for the premiums and broker fee costs for such insurance over and above that applicable had the obligated procuring Party renewed or repurchased such coverage.

Section 11.3.5.5 Additional Insured. The Board, SPSA and SPSA's employees shall be covered as additional insureds under any Required Insurance to be secured and maintained by the Company under this Section 11.3 and such insurance shall be primary with respect to the additional insured status and a severability of interest provision shall be applicable to each policy. Confirmation of this shall appear on the certificate of insurance, and on any and all applicable insurance policies. However, this requirement shall not apply to Workers' Compensation Insurance and Employer's Liability Insurance.

Section 11.3.5.6 Project Coverage. Any policy of insurance required to be secured and maintained by the Company and SPSA under this Agreement may provide coverage for other projects outside of the scope of this Agreement. However, any general aggregate policy limit contained in such a policy shall be on a project or location specific basis, such that the total annual coverage relative to the Facilities and Facilities Site is not subject to depletion by any claims or losses outside the scope of this Agreement.

Section 11.3.5.7 Compliance Mechanisms. The Company may comply with the various requirements of this Section 11.3 and Schedule 18 (Insurance) through the purchase of commercial insurance or participation in alternative risk financing programs.

However, use of any risk financing mechanism proposed by the Company other than through a commercial insurer meeting the requirements of Section 11.3 shall be subject to approval by SPSA's Authorized Representative. SPSA may comply with the various requirements of this Section 11.3 and Schedule 18 (Insurance) through the purchase of commercial insurance, the use of self-insurance and or participation in alternative risk financing programs.

Section 11.3.5.8 Non-Recourse Against SPSA. All insurance policies required to be secured and maintained by a Party under this Agreement shall provide that each insurance company shall have no recourse against the other Party for payment of any premiums or for assessments under any form of policy.

Section 11.3.5.9 Authorization and Licensing of Agent. Each and every agent acting as authorized representative on behalf of the companies affording coverage under this Agreement shall warrant, when signing the Certificate of Insurance, that specific authorization has been granted by the companies for the agent to bind coverage as required and to execute the certificate of insurance as evidence of such coverage. In addition, each and every agent shall warrant when signing the certificate of insurance that the agent is licensed to do business in the State and that the company or companies are currently in good standing in the State. If a broker is representing either the Company or SPSA, any binders may be signed by carrier underwriters.

Section 11.4 Letter of Credit. As security for the performance of the Company's obligations under this Agreement, the Company's Authorized Representative shall, prior to the Commencement Date, obtain and cause to be issued and delivered to SPSA's Authorized Representative by a Qualified Financial Institution a letter of credit ("Letter of Credit") in form and substance as provided in Schedule 16 (Irrevocable Letter of Credit) or as may otherwise be acceptable to SPSA. The Letter of Credit shall be in an amount equal to five million dollars (\$5,000,000.00), as such amount is adjusted by the Adjustment Factor, and shall be for a term of one (1) year following the date of delivery of such Letter of Credit to SPSA's Authorized Representative. At least sixty (60) Days prior to the expiration of the term of such Letter of Credit, the Company shall renew the Letter of Credit for a one (1) year term. The Company shall repeat such renewal process each year thereafter for the Term, and such renewal shall be through a Qualified Financial Institution. The Letter of Credit shall require that the Qualified Financial Institution and any agent bank at which such Letter of Credit may be presented shall be instructed that the bank is to honor any draft that the Executive Director may present without prior notice to the Company or the Guarantor. Also, the Letter of Credit shall require such agent bank to make all payments to the Executive Director without obligation to notify the Company, the Guarantor or any Affiliate of such payment upon filing the documents specified therein and that the Company or the Guarantor shall not have first claim rights to such Letter of Credit or any right to make drawings thereunder. The Executive Director shall have the right to present such Letter of Credit for payment immediately and without notice upon the occurrence of an Event of Default of this Agreement. If, during the Term, the Qualified Financial Institution or its parent corporation experience a downgrade, withdrawal or suspension by or from Moody's or S&P (as such terms are defined in the definition of Qualified Financial Institution) below the required rating level, SPSA shall have the right to require that the Company, within thirty (30) Days after Notice of such downgrade, withdrawal or suspension is given by SPSA's Authorized

Representative to the Company's Authorized Representative, secure a substitute letter of credit from a Qualified Financial Institution in accordance with the requirements of this Section 11.4, and failure to secure such a substitute Letter of Credit in the time allowed shall result in the Executive Director having the right without Notice to the Company to draw on the Letter of Credit immediately, and the Letter of Credit shall recognize such Executive Director's right. The Company's Authorized Representative shall give SPSA's Authorized Representative promptly upon receipt, a copy of any notice or information it may receive relative to any downgrade, withdrawal or suspension. The Company's Letter of Credit required to be secured, maintain and renewed under this Section 11.4 shall specify that such Letter of Credit shall be subject to and governed by State Law.

Section 11.5 Guaranty. The Guarantor shall have executed the Guaranty attached hereto as Schedule 17 (Guaranty) on or before the Commencement Date.

Section 11.6 Audits. Unless such information is publicly available in documentation filed by the Guarantor with the U.S. Securities and Exchange Commission, the Company shall, within thirty (30) Days after each Billing Year, provide to SPSA's Authorized Representative the Guarantor's most recent Audited Financial Statements. SPSA or an Entity auditing firm at the discretion of the SPSA's Authorized Representative shall also have the right to audit the Company's invoices for fees, expenses, costs and charges under this Agreement at any time at SPSA's sole cost and expense. The Company shall fully cooperate with SPSA regarding any and all such audits.

SECTION 12 EVENTS OF DEFAULT

Section 12.1 Remedies for Default. As set forth in this Section 12, the Company or SPSA may, in accordance with the requirements of this Agreement, terminate this Agreement upon the occurrence of an Event of Default by written notice to the other Party. The Parties agree that in the event of the breach by either Party of an obligation under this Agreement, neither Party shall have the right to terminate this Agreement except for and as a result of an Event of Default as described in Sections 12.2 and 12.3.

Section 12.2 Events of Default by the Company. Each of the following shall constitute an Event of Default on the part of the Company:

Section 12.2.1 Failure or Refusal to Perform. The persistent or repeated failure or refusal by the Company to perform timely any material obligation under this Agreement, unless such failure or refusal is clearly recognized, excused or justified by the terms and conditions of this Agreement; provided, however, this Section 12.2.1 shall not apply in the following events: (a) a payment obligation of the Company, Section 12.2.2 shall govern, (b) the accumulation of Withholdings under this Agreement exceeds, at any point in time, the net aggregate amount of three hundred thousand dollars (\$300,000.00) that is not in dispute, Section 12.2.3 shall govern, (c) the failure to maintain Required Company Insurance or the Letter of Credit, or both, all pursuant to Section 11, Section 12.2.4 shall govern, (d) the failure to maintain solvency, Section 12.2.5 shall

govern, (e) a default of the Guarantor under the Guaranty, Section 12.2.6 shall govern, (f) any untrue representation or warranty, Section 12.2.7 shall govern, (g) failure of the regional vice president of the Company or Wheelabrator (if different), or both, to appear before the Board pursuant to Section 8.2.8.2.3.2, Section 12.2.8 shall govern, (h) failure of the Company to meet the terms of the Steam Agreement, Section 12.2.9 shall govern, and (i) failure of the Company to perform its obligations with respect to the transportation and disposal of Non-Processible Waste in accordance with Section 7.1.6 and the transportation or disposal of diverted Acceptable Waste in accordance with Section 7.1.7, Section 12.2.10 shall govern.

Section 12.2.2 Failure or Refusal to Make Payment. Failure of the Company to pay all undisputed amounts or any amounts required to be paid to SPSA under the Agreement within thirty (30) Business Days after the due date; provided, however, SPSA's Authorized Representative shall have given Notice of any such non-payment to the Company's Authorized Representative after the due date and prior to fifteen (15) Business Days before SPSA exercises its rights under this Section 12.2.2.

Section 12.2.3 Accumulation of Excess Costs and Withholdings. If, at any point in time, the total aggregate accumulated amount of Withholdings pursuant to Section 8.2.8.2 by SPSA under the terms of this Agreement exceeds three hundred thousand dollars (\$300,000.00).

Section 12.2.4 Failure to Maintain Security Obligations. (a) Failure of the Company to obtain, maintain and, as applicable, renew in a timely manner, (i) the Company's Required Insurance in accordance with Sections 3.4.6 and 11.3, or (ii) the Letter of Credit in accordance with Section 11.4, or (b) in the event SPSA has drawn on the Letter of Credit and has applied a portion of the resulting cash collateral to pay for amounts secured thereby, the Company's failure to replenish such cash collateral to the full amount of five million dollars (\$5,000,000) within two (2) Business Days after SPSA has provided written notice thereof to the Company.

Section 12.2.5 Failure to Maintain Solvency.

(a) Failure of the Company or the Guarantor to maintain solvency, as determined under the applicable definition of "insolvent" contained in 11 U.S.C. §101(32), as amended. The occurrence of any of the following are deemed a failure to maintain solvency:

(1) inability, failure, or refusal to pay debts as they mature; entry into an arrangement by the Company or the Guarantor with or for the benefit of their creditors; the Company's or the Guarantor's consent to or acquiescence in the appointment of a receiver, trustee, or liquidator for a substantial part of the Company's or the Guarantor's property; or

(2) a bankruptcy, winding up, reorganization, insolvency, arrangement, or similar proceeding instituted by or against the Company or the Guarantor under the laws of any jurisdiction, which proceeding is not dismissed or discharged within sixty (60) Days of filing; or

(3) any action or answer in a bankruptcy, winding up, reorganization, insolvency, arrangement, or similar proceeding in which the Company or the Guarantor approve of, consent to, or acquiesce in, any such proceeding; or

(4) the levy of any distress, execution, or attachment upon the property of the Company or the Guarantor which shall substantially interfere with its performance hereunder; provided, however, that with respect to the Company only, this form of insolvency shall not be deemed to have occurred if the insolvency is caused primarily by the SPSA's failure to make a payment due pursuant to Section 8 within thirty (30) Days of when it becomes due and payable. In the event of the Company or the Guarantor being or becoming insolvent or bankrupt, the Company shall (A) assume or reject this Agreement within sixty (60) Days after the order for relief; (B) promptly Cure any failure to perform its obligations or any Event of Default arising under this Agreement for reasons other than the event set forth in this paragraph; (C) compensate or provide adequate assurance that it will promptly compensate SPSA for any amounts due SPSA under this Agreement; and (D) provide adequate assurance of future performance under this Agreement under 11 U.S.C. §365(b)(1)(c), or any successor provision of the Federal Bankruptcy Code which adequate assurance shall include the posting of a letter of credit or other security by the Company or the Guarantor in an amount sufficient to secure their obligations under this Agreement and the Guaranty. The foregoing provisions shall not prevent SPSA from requesting such other conditions to assumption of this Agreement, as it deems reasonable and necessary.

Section 12.2.6 Guarantor Default Under the Guaranty. The failure of the Guarantor to comply with its obligations under the Guaranty in accordance with the terms and conditions therein.

Section 12.2.7 Untrue Representation or Warranty. If prior to the Commencement Date, any representation or warranty of the Company under this Agreement or the Guarantor under the Guaranty is materially untrue as and when made, or, as applicable, reconfirmed. If on or after the Commencement Date, any representation or warranty of the Company under this Agreement or the Guarantor under the Guaranty is materially untrue as and when made, or, as applicable, reconfirmed, except to the extent such untrue representation or warranty does not have a material adverse effect on the Facilities.

Section 12.2.8 Failure of the Regional Vice President of the Company or Wheelabrator, or both, to Appear Before the Board. Failure of the regional vice president of the Company or Wheelabrator, or both (if different), as determined by SPSA, to appear before the Board following Notice to the Company to explain the reasons for payment of a regulatory fine pursuant to Section 8.2.8.2.3.2.

Section 12.2.9 Failure to Meet Terms of the Steam Agreement. Failure of the Company to generate, produce, make available and deliver to the point of delivery, as applicable, the required levels of Steam Energy or any one or more of the foregoing under the Steam Agreement resulting in a default or breach of contract under the Steam Agreement.

Section 12.2.10 Failure to Transport and Dispose of Non-Processible Waste or Acceptable Waste from SPSA Transfer Stations. The failure of the Company or the NP Hauler (a) in any Billing Month, to remove and transport from SPSA Transfer Stations three (3) or more Company or NP Hauler-supplied trailers containing full loads of Non-Processible Waste or Acceptable Waste (or both) and dispose of such waste in accordance with Section 7.1.6 or Section 7.1.7, respectively, or (b) in any Fiscal Year, to remove and transport six (6) or more Company or NP Hauler-supplied trailers containing full loads of Non-Processible Waste or Acceptable Waste (or both) and dispose of such waste in accordance with Section 7.1.6 or Section 7.1.7, respectively; provided that in each case SPSA shall have provided the Company with prompt notice of such failure to remove the trailer.

Section 12.3 Events of Default by SPSA. Each of the following shall constitute an Event of Default on the part of SPSA.

Section 12.3.1 Failure or Refusal to Perform. The persistent and repeated failure of SPSA to perform timely any material obligation under this Agreement unless such failure is clearly recognized, excused or justified by the terms and conditions of this Agreement, except for an Event of Default described in Sections 12.3.2 and 12.3.3. Notwithstanding anything to the contrary, the failure of SPSA to satisfy the Annual Delivery Guarantee in any Billing Year (or in any number of years) shall not constitute an Event of Default under this Agreement.

Section 12.3.2 Failure or Refusal to Make Payments. Failure of SPSA to pay undisputed amounts due and owing to the Company under this Agreement in accordance with the applicable timeframes under Sections 8.3 and 8.4; provided, however, the Company shall have given Notice of any such non-payment to SPSA's Authorized Representative after the due date and prior to the fifteen (15) Business Days before the Company exercises its rights under this Section 12.3.2.

Section 12.3.3 Failure to Maintain Insurance. Failure of SPSA to secure and maintain SPSA's Required Insurance in accordance with Section 11.3.

Section 12.3.4 Untrue Representation or Warranty. Any representation or warranty of SPSA under this Agreement that is materially untrue as and when made, or, as applicable, reconfirmed, except to the extent such untrue representation or warranty does not have a material adverse effect on the performance of SPSA's obligations hereunder.

Section 12.4 Default Notice. Neither Party may exercise its termination rights pursuant to Section 13.1 or 13.2, as applicable, unless and until such Party shall have given the other Party Notice of its failure or refusal to perform pursuant to Section 12.2 or 12.3, as applicable. If an Event of Default specified in a required Notice of default pursuant to this Section 12.4 is cured within thirty (30) Days after such Notice or if an Event of Default cannot be Cured within thirty (30) Days through the exercise of due diligence, but expeditious and substantive steps are taken within said thirty (30) Day period to Cure the Event of Default and thereafter pursued with due diligence to completion, no Event of Default shall occur pursuant to such Notice; provided, however, (a) if repeated Cures (no more than two in any Billing Year or three over any rolling

three consecutive Billing Year period) are undertaken to address Events of Default under Section 12.2, other than Section 12.2.4, 12.2.5 and 12.2.6, SPSA may, notwithstanding this Section 12.4 to the contrary and in SPSA's sole judgment, exercise its right to terminate pursuant to Section 13.1, (b) if repeated Cures (no more than two in a Billing Year or three over any rolling three consecutive Billing Year period) are undertaken to address Events of Default under Section 12.3, other than Section 12.3.3, the Company may, notwithstanding this Section 12.4 to the contrary and in the Company's sole judgment, exercise its right to terminate pursuant to Section 13.2 and (c) there shall be no opportunity to Cure for an Event of Default pursuant to Sections 12.2.4, 12.2.5, 12.2.6 and 12.3.3.

SECTION 13 REMEDIES

Section 13.1 Termination by SPSA.

Section 13.1.1 Company Event of Default. SPSA shall, in accordance with the provisions of this Agreement, have the right to terminate this Agreement for a Company Event of Default. Should such a Company Event of Default occur, SPSA shall, subject to Section 12.4, have the right to terminate this Agreement as of the thirtieth (30th) Day after providing the Company with Notice of such termination. If this Agreement is terminated, SPSA shall have no liability to the Company as a result of such termination under this Agreement, except that the Company shall be paid those amounts due and owing pursuant to Section 8 through the date of such termination. Termination of this Agreement by SPSA for an Event of Default by the Company shall not impair any of SPSA's rights that have accrued prior to the date of such termination against the Qualified Financial Institution issuing the Letter of Credit required under this Agreement, and shall not adversely impact any of its rights that have accrued prior to the date of such termination against the Guarantor under the Guaranty or SPSA's rights under Section 11.

Section 13.1.2 Termination Damages. The Parties acknowledge that in the event SPSA terminates this Agreement as a result of a Company Event of Default, SPSA's disposal options for SPSA Acceptable Waste will be limited to Landfill disposal or combination Landfill disposal and source separation and recycling activities insofar as the WTE Facility provides the only Processible Waste volume reduction and Steam Energy recovery option in the SPSA Service Area. When such volume reduction and recovery option is combined with available source separation and recycling activities, the Processible Waste and recyclable stream of SPSA Acceptable Waste, as applicable, are reduced significantly and in a more environmentally attractive manner when compared to Landfill disposal. Further, (a) SPSA Acceptable Waste Landfill disposal costs, (b) collection and transportation costs, (c) SPSA's lost percentage of Steam Energy revenues as a consequence of such SPSA termination of this Agreement and (d) SPSA's costs to procure, implement and administrate remaining disposal options, may, in the aggregate, exceed the aggregate of the Annual Fee on a Billing Year basis. Accordingly, if this Agreement is terminated by SPSA for a Company Event of Default, the Company shall pay to SPSA as liquidated damages the amount of (1) forty million dollars (\$40,000,000.00) if this Agreement is terminated in the first or second Billing Year; (2) thirty-five million dollars (\$35,000,000.00) if this Agreement is terminated in the

third or fourth Billing Year; (3) thirty million dollars (\$30,000,000) if this Agreement is terminated in the fifth or sixth Billing Year; and (4) twenty-five million dollars (\$25,000,000.00) if this Agreement is terminated in any Billing Year after the sixth Billing Year.

Section 13.2 Termination by the Company.

Section 13.2.1 SPSA Event of Default. The Company shall, in accordance with the provisions of this Agreement, have the right to terminate this Agreement for a SPSA Event of Default. Should such a SPSA Event of Default occur, the Company shall, subject to Section 12.4, have the right to terminate this Agreement as of the thirtieth (30th) Day after providing SPSA with Notice of such termination. If this Agreement is terminated, SPSA shall pay the Company (a) the amount the Company has earned, is entitled to or has accrued by Company as of the termination date but has not been paid in accordance with Section 8, plus (b) a liquidated damage of ten million dollars (\$10,000,000).

Section 13.3 Termination for Uncontrollable Circumstance.

Section 13.3.1 Uncontrollable Circumstance Termination. If an Uncontrollable Circumstance shall occur after the Commencement Date relative to a material obligation of the Company under this Agreement and such Uncontrollable Circumstance or the effect thereof prevents performance of all or a significant portion of the Company's material obligations for a period of one hundred eighty (180) Days or is reasonably anticipated to prevent performance for one hundred eighty (180) Days, SPSA's Authorized Representative may, upon one hundred eighty (180) Days prior written notice to the Company's Authorized Representative, at SPSA's Authorized Representative's sole discretion, terminate this Agreement without any termination damage, penalty or payment to the Company as a result of such termination and the Company waives any right to any such damage, penalty or payment. SPSA, however, shall be liable to pay the Company the amounts the Company has earned or accrued pursuant to Section 8 to the date of termination.

Section 13.3.2 Change in Law. Notwithstanding Section 13.3.1 to the contrary, if one or more Change(s) in Law shall occur after the Commencement Date having the effect, individually or collectively, of increasing the Company's costs to perform the Work, the Parties shall proceed in accordance with Section 9.1.1 and 10. If SPSA's fractional share of the cumulative cost to Cure all Changes in Law during the Term of this Agreement would have the effect of increasing the SPSA Tipping Fee by at least ten dollars (\$10.00) per Ton in the aggregate, then, notwithstanding any obligation SPSA may otherwise have to pay for its fractional share of the cost to Cure the Change in Law under this Agreement, SPSA may, within sixty (60) Days following receipt of a Company Change in Law Notice that would result in such ten dollar (\$10) per Ton cumulative increase in the SPSA Tipping Fee, terminate this Agreement by thirty (30) Days prior written notice from SPSA's Authorized Representative to the Company's Authorized Representative. Any such termination shall be without any termination damage, penalty or payment to the Company and the Company waives all claims to any such damage, penalty or payment.

SPSA, however, shall be liable to pay the Company the amounts the Company has earned or accrued pursuant to Section 8 prior to the effective date of termination. Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that the Pass Through Costs specified in Section 8.2.8.2.4 and fees and expenses imposed or implemented by the City of Portsmouth, Virginia, that constitute a Change in Law shall be disregarded in computing the cumulative costs of all Changes in Law imposed during the Term.

Section 13.4 Manner of Termination Payment. All performance and payment obligations under this Agreement, including payment of the Service Fee that is due and owing, shall continue pursuant to the terms of this Agreement until this Agreement terminates and any amount accrued but unpaid prior to termination shall, if due and owing, be payable in accordance with this Section 13.4. Except as otherwise specifically provided in this Agreement with respect to the time of payment following termination, within ninety (90) Days following termination of this Agreement, SPSA and the Company shall reconcile all amounts then due and payable to each other under the terms of this Agreement. Upon reaching, as a result of such reconciliation, the total amount of the outstanding unpaid balance which SPSA and the Company owe the other, SPSA and the Company shall, within thirty (30) Days thereafter, make the final payments in complete discharge of their obligations under this Agreement, except those obligations which survive the termination or expiration of this Agreement. Payment obligations under this Section are subject to Sections 16.19 and 16.20.

Section 13.5 Remedies.

(a) The Parties agree that (i) SPSA shall be entitled to equitable relief in the form of an injunction to specifically enforce the Company's obligations to accept SPSA Acceptable Waste at the RDF Facility pursuant to Section 3.2(b) and its obligations relating to Out-of-Area Waste and Out-of-State Waste under Section 7.8 in the event of any breach thereof; and (ii) the Company shall be entitled to equitable relief in the form of an injunction to specifically enforce SPSA's obligation to deliver SPSA Acceptable Waste to the RDF Facility pursuant to the third sentence of Section 7.1.1 in the event of a breach thereof.

(b) Except as otherwise provided in Section 13.5(a), the remedies specifically set forth in this Agreement are exclusive, and the Parties waive any other remedies they may have at law or in equity; provided, however, that either Party may seek judicial enforcement of any remedy provided herein and any amounts payable hereunder. The Parties agree and acknowledge that the damages provided for in this Section 13 are to be liquidated damages and shall be the sole and exclusive measure of damages or liability for termination of this Agreement by a Party under this Section 13 and that the provisions for damages set forth herein are intended to measure as accurately as possible the actual damages of the Party entitled to such damages and are not intended to include punitive, special, consequential, incidental or indirect damages.

SECTION 14 RESOLUTION OF DISPUTES

Section 14.1 Procedure.

(a) To facilitate the timely and effective resolution of any controversy or dispute that may arise between the Parties under this Agreement, the Parties shall establish prior to the Commencement Date, a coordination committee (the “Coordination Committee”) consisting of management representatives, agents and representatives of each of the Company and SPSA (the “Member Entity(ies)”). The Coordination Committee shall have six (6) Member Entities. Three (3) Member Entities shall be selected by the Company and three (3) Member Entities shall be selected by SPSA. Each Party shall appoint its three (3) Member Entities prior to the Commencement Date, and Notice of such appointment shall be delivered to each Party. The Party appointing its Member Entity may replace any such Member Entity at any time and Notice of any such change shall be delivered to the other Party and the other Member Entities.

(b) The Parties may refer any controversy or dispute to the Coordination Committee for resolution. If, following such a referral and after one or more good faith attempts, the Parties cannot resolve any controversy or dispute that may arise under this Agreement, either Party, to the extent that its interests are adversely affected, may, (i) exclusive of any other judicial forum, commence judicial action relative to such matter in the United States District Court for the Eastern District of Virginia (Norfolk Division) or any Virginia State court sitting in Norfolk, Virginia, (ii) refer the matter to mediation in the State by a mediator selected pursuant to Section 14.3.1 or (iii) if the Parties agree that the matter primarily involves Technical Issues or Financial Issues and desire that an Independent Expert resolve the matter, refer the matter to an Independent Expert selected pursuant to Section 14.3.2 for resolution. For purposes of clarity, neither Party is obligated to refer a controversy or dispute to the coordination committee or if referred, either Party may elect at any time to abandon such referral and proceed in accordance with clause (i), (ii) or (iii) above. Similarly, if either Party has referred a controversy or dispute in accordance with clause (ii) or (iii) above, either Party may elect at any time to abandon such referral and proceed in accordance with clause (i). The Parties agree that any commencement of judicial action in a judicial forum relative to any matter in controversy under this Agreement shall be limited to the United States District Court for the Eastern District of Virginia (Norfolk Division) or any Virginia State court sitting in Norfolk, Virginia and each Party waives any right it may have to commence judicial action relative to the matter in controversy in any other judicial forum. The Parties agree that subject to the provision in the immediately preceding sentence, any commencement of legal action relative to the matter in controversy in any other judicial forum other than the United States District Court for the Eastern District of Virginia (Norfolk Division) or any Virginia State court sitting in Norfolk, Virginia shall be null and void at inception.

(c) If the matter is referred to a mediator pursuant to clause (ii) above or to an Independent Expert pursuant to clause (iii) above, neither the decision of the mediator nor the decision of the Independent Expert shall be binding on the Parties, and either Party, after the mediator renders his or her recommendation or, as applicable, the Independent Expert renders his or her decision, may commence judicial action relative to the matter in controversy, exclusive of any other jurisdictional forum, in the United States District Court for the Eastern District of Virginia (Norfolk Division) or any other Virginia court sitting in Norfolk, Virginia. The Company may, in its discretion, join Subcontractor(s) in any resolution of disputes under this Section 14.

Section 14.2 Procedure for Referral and Decision.

Section 14.2.1 Mediator Referral and Decision. Consistent with each Party's rights pursuant to Section 14.1, either Party may refer a matter in controversy to the mediator by delivering Notice of its claim and intention of pursuing mediation to the other Party. The Notice shall state in detail the contested matter and the initiating Party's basis for its opinion. Such Notice shall be delivered by SPSA's Authorized Representative and the Company's Authorized Representative to each such Party's selected mediator. Once the mediator is selected pursuant to Section 14.3.1, such mediator shall promptly convene, establish the procedures for the mediation and recommend resolution of the matter in controversy by written memorandum to the Parties.

Section 14.2.2 Independent Expert Referral and Decision. If the Parties agree to have an Independent Expert render a decision on the matter in controversy, they shall refer the matter to the applicable Independent Expert skilled in the particular discipline that is the matter of controversy selected by the Authorized Representative pursuant to Section 14.3.2. Within ten (10) Business Days after the selection of the Independent Expert, the Parties shall each provide to the Independent Expert written notice stating in detail the contested matter and such Party's basis for its position. Within five (5) Business Days thereafter, the Parties shall meet with the Independent Expert to resolve the matter in controversy. Within five (5) Business Days after such meeting or as soon thereafter as possible, the Independent Expert shall decide the matter in controversy and issue a written memorandum decision to the Parties.

Section 14.3 Selection of the Mediator and the Independent Expert.

Section 14.3.1 Selection of Mediator. If the matter in controversy is referred to mediation pursuant to Section 14.1, the Parties shall select a mutually acceptable mediator from the pool of mediators who provide mediation services within the SPSA Service Area. If the Parties cannot agree on the selection of such mediator within ten (10) Business Days after the Parties referral to mediation pursuant to Section 14.1, each Party, within five (5) Business Days of the delivery of the Notice pursuant to Section 14.1, shall select a mediator from the pool of mediators who provide mediation services within the SPSA Service Area. Each Party shall give Notice of such selection to the other Party and each Party's selected mediator. The selected mediators shall then select a third mediator from the pool of mediators who provide mediation services within the SPSA Service Area and such third mediator shall serve as the mediator for the matter in controversy. The mediator's costs and expenses shall be shared equally by the Parties.

Section 14.3.2 Selection of an Independent Expert. If a controversy or dispute shall arise under this Agreement and if the Parties desire to refer the matter to an Independent Expert for resolution pursuant to Section 14.1(c), the Parties shall meet to select and agree in writing on an Independent Expert to hear and to render a determination on such matter. The selected Independent Expert shall be given Notice of such selection by the Parties and the Parties shall secure its agreement to serve as the Independent Expert for such matter. If the selected Independent Expert shall not agree to serve in such capacity, the Parties shall repeat such selection procedure until an Independent Expert is selected and such Independent Expert agrees

to service in such capacity. In no event shall the selected Independent Expert be compensated or perform services unless and until a matter is referred to such Independent Expert for resolution pursuant to the procedures specified in this Section 14.3.2. The Independent Expert's costs and expenses after referral of the matter to it for resolution shall be shared equally by the Parties.

Section 14.4 Obligation to Continue to Perform. The Parties shall continue to perform their obligations under this Agreement pending resolution of any dispute(s) unless the matter at issue precludes such continued activity until resolved, provided that each Party shall nevertheless have its rights that are provided under this Agreement.

SECTION 15 CONDITIONS PRECEDENT

Section 15.1 Conditions Precedent. The respective obligations and liabilities of SPSA and the Company under this Agreement with respect to the Work shall be subject to the satisfaction or waiver on or before the date specified in Section 15.4 of each of the conditions precedent (i) set forth in Section 15.2 with respect to SPSA's obligations, and (ii) set forth in Section 15.3 with respect to the Company's obligations.

Section 15.2 Conditions Precedent to SPSA's Obligations.

Section 15.2.1 The Company shall have delivered to SPSA a certificate of an authorized officer of the Company, dated as of the Commencement Date, to the effect that each of the representations of the Company set forth in Section 16.13.2 are true and correct in all material respects as if made on such date and an opinion of counsel to the Company, in customary form and reasonably acceptable to SPSA, to the effect set forth in Section 16.13.2, other than Section 16.13.2.7. The Company's chief financial officer shall render an opinion in customary form and reasonably acceptable to SPSA to the effect set forth in Section 16.13.2.7;

Section 15.2.2 All applicable Permits and governmental authorizations and approvals for the performance of the Work which are required to be obtained and in effect on or before the Commencement Date shall have been obtained by or on behalf of the Company and, to the extent applicable, SPSA and the Parties shall have provided reasonable evidence of proof of such each to the other;

Section 15.2.3 The Company shall have furnished to SPSA the executed Guaranty substantially in the form of Schedule 17 (Guaranty), the executed Letter of Credit substantially in the form of Schedule 16 (Irrevocable Letter of Credit) and evidence that the Company has secured and has in effect all Company Required Insurance meeting the requirements of Section 11.3 and Schedule 18 (Insurance) and the Subcontractors under contract to the Company as of the Commencement Date has secured all policies of insurance required to be obtained by the Subcontractors;

Section 15.2.4 The Company shall have offered regular, full-time employment on the Facilities on the terms and conditions set forth in Section 3.4 to all Affected

Employees and the Company shall provide evidence reasonably satisfactory to SPSA that such offers have been made and they have not been terminated or expired;

Section 15.2.5 The Company shall have provided evidence reasonably satisfactory to SPSA that it has secured, by ownership or contractual arrangement, waste transportation and Landfill disposal rights and, as applicable, other permitted disposition rights, for Residue, Acceptable Waste, Non-Processible Waste, Processible Waste and Prohibited Waste, consistent with the requirements of Sections 3.19 and 7;

Section 15.2.6 The Company shall have provided to SPSA its schedule for Scheduled Maintenance for the first Billing Year pursuant to Section 7.1.5;

Section 15.2.7 The Company shall have provided to SPSA its proposed Hazardous Waste Contingency Plan pursuant to Section 7.3.2.3 and meeting the requirements of Section 7.7.2;

Section 15.2.8 All of the conditions precedent listed and specified in the Purchase and Sale Agreement shall have been satisfied or, as applicable, waived by the applicable party to such Purchase and Sale Agreement;

Section 15.2.9 SPSA shall have received, to the extent required or otherwise necessary, all applicable approvals or waiver of (i) all applicable bond insurers, (ii) the bond trustee(s), and (iii) Governmental Authorities, and in each instance on terms and conditions and in a form and substance satisfactory to SPSA in its sole discretion;

Section 15.2.10 No action, suit proceeding or official investigation shall have been overtly threatened or publicly announced by any Member Community or commenced by any Entity in federal, State or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damages against or obtain any judgment, order or consent decree with respect to SPSA or the Company or with respect to any of the agreements referred to in this Agreement as a result of SPSA's or the Company's negotiation, execution, delivery or performance of any such agreement or its participation or intended participation in any transaction contemplated thereby; provided, however, that any such action, suit, proceeding or investigation would, if adversely determined, materially adversely affect any of such agreements, this Agreement or the performance by the Parties of their respective obligations thereunder or the transactions contemplated thereby; and, provided further, that this Section 15.2.10 shall, without limitation, apply to any action, suit, proceeding or official investigation which is criminal in nature or any agreements referred to in this Section 15.2;

Section 15.2.11 No change shall have occurred after the Contract Date and on or before the Commencement Date in any Applicable Law, or in the interpretation thereof by any Governmental Authority, that would make the execution or delivery by SPSA or the Company of this Agreement or any of the agreements referred to in this Section 15.2 to which SPSA or the Company is a Party, or that would make compliance by SPSA or the Company with the terms and conditions of such agreement or the consummation by SPSA or the Company of the transactions contemplated thereby, a violation of Applicable Law;

Section 15.2.12 The Company shall have executed and delivered the Purchase and Sale Agreement to SPSA;

Section 15.2.13 SPSA shall have received the approval of the City of Virginia Beach for the Company's delivery of Residue to the Virginia Beach Landfill under that certain Agreement for Disposal of Ash and Process Residue dated August 5, 1984, as amended, by and between SPSA and the City of Virginia Beach;

Section 15.2.14 SPSA shall have received from the Company the RTP pursuant to Section 7.9 and the RTP shall be in the form reasonably satisfactory to SPSA;

Section 15.2.15 All of the documents, approvals or authorizations listed in Sections 15.2.1 through 15.2.14 shall be in full force and effect on the Commencement Date.

Section 15.2.16 SPSA shall have obtained separate metering for electric service to the SPSA Truck Maintenance Facility from an electric utility provider.

Section 15.3 Conditions Precedent to the Company's Obligations.

Section 15.3.1 SPSA shall have delivered to the Company a certificate of an authorized officer of the Company, dated as of the Commencement Date, to the effect that each of the representations of SPSA set forth in Section 16.13.1 are true and correct in all material respects as if made on such date and an opinion of counsel to SPSA, in customary form and reasonably acceptable to the Company, to the effect set forth in Section 16.13.1;

Section 15.3.2 SPSA shall have executed and delivered the Purchase and Sale Agreement to the Company;

Section 15.3.3 SPSA shall have furnished to the Company evidence that SPSA has secured and has in effect all SPSA Required Insurance meeting the requirements of Section 11.3 and Schedule 18 (Insurance);

Section 15.3.4 All applicable Permits for the performance of the Work which are required to be obtained and in effect on or before the Commencement Date shall have been obtained by or on behalf of the Company and, to the extent applicable, SPSA and the Parties shall have provided reasonable evidence of proof of such each to the other;

Section 15.3.5 All of the conditions precedent listed and specified in the Purchase and Sale Agreement shall have been satisfied or, as applicable, waived by the applicable party to such Purchase and Sale Agreement;

Section 15.3.6 No action, suit proceeding or official investigation shall have been overtly threatened or publicly announced by any Member Community or commenced by any Entity in any federal, State or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damages against or obtain any judgment, order or consent decree

with respect to SPSA or the Company or with respect to any of the agreements referred to in this Agreement as a result of SPSA's or the Company's negotiation, execution, delivery or performance of any such agreement or its participation or intended participation in any transaction contemplated thereby; provided, however, that any such action, suit, proceeding or investigation would, if adversely determined, materially adversely affect any of such agreements, this Agreement or the performance by the Parties of their respective obligations thereunder or the transactions contemplated thereby; and, provided further, that this Section 15.3.7 shall, without limitation, apply to any action, suit, proceeding or official investigation which is criminal in nature or any agreements referred to in this Section 15.3;

Section 15.3.7 No change shall have occurred after the Contract Date and on or before the Commencement Date in any Applicable Law, or in the interpretation thereof by any Governmental Authority, that would make the execution or delivery by SPSA or the Company of this Agreement or any of the agreements referred to in this Section 15.3 to which SPSA or the Company is a Party, or that would make compliance by SPSA or the Company with the terms and condition of such agreement or the consummation by SPSA or the Company of the transactions contemplated thereby, a violation of Applicable Law;

Section 15.3.8 All of the documents, approvals or authorizations listed in Sections 15.3.1 through 15.3.8 shall be in full force and effect on the Commencement Date.

Section 15.3.9 SPSA shall have processed or removed all Special Waste located on SPSA's Tipping Floor.

Section 15.3.10 SPSA shall have received and delivered to the Company executed solid waste disposal agreements in the form attached hereto as Schedule 26 (Form of Solid Waste Disposal Agreement) from the following Authorized Haulers: All Virginia Environmental Solutions, Alliance Waste Disposal Co., Inc., Taylor Waste Services, Recycling Disposal Solutions RDS and TFC Recycling.

Section 15.4 Satisfaction of Conditions Precedent. The Parties shall exercise good faith and due diligence in satisfying their respective Conditions Precedent identified in Section 15.2 and 15.3. Each Party shall give Notice to the other Party within five (5) Days after all of the Conditions Precedent to the notifying Party's obligations have been satisfied or waived in writing by the other Party. If all of the Conditions Precedent in this Section 15 have not been satisfied on or before March 1, 2010, then either Party, by written notice to the other, may terminate this Agreement, unless the Parties have mutually agreed in writing to an extension of such date. This Agreement shall be automatically and immediately terminated without further action in the event the Purchase and Sale Agreement is terminated pursuant to its terms. If either Party gives a proper termination notice to the other in accordance with this Section 15.4, then neither Party shall be liable to the other for the termination of this Agreement, and except as otherwise expressly agreed upon in writing (including that certain letter agreement dated October 9, 2008), each Party shall bear its own costs and expenses. Notwithstanding anything to the contrary, the foregoing shall not affect any right or remedy available to the Parties under the Purchase and Sale Agreement with respect to the termination or failure to close thereunder or hereunder, which rights and remedies shall be independent of those set forth herein.

Section 15.5 Commencement Date. For all purposes of this Agreement, the commencement date of this Agreement shall occur on the Closing Date (the "Commencement Date"). The Commencement Date shall be deemed to be effective as of 11:59 p.m., Norfolk, Virginia time, on the Closing Date.

SECTION 16 MISCELLANEOUS

Section 16.1 Term. This Agreement, unless sooner terminated in accordance with its terms, shall be effective during the Term, provided, however, solely for purposes of the Company's compliance with its limited obligations during the period between the Contract Date and the Commencement Date, this Agreement shall, for such limited purposes, be effective during such period.

Section 16.1.1 Extension of Term. SPSA, in its sole discretion, shall have a one-time right to extend the Term for an additional period not to exceed ten (10) years. If SPSA elects to exercise this right, SPSA must provide Notice to the Company of such extension on or prior to December 31, 2014, which Notice must specify the duration of the extension period (the "Extension Period"). If SPSA exercises its extension right pursuant to this Section 16.1.1, this Agreement shall be extended on the same terms and conditions with the exception that the fuel surcharge as specified on Schedule 26 (Extension Period Fuel Surcharge) shall be added to the Service Fee during each month during the Extension Period. The Company shall honor and implement SPSA's extension of this Agreement pursuant to this Section 16.1 not to exceed ten (10) years from the expiration of the original Term; however nothing in this Section 16.1 shall obligate SPSA to extend the Term.

Section 16.2 Assignment. This Agreement shall not be assignable by either Party without the prior written consent of the other, except as expressly provided herein. The Company may, without such consent, assign its interest and obligations hereunder to (a) an Entity acquiring all or substantially all of the business and assets of the Company by merger, consolidation, transfer of assets or otherwise, or to (b) an Affiliate now or hereafter formed and existing; provided, however, that such assignment shall not relieve the Guarantor from its obligations and undertakings under the Guaranty, and the Guarantor shall execute such documents as are necessary to assure that the Guaranty shall continue and remain in full force and effect; provided, further, that the Company's Letter of Credit shall remain in full force and effect and the Qualified Financial Institution shall execute such documents as are necessary to ensure that said Letter of Credit remain and continue in full force and effect in accordance with its terms. Any other assignment of this Agreement by the Company without the express written consent and approval of SPSA, except as expressly recognized herein, shall be null and void at inception.

SPSA may assign this Agreement without the prior written consent of the Company to a successor by merger or consolidation or a duly constituted authority or similar entity created by SPSA or by State legislation to which all or substantially all of its assets (including this Agreement) are transferred or assigned; provided, however, that SPSA's assignment of this

Agreement shall not release SPSA from its obligations under this Agreement without the prior written consent of the Company.

It is understood and agreed between the Parties that this Section 16.2 shall not be construed or interpreted to restrict either Party's ability to employ Subcontractors in connection with portions of its obligations hereunder.

Section 16.3 [Intentionally Omitted].

Section 16.4 Relationship of the Parties. Neither Party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other Party and nothing in this Agreement shall be deemed to constitute either Party a partner, agent or legal representative of the other Party or to create any fiduciary relationship between the Parties. The Parties agree that the Company has entered into this Agreement and shall be performing the services contemplated herein as an independent contractor. As an independent contractor, the Company and all of its Subcontractors are solely responsible for the means, methods, techniques, procedures and schedules used to perform the Work. The Company has the sole right to control and direct the means, manner and method by which its obligations under this Agreement are satisfied.

Nothing in this Agreement may be interpreted to mean that SPSA may exercise control over how services are provided by the Company nor how the Company satisfies its obligations under this Agreement. Except as expressly set forth herein, nothing in this Agreement may be interpreted to give the appearance that either Party possesses the apparent or actual authority to act or speak for the other Party and neither Party shall by words, actions or representations convey to the general public, any person or any governmental unit the impression that such Party has the authority to speak or act for the other Party. If any Entity believes that either Party has the necessary power to bind such other Party or believes that either Party has the power to control how services are provided by the other Party, such first Party shall take all reasonable actions as are necessary to correct the erroneous inferences and prevent reliance on such a mistake of fact.

Section 16.5 Confidential Information. As used in this Agreement, "Confidential Information" means (a) trade secrets as such term is defined and interpreted by Applicable Law and (b) documents, data or other information deemed confidential under Applicable Law. Confidential Information shall not include information that (i) hereafter becomes publicly available through no wrongful act of SPSA, (ii) information previously known to SPSA on a non-confidential basis, (iii) information subsequently obtained by SPSA from a third party not known by SPSA to be under any obligation to maintain the confidentiality of such information, or (iv) information which SPSA is required to disclose pursuant to Applicable Law.

To the extent allowed by Applicable Law, SPSA shall hold Confidential Information in strict confidence and take all reasonable precautions to prevent disclosure to third party Entities; provided, however, SPSA shall not be precluded from disclosing Confidential Information that, in its sole judgment, is in the public domain or subject to disclosure by law or by lawful demand of any Governmental Authority; provided further, that prior to disclosing of Confidential

Information that the Company has labeled as such, SPSA shall provide at least five (5) Business Days prior Notice to the Company of SPSA's intent to disclose such Confidential Information.

The rights and obligations of the Parties set forth herein with respect to Confidential Information are further subject to Applicable Law, including State common law and State and local laws pertaining to public records. To the extent any provision in this Agreement is inconsistent with this Section 16.5 relative to Confidential Information, this Section 16.5 shall govern.

Section 16.6 Subcontractors. The Company may enter into subcontracts, without SPSA's Authorized Representative's approval for (a) major combustion train outage Work, (b) Facilities Site grounds maintenance and aesthetic Work, (c) janitorial service Work, (d) pest control, (e) a major turbine generator overhaul, (f) water treatment services, (g) distributed control system (DCS) maintenance under this Agreement, (h) acquisition of Equipment, Spare Parts, Reagents, lime softening chemicals, supplies and materials, (i) professional or consulting services (including legal, accounting, engineering, testing and similar services), (j) contracts with haulers and/or recyclers of Solid Waste, Residue, Ferrous Metals and/or Non-Ferrous Metals, (k) sales and marketing of disposal services, Residue, Ferrous and Non-Ferrous Metals, (l) maintenance of Equipment by manufacturers, maintenance of Rolling Stock, and (m) Work relating to the Facilities substation or electric interconnection facilities. The Company shall not enter into a subcontract for any other Work, including any Work relating to any of SPSA's RDF Assets, with any Subcontractor without the prior written approval of SPSA's Authorized Representative and any such subcontract entered into without such prior written approval shall be null and void at inception; provided, however, SPSA's Authorized Representative's prior written approval shall not be required for (1) subcontracts that have a term or duration of less than ninety (90) consecutive Days in a Billing Year, (2) subcontracts whose value is less than one hundred thousand dollars (\$100,000.00), (3) subcontracts with Affiliates of the Company or (4) subcontracts for Work that under Applicable Law must be performed by independent Entities, such as testing laboratories.

When the Company requests approval of a subcontract by SPSA's Authorized Representative, the Company's Authorized Representative must submit the qualifications of the Subcontractor and a description of the scope of the Work to be performed. Such subcontract shall be deemed approved ten (10) Days after the complete submission of the required information unless SPSA's Authorized Representative objects to the subcontract in writing (stating its objection in reasonable detail) or requests any relevant information that has not been previously provided to it.

This Section 16.6 shall not apply to the Company's employment agreements with its employees.

SPSA's review or approval of any subcontracts or Subcontractor shall not relieve the Company from any of its obligations under this Agreement with respect to the subcontracted Work, and the Company shall be responsible for the engagement and management of its Subcontractors.

The scope of SPSA's Authorized Representative's approval rights of a subcontract under this Section 16.6 shall be limited to (a) the Subcontractor's scope of work, (b) the qualifications of such Subcontractor and (c) the location of the Subcontractor's equipment and facilities on the Facilities Site. In no event shall SPSA's Authorized Representative's approval rights include any other terms and conditions of such subcontract.

Section 16.7 Authorized Representatives. The Authorized Representative of SPSA for purposes of this Agreement shall be the Executive Director or his or her designee. The Authorized Representative of the Company for purposes of this Agreement shall be the Facilities Manager or his or her designee. Either Party may change its Authorized Representative upon five (5) Days prior Notice to the other Party. Prior to the Commencement Date, the Authorized Representatives shall give each other Notice of the appointment of any designee authorized to act on such Authorized Representative's behalf, if any. The Authorized Representatives may change their designee or appoint new designees upon three (3) Days prior Notice to the other.

Section 16.8 Notices. All Notices and consents required or permitted by this Agreement shall be in writing, shall be transmitted by (a) registered or certified mail, return receipt requested, with Notice deemed to be given upon receipt; postage prepaid, or (b) delivered by hand or by nationally recognized courier service, or (c) facsimile transmission or electronic communication system reasonably acceptable to the Parties with confirmed receipt thereof, and in all cases, addressed as follows:

if to SPSA:

Southeastern Public Service Authority of Virginia
723 Woodlake Drive
Chesapeake, Virginia 23320
Attn: Rowland L. Taylor
Facsimile: 757-424-4133

with a copy (which shall not constitute notice) to:

Williams Mullen
1666 K Street, N.W.
Suite 1200
Washington, D.C. 20006
Attn: Warren E. Nowlin
Facsimile: 202-293-5939

with a copy (which shall not constitute notice) to:

Willcox & Savage, P.C.
1800 Bank of America Center
One Commercial Place
Norfolk, Virginia 23510
Attn: Anthony M. Thiel
Facsimile: 757-628-5566

if to Company:

Wheelabrator Technologies Inc.
4 Liberty Lane Waste
Hampton, New Hampshire 03842
Attn: General Counsel
Facsimile: 603-929-3365
Phone: 603-929-3218

with a copy (which shall not constitute notice) to:

McGuire Woods LLP
One James Center
901 East Cary Street
Richmond, Virginia 23219
Attn: John Lain
Phone: 804-775-1000
Facsimile: 803-775-1061

Changes in either or both of the respective names and addresses to which such Notices may be directed may be made from time to time by either Party by Notice to the other Party. If an Event of Default occurs, the Notice required to be given under this Agreement shall clearly identify in bold letters that such event has occurred.

Section 16.9 Entire and Complete Agreement. This Agreement, together with the Schedules attached to this Agreement and Addendum No. 1, constitutes the entire and complete agreement and commitment of the Parties with respect to the award and execution of this Agreement for the management, operation and maintenance of the Facilities. All prior or contemporaneous understandings, arrangements, negotiations and/or commitments, whether oral or written, have been superseded by this Agreement. This Agreement is expressly conditioned upon the terms and conditions set forth in Addendum No. 1 attached hereto, which are incorporated herein in their entirety.

Section 16.10 Binding Effect. This Agreement shall bind and inure to the benefit of the Parties and any successor or assignee acquiring an interest hereunder consistent with Section 16.2.

Section 16.11 Governing Law. The law of the State (excluding the conflicts of law principles thereof) shall govern the validity, interpretation, construction and performance of this Agreement.

Section 16.12 Waiver. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the Party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.

Section 16.13 Representations.

Section 16.13.1 Representations of SPSA. Subject to and except as disclosed in Schedule 21 (Disclosures), SPSA represents to the Company that:

Section 16.13.1.1 SPSA is duly organized and existing in good standing under the laws of the State and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement.

Section 16.13.1.2 As of the Contract Date, SPSA has the power, authority and legal right to enter into and perform this Agreement and the execution, delivery and performance hereof by SPSA (a) has been duly authorized by SPSA, acting by and through its Board, (b) do not require any other approvals by any other governmental officer or body, other than those Permits or approvals contemplated to be obtained after the Contract Date and on or before the Commencement Date, (c) do not require any consent or referendum of voters, (d) will not violate any judgment, order, law or regulation applicable to SPSA, and (e) do not constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon any assets of SPSA under any agreement or instrument to which SPSA is a party or by which SPSA or its assets may be bound or affected.

Section 16.13.1.3 This Agreement has been duly entered into and delivered by and on behalf of SPSA and, as of the Contract Date, constitutes a legal, valid and binding obligation of SPSA, fully enforceable against SPSA in accordance with its terms, except as such enforcement is limited by bankruptcy, insolvency, and other similar laws affecting the enforcement of creditors' rights generally and for limitations imposed by general principles of equity.

Section 16.13.1.4 As of the Contract Date, there is no action, suit or proceeding, at law or in equity, before or by any court or Governmental Authority, or to SPSA's knowledge, pending or overtly threatened against SPSA, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by SPSA of its obligations hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by SPSA in connection with the transaction contemplated hereby.

Section 16.13.1.5 All Permits necessary for the performance of the Work that are required to be obtained prior to the Contract Date by SPSA have been obtained by

SPSA.

Section 16.13.1.6 As of the Contract Date, no action, suit, proceeding or official investigation has been commenced by any Entity or Governmental Authority in any federal, State or local governmental authority or agency or in any federal, State or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damages against or obtain any judgment, order or consent decree with respect to (a) SPSA, or (b) the agreements referred to in this Agreement, as a result of SPSA's negotiation, execution, delivery or performance of this Agreement or its participation or intended participation in any transaction contemplated thereby; provided, however, that any such action, suit, proceeding or investigation would, if adversely determined, materially adversely affect this Agreement, the performance by the Parties of their respective obligations hereunder or the transactions contemplated thereby; and, provided further, that this Section 16.13.1.6 shall apply to any action, suit, proceeding or official investigation that is criminal in nature or that challenges any agreements referred to in this Agreement.

Section 16.13.1.7 SPSA is, as of the Contract Date, to its knowledge, and without independent investigation, operating and maintaining the Facilities in compliance, in all material respects, with all Applicable Laws. There are, to SPSA's knowledge and without independent investigation, no outstanding complaints, orders, citations, notices or orders of violation or non-compliance issued to SPSA under any Applicable Laws, nor does SPSA know or have reasonable grounds to know of any facts which could give rise to a notice of noncompliance under Applicable Laws. A full and complete listing of any and all violations or alleged violations of any Applicable Laws which occurred in the three (3) years prior to the Contract Date are disclosed in Schedule 21 (Disclosures). SPSA will, prior to the Commencement Date, update Schedule 21 (Disclosures) to disclose any violations or noncompliance with Applicable Laws of which SPSA has received notice or of which SPSA has knowledge prior to the Commencement Date and SPSA shall be solely responsible for those matters listed in Schedule 21 (Disclosures) as the same may be updated.

Section 16.13.1.8 SPSA has not prior to the Contract Date (1) received notice of any claim, proceeding, suit or demand whatsoever or (2) acquired knowledge of any reasonable basis upon which such claim or demand could be asserted against SPSA alleging that SPSA is in whole or in part responsible for (A) damage to or destruction of tangible property, including the loss of use resulting therefrom or (B) bodily injury, sickness, disease or death in any way related to the operation and maintenance of the Facilities prior to the Contract Date.

Section 16.13.1.9 To SPSA's knowledge, SPSA is in compliance with all material terms of the agreements and contracts to be assigned by SPSA to the Company pursuant to this Agreement, and has and will make all payments due under such agreements and contracts up to the Commencement Date.

Section 16.13.2 Representations of the Company. The Company hereby represents to SPSA that:

Section 16.13.2.1 The Company is qualified to do business in the State and is duly qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.

Section 16.13.2.2 As of the Contract Date, the Company has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof by the Company, (a) have been duly authorized, (b) do not require the approval of any governmental officer or body, other than those Permits or approvals contemplated to be obtained by the Company under this Agreement, (c) will not violate any judgment, order, law or regulation applicable to the Company as of the Contract Date, and as of the Contract Date, any provisions of the Company's certificate of incorporation and by-laws and (d) do not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Company under any agreement or instrument to which the Company is a party or by which the Company or its assets may be bound or affected.

Section 16.13.2.3 Except for the SPSA Permits, the Company holds, or shall hold prior to the Commencement Date, all Permits required to perform the Work.

Section 16.13.2.4 This Agreement has been duly entered into and delivered and, as of the Contract Date, constitutes a legal, valid and binding obligation of the Company, fully enforceable in accordance with its terms, subject to (a) the applicable bankruptcy, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights or remedies generally, (b) general equitable principles, whether considered in a proceeding at law or in equity, and (c) limitations on the enforceability of rights to indemnification by federal or State laws or regulations or public policy.

Section 16.13.2.5 As of the Contract Date, the Company's proposal is genuine and not collusive or a sham, the Company has not colluded, conspired, connived or agreed directly or indirectly with any other proposer or Entity, to put in a sham proposal, or to refrain from proposing, and has not in any manner directly or indirectly, sought by agreement or collusion, or communication or conference with any Entity, to fix the prices of its proposal or proposals of any other proposer or to secure any advantage against any Entity interested in this Agreement. All statements contained in the Company's proposal are, in all material respects, true, and the Company has not directly or indirectly submitted its proposal or the contents thereto, to any association or to any member or agent thereof.

Section 16.13.2.6 As of the Contract Date, there is no action, suit or proceeding, at law or in equity, before or by any court or Governmental Authority, pending or, to the Company's knowledge, threatened against the Company, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Company of its obligations hereunder or the other transactions contemplated hereby, or that, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by the Company in connection with the transactions contemplated hereby.

Section 16.13.2.7 There has been no material adverse change in the Company's or the Guarantor's financial condition during the period from December 31, 2008 until the Contract Date, and neither the Company nor the Guarantor is aware of any occurrence, event or situation that could reasonably be expected to cause a material adverse change in the Company's or the Guarantor's financial condition in the future that, in either case, would materially impair the Company's ability to perform its obligations under this Agreement or the Guarantor's ability to fulfill its obligations under the Guaranty.

Section 16.13.2.8 The Company has met, during the procurement process period and through the Contract Date, all of the minimum qualification criteria set forth in the procurement documents.

Section 16.13.2.9 The Company's performance of its obligations under this Agreement and the transactions contemplated hereby do not conflict with the Company's performance under any other agreements or instruments to which the Company is a party or by which the Company or its assets may be bound or affected.

Section 16.13.2.10 As of the Contract Date, no action, suit, proceeding or official investigation has been overtly threatened or publicly announced by any Member Community or commenced by any Entity or Governmental Authority in any federal, State or local governmental authority or agency or in any federal, State or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damages against or obtain any judgment, order or consent decree with respect to (a) the Company, (b) any Permits to be obtained by the Company under this Agreement or (c) the agreements referred to in this Agreement, as a result of the Company's negotiation, execution, delivery or performance of this Agreement or its participation or intended participation in any transaction contemplated thereby; provided, however, that any such action, suit, proceeding or investigation would, if adversely determined, materially adversely affect any of such Permits, this Agreement, the performance by the Parties of their respective obligations hereunder or the transactions contemplated thereby; and, provided further, that this Section 16.13.2.10 shall apply to any action, suit, proceeding or official investigation that is criminal in nature or that challenges any agreements referred to in this Agreement.

Section 16.13.3 Materiality of Representations. The representations enumerated in Sections 16.13.1 and 16.13.2 are material for purposes of this Agreement and, if materially untrue, are grounds for an Event of Default.

Section 16.14 Headings. Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

Section 16.15 Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

Section 16.16 Amendment. No amendment, modification or change to this Agreement shall be effective unless the same shall be in writing and duly executed by the Parties.

Section 16.17 Severability. If any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable, in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other terms of this Agreement, as so amended, modified, supplemented or otherwise affected by such action, shall remain in full force and effect.

Section 16.18 Further Assurances. Each Party agrees to, and shall use all reasonable efforts to, provide such information, execute and deliver any instruments and documents and take such action as may be necessary, reasonably requested or required by the other Party that are not inconsistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement in order to give full effect to this Agreement and to carry out the intent of this Agreement.

Section 16.19 Interest on Payments. All payments to be made pursuant to this Agreement outstanding after the applicable due date shall bear interest at the Interest Rate.

Section 16.20 Payment Disputes. If any Party shall dispute an amount owing to the other Party, such Party shall:

(a) give notice to the other Party of such disputed amount together with sufficient information to allow the other Party to understand the nature of the dispute, which notice shall be prepared in the same manner as Cost Substantiation and shall be delivered on or before the due date of the amount had it not been disputed; and

(b) pay all undisputed amounts on the due date. Interest at the Interest Rate shall accrue from the original due date on disputed amounts, or the portions thereof, to the Party which is ultimately determined to be entitled to such disputed amount, or any portions of such disputed amounts.

(c) The payment dispute provisions of this Section 16.20 are intended to opt-out of any requirement of Applicable Law to the extent Applicable Law permits such opt-out. The remedies for disputes over payment are exclusively limited to those provided in this Agreement.

Section 16.21 Liability of Officers and Employees. No Member Community or member of the Board nor any director, officer, agent, consultant, representative or employee of either Party shall be charged personally by the other or held contractually liable thereto under any term or provision of this Agreement, because of either Party's execution or attempted execution or because of any breach or alleged breach thereof; provided, however, that all Entities remain responsible for any of their own criminal actions.

Section 16.22 Pledge of Credit. The Company shall not pledge SPSA's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of

indebtedness. The Company further warrants and represents that it has no obligation or indebtedness that would materially impair its ability to fulfill the terms of this Agreement.

Section 16.23 Third Party Beneficiary. This Agreement is intended to be solely for the benefit of Company and SPSA and their successors and permitted assigns and is not intended to and shall not infer any rights or benefits on any third party not a signature hereto.

Section 16.24 Survivability. Any term, condition, covenant or obligation that requires performance by a Party subsequent to termination or expiration of this Agreement shall remain enforceable against such Party subsequent to such termination or expiration until, as applicable, the expiration of such performance obligation or the expiration of any statute of limitations applicable to any underlying claim that might give rise to liability.

Section 16.25 No Conflict of Interest. Without receiving prior written authorization from SPSA's Authorized Representative, the Company shall not enter into any agreement that would conflict with the Company's performance of its obligations under this Agreement or the other transactions contemplated herein.

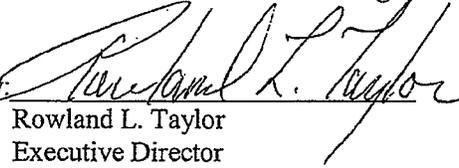
[Signature Page Follows]

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed in its name by a duly-authorized person and has caused its seal to be affixed to this Agreement.

WHEELABRATOR TECHNOLOGIES INC.

By: 
Name: Mark A. Weidman
Title: President

SOUTHEASTERN PUBLIC SERVICE
AUTHORITY OF VIRGINIA through its BOARD

By: 
Rowland L. Taylor
Executive Director

[Signature Page to Service Agreement]