

## **SECOND ADDENDUM TO WATER PURCHASE AGREEMENT**

THIS SECOND ADDENDUM TO WATER PURCHASE AGREEMENT, hereinafter referred to as (the "Second Addendum") is made and entered into as of November 25<sup>th</sup>, 2011 by and between the VIRGIN ISLANDS WATER AND POWER AUTHORITY ("WAPA"), a public authority established and existing under the laws of the United States Virgin Islands (the "U.S. Virgin Islands"), and Seven Seas Water Corporation (USVI), ("Seven Seas"), a corporation organized and existing under the laws of the United States Virgin Islands. Each of WAPA and Seven Seas may be referred to in this Agreement as the "Party" and collectively as the "Parties." All capitalized terms not otherwise defined in this Second Addendum shall have the definitions specified in the WPA (as defined below).

### **RECITALS**

**WHEREAS**, on May 12, 2011, WAPA and Seven Seas executed the Water Purchase Agreement (the "WPA") that provides for the construction, installation and operation by Seven Seas of the Facility to be located at the Randolph Harley Generation Plant on the island of St. Thomas, U.S. Virgin Islands; and

**WHEREAS**, on May 12, 2011, WAPA and Seven Seas executed a Lease Agreement (the "Lease") that provides for the leasing of real property from WAPA, as Landlord (as defined in the Lease), to Seven Seas, as Tenant (as defined in the Lease), for the construction, installation and operation by Seven Seas of the Facility within the Randolph Harley Generation Plant on real property described and depicted in the Lease; and

**WHEREAS**, on July 8, 2011, WAPA and Seven Seas entered into the First Addendum to the WPA (the "First Addendum") that provides for the accelerated construction, installation and commercial operation of a facility to produce Ultrapure Water; and

**WHEREAS**, WAPA has an immediate need for the construction, installation and commercial operation of temporary, containerized seawater reverse osmosis desalination systems for the production of up to 1.5 MGD (the "Temporary First Pass Water System" or "TFPW System") to supplement the water supply at the Randolph Harley Generation Plant;

**NOW THEREFORE**, in consideration of the mutual promises and covenants of each Party to the other contained in this Second Addendum and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

### **TERMS OF SECOND ADDENDUM**

1. Except as otherwise expressly provided herein or therein, nothing in this Second Addendum or the First Addendum shall be construed such that either this Second Addendum or the First Addendum changes the terms of the WPA with respect to the subject matter of the WPA. Except as otherwise expressly provided herein, nothing in this Second Addendum shall be construed such that it changes the terms of the First Addendum with respect to the subject

matter of the First Addendum. Section 5 of the First Addendum shall not apply to this Second Addendum.

2. The TFPW System shall at all times be the property of Seven Seas. Seven Seas shall have the right to remove or relocate the TFPW System (or portions thereof) at any time following (i) the Commercial Operation Date, or (ii) the failure of the Parties to negotiate a new agreement as contemplated in Section 7 herein.

3. Upon execution of this Second Addendum, Seven Seas shall begin mobilization, shipment and, upon delivery, installation of the containers (the "Containers") and related equipment and components that constitute parts of the TFPW System at the location as depicted in the attached Appendix A-6. For the duration of this Second Addendum and 180 days thereafter, the location depicted in Appendix A-6 shall be treated under the Lease as part of the "Property."

4. Seven Seas shall use all commercially reasonable efforts to cause portions of the TFPW System to begin providing First Pass Water (such water supplied by the TFPW System, the "Temporary First Pass Water") to supplement WAPA's water supply at the Randolph Harley Generation Plant, within thirty (30) days from the effective date of this Second Addendum, provided no unforeseen delays are encountered and WAPA performs, on a timely basis, its obligations as set forth in Section 3.6 (excluding Sections 3.6(a)(ix), (xi) and (xiii), which are not applicable to the TFPW System) of the WPA, including providing clear sites for the installation of each of the Containers (such date on which the TFPW System first begins supplying Temporary First Pass Water, the "TFPW Commencement Date").

5. Subject to the terms and conditions of this Second Addendum, Seven Seas shall sell and deliver to WAPA, and WAPA shall purchase and accept from Seven Seas, 100% of the Temporary First Pass Water that the TFPW System is capable of producing. Except as provided in Section 6 herein, WAPA shall pay to Seven Seas a Base Water Charge of four dollars and forty-two cents (\$4.42) per kgal (the "Temporary Base Water Charge"), subject to all the Water Charge Adjustments as contemplated in Schedule 2 (other than Schedules 2.1(c) and 2.2) of the WPA, for the delivery of Temporary First Pass Water.

6. In the event that Seven Seas is unable to acquire all Permits and Approvals necessary under Applicable Laws to construct, own and operate the Facility, then WAPA shall pay thirteen dollars and eighty cents (\$13.80) per kgal for Temporary First Pass Water delivered by Seven Seas to WAPA with such cost being retroactive to the TFPW Commencement Date and subject to all the Water Charge Adjustments as contemplated in Schedule 2 (other than Schedules 2.1(c) and 2.2) of the WPA. Seven Seas shall invoice WAPA for any additional monies owed by WAPA for all Temporary First Pass Water previously delivered at the Temporary Base Water Charge rate.

7. In the event that Seven Seas is unable to acquire all Permits and Approvals necessary under Applicable Laws to construct, own and operate the Facility, or Seven Seas is otherwise unable to begin commercial operations of the Facility as contemplated in the WPA, due to circumstances outside Seven Seas' control, then WAPA and Seven Seas shall negotiate in

good faith an agreement pertaining to the price, term and other agreed upon provisions relating to the TFPW System and delivery of Temporary First Pass Water.

8. WAPA shall be responsible for obtaining and maintaining all permits, approvals, consents, authorizations, agreements, licenses and inspection certificates of, by, or with any Governmental Authority necessary or desirable for Seven Seas to construct, own and operate the TFPW System and the distribution of Temporary First Pass Water to WAPA.

9. The Parties shall use the meters that are built into the Containers. If either of the Parties desires that other meters be used, the meter make and model shall be approved by WAPA and Seven Seas in advance of purchase and installation, which approval will not be unreasonably withheld, delayed or conditioned. Seven Seas shall promptly procure and install meters and meter appurtenances at its expense and WAPA shall reimburse Seven Seas for one-half (1/2) of the cost to purchase the meters and meter appurtenances.

10. In consideration for Seven Seas entering into this Second Addendum, the Water Charge for First Pass Water as set forth in the WPA shall be modified and Schedule 2.1(a) and 2.1(c) shall be deleted in their entirety and the following paragraphs shall be inserted in lieu thereof:

(a) WAPA shall pay to Seven Seas, in respect of such Billing Period and in accordance with Article 5, a charge in the amount of \$3.84 per kgal for First Pass Water, as specified in Section 4.3(a), and delivered to WAPA as metered at the Delivery Point, hereinafter the "Base Water Charge."

\* \* \*

(c) Intake Structure Rebuild Charge: A charge of \$0.58 per kgal, representing \$0.26 per kgal for intake No. 3 and \$0.32 per kgal for No. 2, shall be added to the Base Water Charge of \$3.84 per kgal beginning from Commercial Operation date and continuing for a period of twelve (12) years.

11. If WAPA is unable to deliver sufficient quantities of First Pass Water to enable Seven Seas to produce Ultrapure Water as contemplated by the First Addendum, a portion of the Temporary First Pass Water produced by the TFPW System shall be used to produce the Ultrapure Water as contemplated by the First Addendum, and WAPA shall pay for both the Temporary First Pass Water as contemplated by this Second Addendum and the Ultrapure Water as contemplated by the First Addendum.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the Parties have caused this Second Addendum to be executed and delivered by their duly authorized representatives as of the date first set forth above.

ATTEST:

SEVEN SEAS WATER CORPORATION  
(USVI)



By: \_\_\_\_\_

Name: Douglas R. Brown  
Title: Chairman

ATTEST:

VIRGIN ISLANDS WATER AND POWER  
AUTHORITY



By: \_\_\_\_\_

Name: Hugo Hodge Jr.  
Title: Executive Director/CEO

APPROVED AS TO LEGAL FORM AND  
CONTENT

By: \_\_\_\_\_

COUNSEL TO THE VIRGIN  
ISLANDS WATER AND POWER  
AUTHORITY



## APPENDIX A-6

### Temporary First Pass Water System and Site



This is a conceptual drawing only. Actual installation might deviate from the drawings based on engineering designs and assessments as agreed to by both Parties.