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S-7704

PTO-1595  
(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

Tab settings



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U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

## 1. Name of conveying party(ies):

WOOD WASTE ENERGY, INC

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

## 3. Nature of conveyance:



Assignment



Merger



Security Agreement



Change of Name



Other \_\_\_\_\_

Execution Date: 5/13/04

## 2. Name and address of receiving party(ies):

Name: SILVER POINT FINANCE, LLC

Internal Address: 600 STEAMBOAT ROAD

Street Address: \_\_\_\_\_

City: GREENWICH State: CT Zip: 06830

Additional name(s) & address(es) attached? ☐ Yes ☒ No

## 4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No5,601,239  
6,276,412

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: TONYA CHAPPLE

Internal Address: C/O CSC

Street Address: 80 STATE STREET

City: ALBANY State: NY Zip: 12207

6. Total number of applications and patents involved: 2

7. Total fee (37 CFR 3.41).....\$ 80.00



Enclosed



Authorized to be charged to deposit account

## 8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

## 9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*

TONYA CHAPPLE

Name of Person Signing

Signature

5/20/04

Date

Total number of pages including cover sheet, attachments, and documents: 1

06/24/2004 LNUELLER 00000003 5601239

01 FC:8021

80.00 DP

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments  
Washington, D.C. 20231PATENT  
REEL: 015487 FRAME: 0758

## PATENT SECURITY AGREEMENT

This **PATENT SECURITY AGREEMENT** (this "Agreement"), dated as of May 13, 2004, is executed and delivered by and between **WOOD WASTE ENERGY, INC.**, a Virginia corporation ("Debtor"), and **SILVER POINT FINANCE, LLC**, a Delaware limited liability company ("SPP"), as collateral agent (in such capacity, together with its successors and assigns, if any, in such capacity, the "Collateral Agent") for the Secured Parties (as defined below) with reference to the following:

**WHEREAS**, Debtor, Bank of America, N.A., as administrative agent ("Existing Term Loan Agent"), and the lenders party thereto (the "Existing Term Loan Lenders") are parties to that certain Credit Agreement, dated as of November 13, 2002 (as amended, supplemented or otherwise modified prior to the date hereof, the "Existing Term Loan Credit Agreement") pursuant to which the Existing Term Loan Lenders provided Parent with term loans currently having an aggregate outstanding principal balance of \$87,673,898.76 (the "Existing Term Loan");

**WHEREAS**, pursuant to that certain Amended and Restated Debt Acquisition Agreement of even date hereof among Existing Term Loan Lenders, Existing Term Loan Agent, and MatlinPatterson Global Opportunities Fund L.P., a Delaware limited partnership ("Matlin"), each of the Existing Term Loan Lenders has agreed to sell and assign its portion of the Existing Term Loan to SPP, as designee of Matlin and, pursuant to that certain Amended and Restated Credit Agreement dated as of the date hereof (the "New Term Loan Credit Agreement") among, Debtor and the other Borrowers (as hereinafter defined) and SPP, as the arranger and administrative agent for the lenders party thereto (in such capacity, "New Term Loan Agent" and collectively with such lenders, the "New Term Loan Lenders"), SPP is reducing the outstanding principal balance of the Existing Term Loan and all other obligations owed by Parent to Existing Term Loan Agent and the Existing Term Loan Lenders under the Existing Term Loan Credit Agreement to \$35,000,000;

**WHEREAS**, the Debtor has executed and delivered that certain Amended and Restated Security Agreement (the "Security Agreement") of even date hereof in favor of the Collateral Agent to secure Debtor's obligations under the New Term Loan Credit Agreement; and

**WHEREAS**, to induce the New Term Loan Lenders to continue the financial accommodations provided to Debtor pursuant to the New Term Loan Credit Agreement, Debtor has agreed to execute and deliver this Agreement to Collateral Agent for filing with the PTO (as herein defined) and with any other relevant recording systems in any domestic or foreign jurisdiction, and as further evidence of and to effectuate Collateral Agent's existing security interests in the patents and other general intangibles described herein.

**NOW, THEREFORE**, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, Debtor hereby agrees in favor of Collateral Agent, for the benefit of the Secured Parties, as follows:

1. Definitions; Interpretation.

(a) Certain Defined Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings provided to such terms in the New Term Loan Credit Agreement. The following terms shall have the following meanings:

"Agreement" has the meaning ascribed to such term in the preamble to this Agreement.

"Borrowers" means RailWorks Corporation, a Delaware corporation, and its Domestic Subsidiaries, including the Debtor.

"Collateral Agent" has the meaning ascribed to such term in the preamble to this Agreement.

"Debtor" has the meaning ascribed to such term in the preamble to this Agreement.

"New Term Loan Credit Agreement" has the meaning ascribed to such term in the recitals to this Agreement.

"Patent Collateral" has the meaning ascribed to such term in Section 2.

"Patents" has the meaning ascribed to such term in Section 2.

"Proceeds" means whatever is receivable or received from or upon the sale, lease, license, collection, use, exchange or other disposition, whether voluntary or involuntary, of any Patent Collateral, including "proceeds" as defined in the Code, and all proceeds of proceeds. Proceeds shall include (i) any and all accounts, chattel paper, instruments, general intangibles, cash and other proceeds, payable to or for the account of Debtor, from time to time in respect of any of the Patent Collateral, (ii) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to or for the account of Debtor from time to time with respect to any of the Patent Collateral, (iii) any and all claims and payments (in any form whatsoever) made or due and payable to Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Patent Collateral by any Person acting under color of governmental authority, and (iv) any and all other amounts from time to time paid or payable under or in connection with any of the Patent Collateral or for or on account of any damage or injury to or conversion of or infringement of rights in any Patent Collateral by any Person.

"PTO" means the United States Patent and Trademark Office and any successor thereto.

"Secured Obligations" means all liabilities, obligations (including the Obligations), or undertakings owing by Debtor to Agent or any Lender of any kind or description arising out of or outstanding under, advanced or issued pursuant to, or evidenced by the New Term Loan Credit Agreement, this Agreement, or any of the other Credit Documents,

irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, voluntary or involuntary, whether now existing or hereafter arising, and including all costs, expenses, fees (including attorneys fees), interest, and indemnities (including any portion of costs, expenses, fees, interest, and indemnities that accrues after the commencement of an Insolvency Proceeding, whether or not allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) and any and all other amounts which Debtor is required to pay pursuant to any of the foregoing, by law, or otherwise.

"Secured Parties" means the New Term Loan Lenders, the New Term Loan Agent, and the Collateral Agent.

"United States" and "U.S." each means the United States of America, including all territories thereof and all protectorates thereof.

(b) Terms Defined in Code. Where applicable and except as otherwise defined herein, terms used in this Agreement shall have the meanings ascribed to them in the Code.

(c) Interpretation. In this Agreement, except to the extent the context otherwise requires:

(i) Any reference to a Section or a Schedule is a reference to a section hereof, or a schedule hereto, respectively, and to a subsection or a clause is, unless otherwise stated, a reference to a subsection or a clause of the Section or subsection in which the reference appears.

(ii) The words "hereof," "herein," "hereto," "hereunder" and the like mean and refer to this Agreement as a whole and not merely to the specific Section, subsection, paragraph or clause in which the respective word appears.

(iii) The meaning of defined terms shall be equally applicable to both the singular and plural forms of the terms defined.

(iv) The words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation."

(v) References to agreements and other contractual instruments shall be deemed to include all subsequent permitted amendments, restatements, supplements, refinancings, renewals, extensions, and other modifications thereto and thereof.

(vi) References to statutes or regulations are to be construed as including all statutory and regulatory provisions consolidating, amending or replacing the statute or regulation referred to.

(vii) Any captions and headings are for convenience of reference only and shall not affect the construction of this Agreement.

(viii) In the event of a direct conflict between the terms and provisions of this Agreement and the New Term Loan Credit Agreement it is the intention of the parties hereto that such documents shall be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of the New Term Loan Credit Agreement shall control and govern; provided, however, that the inclusion herein of additional obligations on the part of the Debtor and supplemental rights and remedies in favor of Collateral Agent (whether under federal law or applicable state law), in each case in respect of the Patent Collateral, shall not be deemed a conflict with the New Term Loan Credit Agreement.

## 2. Security Interest.

(a) Grant of Security Interests. As security for the prompt payment and performance of the Secured Obligations, Debtor hereby grants to Collateral Agent, for the benefit of the Secured Parties, continuing security interests in all of such Debtor's right, title and interest in, to and under the following property, whether now existing or hereafter acquired or arising and whether registered or unregistered (collectively, the "Patent Collateral"):

(i) all letters patent of the U.S. or any other country, all registrations and recordings thereof, and all applications for letters patent of the U.S. or any other country, owned, held, or used by Debtor in whole or in part, including all existing U.S. patents and patent applications of Debtor which are described on Schedule A hereto, as the same may be amended or supplemented pursuant hereto from time to time, and together with and including all patent licenses held by Debtor, including such patent licenses which are described on Schedule A hereto, together with all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof and the inventions disclosed therein, and all rights corresponding thereto throughout the world, including the right to make, use, lease, sell and otherwise transfer the inventions disclosed therein, and all proceeds thereof, including all license royalties and proceeds of infringement suits (collectively, the "Patents");

(ii) all claims, causes of action and rights to sue for past, present and future infringement or unconsented use of any of the Patents and all rights arising therefrom and pertaining thereto;

(iii) all general intangibles and all intangible intellectual or other similar property of Debtor of any kind or nature, whether now owned or hereafter acquired or developed, associated with or arising out of any of the Patents and not otherwise described above; and

(iv) all products and Proceeds of any and all of the foregoing.

(b) Continuing Security Interests. Debtor agrees that this Agreement shall create continuing security interests in the Patent Collateral which shall remain in effect until terminated in accordance with Section 16.

(c) Incorporation into the New Term Loan Credit Agreement. This Agreement shall be fully incorporated into the New Term Loan Credit Agreement and all understandings, agreements and provisions contained in the New Term Loan Credit Agreement shall be fully incorporated into this Agreement. Without limiting the foregoing, the Patent Collateral described in this Agreement shall constitute part of the Collateral in the Security Agreement.

(d) Licenses. Debtor may grant licenses of the Patent Collateral in accordance with the terms of the New Term Loan Credit Agreement.

3. Further Assurances; Appointment of Collateral Agent as Attorney-in-Fact. Debtor at its expense shall execute and deliver, or cause to be executed and delivered, to Collateral Agent any and all documents and instruments, in form and substance satisfactory to Collateral Agent, and take any and all action, which Collateral Agent, in the exercise of its Permitted Discretion, may request from time to time, to perfect and continue perfected, maintain the priority of or provide notice of Collateral Agent's security interests in the Patent Collateral and to accomplish the purposes of this Agreement. If Debtor refuses to execute and deliver, or fails timely to execute and deliver, any of the documents it is requested to execute and deliver by Collateral Agent in accordance with the foregoing, Collateral Agent shall have the right to, in the name of Debtor, or in the name of Collateral Agent or otherwise, without notice to or assent by Debtor, and Debtor hereby irrevocably constitutes and appoints Collateral Agent (and any of Collateral Agent's officers or employees or agents designated by Collateral Agent) as Debtor's true and lawful attorney-in-fact with full power and authority, (i) to sign the name of Debtor on all or any of such documents or instruments, and perform all other acts, that Collateral Agent, in its Permitted Discretion, deems necessary or advisable in order to perfect or continue perfected, maintain the priority or enforceability of or provide notice of Collateral Agent's security interests in, the Patent Collateral, and (ii) to execute any and all other documents and instruments, and to perform any and all acts and things for and on behalf of Debtor, that Collateral Agent deems necessary or advisable to maintain, preserve and protect the Patent Collateral and to accomplish the purposes of this Agreement, including (A) upon the occurrence and during the continuance of any Event of Default, to defend, settle, adjust or institute any action, suit or proceeding with respect to any Patent Collateral, (B) upon the occurrence and during the continuance of any Event of Default, to assert or retain any rights under any license agreement for any Patent Collateral, including any rights of Debtor arising under Section 365(n) of the Bankruptcy Code, and (C) upon the occurrence and during the continuance of any Event of Default, to execute any and all applications, documents, papers and instruments for Collateral Agent to use any Patent Collateral, to grant or issue any exclusive or non-exclusive license with respect to any Patent Collateral, and to assign, convey or otherwise transfer title in or dispose of the Patent Collateral. The power of attorney set forth in this Section 3, being coupled with an interest, is irrevocable so long as this Agreement shall not have terminated in accordance with Section 16; provided that the foregoing power of attorney shall terminate when all of the Secured Obligations have been fully and finally repaid and performed and the Secured Parties' obligation to extend credit under the New Term Loan Credit Agreement is terminated.

4. Representations and Warranties. Debtor represents and warrants to each Secured Party, as follows:

(a) No Other Patents. A true and correct list of all Patents owned by Debtor, in whole or in part, is set forth on Schedule A (as amended from time to time).

(b) Validity. Each of the Patents listed on Schedule A is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, all maintenance fees required to be paid on account of any Patents have been timely paid for maintaining such Patents in force, and, to the best of Debtor's knowledge, each of the Patents is valid and enforceable.

(c) Title. (i) Debtor has rights in and good and defensible title to the existing Patent Collateral, (ii) Debtor is the sole and exclusive owner of the Patent Collateral, free and clear of any Liens and rights of others (other than Permitted Liens), including licenses, shop rights and covenants by Debtor not to sue third persons and (iii) with respect to any Patent for which Debtor is either a licensor or a licensee pursuant to a license or licensee agreement regarding such Patent, each such license or licensing agreement is in full force and effect, such Debtor is not in material default of any of its obligations thereunder, and no other Person is known by such Debtor to have any rights in or to any of the Patent Collateral other than (A) the parties to such licenses or licensing agreements, or (B) in the case of any non-exclusive license or license agreement entered into by Debtor or any such licensor regarding such Patent Collateral, the parties to any other such non-exclusive licenses or license agreements entered into by Debtor or any such licensor with any other Person.

(d) No Infringement. To the best of Debtor's knowledge, (i) no material infringement or unauthorized use presently is being made of any of the Patent Collateral by any Person, and (ii) the past, present and contemplated future use of the Patent Collateral by Debtor has not, does not and will not infringe upon or violate any right, privilege or license agreement of or with any other Person or give such Person the right to terminate any such license agreement.

(e) Powers. Debtor has the unqualified right, power and authority to pledge and to grant to Collateral Agent, for the benefit of the Secured Parties, security interests in all right, title, and interest of Debtor in and to the Patent Collateral pursuant to this Agreement, and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other Person except as already obtained.

5. Covenants. Debtor covenants that so long as this Agreement shall be in effect, Debtor shall:

(a) Promptly give Collateral Agent written notice of the occurrence of any event that could reasonably be expected to have a material adverse effect on any of the Patents or the Patent Collateral which is material to its business, including any petition under the Bankruptcy Code filed by or against any licensor of any of the Patents for which Debtor is a licensee;

(b) On a continuing basis, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places, all such instruments and documents, including appropriate financing and continuation statements and security agreements, and take all such action as may be necessary or advisable or may be requested by Collateral Agent to

carry out the intent and purposes of this Agreement, or for assuring, confirming or protecting the grant or perfection of the security interests granted or purported to be granted hereby, to ensure Debtor's compliance with this Agreement or to enable Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to the Patent Collateral. Without limiting the generality of the foregoing sentence, Debtor:

(i) hereby authorizes Collateral Agent in its Permitted Discretion if Debtor refuses to execute and deliver, or fails timely to execute and deliver, any of the documents it is requested to execute and deliver by Collateral Agent, to modify this Agreement without first obtaining Debtor's approval of or signature to such modification by amending Schedule A hereof to include a reference to any right, title or interest in any existing Patent or any Patent acquired or developed by Debtor after the execution hereof, or to delete any reference to any right, title or interest in any Patent in which Debtor no longer has or claims any right, title or interest; and

(ii) hereby authorizes Collateral Agent, in its Permitted Discretion, to file one or more financing or continuation statements, if Debtor refuses to execute and deliver, or fails timely to execute and deliver, any such amendment thereto it is requested to execute and deliver by Collateral Agent, in each case, relative to all or any portion of the Patent Collateral, without the signature of Debtor where permitted by law;

(c) Comply, in all material respects, with all applicable statutory and regulatory requirements in connection with any and all Patent Collateral and give such notice of patent, prosecute such material claims, and do all other acts and take all other measures which, in Debtor's reasonable business judgment, may be necessary or desirable to preserve, protect and maintain Patent Collateral that is material to its business and all of Debtor's rights therein, including the diligent prosecution of any patent application pending as of the date of this Agreement or thereafter.

(d) Comply with each of the terms and provisions of this Agreement, the New Term Loan Credit Agreement and the other Credit Documents and not enter into any agreement (for example, a license agreement) which is inconsistent with the obligations of Debtor under this Agreement without Collateral Agent's prior written consent; and

(e) Not permit the inclusion in any contract to which Debtor becomes a party of any provision that could or might impair or prevent the creation of security interests in favor of Collateral Agent, for the benefit of the Secured Parties, in Debtor's rights and interest in any property included within the definitions of the Patents, acquired under such contracts.

6. Future Rights. For so long as any of the Secured Obligations shall remain outstanding, or, if earlier, until Collateral Agent shall have released or terminated, in whole but not in part, its interest in the Patent Collateral, if and when Debtor shall obtain rights to or develop any new patentable inventions or become entitled to the benefit of any Patent, or any reissue, division, continuation, renewal, extension or continuation-in-part of any Patent or Patent Collateral or any improvement thereof (whether pursuant to any license or otherwise), the provisions of this Agreement shall automatically apply thereto and Debtor shall give to Collateral Agent prompt written notice thereof, and with respect to any other Patent Collateral, if



such other Patent Collateral is material to the Borrowers' business, Debtor shall give to Collateral Agent prompt written notice thereof. Debtor shall do all things deemed necessary or advisable by Collateral Agent, in its discretion, to ensure the validity, perfection, priority and enforceability of the security interests of Collateral Agent in such future acquired Patent Collateral.

7. Remedies. Upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have all rights and remedies available to it under the New Term Loan Credit Agreement and the other Credit Documents, and applicable law (which rights and remedies are cumulative) with respect to the security interests in any of the Patent Collateral or any other Collateral. Debtor agrees that such rights and remedies include the right of Collateral Agent as a secured party to sell or otherwise dispose of its Collateral after default, pursuant to the Code. Debtor agrees that Collateral Agent shall at all times have such royalty free licenses, to the extent permitted by law, for any Patent Collateral that is reasonably necessary to permit the exercise of any of Collateral Agent's rights or remedies upon the occurrence and during the continuance of an Event of Default with respect to (among other things) any tangible asset of Debtor in which Collateral Agent has a security interest, including Collateral Agent's rights to sell inventory, tooling or packaging which is acquired by Debtor (or its successor, assignee or trustee in bankruptcy). In addition to and without limiting any of the foregoing, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right but shall in no way be obligated to bring suit, or to take such other action as Collateral Agent, in its discretion, deems necessary or advisable, in the name of Debtor or Collateral Agent, to enforce or protect any of the Patent Collateral, in which event Debtor shall, at the request of Collateral Agent, do any and all lawful acts and execute any and all documents required by Collateral Agent in aid of such enforcement. To the extent that Collateral Agent shall elect not to bring suit to enforce such Patent Collateral, upon the occurrence and during the continuation of an Event of Default, Debtor, in the exercise of its reasonable business judgment, agrees to use all reasonable measures and diligent efforts, whether by action, suit, proceeding or otherwise, to prevent the infringement, misappropriation or violations thereof by others and for that purpose agree diligently to maintain any action, suit or proceeding against any Person necessary to prevent such infringement, misappropriation or violation.

8. Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by Debtor and Collateral Agent for the benefit of the Secured Parties and their respective successors and assigns.

9. Notices. All notices and other communications hereunder shall be in writing and shall be mailed, sent or delivered in accordance with the New Term Loan Credit Agreement.

10. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, except to the extent that the validity or perfection of the security interests hereunder in respect of the Patent Collateral are governed by federal law, in which case such choice of New York law shall not be deemed to deprive Collateral Agent of such rights and remedies as may be available under federal law.

11. Entire Agreement; Amendment. This Agreement and the other Credit Documents, together with the Schedules hereto and thereto, which are incorporated herein by this reference, contain the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior drafts and communications relating to such subject matter. Neither this Agreement nor any provision hereof may be modified, amended or waived except by the written agreement of the parties, as provided in the New Term Loan Credit Agreement. Notwithstanding the foregoing, Collateral Agent may re-execute this Agreement or modify, amend or supplement the Schedules hereto as provided in Section 6 hereof.

12. Severability. If one or more provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect in any jurisdiction or with respect to any party, such invalidity, illegality or unenforceability in such jurisdiction or with respect to such party shall, to the fullest extent permitted by applicable law, not invalidate or render illegal or unenforceable any such provision in any other jurisdiction or with respect to any other party, or any other provisions of this Agreement.

13. Counterparts; Telefacsimile Execution. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement. Delivery of an executed counterpart of this Agreement by telefacsimile shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

14. Credit Documents. Debtor acknowledges that the rights and remedies of Collateral Agent with respect to the security interests in the Patent Collateral granted hereby are more fully set forth in the New Term Loan Credit Agreement and the other Credit Documents and all such rights and remedies are cumulative.

15. No Inconsistent Requirements. Debtor acknowledges that this Agreement and the other Credit Documents may contain covenants and other terms and provisions variously stated regarding the same or similar matters, and Debtor agrees that all such covenants, terms and provisions are cumulative and all shall be performed and satisfied in accordance with their respective terms.

16. Termination. Upon the payment and performance in full in cash of the Secured Obligations and the full and final termination of any commitment to extend any financial accommodations under the New Term Loan Credit Agreement this Agreement shall terminate and Collateral Agent shall execute and deliver such documents and instruments and take such further action reasonably requested by Debtor, at Debtor's expense as shall be necessary to evidence termination of the security interests granted by Debtor to Collateral Agent for the benefit of the Secured Parties hereunder.

17. Duties of Collateral Agent and the Secured Parties. Notwithstanding any provision contained in this Agreement, none of Collateral Agent or any other Secured Party shall


have any duty to exercise any of the rights, privileges or powers afforded to it and shall not be responsible to or any other Person for any failure to do so or delay in doing so. Except for the accounting for moneys actually received by Collateral Agent, any other Secured Party hereunder or in connection herewith, none of Collateral Agent or any other Secured Party, shall have any duty or liability to exercise or preserve any rights, privileges or powers pertaining to the Patent Collateral.

18. Intercreditor Agreement. Notwithstanding anything contained herein to the contrary, the rights and obligations of the Debtor and the Collateral Agent are subject in all respects to the provisions of the Intercreditor Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement,  
as of the date first above written.

**WOOD WASTE ENERGY, INC.,**  
a Virginia corporation

By:   
Name: Kenneth J. Butler  
Title: Vice President

**SILVER POINT FINANCE, LLC,**  
a Delaware limited liability company, as Collateral Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[SIGNATURE PAGE TO PATENT SECURITY AGREEMENT]

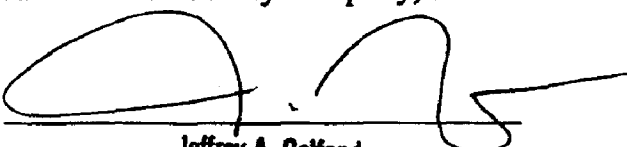
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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement,  
as of the date first above written.

**WOOD WASTE ENERGY, INC.,**  
a Virginia corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SILVER POINT FINANCE, LLC,**  
a Delaware limited liability company, as Collateral Agent

By:   
Name: Jeffrey A. Gelfand  
Title: Authorized Signatory

[SIGNATURE PAGE TO PATENT SECURITY AGREEMENT]

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## SCHEDULE A

### PATENTS, PATENT APPLICATIONS AND PATENT LICENSES

#### US Patents

Grantor	Description	Patent Number	Issue Date
Wood Waste Energy, Inc.	BULK MATERIAL SHREDDER AND METHOD	5601239	2/11/97

Patent Licenses: US Patent No. 6,276,412, Timber Incisor, licensed to Dura-Wood, LLC as of July 9, 2002