

[Execution Copy]

EXHIBIT A
TO RESOLUTION
1988-119

ADDENDUM XII
TO
NRG/LAKE COUNTY AGREEMENT
(As Amended and Restated)

Dated as of November 8, 1988

**DEPARTMENT OF
SOLID WASTE MANAGEMENT SERVICES**

P.O. BOX 7800
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SENIOR DIRECTOR - EXT. 232
SOLID WASTE OPERATIONS DIRECTOR - EXT. 223
OPERATIONS AND SUPPORT - EXT. 221
RECYCLING SERVICES - EXT. 230
SCALEHOUSE OPERATIONS - EXT. 237
SPECIAL PROGRAMS - EXT. 227
SPECIAL WASTE - EXT. 238
SUPPORT SERVICES - EXT. 249
WASTE MANAGEMENT FACILITIES OPERATIONS - EXT. 222

Via FedEx
October 26, 1998

C.H. Fancy, PE, Chief
Bureau of Air Regulation
Florida Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee FL 32399-2400

RE: Ogden Martin Systems of Lake, Inc. Permit Modification Application
Your Reference: 0690046-002-AC

Dear Mr. Fancy:

Pursuant to our telephone conversation last week, regarding the above referenced request by Ogden Martin Systems of Lake to modify their construction permit to processing of more medical waste than currently allowed, I am enclosing a copy of Lake County's contractual service agreement with Ogden Martin for your ready reference.

Should you have any additional questions, please feel free to contact me at the above address, or by telephone at (352) 343-3776, extension 227.

Sincerely,

David R. Crowe
Senior Contract Administrator

DRC/bhs

cc: Donald R. Post, Senior Solid Waste Management Director (w/o enclosure)
Kathleen Farner-Thomas, Solid Waste Operations Director(w/o enclosure)

ADDENDUM XI

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ADDENDUM XII
to
NRG/LAKE COUNTY AGREEMENT
(As Amended and Restated)

THIS ADDENDUM TO AGREEMENT made and executed as of this 8th day of November, 1988, by and between the Board of County Commissioners of Lake County, Florida hereinafter referred to as the "County," and NRG/Recovery Group, Inc, a Florida corporation, hereinafter referred to as "NRG."

W I T N E S S E T H:

WHEREAS, the County and NRG have heretofore entered into an Agreement dated as of January 15, 1985, relating to the processing of certain municipal wastes, and have entered into twelve addenda with respect thereto prior to the date hereof and have agreed to certain amendments to Addendum XII to NRG/Lake County Agreement (as Amended and Restated) dated as of September 20, 1988, which were approved by the County on November 8, 1988 (collectively, the "Agreement"); and

WHEREAS, the parties wish to further amend the Agreement and to restate the terms thereof in its entirety as hereinafter set forth, expressly superseding all prior agreements and understandings of the parties with respect to the subject matter hereof;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Article I

Definitions

The following words used herein in capitalized form shall have the meanings ascribed to them in this section, unless a different meaning is clear from the context:

"Acceptance Criteria" shall have the meaning specified in Section 4.1 of Schedule 4.

"Acceptable Waste" shall mean all solid wastes of the type presently accepted as of the date of this Agreement at the landfills of the County including all ordinary household, institutional and commercial wastes which consist primarily of combustible materials excluding, however, Unacceptable Waste.

"Additional Capital Investments" shall mean those investments incurred by NRG as a result of a Change as contemplated in Section 8.07(b) hereof.

"Agreement" shall mean this Addendum XII between the County and NRG, as it may be amended from time to time, including (without limitation) amendments approved by the County on November 8, 1988, which expressly restates in its entirety the Agreement between the County and NRG dated as of January 15, 1985 and all previously executed addenda thereto.

"Alternate Disposal Methods" means the use of the Landfill or, if the Landfill is not available, any reasonable method of disposal of Acceptable Waste approved by the County, which approval shall not be unreasonably withheld, other than the normal operation of the Facility, either through the use of the Facility, the Site or any portion thereof, or otherwise through the use of alternate equipment or facilities (including a permitted sanitary landfill).

"Available Funds" means any moneys other than Tipping Fees that are lawfully made available to pay amounts due under this Agreement, such as funds appropriated by the County for such purpose and non-ad valorem revenues pursuant to the Special Assessment Ordinance.

"Bonds" shall mean the private activity bonds issued by the Issuer from time to time to finance the construction of the Facility.

"Billing Year" shall mean the twelve calendar month period commencing on the first day of the first calendar month following the Service Date and each twelve month period thereafter; except that the last Billing Year shall end concurrently with the expiration or termination of this Agreement, and except that the first month of the first Billing Year shall be the period from the Service Date to the first day of the next succeeding calendar month.

"Changes" shall have the meaning specified in Section 3.07.

"Change in Law" shall mean any of the following, howsoever arising, which has a material adverse effect (or the effects of which, when aggregated with other changes in law, whether or not individually material, are collectively material) on a Party or its ability to perform its obligations under this Agreement or on the design, construction, testing, acceptance testing, operation, maintenance, repair, improvement or cost of the Facility or any financing incurred in connection

with the construction or operation thereof or the handling, transportation or disposal of Residue, Shutdown Waste or Unacceptable Waste: (a) the suspension, termination, denial or failure or delay of the issuance or renewal of, or the imposition of any different or additional conditions as a precondition to the issuance, continuation or renewal of, any permit, license, consent, authorization or approval required by applicable law, regulation, ordinance or code for or in connection with the ownership, leasing, design, construction, testing, operation, maintenance, repair or improvement of the Facility, or the handling, transportation or disposal of Residue, Shutdown Waste or Unacceptable Waste, provided that any such suspension, termination, denial, failure, delay or imposition shall not be the result of the willful or negligent action or a lack of reasonable diligence on the part of the Party claiming the Change in Law (except that neither the contesting in good faith of any such regulatory event nor the reasonable failure to so contest shall be construed as a negligent or willful action or inaction of such Party), or (b) any change or modification in, or change or modification in the interpretation or adoption of, any Federal, state or local law, ordinance, code, rule, order, published or private ruling, or regulation including but not limited to any change in tax law, ordinance, code, rule, ruling or regulation, or any court order, or interpretation thereof, which is legally binding with respect to the ownership, design, construction, start-up, testing, operation or maintenance of the Facility, or the financing thereof, which cannot be stayed by such Party, which occurs on or after the Contract Date; provided, however, that a Change in Law shall not include (i) any taxes, fees, assessments or other charges that are based on or measured by gross or net income, (ii) employment taxes including taxes under the Federal Insurance Contribution Act, or (iii) any interest, penalties or fines accruing other than due to a County delay in payment or County Fault, or (c) any modification to the Facility or in the method of operation or maintenance of the Facility as a result of compliance with the conditional use permit applicable to it, provided that any such modification shall not be the result of the willful or negligent action or a lack of reasonable diligence on the part of the Party claiming the Change in Law, or (d) the negation, modification, suspension, termination, delay, revision or other alteration of any County preliminary or final permit or other approval issued by or on behalf of the County for the Facility or the Site, or the invalidity, in whole or in part, of any ordinance of the County used as the basis for the issuance of any such permit or approval due to (i) the enactment after November 8, 1988 of any ordinance, rule or regulation by the County, (ii) the change after November 8, 1988 by the County of any interpretation of its ordinances, resolutions, rules, regulations or approvals, any other act or (iii) failure to act on the part of the County, or any legal action or proceeding

which results in any administrative or judicial order, ruling or other decision (a "County Change in Law").

The County shall not be liable for the loss of any tax benefits relating to the Facility due to any Change in Law.

"Commencement Date of Operations" shall mean the date following Start-Up and the satisfaction of Acceptance Criteria, and completion of the Performance Tests upon which the Facility is accepted pursuant to Schedule 14.

"Company Fault" shall mean the unexcused non-performance by NRG of its obligations under this Agreement.

"Confidential Information" means proprietary information and data of NRG or the Contractor given to the County by NRG in connection with this Agreement that (1) is not in the public domain, (2) is in written, graphic or tangible form and (3) is conspicuously identified as confidential by the word "confidential" marked thereon.

"Consulting Engineer" shall mean R.W. Beck & Associates or other nationally recognized consulting engineer or firm having experience with respect to the design, construction, acceptance, operation and maintenance of solid waste disposal and resource recovery facilities acceptable to the Parties.

^
"Contract Date" shall mean the effective date of this Agreement as defined in Section 15.13 hereof.

"Cost Substantiation" shall mean, with respect to any costs, a certificate signed by an authorized representative of the requesting party, setting forth the reasons for incurring the cost, the amount of such cost with supporting invoices and other pertinent available documentation and the event or Section of this Agreement giving rise to the right to incur such cost and that such cost is at a competitive price for the services or materials supplied. If the party receiving such request does not object to any such certificate within thirty (30) days, it shall be deemed approved.

"County Change in Law" shall have the meaning specified in paragraph (d) of the definition of "Change in Law".

"County Fault" shall mean the unexcused non-performance by the County of its obligations under this Agreement.

"County Waste" shall mean (i) all waste generated in the County and delivered to the Facility and (ii) any waste

generated outside the County and delivered to the Facility for the account of the County under arrangements similar to those described in Section 6.02.

"Credit Documents" shall mean the reimbursement agreements and related documents entered into between NRG and the Credit Provider and any other agreements and instruments executed in connection therewith that are consented to by the County.

"Credit Provider" shall mean the issuer of a letter of credit, insurance, guarantee or similar agreement providing credit or liquidity enhancement to the Bonds.

"Delivery Hours" shall mean the nine and one-half hours per day between 7:30 a.m. and 5:00 p.m., Monday through Saturday, during which deliveries of Acceptable Waste will be normally accepted at the Facility excluding, however, New Year's Day, Thanksgiving, Christmas, and July 4. Such hours may be adjusted by written mutual agreement of the parties or as otherwise expressly provided herein.

"Delivery Day" shall mean any period from 12:00 o'clock midnight to 11:59 p.m. when Delivery Hours exist.

"Detailed Plans" shall have the meaning specified in Section 3.07.

"Escalation Factor" shall mean that factor computed in accordance with Schedule 1 hereto.

"Extension Period" shall mean the period of seven hundred and thirty (730) days, exclusive of any delays caused by Force Majeure or by the undertaking of any Required Change, that follows the Scheduled Commencement Date of Operations; provided that the Extension Period shall not expire until any dispute related to the results of the Performance Tests shall have been concluded as provided in Section 15.12; and provided, further, that the Extension Period shall in any event terminate upon the occurrence of the Commencement Date of Operations.

"Facility" shall mean the waste-to-energy plant and ancillary facilities, roadways, equipment and other improvements to be constructed by NRG on the Site as contemplated by this Agreement, all equipment and vehicles used in connection therewith (including haul vehicles necessary for the delivery of Residue and Shutdown Waste at the Landfill) and all modifications thereof, replacements, and additions thereto.

"Federal Bankruptcy Act" or "Federal Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. Section 101, et seq., as amended or hereafter supplemented.

"Financing Agreement" shall mean that certain agreement to be entered into between NRG and the Issuer with respect to the issuance of the Bonds.

"Flow Control Ordinance" shall mean Ordinance 1988-13 adopted by the Board of County Commissioners of Lake County on September 27, 1988.

"Force Majeure" or "Event of Force Majeure" shall mean any act, event or condition, whether affecting the Facility, the County or NRG, that has, or may reasonably be expected to have, a material adverse effect on NRG or the County, or on any of the Project Agreements or on the Facility or the Site or the acquisition, design, construction, equipping, start-up, testing, operation, ownership or possession of any and all of them, or on the handling, transportation, removal or disposal of Residue, Shutdown Waste or Unacceptable Waste, if such event or condition is beyond the reasonable control, and not attributable to the willful or negligent action or a lack of reasonable diligence, of the party (the "Non-Performing Party") relying thereon as justification for not performing any obligation or complying with any condition required of such party hereunder, except that a Force Majeure shall not, except as provided in (iv) below, include a labor strike or the failure of any subcontractor or supplier of NRG to furnish labor, services, materials or equipment. Such acts, events or conditions may include, but shall not be limited to, the following:

(i) an act of God, such as a hurricane, lightning, fire, explosion, nuclear radiation, tornadoes, earthquake, flood, landslide, or other cataclysmic phenomenon of nature;

(ii) an act of public enemy, war, blockade, insurrection, riot, general unrest or restraint by government or people, civil disorder or disturbance, fires and explosions;

(iii) governmental preemption of materials in connection with a national emergency;

(iv) the failure of contractors, subcontractors or suppliers, other than NRG, to furnish labor, services, materials, or equipment on the dates agreed to; provided such failure is (A) caused by an act, event or circumstance affecting performance of such party that would be a Force Majeure if directly affecting NRG or results from labor difficulties, and (B) materially adversely affects NRG's ability to perform its obligations and (C) NRG is not able reasonably to obtain substitute services, materials or equipment on the agreed upon dates at comparable prices.

(v) any Change in Law, County Change in Law or County Fault, when used only with respect to a Force Majeure claimed by NRG or any Company Fault when used only with respect to a Force Majeure claimed by the County;

(vi) a default by an energy purchaser under its power sales agreement (or wheeling agreement) with NRG;

(vii) the delivery to the Facility of Hazardous Waste which is County Waste;

(viii) the condemnation, taking, seizure, involuntary conversion or requisition of title to or use of the Facility, the Site or any material portion or part thereof by the action of any Federal, state, county, city or other local government agency or political subdivision.

(ix) surface or underground site conditions or obstructions which are discovered or arise after the Commencement Date of Operations which are beyond the reasonable control of NRG and have a materially adverse effect on the ability of NRG to perform;

(x) with respect to NRG only, the failure by the County to provide a Landfill for the disposal of Residue and Shutdown Waste as provided in this Agreement;

(xi) the loss of or inability, in either case, for reasons other than the negligent or willful act or omission of the party claiming such event, to obtain any utility services, including road access, natural gas, water, sewerage and electrical power which results in the total or partial curtailment of operations at the Facility; and

(xii) any failure by the Credit Provider supplying liquidity for Indebtedness approved by the County to purchase or fund the purchase of any such Indebtedness put by the owner thereof or required to be redeemed pursuant to the loan documents executed in connection therewith.

An Event of Force Majeure shall not relieve either party of any payment obligations hereunder. As to NRG, an Event of Force Majeure may not be claimed in respect of any negation, modification, suspension, termination, delay, revision or other alteration of any County preliminary or final permit or other approval issued by or on behalf of the County for the Facility or the Site except to the extent constituting a County Change in Law.

"Guaranteed Annual Tonnage" shall mean 130,000 tons which is the minimum number of tons of Acceptable Waste that the County is required to deliver to the Facility during each

Billing Year during the term hereof, provided that tonnages for the last Billing Year of this Agreement, if less than a full year, shall be pro rated on the basis of the total number of days in such year during which this Agreement is in effect over a period of three hundred sixty-five (365) days. The County may increase its Guaranteed Annual Tonnage in accordance with Section 5.01.

"Guaranteed Plant Capacity" shall mean the capacity of the Facility to process at least one hundred sixty-three thousand (163,000) tons of Acceptable Waste in a Billing Year, provided that tonnages for the last Billing Year of this Agreement, if less than a full year, shall be pro rated on the basis of the total number of days in such year during which this Agreement is in effect over a period of three hundred sixty-five (365) days.

"Guaranteed Plant Performance" shall mean the throughput tonnage of Acceptable Waste which NRG guarantees can be processed at the Facility in each Billing Year, which is 163,000 tons per year, subject to the adjustments set forth in Schedule 2 hereto, provided that tonnages for the last Billing Year of this Agreement, if less than a full year, shall be pro rated on the basis of the total number of days in such year during which this Agreement is in effect over a period of three hundred sixty-five (365) days.

"Guaranty Agreement" shall mean the Ogden Guarantee dated as of November 1, 1988.

"Hazardous Waste" shall mean any material or substance, or combination of materials or substances, which as of the Contract Date by reason of composition or characteristic is

(a) a hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. § 9601 (Supp. 1987), including but not limited to all materials listed or identified as hazardous waste under Subtitle C of the Resource Conservation & Recovery Act of 1976, as amended, 42 U.S.C.A. § 6921 (1983 and Supp. 1987) and implementing regulations adopted by the United States Environmental Protection Agency found at 40 C.F.R., Part 261, and all materials listed or identified as hazardous waste pursuant to Section 403.72, Florida Statutes (1987) and the implementing regulations of the State of Florida Department of Environmental Regulation found at Rule 17-30.030, Florida Administrative Code or as defined in the Toxic Substances Control Act, 15 U.S.C.A. §2601 et seq., as amended, and related regulations;

(b) a chemical listed by the United States Environmental Protection Agency in accordance with Section 302(a) or Section 313(c) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. §§ 11002(a), 11023(c) (1987 Supp.);

(c) a special nuclear or byproduct material within the meaning of the Atomic Energy Act of 1954, 42 U.S.C.A. § 2014 (1975 and 1987 Supp.);

(d) a danger to health or safety including, but not limited to, any material or substance or combination of materials or substances which are explosive, toxic, corrosive, flammable, reactive, an irritant, or a strong sensitizer, or which generate pressure through decomposition, heat, or other means if such materials or substances may cause injury, illness or harm to humans, to domestic animals or livestock, or to wildlife, or

(e) prohibited by any federal, state, or local law, regulation, or ordinance from being deposited in the Landfill then generally being used for disposal in connection with the Facility.

With regard to materials or substances which are not Hazardous Waste as of the Contract Date, if any governmental agency or unit having appropriate jurisdiction shall thereafter determine, pursuant to a Change in Law that such materials or substances are Hazardous Waste, then such materials or substances shall be considered to be Hazardous Waste for the purposes of this Agreement as of the effective date of such governmental determination.

"Indebtedness" shall mean any indebtedness incurred by NRG in accordance with Sections 8.02(d) and 8.07(b) and any indebtedness approved by the County to refinance such Indebtedness.

"Indenture" shall mean that certain Indenture of Trust entered into between the Issuer and the Trustee with respect to the Bonds.

"Interlocal Agreements" shall mean the interlocal agreements between the County and certain incorporated municipalities within the County with respect to the Facility.

"Issuer" shall mean the Lake County Industrial Development Authority or Lake County, Florida, as the case may be, as issuer of the Bonds.

"Landfill" shall mean the suitable disposal site or sites designated by the County from time to time pursuant to

the terms hereof which is permitted under all applicable laws for the disposal of Unacceptable Waste (except Hazardous Waste), Residue and Shutdown Wastes.

"Monthly Billing Period" shall mean the monthly period described in Section 8.06 hereof.

"NRG" shall mean NRG/Recovery Group, Inc., a corporation of the State of Florida.

"Non-Processed Waste" shall mean any Acceptable Waste delivered to the Facility by the County or pursuant to Outside Waste Contracts (which shall be deemed to include in either case Acceptable Waste diverted from the Facility at the direction of NRG) and not processed by NRG for any reason other than the reasons for which NRG is permitted to reject County Waste, up to an amount equal to one-twelfth of the Guaranteed Plant Capacity less the sum of (A) the number of tons of Acceptable Waste processed in the Facility during such Monthly Billing Period, plus (B) the number of tons of Wrongfully Rejected Waste for which NRG is required to pay lost energy revenues for such Monthly Billing Period.

"Other Payments Balance" shall have the meaning provided such term in Section 8.06(a).

"Outside Waste" shall mean Acceptable Waste generated outside of the County and delivered to the Facility for the account of NRG.

"Outside Waste Contract" shall have the meaning provided such term in Section 6.01.

"Parties" shall mean LAKE COUNTY and NRG/RECOVERY GROUP, INC.

"Pass Through Costs" shall mean those costs described in Section 8.04 and Schedule 3 hereto.

"Performance Tests" shall mean those tests which the Facility is required to complete before the Scheduled Commencement Date of Operations or at NRG's election no later than by the end of the Extension Period, as set forth in Schedules 4, 5 and 14.

"Performance Standards" shall mean those performance standards for the Facility as defined in Section 4.2 of Schedule 4 hereto.

"Pit" means the storage area on the Site from which Acceptable Waste is extracted for processing.

"Primary Company Fault" means any (i) Company Fault or (ii) default or nonperformance by NRG under the Financing Agreement or any Credit Document or any other Project Agreement, excluding, however, any Company Fault, default or nonperformance which results from any Event of Force Majeure, any acts of third parties beyond the reasonable control and not the result of any default of NRG, any County Fault or any default or unexcused nonperformance by the County (as Issuer or otherwise) under the Indenture or any other Project Agreement. D

"Power Sales Agreement" shall mean the Standard Offer Contract for the Purchase of Firm Energy and Capacity from a Qualifying Facility dated October 12, 1988, as amended, supplemented or replaced with similar agreements from time to time. The Power Sales Agreement shall not be amended, supplemented or replaced, and NRG shall not change the committed capacity of the Facility or the billing methodology under the Power Sales Agreement, without the prior written consent of the County, which consent shall not be unreasonably withheld.

"Project Agreements" shall mean all agreements entered into by NRG in connection with the construction, permitting, ownership, use, operation, maintenance or repair of the Facility or the financing thereof including, without limitation, the Power Sales Agreement, the Bonds and other Indebtedness issued or incurred to finance the acquisition, construction or installation of the Facility, the Indenture, Financing Agreement, Credit Documents and any mortgage securing the obligations of NRG thereunder, any reimbursement agreement with a Credit Provider, any remarketing agreement and related documents executed in connection with the delivery of such indebtedness, and this Agreement approved by the County.

"Recovered Energy Credits" shall mean the credits which the County is entitled to receive pursuant to Section 8.05.

"Recoverable By-products" shall mean any energy and material recoverable from waste delivered to the Facility either before, during or after combustion that can be commercially sold with or without additional processing, including, without limitation, iron, aluminum, glass, plastic, steam, electricity and ash.

"Reimbursable Costs" shall mean those costs described in Schedule 16 hereto.

"Required Change" means any change required or permitted as contemplated in Section 8.07(b) hereof.

"Residue" shall mean the residual remaining after the combustion of waste by the Facility and all processed waste and residue which may result from the operation of the Facility, including, without limitation, bottom ash and fly ash.

"Service Date" shall mean the earlier of (a) the day 850 days from the date on which the conditions precedent required by Article IX have been met or (b) the Commencement Date of Operations.

"Scheduled Commencement Date of Operations" shall mean the day 850 days from the date on which the conditions precedent required by Article IX have been met or, in the event of one or more delays caused by Force Majeure or by a Required Change, the date which is the next business day following the date calculated by adding to the original Scheduled Commencement Date of Operations the aggregate number of days of such delay. If the Commencement Date of Operations occurs prior to the Scheduled Commencement Date of Operations, the Scheduled Commencement Date of Operations shall be deemed to have occurred on the Commencement Date of Operations.

"Service Fee" shall mean the fees and costs payable by the County pursuant to Article VIII hereof.

"Shutdown" shall mean any period during which the Facility cannot accept delivery of Acceptable Waste for processing, for any reason, after the Scheduled Commencement Date of Operations. A Shutdown may include a full shutdown of the Facility or a reduction in the Facility's operating capacity.

"Shutdown Waste" shall mean all Acceptable Waste which cannot be processed at the Facility during a Shutdown but which was delivered to the Facility prior to or accepted during Shutdown.

"Site" shall mean that parcel of real property located in Lake County, Florida on which the Facility is to be constructed, consisting of fifteen (15) acres located on the Southwest corner of Jim Rogers Industrial Park Road and County Road (2-3210).

"Solid Waste System" shall mean the Facility capacity made available to the County pursuant to this Agreement, together with any landfill, equipment, or facility of the County designed to collect, manage and dispose of solid waste (including, but without limitation, all County Waste, Residue, Unacceptable Waste and Shutdown Waste), and the land, structures, vehicles and equipment for use in connection therewith and in connection with the County's obligations under this Agreement.

"Solid Waste System Expenses" shall mean the expenses incurred by or on behalf of the County with respect to the procurement, operation, maintenance and repair of the Solid Waste System, including (without limitation) payments pursuant to this Agreement (including, but not limited to, the Service Fee), debt service and related fees and expenses of bonds, notes or other obligations incurred to finance any portion of the Solid Waste System, all ordinary and extraordinary expenses incurred by or on behalf of the County for the maintenance and repair of the Solid Waste System, insurance premiums, administrative and engineering expenses of the County relating to the Solid Waste System, fees and expenses, taxes lawfully imposed upon the Solid Waste System, payments to pension or retirement funds and other expenses required or permitted to be paid by the County. Solid Waste System Expenses shall not include any allowance for depreciation or other non-cash items or amounts paid from the proceeds of debt.

"Special Assessment Ordinance" shall mean Ordinance 88-14 adopted by the Board of County Commissioners of Lake County on October 11, 1988.

"Specially Permitted Waste" shall mean that Unacceptable Waste that is affirmatively accepted by NRG for reasons of economy, expediency or other reasons at the sole discretion of NRG. Acceptance of Unacceptable Waste in any instance shall not constitute a waiver of the County's obligation to deliver only Acceptable Waste, the County's obligation to pay various costs associated with the delivery, processing, clean up and disposal of such Unacceptable Waste, or NRG's right to reject Unacceptable Waste hereunder, regardless of the frequency of such acceptance. Unacceptable Waste delivered pursuant to written arrangements with NRG or oral permission of the Facility manager shall be deemed to be affirmatively accepted for purposes of this definition.

"Specifications" shall have the meaning as set forth in Section 3.03 of this Agreement.

"Startup Date" shall mean the date NRG notifies the County that construction of the Facility has been substantially complete and that the Facility is ready for startup testing.

"Tipping Fees" means, for any period, all revenues of the County that upon receipt should be reflected as revenues of the Solid Waste System upon separate financial statements for the Solid Waste System in accordance with generally accepted accounting principles, including (without limitation) all tipping fees received at any time by the County for the use of the Facility or any other portion of the Solid Waste System,

all amounts payable by the County from non-ad valorem special assessments or other lawful charges for the use of the Solid Waste System to dispose of solid waste and amounts received by the County from Ogden Corporation pursuant to the Guaranty Agreement.

"Tipping Fee Revenues" shall have the meaning as set forth in Section 8.03 of this Agreement.

"Ton" or "ton" shall mean a short ton consisting of 2,000 pounds.

"Trustee" shall mean the entity serving as trustee under the Indenture.

"Unacceptable Waste" shall mean (i) Hazardous Waste and (ii) items in quantities or concentrations which, if accepted at the Facility, would be likely to materially adversely affect the operation of the Facility, damage the Facility or result in a violation of any permit for the Facility or any applicable law, including, without limitation, the items listed below; provided, however, that no such items shall constitute Unacceptable Wastes if and to the extent that such items (x) are normally found in household waste, or in commercial or institutional waste in small quantities and concentrations and (y) may be processed at the Facility under applicable law, excluding the items listed in (a) through (k) below to the extent that they damage the Facility or result in a violation of any permit for the Facility:

- (a) Demolition or construction debris from building and roadway projects or locations (other than demolition or construction debris that consist primarily of combustible materials and is not likely to adversely affect the operation of the Facility or result in a violation of any permit for the Facility or applicable law).
- (b) Liquid wastes or any sludges (unless the County has approved the inclusion of equipment as a Required Change to allow the processing of dry sludge).
- (c) Tires, marine vessels, or motor vehicles or any major parts or components thereof.
- (d) Dead animals or portions thereof.
- (e) Pathological wastes.
- (f) Water treatment residues.

- (g) Tree stumps, stems, branches or other combustibles over six inches (6") in diameter or in excess of four feet (4') in length (unless the County has approved the inclusion of equipment as a Required Change to reduce the size of such materials in the specifications for the Facility).
- (h) Waste oil.
- (i) Machinery (other than small household appliances) or equipment including, without limitation, discarded "white goods" such as freezers, refrigerators, washing machines, etc.
- (j) Industrial wastes unless such material is reviewed by NRG and the County and is determined to meet the requirements set forth above.
- (k) Other large, bulky or unsuitable items such as mattresses, beds, furniture, carpets, bicycles, baby carriages and the like.

Notwithstanding the above limitations, Unacceptable Waste shall not include Specially Permitted Waste.

"Wrongfully Rejected Waste" shall have the meaning as set forth in Section 8.09(b)(i) of this Agreement.

ARTICLE II

Representations and Warranties

Section 2.01. Representations by NRG. NRG warrants and represents to County the following:

a. NRG is a corporation duly organized and validly existing under the laws of Florida, in good standing, and authorized to do business under the laws of the State of Florida and it has full power and authority to execute and to enter into this Agreement and is qualified to perform this Agreement in accordance with its terms.

b. The execution and delivery of this Agreement has been duly authorized by all appropriate actions of its stockholders, and this Agreement constitutes the legal, valid and binding obligation of NRG enforceable in accordance with its terms (except as enforceability may be limited by applicable bankruptcy or similar laws affecting creditors' rights and by application of equitable principles if equitable remedies are sought).

c. The execution, delivery and performance of this Agreement will not violate any provision of law, any order of any court or other agency of government, its articles of incorporation, or any indenture, material agreement or other instrument to which NRG is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of NRG other than as required in connection with the financing of the Facility as contemplated herein.

d. To the best of its knowledge, there is no pending or threatened litigation or governmental proceedings which could adversely affect NRG's ability to undertake the construction or operation of the Facility or would affect its ability to perform its obligations under this Agreement.

e. NRG and its contractual agents, engineers, and contractors have recognized expertise and experience in the field of solid waste management and power plant construction and operation, and NRG will exercise and apply same in performance of all of its obligations hereunder.

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Section 2.02. Representations by County. The County represents and warrants as follows:

a. -- The County is a political subdivision of the State of Florida and is empowered and authorized under the laws of the State of Florida to enter into this Agreement and to perform its obligations hereunder.

b. The execution and delivery of this Agreement has been duly authorized by all appropriate actions of the County's governing body, and this Agreement constitutes the legal, valid and binding obligation of the County, enforceable in accordance with its terms (except as enforceability may be limited by applicable bankruptcy or similar laws affecting creditors' rights, and by application of equitable principles if equitable remedies are sought.)

c. To the best of its knowledge, there is not pending or threatened litigation or governmental proceedings pertaining to the County which would adversely affect the construction of the Facility or contemplated operation of it or would affect the County's obligations under this Agreement.

d. The execution, delivery and performance of this Agreement will not violate any provision of law, any order of any court or other agency of government, or any indenture, material agreement or other instrument to which the County is now a party or by which it or any of its properties, revenues or assets are bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties, revenues or assets of the County other than as required in connection with the financing of the Facility as contemplated herein.

ARTICLE III

Design and Construction of the Facility

Section 3.01. The Facility. (a) Subject to the conditions precedent to its obligations hereunder, as set forth below, NRG agrees to construct and operate the Facility on the Site. NRG shall be entitled to receive payment for the design, construction, start-up and testing of the Facility in accordance with the Financing Agreement (the "Facility Price") and shall be entitled to its Reimbursable Costs as set forth in Schedule 16.

(b) The Facility shall have the capacity to process at least 163,000 tons of Acceptable Waste in a Billing Year, subject to the adjustments contemplated in Schedule 2 hereto.

(c) NRG agrees to pay all costs and expenses constituting Reimbursable Costs, subject to NRG's entitlement to reimbursement from the County as set forth in Schedule 16.

Section 3.02. Construction Notices. At the time of commencement of construction, NRG shall prepare and submit to the County a tentative schedule showing the construction timetable. Upon completion of Facility construction, and periodically thereafter until acceptance of the Facility, but no less frequently than monthly, NRG shall notify the County of the expected Commencement Date of Operations.

Section 3.03. Construction and Testing. NRG shall, at its own expense, employ the Contractor to design, construct, equip, test and start-up the Facility in good and workmanlike manner pursuant to good construction and engineering practices and in accordance with (i) this Agreement and (ii) the specifications for the Facility set forth in Schedule 6 (the "Specifications") and the Detailed Plans, and (iii) applicable law. NRG shall conduct the performance tests set forth in Schedule 5 in accordance with this Agreement. NRG shall cause the Facility to satisfy the Acceptance Criteria set forth in Schedule 4. NRG shall perform all its obligations under this Section 3.03 on or before the Scheduled Commencement Date of Operations or, at the election of NRG, by no later than the end of the Extension Period.

Section 3.04. Labor, Materials and Equipment; Subcontractors. NRG shall furnish directly or through subcontractors selected by the Contractor all work, labor, materials, testing, supervision and equipment required for the performance of its obligations relating to the design, construction, equipping, testing, or start-up of the Facility.

Section 3.05. Consulting Engineer. At the County's request, NRG shall, agree to reimburse the County for the County's cost for the Consulting Engineer in the event the conditions precedent set forth in Article IX are not satisfied, who shall (i) conduct a feasibility study of the project and deliver reports to the County and NRG's lenders with respect thereto and (ii) review the progress of construction of the Facility from time to time and shall periodically deliver to the County and the lenders' reports in such detail as the County may from time to time reasonably request. NRG shall provide the Consulting Engineer and the County with such information regarding the Facility and its construction, start-up or testing as the Consulting Engineer or the County shall reasonably request. NRG shall meet with the County Representative and the Consulting Engineer at such times as either of them reasonably requests (but no more frequently than monthly) to discuss the progress of construction of the Facility. Review and comment by the Consulting Engineer shall not reduce NRG's obligations under this Agreement.

Section 3.06. Roads and Utilities. NRG shall be responsible for the construction and maintenance of all roads within the Site necessary to connect it to existing roads. NRG shall also be responsible for causing all utility lines within the Site to be constructed and maintained in order to meet the utility requirements for the performance by NRG of its obligations under this Agreement and any energy sales agreement relating to the Facility.

Section 3.07. Plans and Specifications; Changes in Design, Construction or Operation. NRG shall prepare all detailed plans, specifications and drawings required by sound engineering practices to construct the Facility in accordance with the Specifications (the "Detailed Plans") and shall from time to time, to the extent possible, submit them to the County Representative and the Consulting Engineer on or before the date on which the work described in them is to be undertaken. The County may, but shall not be obligated to, have the Consulting Engineer review the Detailed Plans submitted by NRG. Neither the review of or comment upon, nor the failure of the County Representative or the Consulting Engineer to comment upon the Detailed Plans shall relieve NRG of any of its obligations hereunder or impose any liability upon the County, and NRG shall not be obligated to follow any comments made by the County or its Consulting Engineer.

Notwithstanding anything contained herein, the County shall not require any Change, including any Facility expansion under Section 3.13, that would delay the construction schedule.

NRG shall maintain at the Site for inspection by the County Representative and the Consulting Engineer a copy of all Detailed Plans in good order and marked to show all changes made during construction.

Any restorations, alterations, additions or modifications made to the Specifications or the Facility (collectively, "Changes") shall be made at NRG's sole cost and expense, except as provided in Sections 8.07(b) and 8.07(c) and Article XI hereto. If NRG shall at any time determine that it shall be necessary or desirable to make any Changes it shall give the County and the Consulting Engineer prompt notice thereof. Before making any Change to the Facility, NRG shall submit the plans and specifications for the Change to the County Representative and the Consulting Engineer. The County may, but shall not be obligated to, have the Consulting Engineer review the plans and specifications to determine whether the proposed Change will impair the ability of the Facility to meet the Performance Standards and all applicable law during the remaining term of this Agreement. Upon request of the County NRG shall discuss such plans and specifications with the County and the Consulting Engineer and answer their inquiries. NRG may, at its own cost and expense, make any such Change, provided that such Change (i) shall not impair Facility operations or efficiency or energy recovery or shall help NRG to satisfy or comply with the Performance Test or the Performance Standards, as the case may be, (ii) shall not increase the Service Fee, (iii) shall not result in the termination of or have an adverse effect upon the Power Sales Agreement and (iv) shall not materially adversely affect the Facility, the Scheduled Commencement Date of Operations, the Performance Standards or the ability of NRG to perform its obligations hereunder, as the case may be. At least thirty (30) days prior to making any such Change, NRG shall provide the County and the Consulting Engineer with an officer's certificate describing the Change and certifying that such Change is consistent with items (i) through (iv) above and with the proposed plans and specifications in reasonable detail with respect to such Change.

Notwithstanding the foregoing provisions of this Section, NRG may, at its own cost and expense, make such changes to the Specifications as it may determine to be necessary to comply with applicable law, upon delivery to the County and the Consulting Engineer of an officer's certificate to such effect.

NRG shall provide Cost Substantiation for all materials, machinery, equipment, labor and other additional costs for Sections 8.07(b) or 8.07(c) and shall keep records of

them according to its normal business practices and generally accepted accounting principles and methods.

The Facility's plant manager and chief operating engineer shall be hired and assigned to work at the Site at least ninety (90) days before the Commencement Date of Operations. NRG shall hire the shift managers at least sixty (60) days before the Commencement Date of Operations. These individuals shall also be trained by the start-up engineers of the suppliers of the equipment systems used in the Facility.

Section 3.08. Preparation of Facility Site, Licenses and Permits; Easements. NRG shall be responsible for grading the Site and performing any other site work necessary for the construction of the Facility and the performance of its obligations under this Agreement. No adjustment in the Service Fee shall be made because of the surface or subsurface condition of the Site, the cost of removal of any improvements on the Site or any other site work required for the performance by NRG of its obligations under this Agreement except to the extent such condition constitutes a Force Majeure.

At all times during the term of this Agreement, NRG shall be responsible for obtaining and maintaining all servitudes, easements, licenses, permits, approvals, and rights of way necessary for the performance by NRG of its obligations, subject to its rights to contest such requirements as described in Section 4.07 below.

Section 3.09. Security. NRG shall be responsible for all security at the Site and the Facility during the term of this Agreement. NRG shall erect a fence around the perimeter of the Site and provide a gate at each point of access. NRG shall maintain protective security guards at the Site during the construction period, and, if necessary, thereafter.

Section 3.10. County Access. The County and its agents, licensees or invitees, and representatives of governmental regulatory agencies may visit or inspect the Facility and the Site at any reasonable time during the term of this Agreement after giving NRG 24 hours' notice; provided, however, that the County Representative or his designees, and the Consulting Engineer may inspect the Facility and the Site at any time without notice. Any such visits shall be conducted in a manner that does not cause an interference with NRG's operations. NRG may require any person on the Site to comply with its reasonable rules and regulations and to sign a statement agreeing (a) to assume the risk of the visit but not the risk of injury due to the intentional acts of NRG or any of its subcontractors, agents or employees and (b) not to disclose

or use any Confidential Information of NRG, except in accordance with Section 14.01.

Section 3.11. [RESERVED]

Section 3.12. Conduct of Performance Tests. NRG shall give the Consulting Engineer and the County at least 60 days' notice of the date on which the Performance Tests will begin. The notice shall contain an estimate of the quantity of Acceptable Waste required for the Performance Tests for the Facility and a preliminary plan, including a schedule, for the conduct of the Performance Tests. The County shall have 25 days after receipt of the preliminary plan for review and comment. At least 20 days prior to the start of the Performance Tests, NRG shall deliver final test plans to the County. NRG may revise the amount of waste it will accept during the Performance Tests by giving the County at least three business days notice of any change. During the Performance Tests, the County shall deliver and NRG shall accept, Acceptable Waste in an amount equal to the quantity of waste specified in the final test plan, as revised from time to time in accordance with this Section. The Performance Tests shall be conducted by NRG, at its expense. The County, its officials and agents, and the Consulting Engineer shall have the right to be present during all Performance Tests.

Section 3.13. Facility Expansion. NRG shall expand the processing capacity of the Facility by 50% by adding an additional processing train and related facilities and equipment if (1) the County requests such expansion; (2) the County provides funds sufficient to pay the reasonable capital costs of the expansion or agrees to increase Debt Service by the debt service on any debt issued to finance such costs of the expansion; (3) the County increases its Guaranteed Annual Tonnage to an amount equal to the Facility's full processing capacity; (4) all increased operating costs or expenses and additional losses and liabilities of NRG occasioned by the expansion are treated as Pass Through Costs, including damages under NRG's existing agreements; (5) NRG is able to obtain all permits and approvals necessary for the construction and operation of the expansion; (6) the expansion will not cause NRG to violate any agreements relating to the Facility, including power sales agreements and the instruments relating to the Indebtedness; and (7) the County and NRG, after good faith negotiations appropriately modify all provisions of this Agreement affected by the expansion.

NRG shall cooperate with the County in obtaining a favorable ruling from the Florida Public Service Commission that the Facility qualifies for the increased capacity payments

resulting from the exemption of the Facility from any risk related consideration which the Commission uses in determining the avoided capacity cost applicable to solid waste facilities that are not operated by, or on behalf of, a local government. Nothing contained herein shall require NRG to amend or modify any of the terms and conditions of this Agreement.

ARTICLE IV

General Operation of the Facility

Section 4.01. Operating Covenant. NRG shall, on and after the Scheduled Commencement Date of Operations, except as otherwise expressly provided for herein, so operate and maintain the Facility as to be capable of receiving and combusting Acceptable Waste in quantities up to the Guaranteed Plant Performance and of producing an energy product and/or steam for sale.

Section 4.02. Hours of Delivery. NRG shall keep the Facility open for the delivery of Acceptable Waste at the Facility during Delivery Hours and at such other times as are provided in Section 4.11.

Section 4.03. Recoverable By-products. NRG shall be solely responsible for and, except as provided in Section 8.05 hereof, exclusively entitled to the benefits of Recoverable By-products, electricity, steam and any other materials it may elect to recover from Acceptable Waste either before or after combustion.

Section 4.04. Office Hours. NRG shall establish, maintain and staff an office at the Facility during Delivery Hours.

Section 4.05. Waste Storage.

(a) NRG shall store all recycleable materials and wastes, including Residue, at the Facility only within an area appropriately fenced and screened and for a period not to exceed sixty days. All Residue shall be stored in a residue storage area which shall be an area containing a drainage system as described in the Specifications.

(b) No solid waste or refuse shall be stored outside except immediately following an emergency (e.g. hurricanes, storms or tornados which generate abnormal amounts of garbage and yard wastes).

Section 4.06. Ground Maintenance.

(a) NRG shall keep the Site including any surface roads and parking areas within the Site in good condition at all times and in a neat and orderly condition to protect the Facility and the Site against deterioration and to maintain the aesthetic quality of the Facility and the Site. NRG shall also keep walkways, utility connections, and other improvements in

good repair. NRG shall construct and maintain screen fences so as to restrict access during non-operational periods. The County will, to the best of its ability, keep or cause other appropriate County agencies to keep all roads, rights of way, utility services, and other entrances and connections to the Facility owned by the County in good order and repair at all times.

(b) NRG shall keep the areas within the Site including sidewalks, free of litter and other debris, and maintain them in a safe and sanitary condition.

Section 4.07. Compliance with Laws. NRG shall maintain the Facility in full compliance with all local, State and Federal codes, ordinances, standards, regulations, orders, permits and other laws. NRG may, however, contest the necessity of any permit or any condition therein or the validity or applicability of any other legal requirement without being in default hereunder if it does so in good faith, with due diligence and by appropriate proceedings.

It is the intention of the parties hereto that the interest on Indebtedness that are initially issued as tax-exempt bonds be and remain exempt from Federal income taxation to the extent permitted by the Internal Revenue Code in effect on the date of issuance thereof and to that end each party covenants with the other that it shall not take any action that would adversely affect the tax-exempt status of any Indebtedness or other obligations issued to finance Facility costs and shall use all reasonable efforts to preserve the tax-exempt status of all such Indebtedness or other obligations. The responsibilities of the Parties with respect to the tax-exempt status of the Bonds shall be set forth in a tax indemnification agreement between the parties.

Section 4.08. Supervision. NRG shall have responsibility for and shall exercise sufficient supervision over Facility operations to minimize health and safety risks to all persons employed otherwise on the Site including visitors.

Section 4.09. Facility Maintenance. NRG shall maintain the Facility and its equipment in good repair and condition consistent with generally accepted standards for similar facilities. Spare parts inventories in reasonable quantity shall be held and maintained so as to minimize the period of any material interruption of plant operations. NRG shall perform periodic maintenance, guidelines for which are described in Schedule 18. Upon reasonable notice from the County, NRG shall permit the Consulting Engineer to inspect the Facility and NRG's maintenance records.

Section 4.10. Telephone Number. NRG shall have a listed local telephone number.

Section 4.11. Increased Processing Requirements. In the event that, due to a natural disaster or other emergency condition, the County requires NRG to accept quantities of Acceptable Waste or delivery schedules beyond those provided for herein, NRG shall use all commercially reasonable efforts to accommodate the County's request; however, NRG's determination as to its ability to do so shall be final.

Section 4.12. Shutdowns.

(a) NRG shall immediately advise the County by telephone of the occurrence of any full or partial Shutdown, the effect thereof on the ability of NRG to accept or process all Acceptable Waste from the County at the Facility, and the estimated duration of such Shutdown. NRG shall confirm such advice in writing within 3 business days. NRG shall use all commercially reasonable efforts to resume normal operation at the Facility at the earliest practicable time. Following any Shutdown, NRG shall, upon the request of the County, provide the Consulting Engineer with such information as may be necessary for the Consulting Engineer to determine the cause of the Shutdown and to make its estimate of the restoration date.

(b) NRG may have periodic Shutdowns for maintenance purposes and shall use its best efforts to schedule such maintenance Shutdowns at periods when delivery of a low quantity of Acceptable Waste is anticipated based on historical data, to the extent available. NRG shall use its reasonable efforts to give 30-days prior written notice to the County of a scheduled maintenance Shutdown. Such notice shall indicate the expected time, duration and nature of such maintenance Shutdown.

During a Shutdown, NRG shall process as much of the Acceptable Waste delivered to the Facility as possible. For Shutdown Waste resulting from a Shutdown that is not caused by a Force Majeure NRG shall pay the County liquidated damages calculated pursuant to Section 8.09 hereof, subject to the limitation set forth in Section 8.09(d), provided that NRG shall not be required to pay the damages set forth in Section 8.09(b)(i) to the extent that NRG has disposed of such waste at its own expense through Alternative Disposal Methods described in Schedule 15.

During a Shutdown caused by Force Majeure, NRG shall, at the request of the County, dispose of the waste delivered by the County which cannot be processed at the Facility by Alternate Disposal Methods described in Schedule 15. In

addition to continuing to pay the Service Fee as provided in Section 8.01, the County shall pay any increase in NRG's direct costs of operation and maintenance of the Facility, including costs associated with Alternate Disposal Methods, if any, for which NRG shall provide Cost Substantiation. The County may elect to divert and dispose of waste which cannot be processed during a Shutdown caused by Force Majeure at its own expense. In such event, NRG shall use reasonable efforts to reduce the operating and maintenance costs of the Facility for the benefit of the County consistent with its long-term operation and maintenance obligations under this Agreement, and the Operation and Maintenance Charge Component of the Service Fee shall be reduced by such amount.

Section 4.13. Traffic Flow Regulation. NRG may reasonably regulate the flow of traffic through the Facility scales and into the Facility receiving area, may deny admission to the Site to any vehicle carrying Hazardous Waste or Unacceptable Waste (if separation of such Unacceptable Waste other than Hazardous Waste is impractical, or if the person delivering such waste will not make such separation), any vehicle that may unreasonably leak, spill or allow Acceptable Waste to be blown or scattered, and any vehicle, that is not in a safe condition, and may otherwise promulgate reasonable safety and traffic rules applicable to the Site.

Section 4.14. Company Offsets. In the event that the Service Fee paid or payable by the County pursuant to Section 8.02 hereof shall be offset or otherwise reduced in consequence of any Company Offset (as hereafter defined) or in the event that any amount is excluded from the calculation of Reimbursable Costs (clause B(a)(vi) of Schedule 16 only), if applicable, or Pass Through Costs (clause 9 of Schedule 3 only) in consequence of any Company Fault (the amount of such offset, reduction or exclusion being hereinafter referred to as the "Offset Amount"), the Company agrees, for the benefit of the Credit Provider, the Trustee the holders of any Indebtedness and their respective successors and assigns that (i) the Company shall irrevocably instruct the Trustee to pay over and transfer to the Revolving Fund, the Debt Service Fund and the Debt Service Reserve Fund for each series of Bonds any and all amounts held by the Trustee and otherwise distributable to or for the benefit of the Company up to the full amount of such Company Offset (including, but not limited to, amounts in the Operation and Maintenance Fund and the Company Fund) and (ii) to the extent such amounts so paid over and transferred are, in the aggregate, less than the amount of such Company Offset (a "Revenue Shortfall"), the Company shall pay in cash to the Trustee, immediately upon demand therefor by the Trustee or the Credit Provider, an amount equal to the Revenue Shortfall.

"Company Offset" means (i) all liquidated damages and other amounts which offset, or are deductions from, the Service Fee pursuant to Section 8.09 hereof; (ii) the amount of any Annual Revenue Makeup Amount required to be paid by NRG pursuant to Section 8.06(e) hereof; (iii) any amount excluded from the calculation of Debt Service by virtue of the concluding proviso of Section 8.02(a) hereof (excluding, however, clause (B)(1) of such proviso); (iv) amounts set off or withheld by the energy purchaser under the Power Sales Agreement due to the fault of NRG but which are nonetheless taken into account in calculating the Recovered Energy Credit, as provided in Section 8.05(b) hereof; and (v) any other amounts due from NRG to the County, under Section 8.06(d), the last paragraph of Section 8.02(a) or otherwise, which shall have been properly deducted by the County from the Service Fee or from any Other Payments Balance otherwise due to NRG pursuant to this Agreement. All funds referred to in this Section 4.14 shall have the meanings provided for such funds in the Indenture. A default by NRG under this Section 4.14 shall not constitute a basis for a declaration by the County of an Event of Default under Section 12.01(b) hereof.

ARTICLE V

General Covenants of the County

Section 5.01. Covenant to Deliver Waste. The County agrees that, on and after the Service Date and throughout the term of this Agreement, but subject to the provisions of Section 11.01, during each Billing Year it will deliver or cause to be delivered to the Facility Acceptable Waste in an amount at least equal to the Guaranteed Annual Tonnage. The County may at any time, upon thirty days' prior written notice to NRG increase its Guaranteed Annual Tonnage for any Billing Year, unless such increase together with the tonnage required to be processed under NRG's Outside Waste Contracts then in effect would exceed the Guaranteed Plant Performance. If the County is precluded from increasing its Guaranteed Annual Tonnage due to these Outside Waste Contracts, NRG shall exercise its rights of termination under Outside Waste Contracts selected by NRG to the extent necessary to permit the increase in the Guaranteed Annual Tonnage if the County instructs NRG to do so, pays NRG's costs arising from such termination and increases its Guaranteed Annual Tonnage by the amount of the terminated Outside Waste Contract. NRG is not required to provide for early termination rights in its Outside Waste Contracts. Any such increase in the County's Guaranteed Annual Tonnage may relate to any or all of the Billing Years specified by the County in such notice; provided, however, that the Guaranteed Annual Tonnage shall at no time exceed the Guaranteed Plant Performance and that the Guaranteed Annual Tonnage in each Billing Year shall equal or exceed the Guaranteed Annual Tonnage for the previous Billing Year.

During the term of this Agreement, the County shall not deliver or permit others over which it has control to deliver Acceptable Waste to any landfill or to third parties so long as the Facility has additional capacity (up to 200,000 tons per year) and the County shall use its best efforts to cause each municipality within the County to enter into similar binding agreements.

The County will, prior to or concurrently with the satisfaction of the conditions precedent described in Article IX hereof, enact a waste flow control ordinance pursuant to Florida law in substantially the form contained in Schedule 7 hereto and shall also enact an ordinance in substantially the form set forth in Schedule 13 requiring the payment by all residents within the County of a service fee which will be sufficient to pay the County's obligations hereunder and its cost of maintaining and operating the waste collection service and landfill. The County shall use its best efforts to enter

into interlocal agreements with all municipalities within the County causing the adoption of similar ordinances within the respective jurisdictions of such municipalities.

The County further agrees to use reasonable efforts to cause additional Acceptable Waste within the County to be delivered to the Facility, to the extent necessary to allow the Facility to operate continually at 163,000 tons of Acceptable Waste per year. At the request of NRG, the County shall cooperate with NRG in its efforts to obtain substitute Acceptable Waste from sources outside the County to the extent necessary to allow the Facility to operate continually at its capacity.

If the County fails to deliver the Guaranteed Annual Tonnage, the County nevertheless shall be responsible for the payment of the Service Fee as provided in Article VIII hereof. If the County is unable to deliver at least the Guaranteed Annual Tonnage, the County shall use all reasonable efforts to obtain Acceptable Waste from other persons. NRG shall cooperate with the County in its efforts to obtain substitute Acceptable Waste; provided, however, that NRG's failure to obtain such substitute Acceptable Waste shall not reduce the County's obligation to pay the Service Fee and shall not constitute an Event of Default on the part of NRG hereunder. To the extent substitute Acceptable Waste is obtained by the County, it shall be credited toward the County's obligation to deliver Guaranteed Annual Tonnage provided that the full Service Fee per ton of Acceptable Waste as contemplated in Article VIII is paid with respect to such substitute Acceptable Waste.

The Flow Control Ordinance, the Special Assessments Ordinance and the Interlocal Agreements shall not be amended, modified, changed, superseded or impaired by the County without the prior written consent of NRG. Furthermore, the County agrees, for the benefit of NRG and any assignee of NRG, that it shall not fail to (i) comply with its obligations as set forth in the Flow Control Ordinance and the Interlocal Agreements, or (ii) enforce the Flow Control Ordinance and the Interlocal Agreements, except to the extent prohibited by applicable law.

Section 5.02. Scheduling. The County shall commence delivery of Guaranteed Annual Tonnage immediately upon the Service Date. In addition, following the Startup Date, the County shall deliver to the Facility such quantities of Acceptable Waste as NRG may reasonably request upon seven (7) days' advance written notice in order to operate the Facility between the Startup Date and the Service Date; provided, however, that in no event shall the County be required to

deliver Acceptable Waste in excess of the amounts set forth in Section 5.01. NRG may change the quantity of Acceptable Waste to be delivered and the delivery schedules at any time by no less than two (2) business day's notice to the County during such period. NRG shall provide the County with at least sixty (60) days prior written notice of the anticipated Startup Date, which notice shall include estimated delivery schedules and Acceptable Waste quantities.

Section 5.03. Scales. On the Startup Date, and at all times thereafter during the term of this Agreement, the County shall operate the truck scales at the Facility pursuant to Article X.

Section 5.04. Title to Waste. Nothing in this Agreement shall impose upon the County or NRG title to any waste.

Section 5.05 Covenant to Budget and Appropriate. Unless the County has in any year established a tipping fee sufficient to satisfy the County's obligations hereunder, the County, to the extent permitted by applicable law, covenants and agrees to appropriate in its annual budget, by amendment if required and to the extent permitted and in accordance with budgetary procedures provided by the laws of the State of Florida, and to pay when due directly to NRG, sufficient amounts of Non-Ad Valorem Revenues of the County or other legally available funds sufficient to satisfy its obligations to NRG hereunder. Such covenant and agreement on the part of the County to budget and appropriate such amounts of Non-Ad Valorem Revenues or other legally available funds shall be cumulative, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all required payments as and when due shall have been budgeted, appropriated and actually paid as required hereunder. The County further agrees that its obligations to include the amount of any deficiency in each of its annual budgets and to pay such deficiencies from Non-Ad Valorem Revenues or other legally available funds may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein. The obligations of the County pursuant to this Agreement will not constitute a general indebtedness of the County within the meaning of any constitutional or statutory provision or limitation and the County is not obligated to levy any ad-valorem taxes for the payment thereof. Neither the full faith and credit nor the taxing power of the County, the State of Florida or any political subdivision thereof is pledged to such payment. Such appropriation for payments due hereunder shall be based upon the estimates and assumptions described in Article VIII

hereto. Notwithstanding the foregoing, or any provision of this Agreement to the contrary, the County does not covenant to maintain any services or programs now provided or maintained by the County which generate Non-Ad Valorem Revenues other than solid waste services required to meet the obligations of the County under this Agreement, but only to the extent that Non-Ad Valorem Revenues are available therefore, and nothing in this Agreement shall require the County to appropriate or expend ad valorem taxes to maintain any services or programs, now provided or maintained by the County which generate Non-Ad Valorem Revenues.

For purposes of the foregoing, "Non-Ad Valorem Revenues" shall mean all legally available revenues and taxes of the County derived from any source whatever other than ad valorem taxation on real and personal property, which are legally available for the payments due hereunder.

Section 5.06. Covenant to Operate Solid Waste System. The County shall maintain and operate the Solid Waste System, or cause it to be maintained and operated. The County shall acquire the use of any additional facility or solid waste disposal capacity that is necessary for it to (1) fulfill its obligations to NRG under the Service Agreement, its obligations under the Flow Control Ordinance and the Interlocal Agreements and its obligations under applicable law, and (2) provide any solid waste disposal or collection services through the Solid Waste System that are necessary to enable the County to fix, charge and collect Tipping Fees in accordance with Section 5.07.

Section 5.07. Rate Covenant. (a) The County covenants that it will fix, charge and collect Tipping Fees which, together with Available Funds, will at all times provide for Solid Waste System Expenses for each Fiscal Year.

(b) If in any Fiscal Year Solid Waste System Expenses exceed Tipping Fees plus Available Funds, the County will direct an independent public accountant, independent architectural firm, independent engineering firm or independent management consultant that has a favorable reputation for skill and experience in the area of the work to be performed by it and is reasonably acceptable to NRG and the Credit Provider (the "Independent Consultant") to make reasonable recommendations with respect to the revision of the respective Tipping Fees of the County, improvements to or changes in the operations of the Solid Waste System or the services rendered by the County through the Solid Waste System. The reasonable recommendations of the Independent Consultant may include, without limitation, recommendations that the County (1) reduce

Tipping Fees or other charges to private haulers and other persons who bring waste to the Facility for disposal or establish transfer stations or similar facilities as part of the Solid Waste System to increase the amount of waste brought to the Facility or (2) provide solid waste collection services as part of the Solid Waste System to extend service to parcels situated in the County, as the case may be, that are not being served by the Solid Waste System. If the County complies with, or causes the Company to comply with, the recommendations of the Independent Consultant to the extent permitted by law and this Agreement, and thereafter Solid Waste System Revenues plus Available Funds fail to equal Solid Waste System Expenses, such failure shall not, in and of itself, constitute an Event of Default; provided, however, this Section 5.07(b) shall not excuse the County from making timely payment of any amounts required to be paid by it pursuant to this Agreement, nor shall any such failure constitute an Event of Force Majeure.

Section 5.08. Employment of Consulting Engineer. The County covenants that it will cause to be employed at all times a Consulting Engineer in accordance with and to carry out the functions and duties specified in this Agreement.

ARTICLE VI

General Covenants of NRG

Section 6.01. Acceptance of Waste. NRG agrees that, on and after the Service Date, it will accept for processing at the Facility all Acceptable Waste delivered to the Facility by the County, up to the capacity of the Facility less any of such Facility capacity which is reserved for the processing of waste pursuant to Outside Waste Contracts or will otherwise dispose of Acceptable Waste not processed at the Facility through use of the Alternate Disposal Methods described in Schedule 15, subject to NRG's rights provided in Schedule 2. In addition, NRG will be liable for the wrongful rejection of Acceptable Waste under the terms and conditions and in the amounts set forth in Schedule 2 hereto.

If the Guaranteed Annual Tonnage is at least equal to 163,000 tons per year, NRG may not accept waste from other sources even if the County's Acceptable Waste during any period is below the capacity of the Facility, except upon the written request of the County. If the Guaranteed Annual Tonnage is less than 163,000 tons per year, NRG may accept Outside Waste but only pursuant to Outside Waste Contracts; provided, however, that NRG shall not enter into Outside Waste Contracts during the first 484 days after the issuance of the Bonds, without the County's consent. "Outside Waste Contract" means an agreement or spot market arrangement between NRG and any person other than an Affiliate of NRG or its operator for the processing of Acceptable Waste at the Facility provided that during the first five Billing Years (and thereafter if by the end of the fifth Billing Year the County has increased its Guaranteed Annual Tonnage to at least 140,000 tons for the remaining term of this Agreement) NRG may enter into Outside Waste Contracts with a term of up to 10 consecutive Billing Years for 10,000 tons per year of Facility capacity but shall not otherwise enter into Outside Waste Contracts having a term in excess of 5 consecutive Billing Years. "Affiliate" means, with respect to NRG, its operator or any other person, any other person who controls, is controlled by, or is under common control with, NRG its operator or any such other person.

Section 6.02. Deliveries by County. For all purposes of this Agreement, all deliveries to the Facility of County Waste, whether by any person pursuant to or in respect of any agreement with the County including, without limitation, any County hauler or refuse collector, any person otherwise delivering waste to the Facility under an agreement with the County or for the County's account and any person delivering waste to the Facility pursuant to an agreement with any

municipality or other political subdivision with whom the County has entered into an interlocal or similar agreement for delivery of waste to the Facility, shall be deemed to be deliveries by the County.

Section 6.03. [RESERVED]

Section 6.04. Qualification to do Business. NRG agrees that during the term of this Agreement it will maintain its qualification to do business in the State of Florida and obtain and maintain all approvals, permits and licenses necessary to perform its obligations under this Agreement, subject to its rights to contest such requirements as described in Section 4.07 above.

Section 6.05. Insurance. NRG will obtain and maintain at all time during the term of this Agreement those policies of insurance listed on Schedule 11 except that in the event certain required insurance is not commercially available then NRG's requirement to obtain such insurance shall be waived.

The County shall be named as an additional insured on said policies. NRG shall obtain and show written proof of such insurance certificates from all insuring companies. NRG further agrees that no such insurance shall be cancelled or changed except with previous written notice to County.

Section 6.06. Restrictions on the Production of Hazardous Waste. NRG shall not change the methods of processing waste as reflected in the Schedules that would have the effect of producing Hazardous Waste from Acceptable Waste delivered to the Facility.

ARTICLE VII

Landfill and Unacceptable Waste

Section 7.01. Landfills.

(a) The County shall at its sole cost and expense cause the Landfill to be made available to NRG for the term of this Agreement during the Delivery Hours for disposal of all Residue, Unacceptable Waste (other than Hazardous Waste) and Shutdown Waste. Any tipping fee charged by the County for disposal of (i) Residue derived from County waste, and (ii) Shutdown Waste and Unacceptable Waste which is County Waste shall be payable concurrently with the County's payment of the corresponding Pass Through Cost as required pursuant to Section 8.04 below. The County shall use reasonable efforts to designate and maintain during the term of this Agreement a Landfill located within twenty (20) highway miles of the Facility with the capacity to accommodate the quantity of Residue, Shutdown Waste and Unacceptable Waste (other than Hazardous Waste) delivered to the Facility. The County may, at the County's sole cost and expense, direct NRG on behalf of the County, to dispose of Unacceptable Waste delivered to the Facility by the County and rejected by NRG, and all Residue derived from waste delivered by the County under this Agreement and Shutdown Waste, at an alternate Landfill that is suitable for the disposal of those materials. In the event that the Landfill in use at any time is unavailable due to the occurrence of an Event of Force Majeure, Change in Law, or for any other reason, the County shall use reasonable efforts to provide an alternate Landfill but its failure to provide a landfill shall not constitute an Event of Default. If the Landfill designated by the County is more than twenty (20) highway miles from the Facility, or if no suitable Landfill is made available to NRG for such waste, the County shall reimburse NRG for all reasonable increased transportation costs and related expenses associated with such disposal in excess of those transportation costs which would have been incurred if the Landfill designated by the County were twenty (20) highway miles from the Facility. Notwithstanding any other provision of this Agreement, the County shall not be required to accept Hazardous Waste at the Landfill; however, nothing herein shall relieve the County of its obligations to dispose of Hazardous Waste pursuant to Section 7.02 below.

The County may charge NRG a disposal fee for Residue derived from Outside Waste that NRG delivers to the Landfill. The disposal fee shall be equal to the County's costs of disposing of such Residue, subject to cost substantiation.

(b) If the County fails to provide or designate a suitable Landfill for Residue, Shutdown Waste and Unacceptable Waste (other than Hazardous Waste), NRG may use any other available landfill and shall be entitled to reimbursement for (i) all tipping fees and disposal charges with respect to Residue derived from County Waste and Unacceptable Waste and Shutdown Waste delivered by the County under this Agreement, and (ii) all costs of transportation over that which NRG would have incurred for such Waste if such Landfill were twenty (20) highway miles from the Facility; provided, however, that NRG shall use commercially reasonable efforts to minimize the cost of transportation and disposal at any such landfill.

(c) Any Landfill designated by the County from time to time shall at all times be: (i) properly permitted and environmentally suitable for the sound and permanent disposal of Shutdown Waste, Residue and Unacceptable Waste (other than Hazardous Waste) and (ii) operated and maintained in accordance with all applicable federal, state and local laws, rules, regulations or ordinances and with all applicable permits and conditions therein or otherwise acceptable to the Parties.

(d) The County shall permit NRG to dispose of Acceptable Waste at any landfill or other disposal facility that the County maintains for the disposal of Acceptable Waste if (1) NRG pays the County for its costs of such disposal and (2) the Acceptable Waste is County Waste that has been delivered to the Facility and cannot be processed by the Facility.

Section 7.02. Disposal of Unacceptable Waste.

(a) The County shall use all reasonable efforts to prevent the delivery by the County of Unacceptable Waste to the Facility. NRG shall not permit the delivery of Unacceptable Waste to the Facility under any Outside Waste Contracts and shall otherwise use all reasonable efforts to prevent the delivery of Outside Waste which is Unacceptable Waste to the Facility. However, the parties understand that in the normal course of operation of the Facility minimal quantities of Unacceptable Waste will be delivered to the Facility with Acceptable Waste.

(b) If NRG discovers that Unacceptable Waste (other than Hazardous Waste) has been delivered by the County to the Facility, NRG may elect to process and/or remove the same and transport it to the Landfill, in which event the tonnage associated with such Unacceptable Waste shall be applied to the County's Guaranteed Annual Tonnage and the full Service Fee with respect to such tonnage shall be due.

(c) If NRG elects not to remove, process or dispose of Unacceptable Waste (other than Hazardous Waste), NRG shall segregate it from the Acceptable Waste and the County shall be responsible for the immediate removal thereof in a safe and proper manner. If the County does not promptly remove such Unacceptable Waste, NRG may contract with third parties for the removal and disposal thereof on the County's behalf. The County shall pay for all costs of removal, transportation, disposal and clean up in accordance with all applicable Federal, state and local laws, regulations and ordinances of such Unacceptable Waste, and all costs related to health and safety risks with respect thereto, whether incurred by the County directly or by NRG on the County's behalf and any recovery from any other person, net of the expenses incurred in such recovery, shall be used to offset the respective costs of the County and/or NRG.

Section 7.03. Obligations with Respect to Hazardous Waste. In addition to its obligations under Section 7.02 above, the County shall be responsible, at its own cost and expense, for any handling, transporting, disposing and cleaning-up, all in accordance with applicable laws, rules and regulations, of any and all Hazardous Waste delivered to the Facility by the County under this Agreement. NRG shall notify the County of any Hazardous Waste delivered to the Facility by the County under this Agreement which NRG discovers, is made aware of or suspects and the County shall remove and dispose of the same immediately. NRG shall have no obligation or liability whatsoever with respect to Hazardous Waste Costs with respect to Hazardous Waste delivered by the County and NRG shall be indemnified for any Hazardous Waste Costs incurred by or imposed upon NRG as a result of or in connection therewith including, without limitation, all Hazardous Waste Costs. The County shall pay such Hazardous Waste Costs incurred by NRG with respect to Hazardous Waste delivered by the County within fifteen (15) days of receipt of an invoice therefor accompanied by reasonable documentation of such Hazardous Waste Costs. If, after the date on which the County makes a payment under this subsection, NRG receives proceeds from insurance or any other third party for any Hazardous Waste Costs, NRG shall reimburse the County for its share of such proceeds. All performance guarantees and any other obligations of NRG under this Agreement shall be adjusted to such extent as may be necessary to relieve NRG of any incremental obligation, cost, risk, exposure, or liability which it might otherwise incur or be exposed to as a result of work stoppages or slowdowns, shutdown of or damage to or contamination of the Facility resulting from the delivery, handling, removing or clean-up of Hazardous Waste delivered by the County.

"Hazardous Waste Costs" means the costs of the removal and disposal of Hazardous Waste and all other costs, liabilities, fines and expenses associated with or arising from the delivery, clean-up, removal, transportation, disposal or processing of such Hazardous Waste; provided, however, that Hazardous Waste Costs shall not include (1) any costs or liabilities incurred due to NRG's negligence or willful misconduct in connection with any material it knows to be Hazardous Waste, or (2) any costs or liabilities paid by any third party or under an insurance policy. Hazardous Waste Costs shall also include the cost of any repairs or alterations to the Facility or the Site necessitated by the presence or inadvertent processing of such Hazardous Waste at the Facility and all liabilities, damages, claims, demands, expenses, suits or actions including reasonable appeals, fines, penalties and attorneys' fees in connection with any civil or administrative proceeding arising from the presence of such Hazardous Waste at the Site or the processing, removal or disposal of such Hazardous Waste (including, without limitation, any suit for personal injury to, or death of, any person or persons, or loss or damage to property resulting from the presence, removal, disposal or processing of such Hazardous Waste).

The County shall not be responsible for the removal or disposal of Hazardous Waste delivered by any person other than the County. In the event that the person who delivered Hazardous Waste to the Facility cannot be determined, NRG shall arrange for the removal and disposal of such Hazardous Waste. The County shall pay NRG a portion of the Hazardous Waste Costs with respect to such Hazardous Waste in an amount obtained by multiplying the Hazardous Waste Costs with respect to such Hazardous Waste by a fraction the numerator of which is the amount of waste delivered by the County to the Facility during the three delivery days immediately preceding the date of discovery of such Hazardous Waste and the denominator of which is the total amount of waste delivered to the Facility during such three day period. NRG shall pay all Hazardous Waste Costs other than those to be paid by the County.

ARTICLE VIII

Service Fee Payments

Section 8.01. Basic Service Fee.

(a) Prior to the Service Date, the County shall pay NRG a processing fee for waste delivered to the Facility if, and only to the extent that, during the seven (7) day period in which such shipment is made, at least 1,500 tons of Acceptable Waste were accepted at the Facility for processing. If such conditions exist, the Service Fee shall be \$20.00 per ton, subject to the Escalation Factor from the date hereof. Billings will be made under this paragraph (a) monthly at the end of each month and will be payable fifteen (15) days thereafter.

(b) Commencing with the first Monthly Billing Period following the Service Date and for each Billing Period thereafter, the County shall pay NRG a Service Fee for the waste disposal services provided to the County by NRG hereunder pursuant to the terms of this Agreement and in accordance with the following formula:

$$SF = DS + OM + PT - REC - TF$$

Where:

DS = Debt Service
OM = Operation and Maintenance Charge
PT = Pass Through Costs
REC = Recovered Energy Credit
TF = Tipping Fee Revenues

Section 8.02. Debt Service.

(a) Debt Service for any Monthly Billing Period means an amount equal to the sum of (i) (A) the amounts NRG is required to pay to the Trustee for such month pursuant to the Financing Agreement with respect to Debt Service (including, but without limitation, principal of and premium, if any, and interest, whether at maturity, by redemption, by declaration of acceleration or otherwise) on any Indebtedness, (B) the fees, costs, charges and other amounts payable to the Issuer, Trustee, Paying Agent, Credit Provider, Registrar and Remarketing Agent, and (C) other charges (including, without limitation, expenses, increased costs and indemnities) incurred in connection with such Indebtedness that may become due under the Financing Agreement, the Credit Documents and other agreements approved by the County in connection with any Indebtedness (ii) the amounts NRG is required to pay the Credit

Provider as a result of a mandatory or optional tender of the Bonds or any portion thereof that is not remarketed; (iii) any required replenishment of a deficiency in any fund required to be maintained pursuant to the Indenture for such Monthly Billing Period (including any required payments into the Debt Service Reserve Fund and the Rebate Fund as defined in the Indenture); and (iv) all debt service and other charges NRG is required to pay during such Monthly Billing Period with respect to any other Indebtedness incurred with the prior written approval of the County in connection with the construction of the Facility; less (v) (A) investment earnings from any fund created under the Indenture that is available in such Monthly Billing Period for payment of items (i), (ii), (iii) or (iv) (exclusive of amounts required to be rebated to the U.S. government), and (B) any other amount available for the payment of items (i), (ii), (iii) or (iv) or for the replenishment of any deficiency required pursuant to (iii) above from the Debt Service Reserve Fund or any other fund or account (other than a fund or account for current revenues) created under the Indenture (provided that such availability does not result from the failure of either party to this Agreement to pay when due any amount payable under this Agreement); provided, however, that Debt Service shall not include (A) any amounts payable by the County hereunder, that are duplicative of amounts payable by the County under any other provision of this Agreement (including, without limitation, Pass Through Costs and Reimbursable Costs), and (B) except as provided in Sections 8.02(e) and (f), (1) any payments of principal, premium or interest on any Indebtedness, including without limitation any amounts owing with respect to any Bonds or any advances or loans under the reimbursement agreement between the Credit Provider and NRG, (2) any fees, costs, charges or other amounts payable to the Issuer, the Trustee, the Paying Agent, the Credit Provider, the Registrar and Remarketing Agent or any other person, exclusive of any amounts described in the preceding clause (1), and (3) any other charges, payments or expenses that may be required to be paid under the Financing Agreement, the Credit Documents, or any other agreements in connection with any Indebtedness but only to the extent that any amount specified in the foregoing clauses (1), (2) and (3) arises from Primary Company Fault.

NRG shall pay the County \$83,333 on the fifteenth day of each of the sixty consecutive Monthly Billing Periods beginning with the first Monthly Billing Period following the Service Date and ending on the sixtieth Monthly Billing Period thereafter, for a total payment by NRG to the County of \$5,000,000. NRG and the County agree that payment of such amounts, together with the contribution of \$5,000,000 to be contributed by NRG during construction of the Facility as

referred to in Section 8.02(d), shall satisfy the obligation of NRG to contribute equity as provided in paragraph (e) of Article IX of this Agreement.

(b) If (x) the total principal of and premium, if any, and interest on any Indebtedness due and owing during any Monthly Billing Period, whether at maturity, by redemption, by declaration of acceleration or otherwise exceeds (y) the total of Sections 8.02(a)(i), (ii), (iii) and (iv), the Debt Service for such Billing Period shall include the amount of the excess.

(c) Without duplication of the amounts set forth in Section 8.02(a), Debt Service shall be increased to the extent NRG incurs Additional Capital Investments pursuant to Section 8.07(b).

(d) The initial principal amount of Indebtedness included in the Debt Service under this Section 8.02, shall equal the sum of the actual cost of construction of the Facility approved by the County, plus the cost of certain reimbursable items as provided in Schedule 16, plus capitalized interest for the 28-month period of construction guaranteed in the Construction Contract, plus any reserve fund requirement, plus all costs of issuance of such Indebtedness, plus payments to NRG for fees and reimbursables of \$6,000,000, less the \$5,000,000 portion of the \$10,000,000 equity contribution of NRG to be contributed during construction of the Facility.

Notwithstanding anything to the contrary set forth in this Section 8.02, the County will not be obligated hereunder to pay that portion of the Debt Service attributable to the acceleration (or mandatory tender) of Indebtedness that arises from Primary Company Fault (except as expressly provided in paragraph (f) below and in paragraph 19(c) of the Non-Disturbance and Attornment Agreement dated as of November 1, 1988 between the County and the Credit Provider).

NRG will cooperate with the County in refinancing any outstanding Indebtedness that is taken into account in the determination of Debt Service using the method of refinancing suggested in writing by the County, if (1) the suggested method of refinancing is practical under then existing market conditions, (2) the related financing agreements do not impose operating restrictions or financial or other covenants on NRG that are more burdensome than those contained in agreements relating to NRG's then outstanding indebtedness and (3) the County reimburses NRG for its reasonable out-of-pocket expenses incurred in connection with the refinancing that are not paid from the proceeds of the refinancing. The amount financed or refinanced may include reasonable issuance costs, reserve funds and other customary financing costs.

(e) The County acknowledges and agrees that any failure by a Credit Provider to extend the initial term of any credit or liquidity enhancement for the Bonds shall not constitute a Primary Company Fault; provided, however, that the Credit Documents shall provide that any amounts in respect of unpaid principal which become payable in consequence of such failure shall be repayable in at least 32 equal quarterly installments. Each such installment shall be taken into account in the calculation of Debt Service pursuant to Section 8.02(a) hereof.

(f) If in consequence of a Primary Company Fault or a County Fault the Indebtedness shall be accelerated (or a mandatory tender shall occur), Debt Service under Section 8.02(a) shall thereafter be calculated to include (x) interest at the non-tax exempt rates as provided in any applicable Credit Documents, (y) principal amortization over a number of equal quarterly installments equal to (i) 32 plus (ii) in the case of Primary Company Fault only, the number of whole quarterly periods from such acceleration (or mandatory tender) to the end of the initial term of any then applicable credit or liquidity enhancement for the Bonds (measured without regard to any such acceleration or mandatory tender) and (z) any other amounts otherwise constituting Debt Service except to the extent such amounts arise from Primary Company Fault.

(g) If the Indebtedness shall be accelerated (or a mandatory tender shall occur) and paid by NRG, and NRG shall be in default under this Agreement, prior to any termination of this Agreement by the County, Debt Service under Section 8.02(a) shall thereafter be calculated to include (x) interest at the rate in effect on the date of such acceleration for fixed rate, tax-exempt securities with respect to resource recovery facilities maturing at such times and in such amounts as described in clause (y) below and rated Baal by Moody's Investors Service, Inc. and BBB+ by Standard & Poor's Corporation, or if both such agencies are no longer assigning ratings to tax-exempt securities, a comparable rating by a nationally recognized bond rating agency, all as determined by the Remarketing Agent (as defined in the Indenture) and (y) principal payable at such times and in such amounts as set forth in the originally scheduled principal amortization schedules contained in Sections 2.02(j) and 2.04(i) of the Indenture and the originally scheduled principal amortization schedule for any Additional Capital Investment.

Section 8.03. Operation and Maintenance Charge; Tipping Fee Revenues. For any Monthly Billing Period, the Operation and Maintenance Charge shall be one-twelfth (1/12) of amounts shown on Schedule 9 for the applicable Billing Year, in each case multiplied by the Escalation Factor.

Tipping Fee Revenues for any Monthly Billing Period shall be the amount of all fees and charges received by NRG in such Monthly Billing Period for the disposal of Outside Waste at the Facility net of any reasonable cost of collection thereof.

Section 8.04. Pass Through Costs. Pass Through Costs for any Monthly Billing Period shall be the sum of those costs and expenses accrued and payable for such Monthly Billing Period set forth in Schedule 3.

Section 8.05. Recovered Energy Credit.

(a) Following the Service Date, the County shall receive an energy credit (referred to herein as the "Recovered Energy Credit") equal to ninety percent (90%) of all amounts paid by the energy purchaser under the Power Sales Agreement and the related tariff provisions, including capacity payments, if any, from the sales of up to 525 kWh per ton of Acceptable Waste processed plus fifty percent (50%) of all amounts paid by the energy purchaser from the sale of electricity in excess of 525 kWh per ton, in either case net of amounts paid to the energy purchaser under the Power Sales Agreement and the applicable tariff. For purposes of calculating the County's Recovered Energy Credit pursuant to this Section 8.05(a) amounts paid by the energy purchaser shall include any amounts payable by the energy purchaser under the Power Sales Agreement but set off or withheld due to fault of the Company not resulting from Force Majeure.

(b) The number of kWh per ton shall be determined by dividing (a) the total kWh available for sale during the Monthly Billing Period, net of electricity used by the Facility but before any adjustments for line losses by (b) the total tons of waste processed by the Facility. It is understood that the County shall not be entitled to a Recovered Energy Credit for any period during which the turbine generator is shut down for the purpose of maintenance; provided that any such period shall not exceed the cumulative amount of three weeks for each successive three-year period under this Agreement.

(c) NRG shall not, without the County's prior written consent, sell or use steam generated from the processing of Acceptable Waste other than for the production of electricity or for the processing of Residue to reduce the volume of Residue which, after processing, is delivered to the Landfill. The parties intend that prior to the County's consenting to steam sales, a mutually agreeable revenue sharing formula shall be developed. If steam is used in the processing of Residue in a manner that reduces electrical generation by the Facility, the electrical power equivalent of the steam that is so used

shall be determined, in kWh per ton, by using standard engineering calculations and methodology including the adjustments contemplated in Section 8.09(b)(iii) below and the County shall be entitled to receive its proportionate share of the energy revenues that it otherwise would have received hereunder had such steam instead been used to produce electricity. For purposes of this Section 8.05(c), the sale or use of hot water or other forms of thermal energy shall be considered the same as the sale of steam.

Section 8.06. Billing and Payments.

(a) NRG shall invoice the County for the Service Fee calculated pursuant to this Article VIII on a monthly basis covering the calendar month (or portion thereof with respect to the first Monthly Billing Period) with respect to which such statement is rendered as described in this subsection (a) (the "Monthly Billing Period"). For each Monthly Billing Period (or any calendar month prior to the first Monthly Billing Period as to which any payment is due hereunder), NRG shall render a statement to the County at least fifteen (15) days prior to the first day of such Monthly Billing Period which shall set forth, in the case of waste processed prior to the Service Date, the Service Fee calculated pursuant to Section 8.01(a) above and, after the Service Date, the following:

(A) the Debt Service for such Monthly Billing Period;

(B) the Operation and Maintenance Charge for such Monthly Billing Period;

(C) the Pass Through Costs for such Monthly Billing Period;

(D) the Additional Payments contemplated pursuant to Section 8.07 below (with respect to the Additional Waste Service Fee pursuant to Section 8.07(a) below, calculated on the basis of the actual tonnage processed in the month preceding the Monthly Billing Period);

(E) the Recovered Energy Credit for the Monthly Billing Period last preceding the month in which such statement is rendered; and

(F) the net amount of all fees and charges received by NRG during the Monthly Billing Period last preceding the month in which such statement is rendered for the disposal of Outside Waste at the Facility;

in each case estimated, to the extent necessary, pursuant to Section 8.06(b) below.

Each such statement shall include, for such Monthly Billing Period (i) all adjustments in the statement for the previous Monthly Billing Period as contemplated in subparagraph (b) below, (ii) all other amounts, if any, payable by the County to NRG hereunder, (iii) all amounts payable, if any, by NRG to the County hereunder, and (iv), with respect to items (ii) and (iii), the balance due to or from NRG (the "Other Payments Balance"). Notwithstanding the foregoing, the first Monthly Billing Period shall be the period commencing on the Service Date and ending on the last day of the calendar month in which the Service Date occurs and the Service Fee payable hereunder for the first Monthly Billing Period shall be appropriately adjusted for such partial calendar month. Such statement shall also include any available insurance proceeds received by NRG due to events of Force Majeure.

The County shall pay the Service Fee (if positive) and any Other Payments Balance due to NRG, as reduced by amounts then due by NRG to the County, in immediately available funds ten (10) days prior to the end of such Monthly Billing Period (but in no event earlier than the Service Date). If the Service Fee is a negative amount, the excess of the Recovered Energy Credit over the sum of Debt Service, Operation and Maintenance Charge, Pass Through Costs and Additional Payments shall be paid to the County out of the energy revenues on which such credits are based ten (10) days prior to the end of such Monthly Billing Period. NRG must pay all other amounts due the County under this Agreement from any assets of NRG. Indemnification payments, required pursuant to Article XIII herein shall be payable on demand. Any payments not made when due shall bear interest until paid at the rate of one percent (1%) per month.

(b) To the extent that the actual value of any item in any Monthly Billing Period statement cannot be accurately determined at the Monthly Billing Period statement date, such item shall be billed on an estimated basis calculated in good faith and an adjustment shall be made to reflect the difference between such estimated amount and the actual amount of such item on the Monthly Billing Period statement next following the date on which NRG learns the exact amount of such item.

(c) At least thirty (30) days prior to the end of each Billing Year, NRG shall provide to the County a written statement setting forth its reasonable estimate of the aggregate Service Fee for the next Billing Year, which statement shall not be binding on NRG.

(d) Within sixty (60) days after the end of each Billing Year, NRG shall deliver to the County an annual settlement statement, which shall show the computation of the Service Fee, the Annual Revenue Makeup Amount as calculated below and the Additional Fees, if any, for such year, including correction to actual values of all estimated amounts, and all damages due to the County pursuant to Section 8.09, if any, and all damages due to NRG pursuant to Section 8.10. If the annual settlement statement reflects (i) any balance due to the County, then NRG shall within sixty (60) days of delivery of the annual statement pay such balance due to the County or (ii) any balance due to NRG then the County within sixty (60) days of receipt of the annual settlement statement shall pay to NRG such balance due. This Section 8.06(d) shall survive the termination or expiration of the term of this Agreement.

If NRG does not pay any balance due to the County pursuant to this Section 8.06(d) by the end of the sixty (60) day period following the delivery to the County of the annual statement as provided in this Section 8.06(d), the County may offset such owed amounts against the Service Fee for the immediately succeeding year.

(e) In addition, NRG shall in connection with the preparation of such annual settlement statement calculate the Annual Revenue Makeup Amount. If the Annual Revenue Makeup Amount is positive, NRG shall within sixty (60) days of delivery of such annual statement pay to the County an Annual Revenue Makeup Amount which shall be the lesser of (a) the Shortfall or (b) \$800,000 (as adjusted from January 1, 1991 using the index described in Schedule 1), where the Shortfall is defined by the following formula:

Shortfall is $(\frac{[SF]}{[CT]} - \frac{[ASF]}{[163000]}) \times CT$, where:

ASF is Adjusted Service Fee

ASF = SF + REC + TF - [REC x (163,000/ tons processed)], using SF, TF and REC as defined in Section 8.01, and reducing such 163,000 by the amount of adjustments applicable to Guaranteed Plant Performance;

CT is Credit Tons, the higher of Guaranteed Annual Tonnage or the actual tons of Acceptable Waste delivered by the County or for the account of the County and processed, but not more than 163,000; and

Tons processed is the sum of County Waste processed plus Outside Waste processed.

If the Shortfall is a negative amount, the County shall pay NRG an amount equal to the Shortfall.

The provisions of this Section 8.06(e) shall apply only during those Billing Years in which the County's Guaranteed Annual Tonnage is less than 163,000 tons.

If NRG does not pay the Annual Revenue Makeup Amount to the County by the end of the sixty (60) day period following the delivery to the County of the annual statement as provided in this Section 8.06(e), the County may offset such owed amounts against the Service Fee for the immediately succeeding year.

Section 8.07. Additional Payments.

(a) Additional Waste Service Fee. At the end of each Monthly Billing Period, if the Tons of Acceptable Waste in such Billing Year through and including such Monthly Billing Period exceed the Guaranteed Plant Performance for such Billing Year, the County shall pay NRG the Additional Waste Service Fee per Ton for each such excess Ton delivered during such Monthly Billing Period which shall be \$20.00 per Ton, subject to the Escalation Factor, for processing such Acceptable Waste.

(b) Required Change in Debt Service.

(i) NRG shall make or cause to be made any changes to the Facility required on or after the date hereof (x) as a result of any Change in Law to modify the Facility to comply with new requirements applicable thereto or any additional requirement necessary to comply with any County Change in Law. (y) subject to the provisions of Section 11.02 below, as a result of Force Majeure conditions, to the extent necessary to cause the Performance Standards to be met after the occurrence thereof, and (z) any other changes requested by the County that improve the efficiency of the Facility or increase the likelihood of compliance with the Performance Standards (all such Changes being referred to herein individually as a "Required Change" and collectively as "Required Changes").

(ii) As soon as possible after any such Required Change described in paragraph (i) above occurring on or after the date hereof, NRG shall give the County Representative and the Consulting Engineer a statement describing the Required Change, a description of the effect of such Required Change on the Facility, and an estimate of the capital costs of any Required Change ("Additional Capital Investment"). The amount of such

Additional Capital Investment for any Required Change described in clauses 8.07(b)(i) (x) or (y) above, except any such Required Change described in clause 8.07(b)(i)(y) resulting from County Fault, shall equal the reasonable capital costs and expenses for repair, replacement, maintenance or modification (excluding home office overhead and administrative costs of NRG and its Affiliates, and contract management personnel expenses, to the extent such expenses are not increased due to the Required Change), expected to be incurred by NRG for the modification, maintenance, repair or replacement of any portion of the Facility necessitated by such Required Change that will not be paid from insurance proceeds or by the County or third parties within the time required to make that Required Change minus the amount of the deductible provisions in applicable insurance policies. The amount of such Additional Capital Investment for any Required Changes described in clause 8.07(b)(i)(y) which resulted from County Fault or described in clause 8.07(b)(i)(z) shall equal 107.5% of the reasonable direct capital costs and expenses to the NRG for repair, replacement, maintenance or modification (excluding home office overhead and administrative costs of the NRG, and contract management personnel expenses, to the extent such expenses are not increased due to the Required Changes) of any portion of the Facility necessitated by such Required Changes that will not be paid from insurance proceeds or by the County or third parties within the time required to make that Required Change minus the amount of the deductible provisions in applicable insurance policies. Notwithstanding the foregoing, at the election of the County, in its sole discretion, the amount of any Additional Capital Investment for any Required Changes described in clauses 8.07(b)(i)(x), (y) or (z) above may include all or any portion of home office overhead and administrative costs of NRG and its affiliates and contract management personnel expenses.

(iii) NRG shall discuss with the County Representative and the Consulting Engineer the modifications required by the Required Change or the Additional Capital Investment, and shall provide them with such information in NRG's possession as they reasonably request.

(iv) Upon the written request of the County, NRG shall use all reasonable efforts to finance the estimated Additional Capital Investment. If the

County does not otherwise request, the County shall promptly provide NRG all funding necessary to pay the cost of such Additional Capital Investment as such costs are incurred.

(v) The amount of the Additional Capital Investment shall be deposited in an escrow fund and made available to NRG under requisition procedures similar to those contained in the Financing Agreement and Indenture executed in connection with the issuance of the Bonds. NRG shall provide or cause to be provided a payment and performance bond in an amount equal to the Additional Capital Investment or a guarantee of construction equivalent to the guarantee provided in Section 3.11. There shall be added to the amount of the Additional Capital Investment the cost of such payment and performance bonds, capitalized interest, reserve funding requirements and other costs of issuance, and all reasonable costs and expenses incurred by NRG in obtaining any such financing, and there shall be deducted from the amount of the Additional Capital Investment an amount equal to the reasonable estimate of the investment earnings on the Additional Capital Investment funds on deposit in such escrow fund, less amounts required to be rebated to the federal government.

(vi) After the financing of the Additional Capital Investment, the Service Fee shall be increased by an amount equal to any principal and interest payments payable during each Monthly Billing Period with respect to any financing incurred in accordance with this Section 8.07. If NRG does not finance all or any portion of the Additional Capital Investment, and the County is not obligated to provide the cost thereof pursuant to clause (iv) above, the Service Fee for each Billing Year shall be increased to include an amount equal to (1) the debt service which would have been payable during each applicable Monthly Billing Period on indebtedness equal in principal amount to the Additional Capital Investment which was not financed over the shorter of (a) the remaining term of this Agreement, and (b) the useful life of the financed capital improvement in any such case, assuming level debt service payments and an interest rate equal to the Trustee's prime rate of interest as adjusted from time to time or (2) any other amounts approved by the County and NRG. The basis for any such adjustment, described in reasonable detail, shall be delivered by NRG to the County Representative at

least 60 days before the proposed adjustment is to take effect.

(vii) If the Additional Capital Investment incurred by NRG is less than the estimates upon which the Service Fee adjustment was based, the surplus financing proceeds shall be applied to the reduction of the financing costs of such Additional Capital Investment, and the Service Fee shall be reduced by the reduction in [^]debt [^]service or assumed [^]debt [^]service.

(c) Certain Operating Cost Increases Resulting from Required Changes. If, after the Contract Date, any Change in Law, Event of Force Majeure or Required Change necessitates an increase in NRG's operating or maintenance costs and expenses for any reason, including without limitation, any increase in the number or qualification of NRG's labor or security forces or of personnel under contract to NRG, or in the activities to be performed by them, or in the amounts or quality of materials used in connection with the operation or maintenance of the Facility or the cost of transportation or disposal of Residue, Shutdown Waste and/or Unacceptable Waste, the Service Fee shall be adjusted by the amount of the reasonable cost of such increase in operating or maintenance costs and expenses for the period affected minus any applicable insurance proceeds recovered as a result of the Required Change, Change in Law or event of Force Majeure that are available to pay such costs, or payments in respect of such costs made by third parties.

The basis for any such adjustment, in reasonable detail, shall be delivered by NRG to the County Representative and the Consulting Engineer at least 30 days before the proposed adjustment is to take effect.

(d) Insurance Proceeds; Third Party Payments. If after the effective date of any Service Fee adjustment under subsections (b) and (c) above, NRG receives proceeds from insurance or any other third party for any loss or claim in respect of which the Service Fee Adjustment was made, it shall recalculate the Service Fee Adjustment taking the recovery into account and reimburse the County for such Service Fee Adjustment from such proceeds after deducting reasonable collection costs. This Section shall not apply to proceeds that were taken into account in the calculation of the Service Fee Adjustment.

NRG shall use reasonable efforts to effect the recovery of such proceeds (the cost of which shall be deducted from available proceeds hereunder), but (i) the taking of action by NRG to attempt to effect a recovery shall not be a

condition precedent to the effectiveness of any Service Fee Adjustment referred to in subsections (b) or (c) above and (ii) NRG shall not be required under this paragraph to take any action if NRG in good faith determines, after consultation with the County Representative, that such action is not justified by the amount of any potential recovery, the likelihood of the recovery and the expense of such action.

(e) Bonus Fee for Reduced Residue Disposal. The County has encouraged NRG to reduce the volume of Residue which, after processing, is delivered to the Landfill. It is expected that approximately twenty-seven percent (27%) of the tonnage of Acceptable Waste delivered to the Facility will be returned as Residue to the Landfill. As an incentive to NRG to reduce such Residue deliveries, the County hereby agrees to pay NRG, in addition to the other fees and charges referred to herein, a bonus fee equal to \$20.00 per ton, adjusted by the Escalation Factor, multiplied by the positive difference, if any, between (i) twenty-five percent (25%) of the aggregate tonnage delivered to the Facility during any Monthly Billing Period (excluding Unacceptable Waste removed from the Facility by the County or the haulers thereof) and (ii) the actual tonnage of Residue delivered by NRG to the Landfill during such Monthly Billing Period. Such payments shall be adjusted at the end of each Billing Year to reflect the aggregate deliveries of Residue to the Landfill above or below said twenty-five percent (25%) in such Billing Year. For purposes of the calculations to be made pursuant to this paragraph, all tonnage shall be converted to a dry basis.

(f) NRG shall maintain all books, records and accounts necessary to record all matters affecting adjustments to the Service Fee or other amounts payable by the County under subsection (b), (c), (d) and (e) of this Section 8.07. All such books, records and accounts shall be maintained in accordance with generally accepted accounting principles, shall accurately, fairly and in reasonable detail reflect all the NRG's dealings and transactions to which any such adjustment to the Service Fee relates and shall be sufficient to enable those dealings and transactions to be audited in accordance with generally accepted auditing standards. All such books, records and accounts shall be available for inspection and photocopying by the County on reasonable notice, subject to the County's obligations as to Confidential Information contained herein. All such books, records and accounts shall be kept by NRG for at least two years (or longer period required by applicable law).

Section 8.08. Adjustment to Service Fee. If, in NRG's reasonable judgment, the energy content of Acceptable

Waste delivered to the Facility on a weekly average basis over any period of sixteen (16) consecutive weeks or more, shall either be more than 6,000 BTU's per pound or less than 3,800 BTU's per pound, NRG may propose in writing to the County adjustments in the Service Fee, the Guaranteed Plant Performance and the Additional Waste Service Fee to reflect such a change in operating conditions of the Facility. In its proposal, NRG shall set forth in reasonable detail the results of measurements made and tests conducted during the period in question reasonably acceptable to and confirmed by the Consulting Engineer, demonstrating that Acceptable Waste with an energy content outside the above limits was processed through the Facility during such period. Within thirty (30) days after the County receives NRG's proposal, the County and NRG shall undertake discussions of such proposal in good faith and shall use their best efforts to agree on an equitable adjustment of the Service Fee, the Guaranteed Plant Performance and the Additional Waste Service Fee. If the County and NRG shall fail to agree on such adjustment within thirty (30) days after commencement of such discussions, the matter shall be referred to arbitration pursuant to Section 15.12 to resolve such failure to agree on an equitable adjustment and to determine whether an adjustment is required.

Section 8.09. NRG Non-Performance; Damages.

(a) Unburned Carbon Performance Guarantee. The County may at any time and from time to time after the Commencement Date of Operations, require an Unburned Carbon Performance Test to be conducted at the Facility pursuant to Schedule 10. If the Facility fails to meet the Unburned Carbon Performance Standard as reflected in such test, NRG shall pay to the County monthly, an amount calculated pursuant to Schedule 10 hereto. Such amount may be applied by the County as an offset to the Service Fee payable in any Monthly Billing Period.

(b) Guaranteed Plant Performance; Lost Energy Revenues.

(i) If, during a Monthly Billing Period following the Scheduled Commencement Date of Operations, NRG fails to accept Acceptable Waste which it was required to accept under Section 6.01 and Schedule 2 hereto during such month ("Wrongfully Rejected Waste"), the County shall dispose of such Wrongfully Rejected Waste. The County shall pay the full Service Fee for each applicable Monthly Billing Period minus liquidated damages then due equal to the sum of the following:

(A) Transportation costs which shall be calculated by multiplying (a) the difference if positive between (x) the average cost per Ton for transportation of Acceptable Waste to the landfill or nearest appropriate disposal facility in such Billing Period and (y) the average cost per Ton for transportation of Acceptable Waste to the Facility in such Billing Period by (b) the Tons of Acceptable Waste wrongfully rejected by NRG and delivered to and disposed of at the landfill or nearest appropriate disposal facility, by the County; and

(B) Landfill or disposal costs and charges for Wrongfully Rejected Waste which is delivered to and disposed of by the County at the landfill or nearest appropriate disposal facility in such Billing Period including the value of the capacity of the landfill or other disposal facility used to dispose of the Wrongfully Rejected Waste (such as the cost of siting, permitting, developing and financing additional landfill or other disposal facility space to replace the space depleted by such Wrongfully Rejected Waste), minus the cost to the County of disposing of the Residue that would have been derived from such Wrongfully Rejected Waste, including the value of such capacity of the landfill or other disposal facility; and

(C) All other incremental direct cost increases incurred by the County in the transportation and disposal of such wrongfully rejected Acceptable Waste.

(ii) Lost Energy Revenues. If, during any calendar month following the Scheduled Commencement Date of Operations there is Wrongfully Rejected Waste with respect to which damages are payable pursuant to clause (b)(i) above, or Non-Processed Waste, as defined in Schedule 2, NRG shall also pay to the County damages for lost energy revenues computed in an amount equal to (A) the number of tons of Wrongfully Rejected Waste and Non-Processed Waste during such Monthly Billing Period times (B) 472.50 kWh per ton times (C) the percentage of on-peak and off-peak hour production, respectively, during such month as determined pursuant to the Power Sales Agreement and the resulting fractions shall be multiplied by the applicable price per kWh of on-peak and off-peak energy, respectively, to which NRG would have been

entitled from the sale of energy for on-peak and off-peak hours pursuant to the Power Sales Agreement.

(iii) Minimum Energy Guarantee. Verification of the energy efficiency of the Facility will be accomplished on a daily basis using the procedures and parameters specified in Schedule 19. If at the end of any Billing Year or portion of a Billing Year following the Scheduled Commencement Date of Operations (A) the Facility shall have operated continuously within the operating parameters set forth in Schedule 19 or (B) the average electric energy production by the Facility per ton of Acceptable Waste during such Billing Year or portion thereof is equal to or greater than 525 kWh per ton NRG shall not be obligated to pay the County any energy damages with respect to electric energy production. If at the end of any Billing Year, (A) for any day of said Billing Year following the Scheduled Commencement Date of Operations with respect to any boiler processing Acceptable Waste on such day, the Facility failed to achieve one or more of the operating parameters monitored pursuant to Section 19, and (B) the average electric energy production by the Facility per ton of Acceptable Waste processed at the Facility during such Billing Year following the Scheduled Commencement Date of Operations is less than 525 kWh per ton, NRG shall pay to the County damages for lost energy revenues for each day during such period that the Facility failed to achieve one or more of the operating parameters in an amount equal to ninety percent (90%) of the difference, if positive between (A) the product of the number of tons of Acceptable Waste processed during such day (up to 528 tons per day) times 525 kWh per ton times the weighted average on-peak and off-peak price per kWh during the applicable month pursuant to the Power Sales Agreement and (B) the actual energy revenues received for such day from the sale of electricity pursuant to the Power Sales Agreement.

(c) The County shall use all reasonable efforts to minimize its costs as described above and shall substantiate and document such costs in a manner reasonably satisfactory to NRG for the amounts payable under subparagraph (b) above. After delivering such invoice to NRG, the County may offset the amounts due under paragraph (b) against the Service Fee then due to NRG in any Monthly Billing Period. In the event the amount which the County may offset under paragraph (b) above is greater in any Monthly Billing Period than the portion of the Service Fee payable by the County in such Monthly Billing

Period, then the County shall invoice NRG for any such amounts promptly following the end of each month and NRG shall pay each such invoice within fifteen (15) days of receipt.

(d) If at or at any time prior to the end of any Billing Year, NRG shall have accepted and disposed of Acceptable Waste in an amount equal to or greater than (i) with respect to Wrongfully Rejected Waste, the Guaranteed Annual Tonnage, and with respect to lost energy revenues, the Guaranteed Plant Performance, no further liquidated damages for such Billing Year will be due under subparagraphs (b)(i) and (b)(ii), respectively, or under Section 4.12 with respect to Shutdown Waste, and (ii) the County shall promptly refund to NRG all amounts paid by NRG under subparagraph (b)(i) and (ii) for such Billing Year with interest thereon calculated at the rate of eight percent (8%) per annum, simple interest.

(e) Any amounts due the County under paragraph (b)(ii) of this Section shall be offset by all revenues received by the County pursuant to Section 8.05(a) which result from the production of kilowatt hours per ton of waste processed at the Facility in excess of 525 kWh. ^

(f) The liquidated damages specified herein for non-performance or non-compliance with the Performance Standards shall be the County's sole remedy against NRG for such non-performance or non-compliance.

Section 8.10. County Non-Performance.

(a) If during any Monthly Billing Period, the Facility is temporarily shut down, either partially or totally, or is otherwise unable to accept or process Acceptable Waste at the Guaranteed Plant Performance due to County Fault, NRG shall accept, process and dispose of Acceptable Waste to the extent of available Facility capacity. The County shall continue to pay the Service Fee, and shall pay any increase in NRG's direct costs of operation and maintenance of the Facility, for which NRG shall provide Cost Substantiation.

(b) NRG shall use all reasonable efforts to reduce the Operation and Maintenance Charge component of the Service Fee for the benefit of the County during a period of non-operation or partial operation due to County Fault consistent with its long term operation and maintenance obligations under this Agreement and the Service Fee shall be reduced by such amount.

(c) If during the Billing Year the number of tons of Acceptable Waste delivered to the Facility by the County has

been less than the Guaranteed Annual Tonnage for reasons other than Force Majeure but including County Fault the County shall pay to NRG an amount equal to ten percent (10%) of the energy revenues which would have been generated under the Power Sales Agreement with respect to such tonnage below the Guaranteed Annual Tonnage not delivered by the County during such Billing Year, based on the average of the energy and capacity prices and kWh per ton experienced during such Billing Year. Such amount shall be payable by the County within 30 days of an invoice of NRG therefor.

Section 8.11. Disputes. If any invoice is disputed, the party disputing such invoice shall pay any amount not in dispute and shall promptly advise the other party of the basis of its dispute. The parties will then proceed to expeditiously settle all disputed items and any corrections shall reduce the amount otherwise due the following month. If the parties cannot resolve such dispute within thirty (30) days of such advice, either party may initiate arbitration proceedings pursuant to Section 15.11. If after resolution of such dispute it is determined that the party paying such invoices paid an amount in excess of the amount actually owed hereunder, the party receiving such excess shall refund such excess with interest thereon equal to the then current rate of interest on the bonds issued to finance the Facility.

Section 8.12. Credit Document Matters. (a) If, in consequence of a Company Fault or a Primary Company Fault relating to the Selected Sections (as hereinafter defined), the Indebtedness shall have been accelerated (or a mandatory tender shall have occurred), NRG shall pay to the County on the day in each Monthly Billing Period when the Service Fee is payable an amount, in cash, equal to (a) Debt Service calculated as provided in Section 8.02(f) hereof less (b) Debt Service calculated to include (x) principal payable at such times and in such amounts as set forth in the originally scheduled principal amortization schedule contained in Sections 2.02(j) and 2.04(i) of the Indenture and the originally scheduled principal amortization schedule for any Additional Capital Investment (as though such acceleration (or mandatory tender) shall not have occurred with respect to the principal amount of such Indebtedness) and (y) interest at the rate in effect on the date of such acceleration for fixed rate, tax-exempt securities with respect to resource recovery facilities maturing at such times and in such amounts as described in clause (x) above and rated Baal by Moody's Investors Service Inc. and BBB+ by Standard & Poor's Corporation, or if both such agencies are no longer assigning ratings to tax-exempt securities, a comparable rating by a nationally recognized bond rating agency, all as determined by the Remarketing Agent (as defined in the Indenture). The obligations of NRG under this Section 8.12(a) (i) need not be assumed by any successor to NRG

as service provider under this Agreement where such succession is in connection with an exercise of remedies in respect of the Credit Documents and the mortgage, security interest and assignment —relating to the Financing Agreement and the Indenture and (ii) may not be utilized by the County as an offset to, or deduction from, the Service Fee or Other Payments Amount otherwise due hereunder to any successor service provider and (iii) shall not, if not timely paid, give rise to an Event of Default under Section 12.01(b) hereof for which the County may terminate this Agreement pursuant to Section 12.02. "Selected Sections" shall mean Sections 7.01, 7.02, 7.03, 7.04, 7.07, 7.08, 7.11, 7.12, 7.23, 7.29, 7.35 and 7.36 of the Letter of Credit, Term Loan and Reimbursement Agreement dated as of November 1, 1988, between NRG and the Credit Provider in connection with the initial issuance of the Bonds.

(b) NRG shall, at the written request of the County, take or cause to be taken all actions necessary to voluntarily prepay or redeem amounts due under the Indenture, the Financing Agreement or the Reimbursement Agreement upon payment by the County to NRG for the benefit of the Trustee or the Credit Provider, as the case may be, of amounts sufficient to prepay or redeem or provide for the prepayment or redemption of any such amounts under any of such agreements. The County shall state in such request to NRG the amount to be prepaid or redeemed, the provision pursuant to which prepayment or redemption shall occur and any other instructions which the County considers necessary or appropriate for such prepayment or redemption. NRG shall not voluntarily prepay or redeem amounts due under the Indenture, the Financing Agreement or the Reimbursement Agreement except upon the written request of the County as provided above.

The County may direct the exercise by NRG under the Indenture and the Credit Documents of any available interest rate elections under the Indenture or other options with respect to loans under the Credit Documents (including, without limitation, the establishment of interest rate periods, the increase or decrease of the amount of any sinking fund installment, the optional redemption of Bonds, the investment of money held in the funds and accounts created by the Indenture and the option to deliver Transfer Directions and Investment Instructions, all as provided in the Indenture). NRG and the County shall develop procedures for the giving of reasonable notice by NRG to the County with respect to interest rate elections, Transfer Directions, Investment Instructions and such other items. Absent timely receipt of such directions, the County shall be bound by any exercise by NRG of any elections or other options.

ARTICLE IX

Conditions Precedent

The rights, obligations and liabilities of the parties hereto shall be subject to the satisfaction of the following conditions precedent and neither party shall have any liability to the other party in the event any such condition precedent is not satisfied:

(a) Ogden Corporation and Martin GmbH shall have executed a guaranty agreement and a covenant of assurance, respectively, in form and substance approved in writing by the County.

(b) NRG shall obtain financing for the construction of the Facility pursuant to the Financing Agreement and other documents and terms satisfactory to NRG and the County. At least eighty-five percent (85%) (but in no event less than the maximum amount permitted to be financed on a tax-exempt basis under federal tax law and state law) of such financing shall be comprised of tax-exempt municipal bonds issued by the County or the Lake County Industrial Development Authority on its behalf and with level debt service after the capitalized interest period, amortized over at least twenty (20) years. The remaining indebtedness may be taxable, with payments amortized over at least ten (10) years and an interest rate not higher than a financial institution's prime lending rate plus one percent (1%) per annum.

^ (c) The County and NRG shall have received a feasibility study from the Consulting Engineer in form and substance satisfactory to each of them, and the County shall have determined, based upon the feasibility study and such other information as the County shall deem relevant, that, taking into consideration then current or anticipated obligations of the County and participating cities with respect to the recycling of waste, the supply of waste within the County available for processing at the Facility will be sufficient to permit the County to satisfy its delivery obligations hereunder.

(d) The County shall have enacted a waste flow control ordinance and service fee ordinance in form and substance satisfactory to NRG and the County, and cities within the County containing at least 75% of the County population located in incorporated areas shall have adopted or enacted similar ordinances in their respective jurisdictions or entered into interlocal agreements with the County; provided, however, it is acknowledged and agreed by NRG that neither the County

nor any of such cities may bind themselves in advance to the adoption of legislation or the execution of such agreements, and that the adoption of such legislation is within the discretion of the County and the cities at the time such legislation is considered by them.

(e) Each party shall use all reasonable efforts to satisfy such conditions at the earliest date possible. The County and NRG shall promptly acknowledge the satisfaction of each condition as soon as such satisfaction occurs. If conditions precedent set forth in this Article IX shall not have been satisfied or waived by December 31, 1988 then this Agreement may be terminated by the County or NRG, as the case may be, upon five days notice to the other party and upon such termination neither party shall have any liability to the other.

(f) NRG shall have (i) agreed to make \$5,000,000 of its equity contributions as contemplated in Section 8.02(d) above pro rata with withdrawals from the Construction Fund to pay the cost of the Facility, (ii) agreed to contribute the remaining \$5,000,000 of its equity in equal monthly installments during the first 60 months following the Service Date, and (iii) provided the Guaranty Agreement. If NRG elects not to contribute equity, it shall, at the County's election, permit OMS to make the equity contribution or the County to own the project and finance the equity contribution.

ARTICLE X

Weights

Section 10.01. Scale Construction and Operation. NRG shall install and the County shall maintain for use by the County, two container and/or motor truck scales to weigh all vehicles delivering waste to the Facility and all process Residue, Shutdown Waste and Unacceptable Waste removed from the Facility. Said motor truck scales shall be of sufficient size to weigh a 75 foot or less vehicle. The County shall assume the operation and control of the scales in accordance with the procedures specified herein and shall employ qualified staff to operate it. The County at its own expense shall assume responsibility for maintaining the scales and gatehouse in good condition and to cause periodic calibrations of the scales as hereinafter set forth. NRG shall have the right to be present at or review the results of such calibrations.

Section 10.02. Weighing Procedures. NRG and the County shall jointly establish reasonable procedures to insure proper vehicle identification and to predetermine vehicle tare weights so that net vehicle load can be established. Each incoming waste vehicle and outbound vehicle carrying Residue, Shutdown Waste and Unacceptable Waste shall be weighed, indicating gross weight, tare weight, time and truck identification on a weight record. Such records shall be maintained by the County and shall be used by NRG and the County as a basis for calculations required herein. NRG shall have the right to inspect the books and records of the gatehouse at any time, without prior notice. Such inspections shall be conducted during business hours in such a manner as to not unreasonably interfere with gatehouse operations.

Section 10.03. Inspections. The County shall provide for regular inspections of the scales by public officials to ensure their reasonable accuracy, such inspections to be conducted not less than annually, and at such other times as NRG, at its expense, deems necessary.

Section 10.04. Inoperative Scales. If all weighing facilities are inoperative or are being tested, the County shall estimate the quantity of wastes delivered on the basis of truck volumes and estimated data obtained through historical information pertinent to the Hauler. These estimates shall take the place of actual weighing records during the scale outage. The County shall notify NRG within twenty-four (24) hours if all weighing facilities will be inoperative for more than one day.

Section 10.05. Weight Records.

(a) Copies of all current weight records shall be delivered to NRG on a daily basis.

(b) The County shall maintain records of waste tonnage accepted at the Facility, and process Residue, Unacceptable Waste and Shutdown Waste, generated by the Facility daily, monthly, and annually and copies of all weight tickets will be retained until disposal is approved by NRG in writing.

Section 10.06. Weight Tickets. The County, NRG and the operator of each weighed vehicle shall receive a copy of the weight ticket. Each weight ticket shall include at least the following information:

- a. Date and Time
- b. Hauler Code
- c. Vehicle I.D. number
- d. Tons delivered
- e. Type of material weighed

Section 10.07. Detection of Unacceptable Waste. The County will train all scale operators to recognize Hazardous Waste and Unacceptable Waste. The County shall also instruct all haulers delivering waste to the Facility of what constitutes Unacceptable Waste and direct such haulers to deliver such wastes directly to the Landfill. If Unacceptable Waste is delivered to the Facility, the County scale operators will promptly advise NRG that Unacceptable Waste has been delivered to the Facility.

Section 10.08. Waste Deliveries by Third Parties. The County shall screen all deliveries of waste by third parties to the Facility from the gatehouse. The County shall be permitted to have a county inspector on site at the tipping floor to inspect each such delivery. Any third party waste delivered for the account of the County shall count toward the Guaranteed Annual Tonnage hereunder, shall be subject to the Service Fee payment requirements contained in Article VIII hereof and shall be subject to the provisions of Article VII hereof. NRG shall be entitled to charge and receive a tipping fee with regard to all Outside Waste.

ARTICLE XI

Damage or Destruction to Facility Force Majeure

Section 11.01. Force Majeure.

(a) Either party shall be excused from performance (except for each party's payment obligations hereunder) when its non-performance was caused directly or indirectly by an Event of Force Majeure. The affected party shall give to the other party prompt written notice of the Force Majeure with reasonable full particulars concerning it. Thereupon the obligations of the party giving the notice so far as they are affected by the Force Majeure shall be suspended during, but no longer than the continuance of, the Event of Force Majeure and for a reasonable time thereafter required to remedy the physical damages and/or to place the Facility back in operation.

(b) Any party excused from performing any obligation under this Agreement pursuant to Section 11.01(a) shall promptly, diligently and in good faith take all reasonable action required in order for it to be able to commence or resume performance of its obligations under the Agreement. Without limiting the generality of the foregoing, the party so excused from performance shall, during any such period of Force Majeure, take all actions reasonably necessary to obtain and/or terminate any temporary restraining orders, preliminary or permanent injunctions, approvals, licenses or permits needed to enable it to so commence or resume performance of its obligations under this Agreement; provided, however, that the settlement of strikes, lockouts and other labor difficulties or disputes shall be entirely within the discretion of said party and it shall not be required to make settlement of such labor disputes by acceding to demands which are unfavorable in the judgment of the affected party.

(c) The party whose performance is excused due to the occurrence of an Event of Force Majeure shall, during such period, keep the other party duly notified of all such actions required in order for it to be able to commence or resume performance of its obligations under this Agreement.

(d) No event of Force Majeure shall excuse either party from its payment obligations hereunder and the County shall not be liable for the loss by NRG of any tax benefits relating to the Facility due to an event of Force Majeure.

(e) If during any Monthly Billing Period, due to the occurrence of a Force Majeure, there shall be a decrease or increase in NRG's costs of operation and maintenance of the Facility, the Operation and Maintenance Charge shall be increased or decreased accordingly; provided that any increase

in the costs of operation and maintenance of the Facility shall be limited to the incremental direct cost increases to NRG, for which NRG shall provide Cost Substantiation; and provided further that if proceeds of any business interruption insurance or any other insurance providing similar coverage against the event or consequences of the Force Majeure shall be available to NRG, the Service Fee payable in such Monthly Billing Period shall be reduced by the amount of such proceeds actually received during such period whether or not the event of Force Majeure still continues. NRG shall use all reasonable efforts to reduce the costs of operation and maintenance of the Facility during any period when NRG is excused from any of its obligations hereunder due to an event of Force Majeure (including the inability to dispose of Residue due to the occurrence of Force Majeure affecting the availability of the Landfill).

(f) In the event of a County Change in Law, the County shall take reasonable actions, permitted under applicable law, requested by NRG necessary to cure the effects of the County Change in Law (with the cooperation of NRG as appropriate), including if necessary the enactment and/or promulgation of any ordinances, resolutions or regulations or interpretation or implementation of any administrative or judicial processes necessary to cure the effect of the County Change in Law. If the County fails or is unable to undertake and implement such curative action, the provisions of Section 11.02(b) shall apply.

Section 11.02. Destruction of Facility. (a) If the Facility is damaged, destroyed or taken during the term hereof and the cost of repair or replacement of the Facility is covered by insurance or payments by the County pursuant to Section 8.07(b) above, NRG shall repair or replace the Facility if the repair, reconstruction or replacement can be reasonably accomplished by NRG within the period covered by business interruption insurance required pursuant to Schedule 11 or by continued Service Fee payments hereunder. If the Facility is damaged or destroyed by fire, the elements or other casualty to an extent that it cannot function as contemplated by the parties and to the extent that (i) it cannot be repaired or replaced within the period covered by business interruption insurance or by continued Service Fee payments hereunder or (ii) the cost of repair or replacement is not payable within such period from insurance proceeds or amounts provided by the County or third parties, then NRG may, at its option, restore, repair or reconstruct the Facility or terminate this Agreement by written notice to the County within one-hundred twenty (120) days after the date of damage or destruction. Said notice shall effectively terminate this Agreement thirty (30) days after the date of such notice.

(b) If due to an Event of Force Majeure the estimated aggregate Service Fees payable by the County during the

remaining term of this Agreement increases by 20% or the County expects that NRG will be unable to accept at least 80% of the Guaranteed Annual Tonnage for six (6) months, the County may terminate this Agreement upon 30 days' notice by paying to NRG all amounts-accruing prior to the date of termination together with all cancellation or termination charges of NRG under any contracts for the design, construction or equipping of the Facility and by paying to the Trustee an amount sufficient to defease the Indebtedness then outstanding and by paying to the Issuer, the Trustee, the Paying Agent, the Credit Provider, the Registrar and the Remarketing Agent the fees, costs, charges and other amounts then and thereafter payable to each of them in accordance with the Credit Documents, the Financing Agreement and the other agreements theretofore approved by the County in connection with the Indebtedness excepting only any such fees, costs, charges or other amounts payable as a result of Primary Company Fault. No such termination shall relieve the County of its payment or indemnification obligations hereunder with respect to matters arising prior to such termination. NRG shall provide Cost Substantiation for all such amounts.

(c) If due to a County Change in Law either NRG is unable to cause the in-service date of the Facility (for federal income tax purposes) to occur on or before December 31, 1990, or there is any default under the Credit Documents which results in an acceleration (or mandatory tender) of Indebtedness or the exercise of remedies ("Foreclosure") in respect of the Credit Documents and the mortgage, assignment and security interest relating to the Financing Agreement and the Indenture, NRG agrees for the benefit of the Credit Provider, the County, the Trustee, the holder of any Indebtedness, and their respective successors and assigns that NRG shall pay (i) to the Trustee an amount sufficient to defease the Indebtedness then outstanding and (ii) to the Issuer, the Trustee, the Paying Agent, the Credit Provider, the Registrar and the Remarketing Agent any and all fees, costs, charges and other amounts then and thereafter payable to each of them in accordance with the Credit Documents, the Financing Agreement and the other agreements theretofore approved by the County in connection with the Bonds and the other Indebtedness. Upon such payment by NRG, the County shall pay to NRG an amount equal to (1) the amount of the NRG payments pursuant to the preceding sentence, (2) all cancellation or termination charges of NRG under any contracts for the design, construction or equipping of the Facility, if any, (3) subject to cost substantiation any expenses or costs reasonably incurred by NRG in attempting to cure the effects of or good faith contesting of any action or proceeding resulting in such County Change in Law and (4) any other amounts due to NRG pursuant to this Agreement (including, without limitation, any direct damages suffered by NRG) after deduction of any amounts due to the County hereunder. The County and NRG shall cooperate in the refinancing of the amounts paid under this Section.

ARTICLE XII

Default and Termination

Section 12.01. Events of Default. (a) County Default. Any of the following shall constitute an Event of Default on the part of the County:

(1) The persistent or repeated failure or refusal by the County to substantially fulfill any of its obligations under this Agreement (other than its obligations to make payments to NRG), unless excused by a prior default by NRG; provided, however, that no such default shall constitute an Event of Default unless and until:

(A) NRG has given prior written notice to the County specifying that a default or defaults exist which will, unless corrected, constitute a material breach of this Agreement on the part of the County; and

(B) the County either has not corrected such default or has not initiated reasonable steps to correct the same within thirty (30) days of receipt of such notice, and thereafter does not continue to take reasonable steps to correct such default.

(2) Failure by the County to make any payment to NRG under this Agreement within thirty (30) days of the date such payment is due.

(3) The filing by or against the County of a petition seeking relief under the Federal Bankruptcy Act or any Federal or State statute intended to provide relief for political subdivisions which are insolvent or unable to meet their obligations as they mature.

(b) NRG Default. Any of the following shall constitute an Event of Default on the part of NRG:

(1) If construction of the Facility has not commenced by January 1, 1990, or if the Commencement Date of Operations has not occurred by the later of January 1, 1993 and the last day of the Extension Period.

(2) The persistent or repeated failure or refusal by NRG substantially to fulfill any of its obligations under this Agreement (other than its obligations to make payments to the County); provided, however, that no such default shall constitute an Event of Default unless and until:

(A) the County has given written notice to NRG stating that, in its opinion, a particular default or defaults (described in reasonable detail in such notice) exist that will, unless corrected, constitute a material breach of this Agreement on the part of NRG and that will, if repeated or persisted in, give the County, in its opinion, the right to terminate its obligations to NRG under this Agreement for cause under Section 12.02 unless such default is corrected within a reasonable period of time, and

(B) NRG has neither corrected such default nor initiated reasonable steps to correct it within a reasonable period of time (which shall in any event be not less than 30 days from the date of the notice given pursuant to clause (A) of this Section 12.01(b)(2)), provided that if NRG has commenced to take reasonable steps to correct such default within such reasonable period of time, the default shall not constitute an Event of Default for as long as NRG is continuing to take reasonable steps to correct it; or

(3) The failure by NRG to pay the County any amount owed under this Agreement within one hundred twenty (120) days following the receipt of a written notice from the County stating that failure to make such payment will result in termination of this Agreement.

(4) The written admission by NRG that it is bankrupt, or the filing by NRG of a voluntary petition as such under the Federal Bankruptcy Act, or the consent by NRG to the appointment by a court of a receiver or trustee for all or a substantial portion of its property or business, or the making by NRG of any arrangement with or for the benefit of its credits involving an assignment to a trustee, receiver or

similar fiduciary, regardless of how designated, of all or a substantial portion of its property or business; provided, however, that no such admission, filing, appointment of a receiver or trustee or arrangement shall constitute an Event of Default unless and until the lender of the Indebtedness shall have given written notice to NRG and the County that such admission, filing, appointment or arrangement shall be deemed an Event of Default.

(5) The final adjudication of NRG as a bankrupt after the filing of an involuntary petition under the Federal Bankruptcy Act, but no such adjudication shall be regarded as final unless and until the same is no longer being contested by NRG or until the order of adjudication is no longer appealable; provided, however, that no such adjudication shall constitute an Event of Default unless and until the lender of the Indebtedness shall have given written notice to NRG and the County that such adjudication shall be deemed an Event of Default.

Section 12.02. Termination or Suspension for Cause by Party Not in Breach. In the event of an Event of Default as provided in Section 12.01, the nonbreaching party may terminate this Agreement upon written notice thereof to the breaching party; provided, however, that the exercise of such right of termination shall neither constitute an election of remedies nor a waiver of any rights; and provided further that neither party shall terminate this Agreement for failure by the other to pay an amount due hereunder if the unpaid amounts aggregate less than \$100,000.

In the event of an Event of Default as provided in Section 12.01(a)(2), NRG may suspend performance of its obligations under this Agreement upon written notice to the County; provided, however, that the exercise of such right shall not constitute an election of remedies nor a waiver of any rights.

Section 12.03. Other Available Remedies. Upon the occurrence of any Event of Default, the non-defaulting party may proceed to protect and enforce its rights hereunder and under the laws of the State of Florida by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board, body or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid of execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, all as such nondefaulting

party shall deem most effectual to protect and enforce such rights.

Section 12.04. NRG Obligation in Certain Events. (A) In the event that (a) this Agreement shall have been terminated by the County as provided in Section 12.02, (b) the Commencement Date of Operations shall not have occurred by the end of the Extension Period, (c) the Facility shall not have attained 70% of the Capacity Performance Standard not later than the Commencement Date of Operations (demonstrated as provided in Schedule 5), or (d) in consequence of a failure of NRG or its guarantor to perform as required by Section 4.14 hereof, there is acceleration (or mandatory tender) of Indebtedness, then, in any such event, NRG agrees for the benefit of the Credit Provider, the County, the Trustee, the holders of any Indebtedness, and their respective successors and assigns that NRG shall pay (i) to the Trustee an amount sufficient to defease the Indebtedness then outstanding and (ii) to the Issuer, the Trustee, the Paying Agent, the Credit Provider, the Registrar and the Remarketing Agent any and all fees, costs, charges and other amounts then and thereafter payable to each of them in accordance with the Credit Documents, the Financing Agreement and the other agreements theretofore approved by the County in connection with the Bonds and other Indebtedness; provided, however, that the operation of clauses (b) and (c) shall be suspended for so long as an Ogden Instability Event (as defined in any applicable Credit Facility Agreement) shall not have occurred and be continuing.

(B) The provisions of this Section 12.04 shall survive the termination of this Agreement by the County and shall continue in full force and effect as if this section 12.04 were a separate, continuing and independent contract between NRG on the one hand, and the Credit Provider and the Trustee (for the benefit of the holders of the Bonds and other Indebtedness) on the other hand.

Section 12.05. NRG Liability to the County. The parties acknowledge and agree that because of the unique nature of the Facility, it is difficult or impossible to determine with precision the amount of damages that would or might be incurred by the County as a result of the circumstances of NRG nonperformance specified in clauses (a), (b), (c) and (d) of Section 12.04(A). Accordingly, if the County terminates this Agreement pursuant to a right provided in Section 12.02, NRG shall be liable and obligated to pay only those monetary damages and other amounts as may be specifically due and payable under clauses (i) and (ii) of Section 12.04 and upon the irrevocable payment by NRG of all amounts specified in clauses (i) and (ii) of Section 12.04(A) and the termination of

this Agreement, NRG shall not be obligated to pay any other amount whatsoever to the County for such events of NRG nonperformance. The provisions of this Section 12.05 shall not limit or reduce the liability of NRG for any amount owed to the County under this Agreement that accrues prior to the termination of this Agreement as herein provided.

ARTICLE XIII

Indemnification

Section 13.01. By NRG.

(a) NRG shall indemnify, defend, and save and hold harmless the County, its officials, employees, agents, consultants and invitees (the "County Indemnified Parties") against and from all costs and expenses (including, but not limited to, reasonable attorneys' fees and court costs incurred in any court proceedings, including appellate proceedings), claims, and liabilities imposed upon or incurred by it as a result of claims by third persons for injury to or death of person or for loss of or damage to property resulting from or arising out of or in connection with either the negligent acts or omissions of NRG to the extent that such costs, expenses, claims or liabilities are not covered by insurance; provided that NRG shall have no obligation to indemnify the County for loss or claim due to negligence or willful misconduct of any County Indemnified Party.

(b) In the event any action or proceeding shall be brought against any County Indemnified Party by reason of any claim for which NRG is obligated to indemnify the County Indemnified Party under this Section 13.01(a), NRG, upon notice from the County Indemnified Party, shall at its sole cost and expense, defend the same.

(c) Neither NRG's indemnity under this Section 13.01(a) nor the County's indemnity under Section 13.02 shall extend to special, indirect, incidental, consequential or punitive damages caused by the performance or failure to perform of the indemnifying party under the terms of this Agreement or to damages caused by any negligent or tortious act or strict liability of the indemnifying party, or its agents, servants, or employees to the extent caused or contributed to by their negligent acts or omissions or by their acts or omissions in the case of strict liability.

Section 13.02. By the County. The County agrees that it (a) shall protect, indemnify and hold harmless NRG, its affiliates, and their respective officers, members, employees, consultants, agents and invitees (the "Company Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, and (b) shall defend the Company Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person or persons, or for loss or damage to property, in either case (a) or (b)

arising out of (i) the acceleration of Indebtedness due to a County Fault; (ii) the performance (or nonperformance) of the County's obligations under this Agreement, and (iii) Hazardous Waste, or any of the foregoing; provided, however, that the County shall have no obligation to indemnify any Company Indemnified Party for loss or claim due to the negligence or willful misconduct of any Company Indemnified Party, or for liability arising out of the disposition by NRG of Residue at any place other than the Landfill so long as the Landfill is capable of receiving Residue for disposal under applicable law and the County makes such Landfill available to NRG for the disposal of Residue.

ARTICLE XIV

Confidentiality

Section 14.01. Confidentiality. The County acknowledges that NRG has valuable and confidential proprietary data and information regarding the Facility, and that disclosure of any of such data and information to the County or its employees, agents, attorneys, consultants or representatives is solely for the purpose of facilitating the transactions contemplated by this Agreement and is made solely on the terms and conditions set forth below. Recognizing that the County has an obligation under Florida law to disclose certain types of information upon request, NRG shall endeavor in good faith to designate information as Confidential Information only if the information is propriety information that the County is not obligated to disclose under Florida law.

NRG shall confer with the County and its staff concerning the development of procedures for handling Confidential Information that are consistent with the rights and obligations of the Parties under this Agreement.

The County shall, to the extent permitted by applicable Federal, state and local law:

(a) treat in strict confidence all Confidential Information and use such information only for the purposes contemplated by this Agreement;

(b) limit access to Confidential Information to its agents, consultants, attorneys, employees and contractors who require such access for such purposes;

(c) not disclose, and use all efforts necessary to insure that its agents, consultants, attorneys, employees and contractors shall not disclose any Confidential Information to any third party except as hereinafter provided and shall cause such agents, consultants, attorneys, employees and contractors to execute and deliver to NRG confidentiality agreements which shall be acceptable to NRG; and

(d) if requested by NRG, return or cause to be returned all Confidential Information and copies thereof.

The foregoing shall not preclude the County from disclosing Confidential Information upon the lawful demand of any court or governmental agency having jurisdiction, provided that (i) prior to disclosing such Confidential Information the

County shall give NRG notice of such demand and NRG shall have the right to respond to such demand and to participate by itself and/or with the County in discussions with such court or agency concerning the scope and content of the requested Confidential Information, (ii) the County shall take all necessary steps not to prejudice NRG's proprietary rights in or to its Confidential Information, and (iii) upon NRG's request, the County shall request such court or agency to maintain the confidentiality of such Confidential Information.

NRG shall have the right to require the County to withhold disclosure of any Confidential Information to the extent permitted by applicable law, provided NRG agrees to reimburse the County for its costs and expenses resulting from such requirement by NRG.

Section 14.02. Survival. The provisions of this Article XIV shall survive any termination of this Agreement for so long as Confidential Information remains in the possession of the County or for twenty-four years, whichever is shorter.

ARTICLE XV

General Conditions

Section 15.01. Applicable Law and Venue. The law of the State of Florida shall govern the validity, interpretation, construction and performance hereof and venue for any suit involving this Agreement shall be in Lake County, Florida.

Section 15.02. Agreement Amendment. No amendments to this Agreement may be made except in writing signed by both parties.

Section 15.03. Severability. In the event any covenant, condition or provision of this Agreement is held to be invalid or unenforceable by a final judgment of a Court of competent jurisdiction, the invalidity or unenforceability thereof shall in no way affect any of the other covenants, conditions or provisions hereof, provided that such remaining covenants, conditions and provisions can thereafter be applicable and effective without materially changing the obligations of either party.

Section 15.04. Relationship of the Parties. Nothing herein shall be deemed to constitute either party a partner, agent, or local representative of the other party or to create any fiduciary relationship between the parties.

Section 15.05. Representatives. The authorized representative of each of the parties for the purpose hereof shall be such persons as the parties may from time to time designate in writing. Any such person so designated by County shall not have the authority to enter into any amendment to this Agreement without the express written approval of the Board of County Commissioners of Lake County.

Section 15.06. Notices. All notices herein required or permitted to be given or furnished under this Agreement by either party to the other shall be in writing, and shall be deemed sufficiently given and served upon the other party if sent by mail, addressed as follows:

If to NRG:

- NRG/Recovery Group, Inc.
c/o Ogden Martin Systems, Inc.
40 Lane Road
CN 2615
Fairfield, New Jersey 07007-2615
Attention: President

If to County: - County Administrator
Lake County Courthouse
315 West Main Street
Tavares, Florida 32778

If to
Consulting
Engineer: - R. W. Beck & Associates
2 University Office Park
51 Sawyer Road
Waltham, Massachusetts 02154-3448
Attention: Jeff Clunie

Each party shall have the right, from time to time to designate a different person and or address by notice given in conformity with this section.

Section 15.07. Binding Effect. The Agreement shall bind upon and inure to the benefit of the parties hereto and their respective successors or assignees. It is understood that the assignees of one principal party should be acceptable to the other principal party of this Agreement.

Section 15.08. Assignment and Transfer.

(a) Assignment of Agreement. This Agreement may be assigned by either party hereto only with the prior written consent of the other party, except that without the consent of the other party (1) NRG, and its assigns permitted pursuant to clause (3) below, may make such assignments, create such security interests in its rights hereunder and pledge such monies receivable hereunder as may be required in connection with the Indebtedness; (2) NRG, and its assigns permitted pursuant to clause (3) below, may assign its rights and obligations hereunder, or transfer such rights and obligations by operation of law, to any other entity with which or into which NRG, and its assigns permitted pursuant to clause (3) below, shall merge or consolidate or to which NRG, and its assigns permitted pursuant to clause (3) below, shall transfer all of substantially all its assets, in either case in accordance with this Agreement; (3) NRG may assign its rights and obligations hereunder to F. Browne Gregg, a Florida resident ("FBG") and FBG may assign its rights and obligations hereunder to Ogden Martin Systems of Lake, Inc., a Florida corporation ("OMSL") and the County hereby consents to each of such assignments. The County hereby releases (i) NRG contingent upon an assumption of its rights and obligations hereunder by OMSL and (ii) FBG contingent upon an assumption of his rights and obligations hereunder by NRG, in each case from any past, present or future liability or responsibility whatever under this Agreement and (ii) FBG contingent upon an assumption of his rights and obligations hereunder by NRG. Such assignments and releases shall occur simultaneously.

(b) Transfer of Interest in the Facility. NRG shall not, without the prior written consent of the County, sell, lease, sublease or otherwise transfer its interest in the Facility or any portion thereof to any person if such sale, lease, sublease or transfer would materially interfere with NRG's possession or operation of the Facility as contemplated hereby or the performance of its obligations hereunder, cause the interest on any tax-exempt Indebtedness to become subject to federal income taxation, or impose, directly or indirectly, additional material liabilities or obligations on the County or otherwise materially and adversely affect the County.

No such assignment shall relieve the assignor from any payment obligations due or to become due hereunder without the express written consent of the other party.

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Section 15.09. Headings. Captions and headings herein are for the ease of reference and do not constitute a part of this Agreement.

Section 15.10. Integrations. This instrument (including any appendices or attachments hereto) embodies the whole Agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties hereto. In the event that the requirements of any paragraph of the Agreement shall be found to be inconsistent with those of any appendix or amendment, this paragraph shall control unless specifically noted as being amended.

Section 15.11. Consents. To the extent that the consent of either party to this Agreement is required to any action of the other party pursuant to any provision of this Agreement, such consent will not be unreasonably withheld.

Section 15.12. Arbitration.

(a) As between the parties hereto, questions as to rights and obligations arising under the terms of this Agreement by mutual agreement of the parties, may be subject to arbitration.

(b) If a dispute should arise under this Agreement, either party may within thirty days make a demand for arbitration by filing a demand in writing with the other party, and if the other party consents in writing to arbitration, then the following procedures shall apply.

(c) The parties may agree upon one arbitrator (who shall be a practicing attorney) but in the event that they

cannot agree, there shall be three, one named in writing by each of the parties, two of which shall be practicing attorneys and one of which shall be an engineer practicing with a nationally recognized engineer consulting firm and experienced in the area of resource recovery facilities, within five days after demand for arbitration is consented to and a third chosen by the two appointed. Should either party refuse or neglect to join in the appointment of the arbitrators or to furnish the arbitrators with any papers or information demanded, the arbitration shall be terminated.

(d) Arbitration shall take place in the City of Tavares, State of Florida and the hearing before the arbitrators of the matter to be arbitrated shall be at the time and place within said City. The arbitrators shall select such a time and place promptly after their appointment and shall give written notice thereof to each party at least fifteen days prior to the date so fixed. At the hearing any relevant evidence may be presented by either party, and the formal rules of evidence applicable to judicial proceedings shall not govern. Evidence may be admitted or excluded in the sole discretion of the arbitrators. Said arbitrators shall hear and determine the matter and shall execute and acknowledge their award in writing and cause a copy thereof to be delivered to each of the parties.

(e) If there is only one arbitrator, his decision shall be binding and conclusive on the parties, and if there are three arbitrators, the decision of any two shall be binding and conclusive. A judgment confirming the award of the arbitrators may be rendered by any Circuit Court having jurisdiction; or such Court may vacate, modify or correct the award in accordance with the prevailing sections of the statutes of the State of Florida.

(f) If three arbitrators are selected under the foregoing procedure but two or three fail to reach an agreement in the determination, the arbitration shall end.

(g) If one arbitrator is selected, the parties shall share costs. If three arbitrators are selected then each party shall pay for its designee and the parties shall share the costs of the third arbitrator and other costs.

Section 15.13. Term and Termination of the Agreement. The Term of this Agreement shall begin immediately upon the effective date of this Addendum XII as set forth in the first paragraph hereof (the "Contract Date"), and the Agreement shall remain in effect for an initial term which shall end at 12:01 a.m., July 1, 2014.

Unless at least 180 days prior to the end of the initial term of this Agreement, the County gives NRG written notice stating that it does not want the initial term of this Agreement to be extended, this Agreement shall automatically be extended for an Additional term of 5 years at the Service Fee as provided in this Agreement.

Section 15.14. Entire Agreement. This Addendum represents the entire agreement and understanding of the parties hereto and expressly supersedes the prior Agreement including all previously executed addenda (including the version of this Addendum dated September 20, 1988).

Section 15.15. Further Assurances. The County and NRG each shall use all reasonable efforts to provide such information, execute such further instruments and documents and take such actions as may be reasonably requested by the other and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from, in excess of or in addition to those expressly provided for in this Agreement to carry out the intent of this Agreement.

Section 15.16. Limitation of Liability. In no event shall the liability of either party under this Agreement, whether based on contract, warranty, tort (including negligence), strict liability or otherwise, extend to or include special, incidental, consequential or punitive damages of any kind whatsoever.

It is understood and agreed to by the County that nothing contained herein shall create any obligation of or right to look to any stockholder, director, officer or employee of NRG or of any affiliate of NRG for the satisfaction of the obligations of NRG under this Agreement and that no judgment, order or execution entered in any suit, action or proceeding, whether legal or equitable, with respect to or in connection with this Agreement shall be taken against any stockholder, director, officer or employee of NRG or of any affiliate of NRG for the purpose of obtaining satisfaction and payment of any claim arising under or in connection with this Agreement.

The commissioners, officers and employees of the County shall not be personally liable for any costs, losses, damages or liabilities caused or incurred by the County in connection with this Agreement, or for the payment of any amount or for the performance of any obligation under this Agreement. The execution or delivery of this Agreement shall not impose any personal liability on the commissioners, officers, employees or agents of the County. No recourse shall be had by NRG for any claims based on this Agreement against

any commissioner, officer, employee or other agent of the County in his individual capacity, all such liability, if any, being expressly waived by NRG by the acceptance of this Agreement. Nothing in this Section 15.16 shall limit the liability of the County in connection with this Agreement, or preclude the institution of any proceeding (whether judicial, administrative or otherwise) against any commissioner, officer, employee or other agent of the County in his official capacity so long as such proceedings do not seek recourse against such person in his or her individual capacity.

Section 15.17. Financing. The parties contemplate that a portion of the Indebtedness will consist of tax-exempt private activity bonds. The bond documents shall contain covenants, provisions and indemnities protecting the County that are similar to those contained in the other industrial revenue bonds issued by the County; however, no provision contained in such documents shall limit or reduce the County's obligations hereunder.

NRG shall provide the County with copies of the Indenture, the Bonds and all other instruments pertaining to the Indebtedness, the costs of issuance or carrying such obligations and any other charges for which the County is liable as a component of the Service Fee and such documents will not be approved by NRG nor the indebtedness incurred thereunder without the County's prior written approval, which approval shall not be unreasonably withheld.

IN WITNESS WHEREOF, NRG and the County have executed this Agreement.

Witnesses:

NRG/RECOVERY GROUP, INC.

By _____
President

(SEAL)

LAKE COUNTY BOARD OF COUNTY
COMMISSIONERS

Chairman

ATTEST:

Clerk

APPROVED AS TO FORM AND CORRECTNESS:

COUNTY ATTORNEY

(COUNTY SEAL)

SCHEDULE 1

ESCALATION ADJUSTMENT FACTOR

The Escalation Factor shall be based on a five year rolling average of (1) the National Consumer Price Index for all Urban Consumers (2) the Consumer Price Index for all Urban Consumers for the Miami Florida Area and (3) the Producers Price Index. July 1988 is the base month for these Indices under this Agreement. Should an index be discontinued or be substantially modified, then an alternate index or indices shall be chosen by mutual consent of the parties. Said substitute index or indices shall be selected to maintain the purchase power of one dollar at a constant level, considering the nature of expenses incurred in the operation and maintenance of the Facility. If the federal government publishes a Consumer Price Index for all Urban Consumers for the Orlando SMSA, such Index shall be substituted for the Miami Consumer Price Index.

SCHEDULE 2

ADJUSTMENTS IN GUARANTEED PLANT PERFORMANCE

On or after the Scheduled Commencement Date of Operations, and during the term hereof, NRG shall be obligated to accept and process all Acceptable Waste delivered by the County to the Facility, up to the Guaranteed Annual Tonnage per Billing Year; subject, however, to the following limitations and adjustments:

(a) Only Acceptable Waste actually delivered to the Facility and wrongfully rejected by NRG or Acceptable Waste otherwise included in Wrongfully Rejected Waste by operation of paragraph (e) below shall be included in the calculation of NRG's liquidated damages for Wrongfully Rejected Waste. Deliveries of Unacceptable Waste and trucks containing both Acceptable Waste and Unacceptable Waste may be rejected either before or after delivery to the Pit (but in the latter case only if separation of Acceptable Waste and Unacceptable Waste other than Hazardous Waste is impractical, or if the person delivering such waste will not make such separation) and the entire tonnage thereof shall not be counted as deliveries of Acceptable Waste by the County. NRG shall not be obligated to make any such separation of Acceptable Waste from Unacceptable Waste.

(b) If NRG accepts and processes at least the Guaranteed Annual Tonnage of waste delivered by the County in any Billing Year (subject to the adjustments described below), NRG shall not be liable for liquidated damages under Section 8.09 for Wrongfully Rejected Waste regardless of when during the Billing Year such waste was processed.

(c) Acceptable Waste delivered by the County and rejected by NRG under the following circumstances shall not be counted as Acceptable Waste delivered to the Facility:

(i) Acceptable Waste delivered to the Facility (A) in excess of 1050 tons in any delivery day, (B) in excess of the sum of (1) 3325 tons in any seven day period in which no scheduled maintenance occurs, plus (2) any additional capacity in the pit which NRG determines, subject to good operating standards, to be then available, so long as the loss of such capacity will not interfere with the obligations of NRG under this Schedule or this Agreement or (C) in excess of the sum of (1) 3325 tons less 475 tons times the number of days of

scheduled maintenance in any seven day period in which scheduled maintenance occurs, plus (2) any additional capacity in the pit which NRG determines, subject to good operating standards, to be then available, so long as the loss of such capacity will not interfere with the obligations of NRG under this Schedule or this Agreement. For purposes of this test, scheduled maintenance shall not exceed 35 days per incinerator boiler unit per Billing Year prorated if such Billing Year is less than a calendar year.

(ii) Acceptable Waste delivered at times other than Delivery Hours.

(iii) Acceptable Waste delivered during a Shutdown related to or arising from an Event of Force Majeure.

(iv) Any Acceptable Waste delivered by private persons or in small vehicles such as passenger cars, pick-up trucks, vans and other vehicles not designed for hauling Acceptable Waste unless the County approves a citizens drop-off point on the Site as a Required Change.

(v) Acceptable Waste which NRG is not otherwise obligated to accept under any other provision of the Agreement.

(d) The throughput capacity of the Facility is predicated on the delivery of Acceptable Waste having a composition of Standard Reference Waste as described in Schedule 12 hereto. If the waste delivered to the Facility has a composition which differs from the Standard Reference Waste the following tonnage adjustment will be made. ^

(i) The Guaranteed Annual Tonnage requirement specified in clause (c)(i) above shall be decreased to the extent that the BTU content per pound of waste delivered to the Facility exceeds 5000 BTU's, by multiplying the required tonnage by a fraction, the numerator of which is the heating value of the Standard Reference

Waste 5000 BTU's and the denominator of which is the heating value of the waste delivered by the County to the Facility. For purposes of this calculation, the boiler will be used as a calorimeter to determine the heating value of the Acceptable Waste following the procedures given in Schedule 5. Either NRG or the County may at any time request that a new adjustment be determined in accordance with the provisions of Schedule 5, with the party making the request bearing the full cost of the retest.

(e) Acceptable Waste delivered to the Facility by the County which NRG is not otherwise entitled to reject pursuant to the foregoing shall be deemed "Wrongfully Rejected Waste" for purposes of calculating NRG's liquidated damages under Section 8.09(b)(i). During a Shutdown not due to Force Majeure or scheduled maintenance, Wrongfully Rejected Waste shall be assumed to be an amount determined by subtracting (a) the amount of County Waste accepted for processing during the Shutdown from (b) the product of (i) the daily average tonnage of Acceptable Waste delivered by the County to the Facility during delivery days in the immediately preceding six month period that NRG was otherwise obligated to accept under the terms hereof, multiplied by (ii) the number of delivery days during the Shutdown. NRG and the County may by mutual agreement adjust the amount of Wrongfully Rejected Waste based on deliveries of Acceptable Waste and other relevant factors.

(f) For purposes of computing the lost energy revenues payable pursuant to Section 8.09(b)(ii), Non-Processed Waste for a Monthly Billing Period shall be defined as any Acceptable Waste delivered to the Facility by the County or pursuant to Outside Waste Contracts (which shall be deemed to include in either case Acceptable Waste diverted from the Facility at the direction of NRG) and not processed by NRG for any reason other than the reasons for which NRG is permitted to reject County Waste as set forth in clauses (c)(i) through (c)(v) above up to an amount equal to one twelfth of the Guaranteed Plant Capacity less the sum of (A) the number of tons of Acceptable Waste processed in the Facility during such Monthly Billing Period, plus (B) the number of tons of Wrongfully Rejected Waste for which NRG is required to pay lost energy revenues for such Monthly Billing Period.

SCHEDULE 3

PASS THROUGH COSTS TO THE COUNTY

The County shall pay the following costs as part of the monthly Service Fee pursuant to Section 8.04 provided that for any of the following costs, as applicable, NRG, as part of the billing procedure pursuant to Section 8.06, shall provide Cost Substantiation:

1. The aggregate amount of all taxes, fees, assessments and other charges levied or imposed (on the Contract Date or in the future) on or assessed against NRG, the Facility or the Site by the County (or any agency, public authority, special district, subdivision or other public instrumentality thereof), the State of Florida, the United States or any other governmental entity or authority having jurisdiction over the Facility, the Site or NRG and paid by NRG during the Billing Year, provided however that the foregoing shall not include (A) any taxes, fees, assessments or other charges that are based on or measured by gross or net income, (B) employment taxes including taxes under the Federal Insurance Contribution Act, or (C) any interest, penalties or fines accruing other than due to a County delay in payment or a County Fault.

2. Federal, State and local taxes or fees excluded from paragraph 1 above which are discriminatory in nature to resource recovery, large scale burning, steam generation or electric power production facilities.

3. The cost of environmental testing imposed after the Contract Date, which was not required by regulatory agencies as of the Contract Date.

4. Cost increases or decreases attributable to Landfill hours other than Delivery Hours.

5. All costs incurred by NRG for insurance maintained pursuant to Schedule 11 of this Agreement.

6. All costs of purchased electricity and natural gas or propane required for the operation and maintenance of the Facility (including, without limitation, demand charges). However, if during any Billing Year NRG's usage of electricity or natural gas exceeds the Maximum Usage set forth in Table 1 below, NRG shall pay all costs related to such Utility Service in excess of that Maximum Utility Usage.

TABLE 1

MAXIMUM USAGE

(Based on 163,000 Tons/Year of Reference Waste Composition)

<u>Utility Service</u>	<u>Maximum Usage</u>
Natural Gas/Propane	20,000 million Btu
Electricity	1,222,500 KWH

7. All cost of handling, removal, clean-up, transportation and disposal of Unacceptable Waste and, subject to Section 7.03, Hazardous Waste.

8. The cost of scrubber reagent caused by concentrations of sulfur, chlorine or flourine in excess of the concentration of the Standard Reference Waste as defined in Schedule 12, subject to reasonable technical substantiation.

9. All expenses incurred after the issuance of the Bonds in connection with the financing of the project, including compensation, fees and expenses of the Trustee and the Issuer or any of their subcontractors or agents, fees of rating agencies, bond insurance premiums, fees and expenses of any credit facility bank, letter of credit bank or other financial institution acting in a similar capacity, fees and expenses of any liquidity bank or other financial institution acting in a similar capacity, fees and expenses of depository, indexing or remarketing agents and Bond insurance issuers, Bond discount, legal and consulting expenses and fees, costs of printing and engraving, recording and filing fees and any other cost or expenses incurred by NRG (other than damages or other amounts due as a result of Primary Company Fault) pursuant to the terms of the Indenture, Financing Agreement and other financing documents, all Rebate Requirements (as such term is defined in the Indenture) required to be paid by NRG pursuant to the Indenture or the Financing Agreement, any costs related to any liability incurred by NRG under any financing documents, including the Remarketing Agreement, the Purchase Agreement (both as defined in the Indenture) or the offering materials for the Bonds for any reason other than Primary Company Fault.

10. The costs, if any, for hauling Residue from the Facility to the Landfill in excess of the cost for hauling a like amount of Residue to a landfill located 20 highway distance miles from the Facility.

11. The cost, if any, of disposing of Residue derived from County Waste, Shutdown Waste and Unacceptable Waste pursuant to Section 7.02 at the Landfill or alternate landfill as described in Section 7.01.

12. All substantiated costs of operation and maintenance resulting from the delivery and acceptance of County Waste at the Facility at other than normal Delivery Hours as initially contemplated hereunder.

13. Subject to Cost Substantiation, the reasonable costs of delay occurring during the undertaking of any Required Change, which delay arises out of Force Majeure, provided that NRG uses all reasonable efforts to mitigate such costs. Such costs shall not include indirect costs of NRG such as lost profits or lost business opportunities related to the delay.

14. Any and all other reimbursable costs that NRG is entitled to under this Agreement, including any other costs identified as Pass Through Costs in this Service Agreement.

15. All reasonable costs of obtaining and maintaining contracts for the delivery of Outside Waste, and the costs of terminating such contracts, including, without limitation, any cancellation or termination charges incurred by NRG with respect thereto, upon any termination of such contracts at the request of the County pursuant to Section 5.01 of the Service Agreement.

SCHEDULE 4

PERFORMANCE STANDARDS

Section 4.1. General. This Schedule describes the Performance Standards for the Facility to be used for determining whether the Facility has met the Acceptance Criteria, as demonstrated through the Performance Tests. "Acceptance Criteria" means (1) eighty-five percent (85%) of the Capacity Performance Standard and the Energy Recovery Performance Standard, and (2) full and complete satisfaction of the Environmental Tests, and Putrescible and Unburned Carbon Test.

The Performance Test are made up of four (4) tests:

- a. Capacity Test
- b. Energy Recovery Test
- c. Environmental Tests
- d. Putrescible and Unburned Carbon Test

The methodology and procedures for the Performance Tests are specified in Schedule 5.

It is understood that the Environmental Tests may not be run concurrently with the other Performance Tests, and the Facility will be accepted conditionally and the Commencement Date of Operations will occur when the Facility has met the Acceptance Criteria except for Environmental Tests, said condition being the passing of environmental tests within the time period stipulated by the regulatory agencies having jurisdiction.

Section 4.2. Performance Standards. The Capacity Performance Standard is 528 ton/day based upon processing of waste having the composition and heating value of the Standard Reference Waste. The Capacity Performance Standard shall be demonstrated in accordance with the provisions outlined in Section 5.2 of Schedule 5.

The Energy Recovery Performance Standard is 525 kWh/ton of Standard Reference Waste processed, which is net of in-plant electricity usage. The Energy Recovery Performance Standard shall be demonstrated during the Energy Recovery Test, as described in Schedule 5.

The Environmental Tests shall be conducted to demonstrate for acceptance, compliance with the following air emission limitations:

- a. Particulate: 0.0150 grains, dscf corrected to 12% CO₂.
- b. Sulfur Dioxide: 60 ppm_{dv} corrected to 12% CO₂, 6-hour rolling average;
or
70% reduction of uncontrolled SO₂ emissions, 6-hour rolling average. Not to exceed 120 ppm_{dv} corrected to 12% CO₂, 6-hour rolling average.
- c. Nitrogen Oxides: 385 ppm_{dv} corrected to 12% CO₂.
- d. Carbon Monoxide: 200 ppm_{dv} corrected to 12% CO₂, 4-hour rolling average.
- e. Volatile Organic Compounds: 70 ppm_{dv} as carbon corrected to 12% CO₂.
- f. Lead: 3.1×10^{-4} gr/dscf corrected to 12% CO₂.
- g. Fluoride: 1.5×10^{-3} gr/dscf corrected to 12% CO₂.
- h. Beryllium: 2.0×10^{-7} gr/dscf corrected to 12% CO₂.
- i. Mercury: 3.4×10^{-4} gr/dscf corrected to 12% CO₂.
- j. Visible Emissions: Opacity of MWC emissions shall not exceed 15% opacity (6-min. average), except for one 6-min. period per hour of not more than 20% opacity. Excess emissions resulting from startup, shut down, or malfunction shall be permitted provided that best operational practices to minimize emissions

are adhered to, and the duration of excess emissions are minimized.

Process Residue shall be tested to determine compliance utilizing the Putrescible and Unburned Carbon Test. The Unburned Carbon Performance Standard is five percent (5%) by dry weight of the ash and the Putrescible Matter Performance Standard is five-tenths percent (0.5%) by dry weight of the ash.

SCHEDULE 5

PERFORMANCE TEST PROCEDURES

Section 5.1. Scope. Performance Tests shall follow the startup activities at the Facility. Successful completion of the Performance Tests will signify that the Facility is performing as designed and that long term commercial operation can proceed.

The tests shall be performed by Contractor and regular Facility employees and at the expense of NRG, provided that after the Facility has met the Performance Standards any additional testing requested by the County will be at County expense.

Before the Performance Tests can start each boiler shall have operated at least two weeks at a minimum of 75% capacity to allow the heat transfer surfaces to become fouled to a normal operating level. Cleaning during the two week period shall include only normal soot blowing.

The Performance Tests shall consist of a Capacity Test, an Energy Recovery Tests an Environmental Test, and a Putrescible Matter and Unburned Carbon Test. The Capacity Test shall be a three day continuous 24-hr/day test. All other tests shall be run concurrently with the Capacity Test to the extent practical. A maximum twelve unit hours of downtime will be allowed during the Capacity Test with the test being extended by the number of actual downtime hours so that 3 full days of data will be taken. If more time is required the necessary repairs shall be made and the Facility shall be retested.

Guaranteed environmental requirements shall be met during or after the Performance Tests as specified in Schedule 4.

Preliminary test runs may be performed prior to the actual tests for the purpose of checking and making adjustments to the equipment and familiarizing test personnel with the Facility and equipment.

Acceptable Waste will be delivered to the Facility by the County in sufficient quantities to complete the tests. Pre-selection of refuse will not be performed; however, some

portions may be rejected if NRG and County agree that the composition deviates greatly from typical refuse.

The walls of the refuse pit shall be marked at minimum intervals of 10 feet, to indicate pit depth. The marks shall be easily seen from the tipping floor and the charging level. The marks will be used to determine-pit depth at the beginning and end of the Capacity Test. The pit level at the beginning of the test shall not be higher than 10 feet. A crane weigh system may be used as a backup.

All truck scales shall be calibrated before the capacity Test period. The County shall witness the calibration process if desired. Prior to the start of the Capacity Test, final calibration of key instruments and control equipment shall be performed by qualified instrument technicians. If the Energy Test must be repeated after the Capacity Test, all key instruments and control equipment shall be rechecked, and if necessary recalibrated by qualified instrument technicians.

The Facility shall be operated at capacity and in a manner consistent with expected day-to-day long term operation with normal Facility staff and all equipment and accessories performing in their normal mode of operation. Safe accessibility to and adequate lighting at all valves, observation ports, sampling ports, instruments and control points, shall be provided and maintained during all Performance Tests. Stable firing shall be maintained before, during and after the Capacity Test. Cleaning during the test shall include only normal soot blowing.

Within a period not to exceed forty-five (45) days following successful completion of the Capacity Test, NRG shall submit to the County a copy of the test report. The report for each test shall contain the average data for each test run, full description of test procedures, computations, correlations and interpretations.

Section 5.2. Capacity Test. The objective of the Capacity Test is to measure the capability of the Facility to process waste.

The Facility capacity throughput shall be tested during a continuous minimum three (3) day period for the purpose of determining that the Facility meets the capacity guarantees. At the request of the County or Consulting Engineer, the Capacity Test shall be conducted during a seven (7) day period. In such event, NRG shall be paid an additional \$32,000, which amount shall be a Reimbursable Cost.

At the start of the test the level of refuse in the pits shall be measured and the quantities estimated.

At the conclusion of the test period, the level of refuse shall again be measured and quantity estimated. The throughput shall be calculated by adding the initial quantity of refuse in the pit to the quantity brought in during the three days as recorded by the truck scales and subtracting the quantity which remains in the pit at the end of the test. All reasonable efforts will be made to have the quantities of refuse in the pit at the end of the test equal to the quantities at the beginning of the test.

The accuracy of the weight determination procedure is agreed to be within plus or minus one and one-half percent (1-1/2%)

Section 5.3. Energy Recovery Test. The objective of the Energy Recovery Test is to establish the ability of the Facility to generate electricity at a specified throughput of Acceptable Waste for the purpose of meeting guarantees. The Energy Recovery Test can also be used to determine the heating value of Acceptable Waste.

The Energy Recovery Test shall consist of an 8-hour electric generation test run during the Capacity Test. The Facility shall be operated at or near the design capacity refuse throughput rate. During the electric generation test all Facility electrical power requirements shall be supplied by the Facility generator. The average result of the 8-hour electric generation test run shall be utilized to demonstrate compliance with the energy recovery requirements. ^

The combustion train shall be operated with normal boiler blowdown and maintained at equal conditions of operation by observation and appropriate adjustment of all operating parameters.

Electricity generation is dependent upon the refuse throughput rate, the refuse composition, and the higher heating value. It is also recognized that, by using the combustion system as a calorimeter, the specific higher heating value of the delivered refuse may be determined while the electric generation is measured.

During the Energy Recovery Test period, pertinent test data will be recorded at appropriate intervals and in accordance with good engineering practice. Data and measurements will include, but not necessarily be limited to, the following:

- a. Acceptable Waste feed rate.
- b. Boiler outlet steam rates, net after soot blowing, temperatures and pressures.
- c. Feedwater rates, temperatures and pressures.
- d. Attemperator water rates, temperatures and pressures, if not combined with the feedwater rate.
- e. Turbine-generator throttle flow.
- f. Boiler drum pressures.
- g. Air flows and air temperatures at the air preheater inlets and outlets.
- h. Flue gas rates and temperatures at the economizer outlets.
- i. CO₂, O₂, CO, H₂O in the flue gas at the economizer outlets.
- j. Residue quantities and unburned carbon content.
- k. Barometric pressure.
- l. Ambient wet/dry bulb temperatures.
- m. Residue quench water quantities and temperatures.
- n. Moisture in residue.
- o. Turbine exhaust pressure.
- p. Boiler blowdown rate.
- q. Generator gross output meter.
- r. Voltage, frequency, and power factor at the generation outlet terminals.
- s. Net electric output.

Test measurements will be taken from installed plant instruments which will have been previously calibrated and agreed accurate by the County. Special portable instrumentation may also be used where required and agreed upon.

Utilizing the test data and measurements from the test, calculations will be made for the determination of all boiler heat losses, heat outputs, and heat credits.

Calculations for heat credits will include sensible and latent heat in the combustion air.

Calculations for heat outputs will include heat in the output steam and boiler blowdown.

Calculations for heat losses will include:

- a. Carbon loss due to unburned combustibles in the residue and fly ash.
- b. Incomplete combustion of carbon monoxide.
- c. Sensible and latent heat in the wet flue gas.
- d. Heat loss due to radiation and convection from the boilers.
- e. Sensible heat in the residue, siftings, and fly ash.
- f. Heat loss in the quench cooling water vapor in the combustion gases.
- g. Miscellaneous unaccounted for losses, assumed to be 1.5%.

Acceptable Waste higher heating value will be calculated by dividing the heat input by the measured Acceptable Waste throughput. The heat input is the total of all heat output and losses minus heat credits. Acceptable Waste fuel composition will be adjusted for higher heating value, percent moisture and percent non-combustibles. Gas exit temperatures will be adjusted to account for the actual composition of the as-fired fuel.

The Facility shall generate, during the Energy Recovery Test, the guaranteed net kilowatt-hours per ton of Acceptable Waste processed as calculated and described above. The accuracy of these procedures is agreed to be within four percent (4%).

Section 5.4. Environmental Test. The Facility will be tested at full capacity to confirm compliance with the environmental requirements of this Agreement. Testing

protocols will be as required by the Florida Department of Environmental Regulation, or other agency having jurisdiction.

Section 5.5. Putrescible Matter and Unburned Carbon Test. The objectives of the Putrescible Matter and Unburned Carbon Test are to demonstrate that the average putrescible content of the entire residue stream is less than or equal to 0.5% by dry weight and the average unburned combustible content of the entire residue stream is less or equal to 5.0% by dry weight.

The test shall run concurrent to the Capacity Test. Daily gross samples shall be taken each day of the test. The samples collected throughout the day shall be thoroughly mixed and randomly reduced by appropriate means into one Putrescible Matter and Unburned Carbon sample weighing approximately fifty pounds. It shall be permissible to exclude from the representative sample of Residue those items which because of their substantial bulk or general nature can be considered relatively noncombustible, such as waste bundled by metal or otherwise noncombustible straps or ties (for example, baled newspapers), canned goods in unopened noncombustible containers whose contents have not been exposed to the flame, and other items as agreed to by the County. This sample shall be crushed, then samples of ash shall be extracted and placed in sealed sample containers. One control sample shall be retained by NRG, and one test sample forwarded to the independent laboratory.

The laboratory shall conduct tests on the sample in accordance with established procedures for testing for putrescible content and unburned carbon content. These tests shall be performed daily on each of the three days during the Capacity Test. The arithmetical average of the daily test results shall be calculated and used for determining compliance.

SCHEDULE 6*
TECHNICAL SPECIFICATIONS

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The equipment, systems and structures described in this specification shall be furnished and installed in conformance with (i) generally accepted engineering and construction practices, (ii) the detailed specifications ultimately issued which will be substantially based on this Schedule, and (iii) all applicable codes, standards and regulations. All equipment shall also be furnished completely piped, wired, insulated and painted, as specified, and include all instrumentation piped and wired for control of critical process variables, such control to be remote and/or local, in accordance with accepted practice for safe operation.

ALL EQUIPMENT DESCRIPTIONS AND DESIGN DATA PRESENTED IN THIS SPECIFICATION ARE BASED ON PRELIMINARY DESIGN CALCULATIONS WHICH ARE SUBJECT TO VERIFICATION OR CHANGE DURING DEFINITIVE DESIGN, AND ALL REFERENCED CODES, STANDARDS AND REGULATIONS ON WHICH THE DESIGN IS BASED ARE THE LATEST EDITIONS AS OF JULY 1, 1988.

1. WASTE PROCESSING PORTION

The waste processing portion of the Facility is comprised of a receiving area with refuse storage pit, cranes, stokers and boilers with their ancillary equipment, pollution control equipment, chimney, cooling tower, residue processing area, truck weighing facilities, administration building, parking area, roadways and security fencing. The main plant building provides for complete enclosure of the refuse receiving area and storage pit, refuse cranes, other supporting ancillary equipment, control room, maintenance shop, employee facilities, lunchroom, storage room, administrative offices, conference room and visitors' facilities. The air pollution control

equipment, stokers, boilers, combustion air fans, induced draft fans, and cooling tower will be designed for outdoor installation. A separate enclosed area is provided for storage of Process Residue. Another separate building is provided for water treatment equipment. The Facility design and layout shall allow for addition of one combustion train to the Facility in the future.

Refer to Schedule 12 for Reference Waste composition data.

1.1. Structures

The refuse receiving area shall be totally enclosed and measure approximately 128 feet long by 90 feet wide. The structure shall have a clear span with a minimum truck clearance of 30 feet vertically and shall include motor-operated, roll-up, metal doors at the entrance and exit, 20 feet high by 16 feet wide. The first 25 feet of the tipping floor from the refuse pit will have a shake-on applied hardened surface. The tipping floor shall be sloped toward the refuse pit.

The refuse storage pit shall be approximately 46 feet wide by 100 feet long by 28 feet deep (measured from the receiving floor) with 7 tipping bays, each approximately 13.5 feet wide. The pit shall have a total storage capacity of 2,376 tons of refuse (3 days). An average refuse density of 650 lb/cu. yd below and 450 lb/cu. yd above the receiving floor is assumed. The enclosed receiving area, the refuse storage pit, stoker feed hoppers and refuse charging cranes will be enclosed in a building structure designed to maintain a slightly negative pressure by drawing the combustion air from these areas.

The main plant building will be ventilated as required and will also include translucent panels where applicable for natural illumination of interior spaces.

Facility buildings shall be constructed in accordance with applicable state and local building and construction codes.

1.2. Refuse and Residue Truck Scales

Refuse trucks and residue trucks will be weighed on truck scales. Two (2) 10 feet by 80 feet, 60-ton, automatic electronic scales will be provided. Scales will be of aboveground or shallow pit type. Each scale will be provided with a red/green signal light.

One prefabricated scalehouse will be provided in between the incoming and outgoing scales.

The scale operator will key each truck's number into a computer. The scale will be controlled by the computer, which, in addition to performing accounting functions, will compute the net weight of the refuse being delivered, making it unnecessary to reweigh trucks after discharging the load for all trucks that have a recorded tare weight.

For vehicles for which no tare weight is on record and reweighing is necessary, the empty vehicle will be reweighed after refuse discharge.

The County shall operate, maintain and repair the scales, scalehouses, computer system and ancillary equipment.

1.3. Refuse Cranes

1200
The Facility shall include two (2) refuse cranes with orange peel type grapples. Refuse cranes shall be designed for indoor use, heavy dust loading, 100% relative humidity and a temperature range of 40 to 104°F. Each refuse crane will be of the travelling bridge type, will be capable of charging 792 Tons/day of refuse into the furnace charging hoppers, and will be furnished for refuse handling service. The bridge will be of welded box girder design. The cranes will conform to applicable OSHA standards to meet CHAA Specification No. 70 for Class "F" service, and ANSI/ASME B30.2.

Power supply for crosstravel shall be by the festooned cable method. Cables and connectors shall be arranged for positive stacking when in the compressed position and shall assure free travel with no tangling when controls call for extension. Cables shall be supported to prevent crimping and will be located for ease of inspection and maintenance.

Crane electrical gear shall be located in separate, ventilated electrical rooms.

1.4. Refuse Combustion Stokers

Two (2) Martin GmbH refuse combustion stokers of the reverse reciprocating type will be provided. Each unit will have a nominal capacity of 110 million BTU/hr heat input when firing "as received" Acceptable Waste having a Higher Heating Value of 5,000 BTU/lb.

Each stoker will have a width of approx. 13 ft. made up of two (2) individual grate runs with 13 steps.

Each stoker will include the following:

- (a) Grate support structure from the lower end of the feed chute to the clinker rollers, with hydraulic operating mechanism for moving the grate steps, clinker rollers, and all necessary accessories;
- (b) Grate surface consisting of multiple steel grate bars made from high grade chromium alloy cast steel;
- (c) Undergrate hopper of sheet steel divided into individually controlled air compartments with access doors, stiffeners, the necessary accessories and including the automatic system for the removal of the undergrate siftings into the ash dischargers, with all necessary accessories such as pneumatic cylinders and control equipment for the automatic discharge of the grate siftings;
- (d) Refuse feeding table with feed rams and supports and controls;
- (e) Hydraulic drives for moving the grate, the refuse feeding device, the ash discharger and the residue rollers, with the necessary electro-hydraulic control equipment for an infinitely variable control of the reciprocating movement of the grate and for the feeding device, as well as the hydraulic cylinders for feed chute damper operation;
- (f) Overfire air nozzles above the front and rear furnace arches, including the nozzle tube;
- (g) Automatic central lubricating system for all lubricating points of the stoker, including the distribution piping, grease pump and accessories;

- (h) Lower ash discharger suspension frames made of steel plate, and two cleaning doors;
- (i) Cast steel and steel plate ash chute lining pieces; Distribution cabinets for hydraulic drives and containing electrical and hydraulic controls (including furnace controller);
- (j) Damper gear for the undergrate air with servomotor, controls, synchronizing shaft, and all ancillary parts as required.
- (k) Furnace observation ports.

1.5. Refuse Feed Chutes

The Facility shall include two (2) refuse feed chutes, each with charging hopper, upper and lower sections; the lower part water-jacketed. The feed chutes shall be of welded-steel plate. The height of the feed chutes shall be adequate to provide an air seal. The upper section of the feed chute shall be provided with a shut-off gate.

1.6. Ash Dischargers

The Facility shall include two (2) ash dischargers for quenching and discharging the ash produced on the grate and the fly ash conveyed to the dischargers. The dischargers will be designed to avoid dust, heat or gas nuisance as well as any uncontrollable air infiltration into the combustion chamber.

The ash discharging ram will be driven hydraulically.

1.7 Refuse-Fired Steam Generators

The Facility shall include two (2) refuse-fired steam generators of the single drum, top-supported, multiple pass water tube type, with integral welded membrane waterwall cooled furnace, superheater and economizer, the entire unit suitably insulated for outdoor installation.

Each unit will have a nominal capacity of 110 million BTU/hr refuse heat input when firing Acceptable Waste having a Higher Heating Value of 5,000 BTU/lb. Units will be designed in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section I, Power Boilers and others as applicable.

Each unit will be designed for operation that will provide ^{64,400 lb/hr of} steam at 865 psig with a final superheat of 830°F at the steam generator outlet with feedwater entering the economizer at 250°F. Superheater temperature and pressure shall be maintained down to 80% of rated thermal input.

Each steam generator unit will include, but not be limited to the following scope of equipment:

- (a) Superheater equipped with appropriate tubing, sootblowers and shields with pendant surface arranged with a maximum depth of 6-feet per bank;
- (b) Boiler/stoker support steel, buckstays and hangers for support of each boiler/stoker unit and designed for applicable wind and seismic loadings;
- (c) Downcomer, feeder and riser piping, piping between economizer and steam drum, piping between steam drum and superheater, and piping between the primary and secondary superheater;

- (d) Miscellaneous trim including safety valves for boiler, vent silencers, steam drum and superheater, direct viewing water gauge complete with high and low water alarm contacts, water gauge with remote drum level viewing system, dial steam pressure gauge, main steam valves, main feedwater valves and all trim valves; steam pressure monitors plus thermowells and thermocouples critically located on boiler drum, superheater and other pressurized parts to monitor temperatures;
- (e) Platforms, walkways, stairs, ladders and stiles as required for normal access and inspection of the steam generator and stoker;
- (f) All air and flue gas ducts including expansion joints, dampers and access doors. All ducts will be constructed of ASTM A36 steel plate properly supported and made commercially tight;
- (g) All boiler and economizer hoppers constructed of ASTM A36 steel plate, suitably lined and insulated where required;
- (h) One (1) sootblowing system complete with rotary or retractable type superheater blowers and rotary type economizer blowers, all electrically driven with automatic sequential control from a solid state control panel mounted in the central control room with local self-mounted enclosure. Sootblowing system further includes all electrical accessories, piping, valves and fittings and automatic steam valve. Sootblowers are designed for blowing superheated steam;
- (i) Steam temperature control system consisting of two temperature control points with all piping, heat exchangers, valving and controls necessary to maintain superheater outlet temperature;

(j) One (1) three-element feedwater control system including drum level transmitter, steam flow transmitter, feedwater flow transmitter, drum level controller, manual/automatic control station, feedwater control valve, steam flow orifice and feedwater flow orifice.

(k) One (1) auxiliary burner for Alternate Fuel sized to assist in maintaining combustion air and gases at 1,800°F or higher.

1.8. Forced Draft Fans

The Facility shall include two (2) forced draft fans, single inlet, single width of backward curved design including variable inlet vanes with operator, split housing, drains, vortex control, coupling and guard, antifriction bearings and motor drive.

The forced draft fans shall be sized to provide 120 percent of the primary combustion air volume and a static pressure of 144 percent of damper, duct and air heater pressure losses at rated boiler design plus 16" water gauge of constant undergrate pressure. A design margin of 25°F shall also be provided above a design ambient air temperature of 80°F.

The motor drivers shall be 460V, 3 phase, 60 Hertz induction type.

Design Conditions @ MCR

Flow : 26,000 ACFM @ 80°F
Static Pressure: 18 inches w.g.

The facility shall include two (2) overfire air fans, single inlet, single width of backward curved design including split housing, draft variable inlet vanes with operator, coupling and guard, antifriction bearings, damper operator and motor drive.

The overfire air fans shall be sized to provide 120 percent of the secondary combustion air volume and a static pressure of 144 percent of damper and duct losses at rated boiler design plus 18" water gauge of constant header pressure. A design margin of 25°F shall also be provided above a design ambient air temperature of 80°F.

The motor drivers shall be 460 V, 3 phase, 60 Hertz induction type.

Design Conditions @ MCR

Flow : 8700 ACFM @ 80°F

Static Pressure: 20 inches w.g.

1.10. Seal Air Fans

Seal air shall be provided to the stoker's support roller seal system by utilizing air from the overfire fan system or by providing an individual seal air fan for each of the stokers.

Design Conditions @ MCR

Flow : 1400 ACFM @ 80°F

Static Pressure: 16 inches w.g.

1.11. Induced Draft Fans

The Facility shall include two (2) induced draft fans, single inlet, single width of backward curved blade design including housing, drains, variable inlet vanes or damper and operator, motor coupling and guard and motor drive. Fans shall be designed for outdoor installation. The induced draft fans shall be sized to provide 120 percent of the flue gas volume and a static pressure of 144 percent of the boiler and stack pressure losses at rated boiler design, plus the guaranteed loss across the APC system. A design margin of 25°F shall also be provided above design gas temperature.

The motor drivers shall be 460V, 3 phase, 60 Hertz induction type.

Design Conditions @ MCR

Flow : 59,000 ACFM @ 275°F
Static Pressure: 16 inches w.g.

1.12. Air Preheaters

The Facility shall include finned tube steam coil air heaters, complete with steam headers valving and traps. Plate steel enclosure which will be provided with inlet and outlet flanged connections. The heaters will be designed to preheat the undergrate combustion air from 80°F to 250°F at rated boiler capacity if refuse is processed having a higher heating value of less than 4,800 BTU per pound.

Design Conditions

Flow : 24,700 ACFM @ 80°F
Heat Exchanged: 4.5×10^6 Btu/Hr.

1.13. Air Pollution Control (APC) Equipment

The Facility shall include air pollution control systems for two (2) combustion trains consisting of:

- (a) A complete dry flue gas scrubbing system consisting of two (2) spray towers with lime slurry injection and all necessary ductwork and ancillaries. A lime slaking and storage system (serving two scrubbers simultaneously) with sufficient redundancy built in to assure reliable and uninterrupted service;
- (b) A complete insulated and lagged particulate removal system consisting of two (2) fiberglass fabric filter baghouses, bag cleaning system, compartment isolation capability, access doors and poke holes for each hopper, hopper heaters;
- (c) All flue gas ducts including expansion joints, dampers and access doors from the boiler exit to the air pollution control systems, then to the induced draft fan, and from the induced draft fan to the chimney. All flue gas ducts will be constructed of ASTM A36 steel properly supported, stiffened and have continuously welded seams. Ductwork shall be insulated;
- (d) Controls shall be automatic or manual, remote and local with selectable variables, as appropriate, with the main panel in the central control room.

Design Conditions @ MCR:

- Gas flow (wet, 68°F)	SCFM	38,200
- Scrubber Inlet temperature	°F	390-465
- Scrubber Exit temperature	°F approx.	285
- Baghouse Exit temperature	°F approx.	275

1.14. Fly Ash Handling System

The Facility shall include fly ash screw conveyors and motor drives, air cylinder operated flap gates and rotary air locks as required for the conveyance of fly ash from the boiler, economizers, scrubbers and baghouses to the ash discharge system.

1.15. Chimney

The Facility shall include one (1) round steel or concrete shell chimney, with two (2) individual steel, circular, insulated flues. Each flue will extend 5 feet above the chimney shell. The chimney will be self-supporting on its own concrete foundation and have a height of approximately 250 feet. 199

The chimney will have two (2) rectangular, flanged openings for connection of the flue gas ductwork and will be provided with gas sampling ports and the necessary access platform(s). An access ladder will be provided with "Safe-T-Climb" rail and belts for the full height of the chimney.

Flues will be constructed of ASTM A36 steel, with the top twenty (20) feet constructed of ASTM A167, Type 316L stainless steel.

The chimney will be equipped with aviation warning lights, louvers, door, roof hatch, lighting, davit with hoist and lightning protection as required and conform to applicable codes.

1.16. Boiler Water Treatment System

The Facility shall include one (1) dual train demineralizer of the anion-cation type complete with regeneration equipment, piping, valves and controls for treatment of boiler feedwater makeup for the steam generators.

Design Conditions:

- | | |
|------------------------------|---------------------|
| - Incoming water supply | Onsite wells |
| - Capacity | 13 GPM each train |
| - Time between regenerations | 16 hours each train |

~~The water treatment equipment and processes will be designed for well water of the quality described in Table 1.1. Modification of Facility equipment, processes and operating expenses due to changes in the water quality will be to the County's account.~~

1.17. Boiler Chemical Feed Systems

The Facility shall include:

- (a) One Oxygen Scavenger System consisting of a storage tank, mixer and duplex pumps. It will be capable of use with hydrazine or other chemicals. Pump will be of manufacturer's standard construction of the manually adjustable range proportioning type fitted with check and relief valves.

[TABLE 1.1]

SERVICE WATER QUALITY
FLORIDAN AQUIFER CHEMICAL CHARACTERISTICS

Parameter	Unit	Detection Limit	ZACC	ZPRC	
Chlorides	mgCl/L	0.1			9.4
Color	PCU	5			10
Surfactants	mgLAS/L	0.1	87	7.6	0.4
Sulfates	mgSO4/L	0.1			5
Iron	mgFe/L	0.02	99.4	1.8	0.8
Manganese	mgMn/L	0.001	98	0.87	0.006
Odor	TON	1			4
Copper	mgCu/L	0.001	98.3	1.2	0.001
Zinc	mgZn/L	0.005	98.5	1.1	0.005
Calcium	mgCa/L	0.1	99.9	0.3	66.3
Magnesium	mgMg/L	0.01	97.7	1.4	2.44
Total Diss. Solids	mgTD/L	1			158.8
Total Hardness	mgCaCO3/	1			175.7
Carbonate Hardness	mgCaCO3/	1			138.4
Non-Carb Hardness	mgCaCO3/	1			37.3
Total Alkalinity	mgCaCO3/	0.01			138.3
Bicarbonate Alkalinity	mgCaCO3/	0.01			130.7
Carbonate Alkalinity	mgCaCO3/				0
Hydroxide Alkalinity	mgCaCO3/				0
Carbon Dioxide	mgCO2/L	1			6.35
Stability Index		1			7.62
pH		0.01			7.51
pHs		0.01			7.56
Langelier Index					-0.05
Sulfides	mgH2S/L	0.004			0.061

Source: Permit Application to Florida Department of Environmental Regulation,
St. Johns River District, for Permit Number SC35-117519, issued
September 16, 1986.

(b) One Mixed Chemicals System consisting of a storage tank, mixer and duplex pumps. - Pumps will be of manufacturer's standard construction of the manually adjustable range proportioning type fitted with check and relief valves. Mixed chemicals (composition to be determined) will be pumped into each of the main boiler drums.

The boiler drum water will be held within the limits recommended by the ABMA for their respective operating pressures.

Motors for mixers and pumps for both of the above systems will be 115 V, 1 phase, 60 Hz, TEFC or TENV.

1.18. Boiler Feedwater Deaerator/Heater

The Facility shall include one (1) deaerator of the spray type with horizontal feedwater storage tank, designed to deaerate and heat boiler feedwater.

Safety valve(s), vent valve(s) and overflow valve will be provided. The deaerator/heater will be designed in accordance with ASME Boiler and Pressure Vessel Code, Section VIII, for indoor installations.

Design Conditions @ MCR

Flow : 131,500 lb/hr.

Storage Capacity: 2,700 gallons

1.19. Boiler Blowdown Exchanger

The Facility shall include one (1) shell and tube type heat exchanger constructed in accordance with Section VIII, Division I, ASME Boiler and Pressure Vessel Code and the Standards of Tubular Exchanger Manufacturers Association, 5th Edition, Class "C" Mechanical Standards.

1.20. Bypass Condenser

One (1) bypass condenser of the horizontal shell and tube design, constructed in accordance with all ASME and applicable codes and standards.

The bypass condenser shall be designed to condense all the steam at MCR of the Facility, to bypass the turbine during plant start-up and during turbine maintenance outages.

Necessary pressure and temperature control equipment will be installed in the associated steam and condensate piping.

1.21. Cooling Tower

The Facility shall include one (1) cooling tower of multi-cell, induced mechanical draft type, constructed of wood and including integral pump sump or concrete basin, drift eliminator and fan stacks. The unit will be designed in accordance with Cooling Tower Institute Standards.

Design Conditions @ MCR

Heat Load : 103×10^6 Btu/hr

Design Wet Bulb Temp: 78°F

1.22. Boiler Feedwater Pumps

The Facility shall include two (2) multistage segmented ring type boiler feed pumps. One (1) pump will be electric motor driven and capable of handling 100% of rated Facility load. One (1) 100% rated pump will be steam turbine driven.

Materials of construction will be in accordance with vendor's recommendation for demineralized, deaerated and oxygen scavenged water.

Design Conditions @ MCR

Flow : 265 GPM
Pressure: 3,000 Feet

1.23. Condensate Pumps

The Facility shall include two (2) 100% capacity vertical can centrifugal type pumps.

Casing will be provided with drain connection. Standard packing or mechanical seal will be provided. Materials of construction will be per vendor recommendations.

The manufacturer's standard coupling will be provided for motor connection. The motor drivers will be 460 V, 3 phase, 60 Hertz induction type.

Design Conditions @ MCR

Flow : 250 GPM
Pressure: 250 Feet

1.24. Circulating Water Pumps

The Facility shall include two (2) vertical, wet-pit type pumps installed in parallel. Pumps will each be rated at 50 percent of normal flow.

Impeller will be of the turbine type. Casings will be furnished with gauge connection. Standard packing will be used. Materials of construction will be per vendor recommendations.

The motor drivers shall be 460 V, 3 phase, 60 Hertz induction type.

Design Conditions @ MCR

Flow : 5700 GPM

Pressure: 100 Feet

1.25. Demineralizer Water Supply Pumps

The Facility shall include two (2) 100% capacity horizontal centrifugal pumps. Each pump will be designed for continuous duty and mounted on a common baseplate (cast iron or fabricated steel) sized to accommodate pump and driver. The motor driver shall be 460 V, 3 phase, 60 Hertz, induction type.

1.26. Acid Pump

The Facility shall include two (2) 100% capacity metering pumps including a spare for handling 93% sulfuric acid and will be designed for continuous duty.

Case, impeller, sleeve and gland will be of Alloy 20; shaft--carbon steel; pump will be provided with a mechanical seal.

The motor driver shall be 120 V or 460 V, 3 phase, 60 Hertz, induction type.

1.27. Caustic Pump

The Facility shall include two (2) 100% capacity metering pumps including a spare for handling 50% caustic solution will be designed for continuous duty.

The motor driver will be 120 V or 460 V, 3 phase, 60 Hertz, induction type.

1.28. Wastewater Disposal System

The facility shall include a wastewater disposal system consisting of three (3) 50% capacity percolation ponds. Each pond shall have approximately 10,000 square feet of bottom area. The disposal system shall receive only contaminated process water generated in the operation of the boilers. These waters will emanate from boiler blowdown, demineralizer water, cooling tower blowdown and equipment washdown. The disposal system will meet state and local requirements.

1.29. Residue Handling

The Facility shall include a system for handling and transport of the residue from all ash dischargers to the residue storage area, including the following equipment:

One (1) Vibrating Conveyor with Integral Grizzly Scalper *

One (1) Vibrating Feeder *

One (1) Inclined Belt Conveyor *

One (1) Distribution conveyor

- All necessary devices, interlocks and equipment to provide a functional operating system.

* designed for future expansion of the Facility

The residue building shall be sized for three (3) days storage when the Facility is operated at a processing rate of 528 TPD.

Each residue discharger shall be equipped with a transfer chute to permit uninterrupted removal of residue while the main vibrating conveyor is shut down for maintenance. The transfer chutes shall be designed to provide rapid bypass of the main conveyor by directing the residue into five cubic

yard bins. Space shall be provided to permit convenient access for removal of the bins to the residue building by forklift

The Facility shall include one (1) passenger/freight elevator (2500 lb

capacity) to include:

- (a) Car platform made up of structural steel shapes securely welded together.
- (b) The elevator car enclosure will be of the passenger/freight type.
- (c) Car frame, which supports the car platform and enclosure, will be made of structural steel and equipped with suitable guide and car safety devices to stop the car whenever excessive descending speed is attained. Suitable means will be supplied to cut off power from the motor and apply the brake for safety application.

The elevator will provide access to the ground floor, control room, and other levels, as necessary.

1.31. Air Compressors

The Facility shall include two (2) 100% capacity air compressors with air receivers.

1.32. Instrument Air Dryer

The Facility shall include one (1) dual column 100% heat regenerated dessiccant-type air dryer.

1.33. Storage Tanks

Storage tanks for various liquids will be provided.

1.34. Fire Protection System

The fire protection system will provide for fire detection and fire suppression systems for all major Facility buildings and areas.

The fire protection system will consist of the following major equipment:

- a) One horizontal, centrifugal diesel driven fire pump
- b) One 180,000 gallon fire protection water storage tank;
- c) Yard loop and hydrants, 8-inch minimum buried yard loop to be provided in accordance with NFPA-24 "Standard for the Installation of Private Fire Service Mains and Their Appurtenances";
- d) Building standpipes and hose stations, Class III hose stations to be provided in accordance with NFPA-14 "Standard for The Installation of Standpipe and Hose Systems";
- e) Sprinkler and deluge systems to be provided in accordance with NFPA-13 "Standard for The Installation of Sprinkler Systems" and NFPA-15 "Standard for Water Spray Fixed Systems for Fire Protection";
- f) Portable fire extinguishers to be provided in all major plant buildings;
and,
- g) Electric jockey pump.

The fire pump will be furnished and sized in accordance with NFPA-20. Preliminary sizing will be 1500 gpm and final sizing will be determined from the system flow requirements of NFPA-13 and other standards. Impeller will be of the turbine type. The pump will be autostarting.

An 8-inch minimum yard fire loop will encircle the entire plant area encompassing the main Facility. Hydrants will be located at intervals along the entire yard loop and all branches, including the weighing facilities.

Standpipe and hose systems will be provided for manual water fire suppression in the turbine building, boiler area, water treatment and ash dumping areas.

the tipping floor and the solid waste pit area. The refuse pit will also have two monitor nozzles for manual fire suppression of the pit area.

Deluge water spray systems will be provided for the high fire hazard equipment located in the turbine building such as lube oil conditioning equipment, lube oil storage tanks, and stoker hydraulic power unit skids. Each system will be hydraulically designed in accordance with NFPA Codes 13 and 15, as appropriate.

A turbine bearing pre-action system will provide fire suppression capability for fires originating at the main turbine-generator bearings.

A dry pipe sprinkler system will be provided above the refuse pit and the first twenty feet of the tipping floor from the refuse pit. The system will be located above the crane at the roof line. Monitor nozzles will be installed on the charging floor.

1.35. Piping and Miscellaneous

Piping design and layout will be in accordance with the requirements of ANSI B31.1, Power Piping Code including that piping provided as part of an equipment manufacturer scope where appropriate. Valves will be selected based on ANSI pressure temperature ratings and standards where appropriate. Piping, valves, ducts and equipment will be insulated as needed for energy conservation and personnel protection. Materials will be based on appropriate ASTM standards.

1.36. Emission Monitoring

Continuous emissions monitoring equipment to measure flue gas constituents including oxygen, carbon monoxide, opacity, CO₂ and sulfur dioxide will be installed in the chimney or flue gas ductwork. Monitoring will occur in the

central control room.

1.37. Noise Control

The Facility will comply with the County and state noise ordinances.

1.38 Central Control Room

An air conditioned central control room will be provided. It will include bench type instrument control panels and boards to display, support and house high density groupings of miniature type indicators, recorders and controllers for all required process variables.

All necessary field instrumentation will be terminated in the control panels using a conventional 4-20 mA DC signal system.

Analyzer remote control units will be mounted on the control board close to the control loops with which they are associated.

Process alarm system and emergency shutdown and/or interlock systems will also be located on the control board.

Utility and auxiliary instrumentation which have direct ties to the process will be distributed across the control board as dictated by the panel arrangement for the respective process instrumentation.

The control board layout in general will follow the process development. The boiler sootblower controls and other subgroups will be on inserts, installed and integrated with the central control panel.

The control systems will also include strip chart recorders for certain boiler operating parameters, such as drum level, steam output, temperatures, etc.

1.39. Pressure Testing

Hydrostatic tests of piping and boilers, and air tests of boilers and duct work shall be performed.

After the completion or erection, all pressure parts of the steam generator shall be hydrostatically tested in accordance with the ASME Boiler and Pressure Vessel Code. The test may be witnessed by the County. Any gaskets or packing requiring replacement after hydrostatic testing shall be furnished and installed.

Shop assemblies shall be hydrostatically tested in the shop in accordance with the ASME Boiler Code. These tests may be witnessed by the County. Piping shall be hydrostatically tested in the field to design pressures required by the applicable codes.

The steam generating unit casings, ductwork and air pollution control equipment shall be tested for leakage. The test will consist of closing off major openings and pressurizing and depressurizing the system with the FD and ID fans and performing a sonic test. The test may be witnessed by the County.

2. TURBINE-GENERATOR PORTION

The electric generator portion of the Facility is comprised of one uncontrolled extraction-condensing turbine-generator, ancillary equipment and electrical switchyard. Steam generated in the waste processing portion of the Facility will be used by the turbine-generator to generate electricity for delivery and sale to Florida Power Corporation.

2.1. Structure

The turbine-generator will be located indoors in the turbine-generator area integral and adjacent to the main process building.

The turbine-generator area will be ventilated. The turbine area will be approximately 60 x 80 feet and will be sized to provide space for walk-around, routine maintenance access, turbine laydown, and associated turbine-generator equipment and ancillaries.

2.2. Design Conditions

One multiple extraction-condensing, non-reheat, steam turbine rated at approximately 15 MW. The turbine will include extraction taps to provide steam for feedwater heating, air preheating and other miscellaneous in-house steam requirements.

Auxiliary equipment will include initial pressure governor control and the features and accessories as required for this service including lube oil system, cooler, steam seal system, turning gear, etc.

Generator armature shall be capable of operating at 130% of rated armature current for at least 1 min., starting from stabilized temperatures at rated conditions.

Sufficient redundancy of rectifier bridges and fuses will be provided to allow operation of the generator at maximum ratings without exceeding the designed temperature rise of the exciter and the generator field with one rectifier fuse assembly out of service.

Generator shall be provided with all required instrumentation and control devices. Metering, excitation and governor controls shall be provided in the generator control board.

Voltage control shall be provided for automatic control from no load to full load, $\pm 5\%$ of rated voltage and with a response ratio per ANSI Standards.

2.3. Steam Surface Condenser (For Turbine-Generator)

The steam surface condenser package will include the condenser ejectors, inter and after condensers, relief valves and other required accessories and will be designed in accordance with Heat Exchanger Institute Standards and ASME Boiler and Pressure Vessel Code.

2.4. Maintenance Crane for Turbine-Generator

One (1) maintenance crane for inspection and maintenance of the turbine-generator will be provided. The crane will be capable to lift the heaviest parts as required and will be equipped to operate at creep speeds.

3. STATION ELECTRICAL EQUIPMENT

The plant electrical system will basically comprise of power generation and power distribution. Under normal operations, the Facility auxiliary loads will be supplied from the onsite generator, with the excess electrical energy exported for sale to FPC. In the unlikely event that the generator is out of service, electrical energy must be purchased from FPC.

An outdoor 69kV substation will be provided on the Facility Site. This substation shall include one (1) 69kV-13.8kV main transformer, associated circuit switcher, disconnect switch, buswork, lightning arrestors, controls, metering, structures, foundations, grounding and miscellaneous equipment for a complete system.

A 15kV, 1,000A, non-segregated phase bus duct or 15kV insulated cable shall be provided to connect the main transformer to the indoor 13.8kV switchgear. A 15kV, 1,000A, non-segregated phase bus duct shall also be provided to connect the 13.8kV switchgear to the generator.

The 13.8kV switchgear line-up will consist of one breaker for the utility tie, one breaker for the generator and one breaker feeding each 13.8 kV-480V substation transformer of a double ended unit substation.

Metering, protective relaying, controls and synchronizing equipment shall be provided in accordance with FPC's requirements.

The 480V secondary unit substation shall consist of two (2) 13.8kV - 480V transformers with two (2) secondary main breakers, one (1) tie breaker, and the required number of feeder breakers. 480V secondary unit substation will generally serve motor loads of 100 to 350 HP and the 480V motor control centers.

The required number of 480V motor control centers shall be provided to normally serve various auxiliary loads such as motors 1/2 to 75 HP, local lighting and power distribution transformers, battery chargers, miscellaneous power, etc.

A lead acid battery system with a redundant battery charger shall be provided. The system will have sufficient capacity for operation of switchgear circuit breakers, turbine-generator turning gear and lube oil pumps, UPS system, etc., as required.

An uninterruptable power supply (UPS) system shall be provided to serve critical communications, fire detection and instrumentation.

A public address and intercommunication system will be provided throughout the plant. The public address system will include boiler areas, material handling area, turbine-generator area and other areas as required. The intercommunication system will provide for direct contact between various areas of the plant for control purposes. A complete telephone raceway system will be provided for the Facility. Telephone outlets will be provided in offices, control rooms and at vital operating stations. The raceway will be in accordance with the local telephone company's requirements.

A complete lighting system will be provided. Exterior and interior lighting shall be provided for all working areas. Lighting levels shall be provided in accordance with IES Recommended Lighting Levels. Indoor lighting systems shall include emergency lighting with exit signs as required. All parking areas shall be lighted to provide an average of 1.0 foot candle.

4. GENERAL CONSTRUCTION PARTICULARS

4.1. Sitework

4.1.1. Clearing and Grubbing

NRG shall perform work and services necessary for the completion of site clearing, grubbing, removal and disposing of brush, trees, fences and debris, within the Facility Site at its sole expense.

No open burning will be conducted on the Facility Site.

4.1.2. Excavation, Filling and Backfilling

NRG shall perform all operations in connection with excavation of materials including unsuitable materials as required, regardless of character of material, and obtain fill and backfill materials approved by NRG's geotechnical consultant to produce final grade lines. Arrangements for obtaining necessary fill material and topsoil from offsite borrow areas shall be the responsibility of NRG.

Earthwork, including excavation, fill, backfilling, dewatering, subgrade preparation and stabilization, shoring and drainage shall comply with the geotechnical consultant's recommendations, applicable ASTM standards and provisions of governing codes. Final grading of embankments and ditches shall have a minimum slope of two horizontal to one vertical.

The geotechnical consultant shall be retained as necessary during the construction period to perform necessary evaluation and testing to assure compliance with design recommendations.

All stormwater runoff shall be retained on site in ponds.

4.2. Geotechnical Investigation

NRG will be responsible for a soil investigation including borings, laboratory testing and engineering report providing a basis for foundation design. This work will be subcontracted to a duly qualified soils engineering and testing firm licensed to practice in the State of Florida.

Field borings will be performed by experienced personnel under the direction of a geotechnical engineer. Minimum boring depths will be to refusal or to a reasonable depth as determined by the geotechnical engineer and the report will include but not be limited to the following information:

- Identification of the types of soils and/or fill material;
- Boring logs, cone soundings and test pits;
- Water table & dewatering techniques;
- Location plan of subsurface exploration;
- Foundation recommendations for the various subsurface conditions encountered, and comments relative to the geotechnical aspects of site development. This will also include recommendations for allowable bearing capacity for spread footings as well as deep foundations, if required.
- Surcharging, dynamic compaction & surface treatment.
- Provide data for expected settlements on undisturbed soil and filled areas.
- Soil resistivity survey to determine extent of grounding system and need for cathodic protection for underground steel piping and other buried metal structures.
- Water sample testing.

4.3. Concrete Work and Foundations

MRG will furnish all labor, materials, tools, equipment, testing and services necessary to complete the installation of all concrete required for the Facility. Included are all necessary earth excavations, concrete foundations with steel reinforcement and backfill around foundations and piers. Included also are the installation of anchor bolts, inserts and grouting of column bases and equipment. Concrete work shall conform to ACI Standards 301 and 318. Concrete will have a specified compressive strength of not less than $f'c = 3000$ psi in twenty-eight days. This requirement will be confirmed through a concrete testing program for all structural concrete.

Primary reinforcing steel shall be in accordance with ASTM A615, Grade 60 for "deformed billet steel bars".

The bottom of excavations for foundations will be on undisturbed soils or fill compacted to meet ASTM D1557 as recommended by the geotechnical engineer.

4.4. Structural Steel

All structural steel will meet ASTM A36 specifications. Material, design and fabrication will be in accordance with the AISC and AWS specifications and governing codes. Steel layout and erection will conform to OSHA regulations. Connection bolts shall be constructed of material conforming to ASTM A307 and A325. The minimum thickness of hot rolled primary structural steel members shall be 3/16 inch, however on small auxiliary buildings, joists, and pre-engineered structures, this requirement may be waived.

All components shall be fabricated in as large assemblies as practicable, consistent with good shipping practice. All steel will have surface preparation prior to shop priming. Final painting will be completed after erection.

4.5. Roofing and Siding

NRG will furnish all metal panels, accessories and services necessary to complete the installation of roofing and siding material for the buildings.

Roofing for the main process building will be the standing seam type and will be fastened to each structural member by welds or screws averaging no more than 12" O.C. across the deck width. Section properties will be computed in strict accordance with specifications for the design of light gauge, cold formed "steel structural members", as published by the American Iron and Steel Institute. All structures shall be constructed with roofs which meet U.L. Class A requirements.

Exterior wall panels for main plant building will be formed steel sheets. Style and colors will be selected by NRG in consultation with the County. Walls and roofs will be suitably designed and insulated for the climatic conditions in the area. Metals shall have a protective coating to minimize maintenance.

Siding panels will be joint lapped, tape caulked and fastened to the steel framework using nylon self-tapping and sealing sheet metal screws.

Other buildings and structures will have metal siding and roofing of steel sheet panels.

4.6. Platforms, Ladders, Walkways and Stairs

The Facility will include a complete system of platforms, ladders, walkways and stairs, as required for safe operation and equipment access.

4.7. Roadways, Ramps, Fences and Parking Areas

All major onsite roads will be of rigid P.C. concrete or asphaltic concrete paving to accommodate heavy trucks and will be suitable for the intended service. Two lane roads will have two 12-foot lanes for a total width of 24 feet. Single lane roads will be 15 feet in width. Both will have 4-foot wide crushed stone shoulders. The side slopes from the ends of the road shoulders to the surrounding grade will not be steeper than 2 (horizontal): 1 (vertical). Pavements to be used by trucks shall be designed for legal axle loads.

Reinforced concrete floors will be provided for the tipping floor, boiler area, APC, Grizzly Scalper, turbine-generator and residue processing areas. Exterior operating areas such as the area immediately adjacent to the boilers, air pollution control equipment, the ID fans, and areas adjacent to the cooling tower will be surfaced with 3-inch minimum layer of crushed stone or other suitable ground cover. Facility site surface drainage will be by ditch and swale with concrete or corrugated steel culverts under roadways. Runoff will be directed to the onsite retention ponds.

A site perimeter fence will be furnished of 7-foot high, 2-inch pattern, galvanized chain link. A spare set of gate keys shall be provided to the County and the Fire Department. The parking lots will be sized to accommodate a total of 50 cars and 2 buses. Of these, two will parking spaces designated for the physically handicapped.

4.8. Administration Building

The Facility will include an administration building consisting of: a reception area; administrative offices; a conference room large enough to accommodate 30 people; a lunchroom, locker rooms and rest rooms, all suitably air-conditioned and heated. The interior finish will be designed as typical office space including textured or painted wall panels with acoustical tile ceilings, lay-in lighting fixtures and vinyl tile and carpeted floors.

5. BUILDING DATA

A commonality is provided among the various Facility buildings, structures and enclosures by the use of colors and textures throughout the Facility. Prefinished exterior metal panel siding and the continuity of horizontal contrasting bands of color provide an aesthetic theme which unifies the various elements and provides an appearance that is compatible with the neighboring properties.

5.1 Exteriors and Building Sizes

A. Administration Building

This building will be a steel framed building with metal siding. The single story structure will include offices, conference room, lunchroom, locker rooms and toilet facilities. The roof will be a single-ply membrane roof system. The building will be approximately 6000 square feet.

B. Main Process Building

The main process building includes the Tipping, Refuse, Turbine & Maintenance areas. The exterior surface of the building will be

preformed metal panels, installed vertically, requiring a horizontal girt system of support or equivalent. Bands of preformed metal panels of contrasting color encircle the plant exterior at various levels. The roof will be of the standing seam type with exterior gutters and downspouts.

C. Residue Building

The exterior of this building, like the main process building, will consist of vertical metal siding panels. The roof shall be a standing seam metal roof. The building is approximately 3,300 square feet.

D. Grizzly Scalper Building

Construction materials for this building will be the same as for the residue building. This building is approximately 600 square feet.

E. Water Treatment Building

This building will be a pre-engineered structure using similar preformed metal panels. This building is approximately 1,600 square feet.

F. Scalehouse

approximately 10 feet wide by 20 feet long,

The main scalehouse will be prefabricated with metal siding. The scalehouse shall be complete with electrical service, air conditioning, electric heat, indoor lights, equipment panel/console, conduit and windows with sun glare/heat retardancy. The scalehouse shall have telephone service wiring and restroom facilities for scalehouse staff.

5.2. Architectural Finishes

A description of the materials for the architectural finishes of structures follows.

A. Administration Building

Offices and the conference area will have carpeted floors. The restroom floors will be ceramic tile and the halls vinyl composition tile. Interior walls will be painted gypsum board and painted concrete block. Ceilings will be suspended acoustical tile throughout.

B. Maintenance Area, Control Room and MCC Room

Floor in the maintenance, service and process areas will be concrete. In the office area, control room, and employee facilities, floors of resilient or ceramic tile will be used as required. Acoustical tile ceilings will be used in the control room, offices, and employee facilities.

C. Tipping Building, Refuse Building, Turbine-Generator, Water Treatment, Residue and Grizzly Scalper Buildings.

Interior walls will be steel structure and prefinished metal panels. Ceiling will be exposed structure, and floors will be concrete.

5.3. Landscaping

Landscaping shall include seeding all areas disturbed by construction. The area around the office/visitor entrance and the parking area will be landscaped with various plantings to soften the impact of the industrial appearance of the Facility. Visual screens will be designed where appropriate

using berms and landscape materials to achieve this goal.

The existing tree line along the north property line will be maintained to the extent feasible as will all existing trees on the Site. A landscaped berm will be placed along the western property line to serve as a buffer to the neighboring properties. There shall be a 200-foot setback from the south property line.

SCHEDULE 7

[WASTE FLOW ORDINANCE]

CERTIFICATE OF CLERK

I, JAMES C. WATKINS, Clerk of the Board of County Commissioners of Lake County, Florida, do hereby certify that the annexed copy of Ordinance 1988-13 is a true, correct, and compared copy of the original which was duly adopted by the Board of County Commissioners of Lake County, Florida, on the 27th day of September, A.D., 1988. Such Ordinance has not been amended or rescinded since the date of its adoption and is in full force and effect on the date hereof.

WITNESS my hand and the seal of the Board of County Commissioners of Lake County, Florida, this 10th day of November, A.D., 1988.


Deputy Clerk

ORDINANCE
1988-13

AN ORDINANCE BY THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO THE DISPOSITION OF SOLID WASTE IN LAKE COUNTY; DIRECTING THE DELIVERY OF ALL SOLID WASTE GENERATED WITHIN THE COUNTY AND CERTAIN MUNICIPALITIES TO THE RESOURCE RECOVERY FACILITY DESCRIBED HEREIN; PROHIBITING THE UNLAWFUL DISPOSAL OF SOLID WASTE; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR ALTERNATIVE OR SUPPLEMENTAL AUTHORITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY as follows:

SECTION 1. Findings and Determinations.

It is hereby found and determined by the Board of County Commissioners of Lake County, Florida (the "Board"), the governing body of Lake County, Florida (the "County"), that:

1. In order to promote the public interest and protect the general health, safety, and welfare of the residents of the County, it is necessary for the County to develop a refuse disposal system including a solid waste disposal and resource recovery facility (the "Facility"). Failure to provide for the Facility in order to dispose of solid waste generated in the County can create serious economic, environmental and public health problems.

2. The County has, therefore, entered into an arrangement with NRG/Recovery Group Inc. ("NRG") pursuant to which NRG will design, construct, own and operate the Facility for the purpose of disposing of solid waste generated in the County, including solid waste generated in the incorporated municipalities within the County.

3. These arrangements are set forth in a Service Agreement dated as of January 15, 1985, between the County and NRG, as amended and restated in Addendum XII thereto dated September 20, 1988 (the "Service Agreement"). Pursuant to the Service Agreement, the County has committed to deliver a specified amount of solid waste to the Facility annually and has agreed to pay NRG for the cost of disposal of its solid waste at the Facility, whether or not the County delivers it.

4. Section 403.713, Florida Statutes (the "Recycling Law"), provides that any local government that undertakes resource recovery of solid waste (as defined in the Recycling Law, "solid waste") may control the collection and disposal of solid waste which is generated within the territorial boundaries of such local government and other local governments which enter into interlocal agreements for the disposal of solid waste with the local government sponsoring the resource recovery facility. The Recycling Law further provides that any local government which undertakes resource recovery of solid waste may institute a flow control ordinance for the purpose of ensuring that the resource recovery facility receives an adequate quantity of solid waste from solid waste generated within its jurisdiction.

5. The County intends to enter into interlocal agreements with municipalities within the County which participate in the Facility (the "Participating Municipalities") regarding, among other things, the delivery of solid waste within the respective boundaries of the Participating Municipalities to the Facility or other solid waste disposal facilities within the County designated by the County.

6. The County has adopted Ordinance 1987-7 (the "Franchise Ordinance") pursuant to which it established a system of non-exclusive franchises for eligible refuse collectors and adopted general regulations relating to such franchise system.

7. In order to develop the County's solid waste disposal system the County has determined to implement the waste flow control authority granted to it by the Recycling Law and thereby to make the Facility available to all residents of the County for the disposal of solid waste generated within or brought into the County. This Ordinance constitutes the exercise by the County of an essential and proper governmental function in accordance with the clearly articulated and affirmatively expressed policy of the State of Florida set forth in the Recycling Law.

SECTION 2. Disposal of Solid Waste.

(a) No person in the County shall deliver, or cause to be delivered, solid waste generated or disposed of within the County by such person except to solid waste disposal facilities located therein designated and controlled by the County. For purposes of this Ordinance, a solid waste disposal facility controlled by the County includes one owned by the County or one as to which the County has made contractual arrangements for delivery of solid waste.

(b) The County may, at its option, by resolution adopt regulations with respect to the authority granted pursuant to this Ordinance. Such regulations may provide, without limitation, that (i) different categories of solid waste, including recyclable materials, shall be delivered to different solid waste disposal facilities, including the Facility and any existing or future landfill designated by the County as a solid waste disposal facility and (ii) each franchisee designated in accordance with the Franchise Ordinance shall, as a requirement for maintaining a franchise with the County, deliver solid waste collected or disposed of within the County by such franchisee to the Facility or such other solid waste disposal facility or facilities as the County designates.

For purposes of this Ordinance, the term "person" shall include an individual, partnership, corporation, joint venture, private or public service company or entity, however organized.

SECTION 3. Penalties.

(a) Violation of any of the provisions of this Ordinance shall be punishable as provided by general law for violation of County Ordinances.

(b) In addition to the powers granted in paragraph (a) of this Section, the County may revoke any franchise granted under the Franchise Ordinance as a result of any violation of any of the provisions of this Ordinance.

SECTION 4. Severability.

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional or unenforceable by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such an unconstitutional or unenforceable provision not been included therein.

SECTION 5. Alternative or Supplemental Authority.

Except as expressly provided in this Ordinance, this Ordinance shall not be construed as repealing or superseding any other ordinance or law, and it is to be construed as alternative or supplemental authority for the exercise of the powers provided for herein. It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of the Lake County Code.

SECTION 6. Effective Date.

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and shall take effect upon receipt of official acknowledgment from that office that same has been filed.

DULY ENACTED this 27 day of September, 1988.

BOARD OF COUNTY COMMISSIONERS OF
LAKE COUNTY, FLORIDA

By: *Donald B. Richards*
Chairman

James C. Luther
Clerk

(SEAL)

ATTEST: *Sandra Carter*

SCHEDULE 8

MEASUREMENT OF WASTE BTU CONTENT

[Intentionally omitted; superseded by Schedule 19.]

SCHEDULE 9

YEARLY OPERATIONS AND MAINTENANCE CHARGE

The annual Operations and Maintenance (O&M) Charge for calendar years 1991 through 1993 shall be as follows:

<u>Year</u>	<u>O&M Charge</u>
1991	\$4,251,000
1992	4,370,000
1993	4,493,000

For calendar years after 1993, the annual Operations and Maintenance Charge shall be \$4,493,000. Such amounts are stated in 1988 dollars and are subject to adjustment in accordance with the Escalation Factor.

If the County elects in writing to have Residue hauling costs treated as a Pass Through Cost, the Operations and Maintenance Charge set forth in Schedule 9 (prior to any inflation adjustment) shall be reduced by \$88,500 and either, at the County's election, (i) the Pass Through Costs shall include costs of transporting Residue from the Facility to the Landfill or other disposal site permitted by this Agreement or (ii) the County shall accept and haul all Residue from the Facility to the Landfill under arrangements satisfactory to the County and NRG.

*\$374,416.67
12/1
11/10/88
1-9/20/88
C/10/88
C/10/88*

SCHEDULE 10

DAMAGES FOR UNBURNED CARBON

The County may, at any time and from time to time after the Commencement Date of Operations, require that a test similar to the one described in Section 5.5 of Schedule 5 hereto, be conducted to determine whether the Facility is in compliance with the Unburned Carbon Performance Standards specified in Schedule 4. Such test shall be conducted no more frequently than monthly, unless otherwise requested by NRG and shall be conducted over a three-day period using the same methodology specified in Section 5.5 of Schedule 5. If the test demonstrates that the Facility is in compliance with the Unburned Carbon Performance Standard, the County shall pay for the cost of such testing; otherwise, NRG shall pay for such testing. If the Facility does not meet the Unburned Carbon Performance Standard, NRG shall pay the County an amount equal to \$20 per ton, adjusted by the Escalation Factor, for each "Excess Residue Ton" as hereinafter defined delivered to the Landfill during such month. Such liquidated damage factor is the reasonable estimate of the value of the capacity of the Landfill used to dispose of the Excess Residue Tons. Following a test showing that the Facility is not in compliance with the Unburned Carbon Performance Standard, the Facility shall be considered to remain out of compliance with such Performance Standard until another test demonstrates that the Facility is in compliance with such Performance Standard.

The Excess Residue Tons, as used herein, shall equal the tons of Residue on a wet basis for any month, or portion thereof, for which the Facility was not in compliance with the Unburned Carbon Performance Standard in excess of the number of tons calculated by multiplying

- (i) the tons of waste processed on a wet basis at the Facility during such month,
times
- (ii) either
 - (A) a fraction computed by dividing the tons of Residue generated on a wet basis at the

Facility during the most recent six (6) months of operation in compliance with the Unburned Carbon Performance Standard by the tons of waste delivered to and accepted at the Facility during such period

or

(B) if the Facility has not operated in compliance with the Unburned Carbon Performance Standard for six (6) months following the Commencement Date of Operations, the lesser of

(1) the average tons of Residue per ton of waste processed on a wet basis for such lesser period of time, if any, that the Facility has operated in compliance with the Unburned Carbon Performance Standard

or

(2) thirty-two hundredths (0.32) of the weight of waste processed.

SCHEDULE 11

INSURANCE

From the date on which all conditions in Article IX are satisfied until the Commencement Date of Operations, NRG shall maintain or cause to be maintained the following insurance;

(a) Workers' Compensation Insurance. Workers' Compensation Insurance required by law, with NRG as named Insured and with no deductible amount.

(b) Employer's Liability Insurance. Employer's Liability Insurance with limits not less than \$1,000,000 per accident or employee disease, with NRG as named insured and with no deductible amount.

(c) Comprehensive General Liability Insurance/Broad Form ("CGL"). Comprehensive General Liability and Property Damage Insurance, with Contractual Liability and Products/Completed Operation coverage, with primary limits of liability of at least \$5,000,000 combined occurrence for bodily injury and property damage, and \$5,000,000 combined aggregate for bodily injury and property damage, with NRG as named insured, the County and the Trustee as additional insureds and with no deductible amount. CGL shall always be maintained with sufficient limits to support the purchase of excess umbrella liability as required in (e) below.

(d) Comprehensive Automobile Liability Coverage. Comprehensive Automobile Liability Insurance with a combined single limit for bodily injury and property damage, of at least \$5,000,000 with NRG as named insured, the County and the Trustee as additional insureds, and with no deductible amount.

(e) Excess Umbrella Liability Coverage. Excess Liability Insurance in an amount necessary to provide \$100 million of total liability limits when combined with the primary CGL Insurance limits with NRG as named insured, the Trustee and the County named as additional insureds.

(f) Builder's Risk Insurance. Prior to erection of structures and delivery of equipment to the Site, NRG shall effect Builder's Risk Insurance. The coverage shall be "All Risk" coverage for one hundred percent (100%) of the completed value, including the County as an Insured.

After the Commencement Date of Operations, NRG shall maintain or cause to be maintained the following insurance:

(a) Workers' Compensation Insurance. Workers' Compensation Insurance required by law, with NRG as named Insured and with no deductible amount.

(b) Employer's Liability Insurance. Employer's Liability Insurance with limits not less than \$1,000,000 per accident or employee disease, with NRG as named insured and with no deductible amount.

(c) Comprehensive General Liability Insurance/Broad Form ("CGL"). Comprehensive General Liability and Property Damage Insurance, with Contractual Liability and Products/Completed Operations coverage, with primary limits of liability at least \$5 million combined occurrence for bodily injury and property damage, and at least \$5 million combined aggregate for bodily injury and property damage, with NRG as named insured, the County and the Trustee as additional insureds and with no deductible amount. Comprehensive general liability will be maintained with sufficient limits to support the purchase of excess umbrella liability as required in (e) below.

(d) Comprehensive Automobile Liability Coverage. Comprehensive Automobile Liability Insurance with a combined single limit for bodily injury and property damage, of at least \$5,000,000 with NRG as named insured, the County and the Trustee as additional insureds, and with no deductible amount.

(e) Excess Umbrella Liability Coverage. Excess Umbrella Liability Insurance in an amount necessary to provide \$100 million of total liability limits when combined with the primary Comprehensive General Liability limits of item (c) with NRG as named insured, the Trustee and the County named as additional insureds.

(f) "All Risk" Property Damage Insurance. Insurance for loss, damages or destruction to the Facility (including boiler and machinery) caused by "all risk" peril in an amount at all times equal to the full replacement value of the Facility (including, to the extent available on commercially reasonable terms, insurance for such loss caused by flood or earthquake), with NRG as named insured, the County and

the Trustee as additional insureds, and with a deductible amount of \$100,000, or less.

(g) Business Interruption Insurance. Business Interruption and Extra Expense Insurance covering expenses and losses due to business interruptions with limits equal to \$25,000,000, and adjusted annually by agreed upon indices. NRG shall be the named insured, the County and the Trustee as additional insureds, and the deductible amount shall be \$100,000.

Schedule 12

Standard Reference Waste

The standard composition of Acceptable Waste (referred to herein as "Standard Reference Waste") is as follows:

<u>Component</u>	<u>Weight Percent</u>
Carbon	27.5
Hydrogen	3.6
Oxygen	20.0
Nitrogen	0.5
Chlorine	0.5
Sulfur	0.1
Inorganic	23.4
Moisture	24.4
Total	100.0

Heating Value

5000 BTU/pound

This data is given for design reference. Neither NRG nor the County makes any representation that there are guaranteed waste composition or waste characteristics.

SCHEDULE 13

[Service fee ordinance to cover obligations of County under this Agreement in form and substance to be agreed upon by County and NRG]

^ SCHEDULE 14

REVIEW AND ACCEPTANCE PROCEDURES

Construction Review Procedures

The Consulting Engineer shall at the request of the County or the Trustee, review on a quarterly basis NRG's submittals to the Trustee with respect to the progress milestones set forth in the Financing Agreement including any revisions as may be proposed by NRG and disbursement of funds for, or any NRG estimate of, Reimbursable Costs and verify NRG's certification that it has achieved the level of progress indicated. If the Consulting Engineer determines that the work has not progressed to the milestone indicated in the progress certificate, or disputes any submittal or estimate of disbursements for Reimbursable Costs, the Consulting Engineer shall, at least five (5) days prior to the date of the next scheduled payment to NRG by the Trustee, provide written notification to the Trustee, NRG, and the County as to the Consulting Engineer's reasons, in reasonable detail, for such determination or the basis for such dispute. After receiving such notice, NRG may make the necessary corrections and resubmit a progress certificate to the Consulting Engineer, or the Consulting Engineer and NRG may agree on a revised amount, submittal or estimate, as applicable, in which case the Consulting Engineer shall promptly notify the Trustee and the County of such agreement. If the County shall reasonably determine that the work has not progressed to the point indicated in NRG's progress certificate or that any submittal or estimate is incorrect and no agreement with NRG has been reached, the County may exercise their right to dispute, pursuant to Section 15.12 of the Agreement, NRG's progress certificate or such submittal or estimate; provided that NRG during the pendency of such dispute shall continue the work on the Facility and continue to be entitled to receive advances for such work in accordance with the Financing Agreement; and provided further that if the County exercises such right to dispute, it shall, in addition to complying with the provisions of Section 15.12, serve a copy of any resulting award upon the Trustee. Any proceeding undertaken pursuant to Section 15.12 to resolve a dispute arising under this schedule shall immediately terminate if (i) NRG demonstrates to the Consulting Engineer that the work has proceeded to the milestone indicated in the progress certificate—giving rise to the dispute, or that any disputed submittal or estimate is correct and (ii) the Consulting Engineer concurs with such demonstration. If such dispute is resolved against NRG, then NRG shall immediately pay to the Trustee any amount found pursuant to Section 15.12 to be

unsubstantiated, unjustified or excessive with interest from the date such amount was advanced to NRG to the date of repayment (or the date actually earned) at the rate of one percent (1%) per month and otherwise comply with the decision resolving the dispute; provided further that nothing contained in this schedule shall be deemed to alter the rights of the parties, if any, under Article XII.

Acceptance Procedures

(a) NRG shall give the County (i) at least 60 days' prior written notice of the beginning date of start-up operations at the Facility in preparation for the conduct of Performance Tests set forth in Schedule 5, which notice shall include projected delivery schedules and approximate Acceptable Waste quantities necessary for start-up, and (ii) at least 45 days' prior written notice of the initiation of such tests, the projected test schedule in accordance with the specific performance standards in Schedule 4 and Performance Test Procedures in Schedule 5 and the Acceptable Waste quantities necessary for the performance of such tests.

(b) The County shall use all reasonable efforts to deliver or cause to be delivered to the Facility the requested quantities of Acceptable Waste at the times specified by NRG for start-up operations and for the conduct of Performance Tests.

(c) NRG shall conduct Performance Tests in accordance with Schedule 5 at no cost or expense to the County. NRG shall permit the designated representatives of the County and Consulting Engineer to inspect the preparations for the tests and be present for the conduct of such tests and have access to all material necessary to make the determination provided for in paragraph (e) below.

(d) NRG shall upon completion of the tests, including the receipt of any laboratory analysis, furnish the County and Consulting Engineer with a certified written report describing (i) the Performance Tests conducted and (ii) the certified results of such tests.

(e) If NRG certifies in its written report that all the Performance Standards set forth in Schedule 4 related to the Performance Tests were satisfied, then the County through the Consulting Engineer shall determine whether the Facility has satisfied such standards. Within thirty (30) days of the County's receipt of NRG's certification as to Performance Tests results, the County shall determine (i) if NRG correctly certified such results, or (ii) if NRG incorrectly certified

such results. If the County accepts NRG's certification of the results of Performance Tests or fails to respond to the NRG's certification of such tests results within said thirty-day period, the County shall be deemed to have approved and accepted the results of such tests. Upon the County's approval of the results of the Performance Tests, the Facility shall be deemed accepted and the Commencement Date of Operations shall be established as of the date of NRG's certification. If the County accepts the Facility at less than the Performance Standards set forth in Section 4.2 of Schedule 4 in any respect, the County and NRG shall promptly prepare, initial, and attach to at least one executed copy of this Agreement in the hands of the County, NRG, and the Trustee, reflecting any appropriate changes in the Acceptable Waste delivery schedule provided that any such changes in Acceptable Waste delivery shall not relieve NRG of its obligation to pay the damages contemplated by Section 8.09, if applicable.

If the County shall reject NRG's certification as to the results of the Performance Tests, the County shall immediately send written notice of such rejection to NRG describing in reasonable detail the basis of the rejection and, if NRG disputes such rejection, the matter shall become subject to dispute resolution pursuant to Section 15.12.

If the County's rejection of NRG's certification of the results of the Performance Tests shall be submitted to dispute resolution pursuant to Section 15.12 and NRG's certification is determined to have been correct, acceptance of the Facility and the Commencement Date of Operations shall be as of the date of the NRG certification and if the Extension Period expires prior to such establishment of the Commencement Date of Operations pursuant to Section 15.12, then NRG shall nonetheless not be in default with respect to the issue in dispute during the period from the date of submission of NRG's certified written report until the Commencement Date of Operations is established pursuant to Section 15.12.

Extension Period

(a) If the Commencement Date of Operations shall not have occurred on or before the Scheduled Commencement Date of Operations, NRG shall be entitled to secure acceptance of the Facility during the Extension Period.

(b) If at any time before the last day of the Extension Period, Performance Tests conducted pursuant to Schedule 5 shall demonstrate that the Facility operates at a standard equal to or greater than the Acceptance Criteria, the County shall, subject to the obligation, if any, of NRG to pay

any damages required under Section 8.09, if applicable, accept the Facility pursuant to this Schedule and this Agreement shall continue. If Performance Tests conducted pursuant to Schedule 5 shall demonstrate that, as of the last day of the Extension Period, the Facility does not operate at a standard equal to or greater than the Acceptance Criteria on the last day of the Extension Period this Agreement may at the election of the County be terminated in accordance with Section 12.02.

^ SCHEDULE 15

ALTERNATE DISPOSAL METHODS

^

In the event the Facility is unable to process the Guaranteed Annual Tonnage in any Billing Year, NRG shall be entitled to fulfill its obligations to accept, process, and/or dispose of Acceptable Waste by using Alternate Disposal Methods including use of the Facility as a transfer station. If NRG determines to use an Alternate Disposal Method during any Monthly Billing Period, it shall, as promptly as practicable, notify the County by telephone (which notice shall be confirmed in writing within five (5) days) of such determination and shall consult with the County with regard to (i) the use of any Alternate Disposal Method and (ii) the amount of County tons per day to be caused to be delivered by the County pursuant to such Alternate Disposal Methods; provided that NRG shall continue to accept Acceptable Waste at the Facility for thirty-six (36) hours after giving such notice to the extent that such acceptance will not violate any environmental permit or applicable laws and regulations. NRG shall give the County similar notice of its intention to terminate use of Alternate Disposal Methods and will consult with the County regarding the need for any additional alternate facility.

SCHEDULE 16

FACILITY PRICE AND REIMBURSABLE COSTS

A. Facility Price.

The Facility Price, as defined in Section 3.01 of this Agreement, is \$60,000,000. The Facility Price does not include any items of Reimbursable Cost.

B. Reimbursable Costs.

(a) Reimbursable Costs shall include:

(i) during any period prior to the Service Date, the cost of transportation and disposal of any Acceptable Waste delivered to the Facility and accepted by NRG but which cannot be processed in the Facility;

(ii) the cost of any insurance required pursuant to Schedule 11; provided, however, that with respect to insurance required to be maintained by the Company prior to the Service Date pursuant to Schedule 11, Reimbursable Costs shall only include those costs in excess of \$225,000;

(iii) (A) any sales tax in excess of \$600,000 or other use, personal property, ad valorem, value added, gross receipts, leasing or leasing use tax, fee, levy, duty, impost, charge, assessment or withholding (other than withholding of income or employment taxes) of any nature imposed prior to the Service Date by the State, County, or any municipality, or any other taxing jurisdiction of the State against NRG or the Facility upon or with respect to the Facility or upon or with respect to the purchase, sale, acquisition, construction, registration, delivery, leasing, possession, use or control thereof;

(B) any tax (other than a tax upon or measured by incremental value of energy from the Facility in the nature of a true windfall profits tax) which is designed or intended for a class of taxpayers of which the Facility and any similar facility, or their owners or operators as owners or operators of the Facility or a similar facility, are a significant and intended factor but not including any tax which is generally applicable to all taxpayers;

(C) any federal tax imposed pursuant to an amendment to the Internal Revenue Code of 1986, as amended, or any successor laws, on energy produced by the Facility (other than a tax upon or measured by incremental value of energy from the Facility in the nature of a true windfall profit tax) or based on the Environmental Impact of the Facility;

(iv) the costs and fees of the Consulting Engineer for services rendered to the County and the project prior to or during the period of construction of the Facility;

(v) all costs associated with obtaining an alternative electrical power supply in the event that the electrical interconnection to be supplied by Florida Power Corporation is not completed within 15 months after the date on which the conditions precedent set forth in Article IX of the Service Agreement are satisfied or waived;

(vi) all expenses incurred prior to the Service Date in connection with the financing of the project, including compensation, fees and expenses of the Trustee and the Issuer or any of their subcontractors or agents, fees of rating agencies, bond insurance premiums, fees and expenses of any credit facility bank, letter of credit bank or other financial institution acting in a similar capacity, fees and expenses of any liquidity bank or other financial institution acting in a similar capacity, fees and expenses of depository, indexing or remarketing agents and Bond insurance issuers, Bond discount, legal and consulting expenses and fees, other than as described in item B(a)(vii) below, costs of printing and engraving, recording and filing fees and any other cost or expenses incurred by NRG (other than damages or other amounts due as a result of Primary Company Fault) pursuant to the terms of the Indenture, Financing Agreement and other financing documents, all Rebate Requirements (as such term is defined in the Indenture) required to be paid by the NRG pursuant to the Indenture or the Financing Agreement, any costs related to any liability incurred by NRG under any financing documents, including the Remarketing Agreement, the Purchase Agreement (both as defined in the Indenture) or the offering materials for the Bonds if for any reason other than Primary Company Fault;

(vii) interest due and payable on the Bonds prior to the Service Date, to the extent not payable from funds or accounts established under the Indenture for the payment of such interest obligations, and all costs (not to exceed \$10,000 in any year) of complying with the terms of the Tax Compliance Agreement dated as of November 1, 1988, among the Trustee, the County and NRG;

(viii) an amount equal to \$6,000,000, as referred to in Section 8.02(d) of the Service Agreement, for fees and reimbursables incurred in connection with the development of the Facility and the transactions contemplated by the Service Agreement;

(ix) any costs for obtaining and maintaining any servitudes, easements, licenses or other property rights which are not on the Site and are necessary for the performance by NRG of its obligation to construct the Facility other than any construction laydown or requirement on the part of NRG to purchase property to expand the Site;

(x) all costs in excess of \$206,000.00 paid to Florida Power Corporation which are related to or are paid in connection with the electrical interconnection equipment and services to interconnect the Florida Power Corporation system to the high side of the step-up transformer on the Site, and the amount of any increase in the amounts owed by NRG for taxes relating to or resulting from the reimbursement of expenses for the interconnection equipment and services as described in this paragraph;

(xi) an amount equal to \$32,000, for payment of a seven (7) day Capacity Test, to the extent such amount constitutes a Reimbursable Cost pursuant to Section 5.2 of Schedule 5 to the Service Agreement; and

(xii) any other cost identified as a Reimbursable Cost in the Service Agreement, including the Schedules thereto.

(b) NRG shall, within five (5) days after the satisfaction of the conditions precedent set forth in Article IX, commence work so as to cause the Facility to be designed, constructed, started-up and tested for acceptance in accordance with the requirements set forth in Schedules 4, 5 and 14. NRG shall be entitled to payment for such work pursuant to and in accordance with the drawdown schedule set forth in the Financing Agreement. NRG's obligation to construct the Facility is conditioned on advancement to NRG of the Facility Price less its equity contribution of \$5,000,000 in accordance with the Service Agreement and the Financing Agreement and, subject to the provisions of the immediately following paragraph, the payment to NRG of all items of Reimbursable Costs, as defined above, incurred by or on behalf of NRG.

NRG shall be entitled to reimbursement of all Reimbursable Costs from the proceeds of the Bonds. To the extent that the proceeds of the Bonds are insufficient to pay

all Reimbursable Costs, the County shall have the right at its option to pay such Reimbursable Costs. If such Reimbursable Costs are not paid by the County, then NRG shall pay such Reimbursable Costs. All Reimbursable Costs paid by NRG shall be deemed to be Pass Through Costs, which Pass Through Costs shall be paid by the County in equal monthly installments over a period selected by the County, not to exceed ten (10) years, commencing with the first Monthly Billing Period, together with interest on the outstanding amount of such Reimbursable Costs from the date paid by NRG at a rate equal to the prime rate of Chase Manhattan Bank, N.A., as publicly announced from time to time, plus two percent (2%) per annum.

It is the intention of the parties that Reimbursable Costs to be paid from Bond proceeds shall be paid to NRG or the County, based upon certificates in such form as shall be required by the terms of the Indenture and the Financing Agreement and in accordance with the terms thereof.

(c) Delay Costs. Reasonable costs of NRG caused by delay arising from Force Majeure or the undertaking of any Required Change requested by the County shall be included in Additional Capital Investment only to the extent that NRG provides Cost Substantiation, provided that NRG uses all reasonable efforts to mitigate such costs. Such costs shall not include indirect costs of NRG such as lost profits or lost business opportunities related to the delay. NRG must provide any information reasonably required by the Consulting Engineer concerning the basis of the Additional Capital Investment. The cause and amount of the Additional Capital Investment shall be subject to the dispute resolution procedure provided in Section 15.12 of the Service Agreement.

(d) In the event the amount of the sales tax provided in clause (a)(iii) of this Schedule 16 is less than \$600,000, NRG shall promptly pay the County the difference between the cost of such items and the amount allocated in such clause for such costs.

SCHEDULE 17

^ That parcel of real property located in Lake County, Florida on which the Facility is to be constructed, consisting of fifteen (15) acres located on the southwest corner of Jim Rogers Industrial Park Road and County Road and described more fully in Schedule A to the Mortgage and Security Agreement dated as of November 1, 1988 between NRG and the Issuer.

SCHEDULE 18

GUIDELINES FOR PERIODIC MAINTENANCE

18.0 GENERAL

NRG will adhere to the required and recommended pressure vessel codes and power generation practices in regard to fabrication, maintenance, operation and safety. NRG will maintain Site in good repair and in a neat and orderly condition arresting deterioration, correcting emerging hazards and sustaining the internal and external aesthetic quality of the Facility.

Prescribed programs for routine daily maintenance, preventive maintenance and scheduled major refurbishment will be developed. Definitive instruction and procedures will be in accord with that in the warranties of each of the equipment suppliers and those written or verbally recorded, by their start-up and test engineers.

Prescribed lubrication, inspection and maintenance schedules will be developed and their use monitored through check-off lists, inventory control and supervisory inspection.

18.1 Operating/Maintenance Program Overview

NRG shall develop operator training, rapid information retrieval, adequate inventory of repair parts and material, necessary to permit its staff to identify and remedy malfunctions as they are encountered.

18.2 The elements of the operating and maintenance program which will be developed include, but shall not be limited to:

1. Detailed index of the documentation available to the operators.
2. Operating procedures for each sub-system.
3. Detailed procedures for start-up, normal operation, shut-down and isolation routines.

4. Detailed procedures for operating during up-set scenarios.
5. Procedures for emergency shut-down.
6. Detailed maintenance procedures and schedules for each sub-system.
7. Procedures for maintaining daily operating data logs, daily activity reports, malfunction reports and remedial reports.
8. Reports of anticipated need and inventory of replacement equipment parts and materials.
9. File of equipment listing all name plate information and shop drawing references.

18.3 Maintenance Programs

NRG shall develop effective routine, preventive and scheduled maintenance programs to assure the reliability and availability of the Facility.

18.3.1 Shift Maintenance

Shift Maintenance Routines shall include specific task inspections and prescribed lubrication schedules. Procedure check-off charts will be used for assuring compliance. These charts will also be used as a "first alert" of pending problem areas detected during these routine inspections.

18.3.2 Preventive Maintenance

Preventive Maintenance ("PM") Programs shall consist of routine inspection and remedial programs. The PM inspections shall be designed to identify pending problems to be remedied promptly thereby avoiding equipment failure and include procedures for monitoring the satisfactory and prompt execution of the remedial actions.

The following procedures and record systems will be established:

- PM procedures file for each item of equipment.
- PM schedule for each item of equipment.
- PM history for each item of equipment.
- PM corrective maintenance record with space for initials and date.

18.3.3 Annual Inspections

Annual Inspection and Maintenance Routines shall consist of inspection required by applicable law and the insurance carriers.

18.4 Repair Parts Inventory

The initial inventory set forth in the specifications will be maintained in accordance with the reasonable recommendations of the equipment manufacturers. The scope of this inventory can be altered based on experience. NRG shall maintain an adequate supply of tubes, piping, welding rod, valves, valve trim, seals, gaskets, fasteners, adhesive, wire and other standard inventory items. The inventory will be logged, monitored and tracked to assure rapid response to need and cost effective procurement.

18.5 Manuals

Comprehensive Operating and Maintenance Manuals will be prepared for each specific class and size of equipment systems installed. Each manual shall include the following information about the equipment system if applicable:

- A. System schematic diagrams showing all piping systems, type and size of all valves indicated and valve controls.
- B. Final wiring and control diagrams.
- C. A control sequence describing start-up, normal operation, emergency, troubleshooting and shutdown procedures.
- D. Plant control diagrams showing normal range and alarm values of each pressure, temperature, flow-rate, electric current, voltage, liquid or solid level, opacity, gas concentration, rapper cycle and other parameters.
- E. Operating and maintenance instructions developed from the manufacturer for their items of equipment, including preventive maintenance, corrective maintenance, and lubrication schedules and instructions.

- F. Sequenced malfunction diagnostic procedures and remedial measures for pertinent sub-systems and machinery.
- G. Equipment bulletins, catalog cuts and descriptive data for the specific class and size of equipment installed.
- H. Plant and personnel safeguard instructions during operating and maintenance modes.
- I. Parts lists and recommended spare parts inventory in parts manuals.
- J. Water Chemistry tests, procedures and equipment.

18.6 Training

Complete training will be given to each Facility employee, including classroom instruction, actual "hands-on" operational and checkout work, and formalized vendor training courses and programs. All employees will be given formalized instructions in plant safety practices and procedures, and qualified individuals will receive instruction in basic first aid.

Much of the actual training will be performed by the supervisory staff, assisted as deemed necessary by outside training instructors and institutions. As already mentioned, vendor training programs, both on-site and off-site will be utilized. A set of systems manuals will be prepared specifically for the Facility, and will be utilized as key documents for long-term plan operations, for plant maintenance and for initial and on-going personnel training. Audio-visual equipment will be obtained and employed as a valuable teaching tool. Several locations within the Facility will be established and maintained as libraries available for use by the employees and will contain such items as the facility systems manuals, vendor manuals, training files, and general reference materials.

The training programs that are instituted during the start-up period will be available throughout the operating lifetime of the plant, not only for the use in the instruction of new employees, but also to enable employees to advance into other job positions.

SCHEDULE 19

OPERATING PARAMETERS

Following the Scheduled Commencement Date of Operations operating parameters will determine acceptable variations in combustion unit operations that allow for fluctuations in refuse composition and heat value, refuse volume throughputs, steam loads and fouling cycles.

Prior to the Scheduled Commencement Date of Operations and annually thereafter all appropriate instrumentation for each combustion unit will be tested for accuracy and calibrated as necessary.

Following the Scheduled Commencement Date of Operations and for the first six months of commercial operations following the Commencement Date of Operations, the parameter values and allowable operating tolerances for each combustion unit below shall apply to determine whether energy damages are to be paid.

PART A

The following parameters shall be continuously measured and recorded by the Company:

<u>Parameters</u>	<u>Tolerance Level</u>
1. Wet Flue Gas Oxygen (O ₂) level when Processing Waste	Average for each Day not to exceed NRG's Operating Condition plus 1.5%
2. Flue Gas Carbon Monoxide (CO) level when Processing Waste	Four day average not to exceed 100 ppmv
3. Economizer or Air Preheater Exit Temperature	On average for each day, not to exceed NRG's Operating Condition plus 75° F
4. Condenser Vacuum	An average variance during each day not to exceed plus 0.5 inches Hg from condenser manufacturer's performance curve

Parameters

Tolerance Level

- | | |
|--|---|
| 5. Temperature of Inlet Cooling Water to Condenser | An average variance during each day not to exceed plus 5° F from cooling tower manufacturer's performance curve |
|--|---|

Following the first six months of commercial operation subsequent to the Commencement Date of Operations, the tolerances above shall be applied to parameter value reflecting seasonal refuse variations and actual operating conditions and adjusted to values agreed to by the County and NRG.

The Operating Conditions for each of the above parameters shall be as set forth in Part B of this Schedule 19. The tolerance levels set forth above will then be applied to the Operating Conditions set forth in Part B of this Schedule 19.

PART B

NRG's OPERATING CONDITIONS

- | | |
|---|--|
| 1. Wet Flue Gas Oxygen (O ₂) level when processing Waste (average for each day) | 9% |
| 2. Flue Gas Carbon Monoxide (CO) level when processing Waste (4 day average) | 100 ppmv |
| 3. Economizer or Air Preheater Exit Temperature | 390° F |
| 4. Condenser Vacuum | Condenser manufacturer's performance curve |
| 5. Temperature of Inlet Cooling Water to Condenser | Cooling tower manufacturer's performance curve |

AMENDMENT AGREEMENT

This Amendment Agreement (the "Agreement") is entered into this 12th day of January, 1995 by and between NRG/Recovery Group, Inc., a Florida corporation (the "Company") and Lake County, Florida (the "County") a municipal corporation under the laws of the State of Florida.

BACKGROUND

The parties hereto have entered into an Addendum XII to NRG/Lake County Agreement, dated as of November 8, 1988 (the "Service Agreement") pursuant to which Company is obligated to, among other things design, construct, operate and maintain a municipal waste-to-energy facility located in Lake County, Florida (the "Facility"). Pursuant to the Service Agreement, Company and the County have agreed that, among other things, from time to time changes in legal requirements may require that modifications to the Facility be made or that the parties' rights and obligations under the Service Agreement be modified. The parties have agreed that in order to implement the requirements of recently promulgated regulations of the Florida Department of Environmental Protection, certain modifications to the Facility and the Service Agreement should be made in accordance with such provisions of the Service Agreement. This Amendment sets forth such modifications.

AGREEMENT

1. Definitions. Unless otherwise defined herein, capitalized terms shall have the meaning given to such terms in the Service Agreement. In addition, the following definition shall be deemed to be added to Section 1.01 of the Service Agreement.

"Assumed Capital Improvement Debt Service" shall mean, with respect to Billing Year ending March, 1996, an amount equal to \$73,233.92, and with respect to Billing Years ending March, 1997 through 2014, an amount equal to \$97,645.23.

2. Installation and Operation of Mercury Control Technology. The parties agree that Company will design, construct and install, operate and maintain at the Facility the activated carbon injection technology described in Schedule 1 hereto (the "Mercury Control System"). Except to the extent affected by and Event of Force Majeure, Company will cause the Mercury Control System to be fully installed and ready for testing in accordance with applicable law on or prior to July 1, 1995.
3. Funding of Capital Cost of Mercury Control System. In

consideration of Company's obligation to design and install the Mercury Control System at the Facility pursuant to the terms of this Amendment, the County shall pay to Company the sum of \$1.1 million. Such payment shall be due in full within ten (10) business days after the date that Company certifies to the County in writing that the Mercury Control System has been fully installed and is ready for testing in accordance with applicable law; provided that if and to the extent an Event of Force Majeure causes a delay in the installation of the Mercury Control System such that completion is delayed beyond July 1, 1995, the Company shall be paid \$990,000 (i.e. 90% of \$1.1 million) on July 1, 1995 and the remaining 10% shall be paid upon completion, and any costs and expenses to which the Company would otherwise be entitled as a result of such event of Force Majeure shall be paid in accordance with the terms of this Service Agreement.

4. Other Changes to the Service Agreement.

(a) Section 8.03 of the Service Agreement is amended to replace the first sentence thereof with the following:

"For any Monthly Billing Period the County shall pay to the Company the sum of (i) the Operation and Maintenance Charge of one-twelfth (1/12) of the amounts shown on Schedule 9 for the applicable Billing Year, and (ii) \$.60 per ton of County Waste processed and escalated by the Escalation Factor, utilizing July, 1988 as the base month with respect to (i) above and May, 1994 as the base month with respect to (ii) above."

(b) Sections 8.05(a), 8.09(b)(iii), 8.09(e) and Section 4.2 of Schedule 4 of the Service Agreement are hereby amended to replace references to "525 kwh per ton" with "523 kwh per ton" wherever they appear.

(c) Section 8.06(e) of the Service Agreement is hereby amended to modify the Adjusted Service Fee component of the Shortfall calculation stated therein by adding the following proviso at the end of the description of the Adjusted Service Fee:

"; provided that for purposes of this Shortfall calculation, SF shall include the Assumed Capital Improvement Debt Service as part of the DS component thereof."

(d) Section 8.06 of the Service Agreement is hereby amended to add the following new subsection 8.06(f):

"(f) For purposes of calculating amounts due under the annual settlement statement referred to in Section 8.06(d) with respect to Billing Years 1996 and thereafter, if and to the extent the Company uses a greater amount of activated carbon reagent (per ton of waste processed) in operating Unit I of the Facility than it uses in operating Unit II of the Facility, then the Company shall owe to the County an amount equal to the incremental cost of such greater amount of reagent, using the average cost of such reagent per pound during the prior Billing Year."

(e) Section 8.09(b)(ii) of the Service Agreement is hereby amended to replace the reference therein to "472.50 kwh per ton" with "470.70 kwh per ton".

(f) Schedule 3 to the Service Agreement is hereby amended to add the following new item (17):

"17. The cost of activated carbon reagent used by the Company in connection with operation of the Mercury Control System."

(g) Schedule 4, Section 4.2(i) to the Service Agreement is hereby amended to read as follows:

"(i) Mercury emissions for each unit of the Facility shall comply with the less stringent of (a) 70 mg/dscm (at 7% O₂) at a point downstream of the baghouse for each unit, or (b) 80% removal efficiency of the inlet concentration of mercury as measured at the economizer outlet. Such emissions shall be measured based upon quarterly tests, comprised of three test runs per unit using EPA Method 101A, and compliance with such emissions limitations shall be determined by the annual average of all such emissions tests performed in a calendar year.

(h) Schedule 4 to the Service Agreement is hereby amended to delete the last paragraph thereof and replace it with the following:

"Process Residue shall be tested to determine compliance utilizing the Putrescible and Unburned Carbon Test. The Unburned Carbon Performance Standard is five percent (5%) by dry weight of the ash (but excluding the amount of carbon in the ash that is attributable to the use of activated carbon

injection as part of the operation of the Mercury Control System) and the Putrescible Matter Performance Standard is five-tenths percent (0.5%) by dry weight of the ash."

(i) Schedule 5 to the Service Agreement is hereby amended to add the following parenthetical clause at the end of the first paragraph in Section 5.5 thereof:

"... (excluding that amount of carbon in the ash that is attributable to the use of activated carbon injection as part of the operation of the Mercury Control System)."

5. Miscellaneous.

As amended by this Amendment, the Service Agreement shall continue in full force and effect. This Amendment, together with the Service Agreement, contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior oral or written understandings relating to the subject matter hereof.

IN WITNESS WHEREOF, the parties have made and executed this Amendment on the respective dates under each signature: LAKE COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chairman, authorized to execute same by Board action on the 17th day of January, 1995, and BRUCE W. STONE signing by and through its ELECTIVE VICE-PRESIDENT duly authorized to execute same.

COUNTY

BOARD OF COUNTY COMMISSIONERS OF
LAKE COUNTY, FLORIDA

Rhonda H. Gerber
Rhonda H. Gerber, Chairman

This 10th day of February,
1995.

ATTEST:

James C. Watkins
James C. Watkins, Clerk
of the Board of County
Commissioners of Lake
County, Florida

AMENDMENT AGREEMENT BETWEEN NRG/RECOVERY GROUP, INC. AND LAKE COUNTY

APPROVED AS TO FORM AND LEGALITY:

Rolon W. Reed
Rolon W. Reed
Interim County Attorney

NRG/RECOVERY GROUP, INC.

WITNESSES:

Timothy J. Simpson
TIMOTHY J. SIMPSON
Andrew C. Kidd
ANDREW C. KIDD

BY: Bridge W. Stone
BRIDGE W. STONE
ITS: Executive Vice President

01/24/95
contract/nrgamd.rwr

[] Consent
[X] Departmental

BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA
OFFICE OF THE COUNTY MANAGER
AGENDA ITEM COVER SHEET

DATE: December 21, 1994 MEETING DATE: January 17, 1995
TO: COUNTY MANAGER [] Public Hearing
[X] Action Item
THRU: Ronald E. Roche *MR* [] Discussion Item
[] Other _____
BY: David R. Crowe *DR*

SUBJECT: Mercury Emissions Control System

RECOMMENDATION/REQUIRED ACTION: Approval of amendment to Service Agreement with Ogden Martin Systems of Lake, Inc. regarding the sharing of capital and operational costs associated with the installation of the mercury emissions control system and authorize the Chairman to execute the amendment to the County's existing service agreement, subject to County Attorney's approval. Authorize the transfer, encumbrance and expenditure of funds necessary.

BACKGROUND SUMMARY: The Florida Environmental Regulatory Commission has adopted a new mercury emission regulation effecting all Waste-to Energy facilities in the state. In an effort to comply with the new regulation, Solid Waste and Ogden Martin staff have discussed the options available to meet the emission standards. The resulting proposal from Ogden includes design, installation and guaranteed long-term performance of a Mercury Emissions Control System. The Board of County commissioners approved the installation of the Mercury Emissions Control System, a carbon injection system, during its November 29, 1994 regular meeting. At that time the Board directed staff and Ogden Martin to work out a sharing arrangement of the capital costs associated with this system. The negotiated arrangement would provide for Ogden paying the County on a basis similar to that currently in the existing service agreement for debt service (principal and interest).

Fiscal Impact: \$1,100,000.00 [X] Capital [] Operating [] _____
Account No. 420.4546270.534.8300340

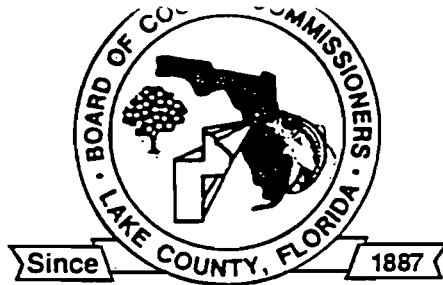
[] Affected parties notified of meeting [X] Not required
Advertised: Date _____; Paper: _____ [X] Not required
Attachments (List): Memorandum and Proposed Amendment

STAFF APPROVAL: _____ DATE: _____
County Manager *[Signature]* 1/3/95
County Attorney *RWR* 1/5/95
Finance Office *David R. Crowe* 1/5/95

ACTION TAKEN BY THE BOARD:
[X] Approved [] Disapproved [] Continued/Deferred until _____
Other: *Subject to Severance* Special Instructions: _____
From: Administrative Support By: *ak*
BCC-03 rev 12/19/94 *Subject to C.A. app.*
keh *doing an evaluation of the debt serv. interest rate*

calculations. Page 3 (9) part stricken.

DEPARTMENT OF
SOLID WASTE MANAGEMENT SERVICES
P.O. Box 7800
13130 Astatula Landfill Rd.
Tavares, FL 32778
(904) 343-3776
FAX (904) 343-9257



ADMINISTRATION
ASSESSMENT MANAGEMENT/CUSTOMER SERVICES
CAPITAL PROJECTS MANAGEMENT SERVICES
HAZARDOUS WASTE MANAGEMENT SERVICES
RECYCLING SERVICES
SOLID WASTE DISPOSAL OPERATIONS
SUPPORT SERVICES

M E M O R A N D U M

DATE: December 27, 1994

TO: Board of County Commissioners

THRU: Pete Wahl, County Manager

FROM: Ron Roche, Director
Solid Waste Management Services

SUBJECT: Amendment of Service Agreement between Ogden Martin
system of Lake, Inc. and Lake County

The Board of County Commissioners requested staff to negotiate an amendment to the existing service agreement related to the installation of the Mercury Abatement System. Upon that direction several meetings have been held with Ogden Martin with the following results:

- * The Capital cost of the Mercury Abatement System (\$1,100,000) will be shared between the County and Ogden Martin based on the same sharing condition which currently exist in the Service Agreement. The County will pay Ogden Martin the up front cost of the new system. Ogden Martin, through the provision of the amendment, will reimburse the County for its portion of the system cost based on its share of the plant capacity. Currently, this share represents 33/163rd of the annual capacity. In addition to the pro rata principal amount of the system cost which will be supported by Ogden Martin, interest will be paid to the County at a rate which approximates the rate on the 1993 Bonds (5.79%). Given that Ogden Martin continues to utilize the merchant portion of the facility capacity, the annual payment will be \$97,645.23.
- * The capital cost of this system modification will be payable by the County upon completion of the modification.
- * The operating expense of \$.60 per ton of waste processed for the cost of carbon will also be shared based on the County's share of facility capacity. This is the same provision that occurs today with any operating cost of the facility, except that the County will not be required to pay an amount greater than that required to operate Unit No. 2 for the cost of carbon in Unit No. 1. Thus, if Ogden Martin chooses to continue the processing of medical waste in Unit No. 1 and this processing requires a greater use of carbon, the County will not bear the cost of that usage.

Attached please find the proposed amendment and related correspondence.

RR:kr

attachment

cc: Rolon Reed

OGDEN MARTIN SYSTEMS OF LAKE, INC.

3830 ROGERS INDUSTRIAL PARK ROAD
JKAHUMPKA, FL 34762

TEL: (904) 365-1611

FAX: (904) 365-6359

December 20, 1994



AN OGDEN PROJECTS
COMPANY

Ron Roche
Director of Solid Waste
P.O. Box 7800
Tavares, FL 32778

Dear Ron,

Attached you will find a draft amendment to the Service Agreement which reflects the changes required for the Mercury Abatement System. Included in the amendment is proposed language for cost sharing of the Mercury Abatement System. The following is a description of how the cost will be allocated.

We propose that the \$1.1 million capital cost be treated in the service agreement as if the cost was financed. At the end of each contract year there will be added to the Service Fee an item called "Assumed Capital Improvement Debt Service" which will reflect what the annual payment would have been if the capital project was financed.

By having this amount added to the Service Fee the current contract will automatically allocate a portion of the cost to Out-of-County waste through the shortfall (ARMA) calculation. Ogden's share of the allocation will be up to 33/163rd of the annual "Assumed Capital Improvement Debt Service" payment and will be paid for through Out-of-County waste deliveries.

Attached you will find a schedule of the "Assumed Capital Improvement Debt Service" for the Mercury Abatement System. In determining the interest rate I used the weighted average of the Series A 1993 bonds and arrived at a rate of approximately 5.79%.

The first years payment is only 3/4 of other years due to the equipment being required as of July 1, 1995 and the contract year ending March 31, 1996.

If you have any further questions concerning this proposal please call me at 365-1611.

Sincerely


Kyle Garrett

Manager - Facility Administration

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT, dated as of July 27, 1993 (the "Agreement"), is made and entered into between and among LAKE COUNTY, FLORIDA, an organized county and political subdivision of the State of Florida (the "County"), and NRG/Recovery Group, Inc. a corporation organized under the laws of the State of Florida (the "Company").

WITNESSETH:

WHEREAS, the County has issued and sold its \$70,000,000 Adjustable Tender Resource Recovery Industrial Development Revenue Bonds, Series 1988A (NRG/Recovery Group Project) (the "Series 1988A Bonds") to pay for a portion of the costs associated with the construction and equipping of the Facility and other purposes described below; and

WHEREAS, the proceeds of the Series 1988A Bonds were used to make a loan to the Company pursuant to a Loan Agreement, dated as of November 1, 1988, between the County and the Company, the proceeds of which loan were used to pay a portion of the costs of the, construction and equipping of a solid waste resource recovery facility (the "Facility") on land in Lake County, Florida. A portion of the proceeds of such loan were also used to provide capitalized interest on the Series 1988A Bonds.

WHEREAS, the County has represented to the Company that it desires the Company to use the proceeds of such loan which remain after the payment of all costs associated with the construction and equipping of the Facility to provide capitalized interest on the Series 1988A Bonds for a period ending on March 4, 1992, which is the Commencement Date of Operations (as defined in Addendum XII to NRG/Lake County Agreement, dated as of November 8, 1988, between the Company and the County (such use for such additional period being referred to herein as the "Proposed Use") and that bond counsel to the County has provided its opinion to the effect that the Proposed Use is permitted under the terms of the financing documents, without the consent of third parties, and that interest and letter of credit fees on the Series 1988A Bonds accrued through the Commencement Date of Operations is properly capitalized as a cost of the Facility for purposes of determining the costs of the Facility that constitute costs of solid waste disposal facilities within the meaning of Section 142 (a)(6) of the Internal Revenue Code (the "Capitalized Interest Determination").

WHEREAS, the Facility is owned by the Company; and

WHEREAS, pursuant to a Service Agreement, dated as of November 1, 1988, as heretofore and hereafter amended (the "Service Agreement"), between the County and the Company, the County is

required to deliver mixed municipal solid waste to be processed by the Company at the Facility, and the County is obligated to pay under the conditions set forth in the Service Agreement a Service Fee that is sufficient to pay, among other things, Debt Service on the Bonds (as defined in the Service Agreement); and

WHEREAS, certain of the Company's obligations to the County under the Service Agreement have been guaranteed by Ogden Corporation, a Delaware corporation (the "Guarantor"); and

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained, the parties hereto agree as follows:

Section 1. Indemnification. (1) The County agrees to indemnify and hold harmless the Company, the Guarantor, any of their parent, affiliate or subsidiary corporations, partnerships or entities, and all agents, directors, employees, officers, partners and each person or entity, if any, who controls any of the above within the meaning of the Securities Act of 1933, as amended (the "1933 Act"), and the Securities Exchange Act of 1934, as amended (the "1934 Act"), (collectively referred to as the "Indemnified Parties" and individually referred to as an "Indemnified Party") to the extent permitted by law against any and all losses, claims, damages, liabilities, costs (including reasonable attorneys fees and costs of interest on the Series 1988A Bonds), and expenses (the calculation of which shall include an amount equal to the net amount of income or other taxes paid or payable by the Indemnified Party on amounts received pursuant to this paragraph (1) of Section (1)) foreseeable and unforeseeable, unless caused by the gross negligence or willful misconduct of the Indemnified Party, (herein referred to collectively as "Liabilities" and individually as a "Liability"), to which an Indemnified Party may be subject or incurred by an Indemnified Party in all cases arising out of, as a result of, in connection with, or relating to (collectively referred to as "relating to") a Covered Event. Liabilities referred to above are herein referred to as "Indemnified Liabilities." A "Covered Event" shall mean the Company's (e) withholding of action pursuant to Sections 2.3(d) and ~~19~~ of the Tax Compliance Agreement, dated as of November 10, 1988 among the Company, the County, and the Southeast Bank, NA pending advice from the County regarding the Capitalized Interest Determination, and the Company's reliance on the Capitalized Interest Determination in taking any action pursuant to such services. BZ
GPB
8/2

(2) If any claim shall be made or action brought against any Indemnified Party of which such Indemnified Party has actual knowledge in respect of which indemnity may be sought against the County, such Indemnified Party shall promptly notify the County in writing, stating the particulars of the action or claim; provided that any failure to timely give such notice shall not relieve the County of its obligations hereunder except to the extent such delay

or failure to give notice materially adversely affects the defense of such claim or action. Subject to the provisions hereinafter stated, the County shall assume the defense of any such action or contesting any such claim (including the employment of counsel, which counsel shall be selected by the County and shall be reasonably satisfactory to the Indemnified Party), and the payment of expenses (including expenses of investigating any such claim) insofar as such action shall relate to any Indemnified Liability in respect of which indemnity may be sought against the County. Notwithstanding and in addition to any of the foregoing, each of the Indemnified Parties shall have the right to retain separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the party retaining such counsel unless the retention of such counsel has been specifically authorized by the County, which authorization shall not be unreasonably withheld. In the event that the County is advised in a written opinion of counsel mutually agreeable to the Indemnified Party and the County that there are legal defenses available to the Indemnified Party that are or may be adverse to or in conflict with those available to the County, the County shall not have the right to assume the defense of such action on behalf of any Indemnified Party to whom such opinion of counsel relates, but shall be responsible for the reasonable fees and expenses of counsel to any such Indemnified Party in assuming its own defense as such fees and expenses are incurred. If the County shall fail to assume the defense of any action or contesting any claim for which indemnity may be sought hereunder, or to retain counsel within a reasonable time after commencement of such claim or action, the fees and expenses of counsel to the Indemnified Party shall be paid by the County as such fees are incurred.

(3) The County shall not, in the defense of any Indemnified Liability or any litigation resulting therefrom, consent to the entry of any judgment (other than a judgment of dismissal on the merits with prejudice and without costs) except with the written consent of the Indemnified Party or enter into any settlement without the written consent of the Indemnified Party. If the County does not give the Indemnified Party, within 30 days after receipt of notice to the County of a claim for indemnity hereunder by an Indemnified Party, notice that the County denies the right of the Indemnified Party, then the obligation of the County to indemnify such Indemnified Party shall be deemed to be finally determined between the County and such Indemnified Party subject to the County's right to defend such claim as contemplated by paragraph (2) above. The County shall not be liable hereunder to indemnify any Indemnified Party for any settlement of any claim or action effected without its consent.

(4) If the indemnification provided for in this Section 1 is unavailable to an Indemnified Party in respect of any Indemnified Liability, the County, in lieu of indemnifying such Indemnified

Party, shall, to the extent permitted by law, contribute to the amount paid or payable by such Indemnified Party as a result of such Indemnified Liability (i) in such proportions as is appropriate to reflect the relative benefits received by the Company on the one hand and the County on the other hand relating to the Proposed Use or (ii) if the allocation provided by clause (i) hereof is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) hereof but also the relative fault of the Company on the one hand and the County on the other hand relating to the Proposed Use, as well as any other relevant equitable considerations.

Section 2. Fees. The County agrees to reimburse the Company pursuant to Section 8.04 of the NRG/Lake County Agreement and item 9 of Schedule 3 thereto, for its reasonable out of pocket costs and expenses (including reasonable attorneys' fees) associated with the Proposed Use, and the final determination of qualified costs of solid waste disposal facilities within the meaning of Section 142(a)(6) of the Internal Revenue Code.

Section 3. Governing Law. This Agreement governed by and shall be construed in accordance with the laws of Florida without regard to conflict of laws rules.

Section 4. No Set-Offs Between Indemnified Parties. Any payments owing by the County to any Indemnified Party (or any of such Indemnified Party's parent, affiliate, or subsidiary corporations, partnerships, or entities, and all agents, directors, employees, officers, partners, and each person or entity, if any, who controls any of the above within the meaning of the 1933 Act and the 1934 Act) shall not be subject to any defense, set off, recoupment, or counterclaim which the County has against any other unrelated Indemnified Party.

Section 5. Separate Agreement. This Agreement shall be a separate and distinct agreement from any other agreement of any Indemnified Party with the County, currently in effect or hereinafter entered into, and shall not alter or amend the terms of or obligations under any Bond Document, Operative Document, Ancillary Document (as defined in the Loan Agreement) or any other agreement.

Section 6. Severability. In the event of any provision of this Agreement or in case any obligation, agreement, act or action or party thereof made, assumed, entered into or taken under this Agreement or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable by reason of any law, such illegality or invalidity or inoperability shall not affect the other provisions of this Agreement, which shall remain in full force and effect.

Section 7. Representation. The County represents and warrants that this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of the County, enforceable against it in accordance with its terms, except as such enforceability may be affected by bankruptcy, insolvency and other laws affecting creditors rights generally.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: Lake County through its Board of County Commissioners, signing by and through its Chairman, authorized to execute same by Board action on the 27th day of July, 1993, and Scott G. Mackin duly authorized to execute same.

ATTEST:

COUNTY

LAKE COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

Beth Lange D/C for
James C. Watkins, Clerk
of the Board of County
Commissioners of Lake
County, Florida

G. Richard Swartz, Jr.
G. Richard Swartz, Jr., Chairman

This 11th day of August,
1993.

Approved as to form and
legality by County Attorney
for Lake County, Florida
Lake County Courthouse
315 West Main Street
Tavares, Florida 32778
(904) 343-9787

Annette Star Lustgarten
Annette Star Lustgarten
County Attorney

ATTEST:

COMPANY

NRG/RECOVERY GROUP, INC.

T. S. [Signature]
Corporate Secretary

By: Scott G. Mackin
Scott G. Mackin, President

OR

This 3rd day of August,
1993.

WITNESSES:

STEPHANIE B. DURAN
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES AUG. 24, 1998

State of Florida ^{N.J.}
County of ESSEX

The foregoing instrument was acknowledged before me this 3rd
day of Aug 4, 19 93, by Scott G. Mackin
(name of officer or agent,
President on behalf of NRG/Recovery Group Inc.
title of officer or agent) (name of corporation)
a Florida corporation. He(She) is personally known to
(state)
me or has produced _____ as identification.
(type of identification)

Stephanie B. Duran
Signature of Acknowledger

Name of Acknowledger Typed _____
Executive Secretary
Title or Rank

Serial Number, if any _____

My Commission Expires:

(Seal)