MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date:	February 6, 2019				
Department:	Public Works	Agenda Planning Date:	1/30/2019	Time required:	None
☐ Audio/Visual aids					
Contact:	Thomas Kissinger	Phone:	503-566-4139		

Department Head Signature:

Brian Nicholas

TITLE	Consider approval of Amendment #3 to the Service Agreement with Covanta Marion, Inc.
Issue, Description & Background	Marion County Public Works intends to send leachate to the Covanta Energy From Waste facility for disposal for the remainder of the contract, through September 2019. Amendment #3 adds a definition of County Leachate to contract # PW-1022-14 with Covanta Marion, Inc. and adds section 4.14 to address the processing of County Leachate by Covanta for a processing fee of $0.15 per gallon and the requirements necessary to facilitate this processing. Section 4.14 allows the County to send leachate to Covanta for processing at the County's Discretion. Additionally, Amendment #3 adds a not to exceed provision to Section 6.09 - Supplemental Waste. This addition to Section 6.09 states that Covanta will not process more than 4,125 tons of supplemental waste through September 2019. The County will receive a 75% share in any revenue earned from Supplemental Waste processed in excess of 4,125 tons during this period.
Financial Impacts:	Increases not to exceed value of the contract by $420,750.00 to allow for processing of County leachate.
Impacts to Department & External Agencies	Approval of this amendment will allow the County to dispose of leachate for less than the current cost of disposal. Additionally, approval of this amendment allows the County to earn revenue on Supplemental Waste processed in excess of 4,125 tons for the remainder of the contract.
Options for Consideration:	1) Approve Amendment #3 to Contract # PW-1022-14 2) Withhold approval of Amendment #3 to Contract # PW-1022-14
Recommendation:	Public Works staff recommends approval of Amendment #3 to Contract # PW-1022-14
List of attachments:	Amendment #3 to Contract # PW-1022-14
Presenter:	Brian May, Environmental Services Division Manager

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Copies to: Thomas Kissinger, tkissinger@co.marion.or.us

Contract Review Sheet

Marion County OREGON
FINANCE DEPARTMENT

Contract #: PW-1022-14

Person Sending: **Thomas Kissinger** Department: **Public Works**

Contact Phone #: **503-566-4139** Date Sent: **1/18/2019**

☐ Contract ☑ Amendment # **3** ☐ Lease ☐ IGA ☐ MOU ☐ Grant (attach approved grant award transmittal form)

Title: **Amendment #3 to the Service Agreement for the Supply and Processing of Solid Waste**

Contractor's Name: **Covanta Marion, Inc.**

Term - Date From: **Upon Signatures** Expires: **9/20/2019**

Contract Total: **$2,700,000.00** Amendment Amount: **$420,750.00** New Contract Total: **$3,120,750.00**

Source Selection Method:

☐ # _____

Additional Considerations (check all that apply)

☐ Board Order# _____
☑ Incoming Funds
☐ Independent Contractor (LECS) approval date: _____
☐ Insurance Waiver (attach)
☐ CIP# _____ (required for all goods /software greater than $5,000)

☐ Feasibility Determination (attach approved form)
☐ Federal Funds (attach sub-recipient / contractor analysis)
☐ Reinstatement (attach written justification)
☐ Retroactive (attach written justification)

Description of Services or Grant Award:

Amendment #3 adds a definition of County Leachate to Article I. Additionally, Amendment #3 adds a new section 4.14 to address the processing of County Leachate by Covanta for a processing fee of $0.15 per gallon and the requirements necessary to facilitate this processing. This section allows the County to send leachate for processing at the County's discretion. At this time, Environmental Services anticipates to send no more than 2.8 million gallons of leachate to Covanta for processing for the remainder of the contract, for an estimated fee of $420,750. Finally, Amendment #3 adds a provision to Section 6.09 - Supplemental Waste

FOR FINANCE USE

Date Finance Received: BOC Planning Date: Date Legal Received:

Comments:

REQUIRED APPROVALS:

Finance - Contracts Date

Risk Manager Date

Legal Counsel Date

Chief Administrative Officer Date

Date _____ ☐ To be filed ☐ Added to master list

☐ Returned to _____ Department for _____ signatures

AMENDMENT NO. 3 TO THE SERVICE AGREEMENT FOR THE SUPPLY AND PROCESSING OF SOLID WASTE

This is Amendment No. 3, dated as of the __day of ___, _____, to the Service Agreement for the Supply and Processing of Solid Waste, dated September 11, 2013 (as amended, the "Service Agreement"), between Marion County, Oregon ("County") and Covanta Marion, Inc. ("Company").

WHEREAS, the parties desire to amend the Service Agreement to provide for the delivery of certain liquid wastes the County wishes to dispose of at the Company's facility in Brooks, Oregon.

WHEREAS, the parties desire to memorialize certain agreements regarding Supplemental Waste.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Company and the County, intending to be legally bound, agree that the Service Agreement shall be amended as follows:

1. The following definition shall be added to Article I in appropriate alphabetical order:

"County Leachate" means liquid waste that is not Solid Waste or Acceptable Waste as defined herein, drained from the County's Ash Monofill located in Woodburn, Oregon.

2. A new Section 4.14 shall be added to read in full as follows:

4.14 <u>County Leachate</u>

(a) The Company agrees to process County Leachate according to the following terms and conditions:

i) The Company will be paid a processing fee of $0.15 per gallon of delivered County Leachate. This fee includes transportation and any fuel surcharge or other fee components, and will be escalated each Contract Year in accordance with Schedule 8 of the Service Agreement.

ii) The Company may suspend shipments of County Leachate at any time, for any reason, and will coordinate any shipments with the County at least one week in advance. The County recognizes that the Company can and may at their discretion utilize liquid waste processing capacity for other customers and types of liquid waste. At no time will the Company process liquid waste of any kind without the necessary approvals from state or federal regulators and will comply with all permits and environmental regulations. The Company will provide a tonnage report of liquid wastes accepted by the facility with the monthly Service Fee Invoice.

iii) The County shall perform quarterly sampling and analysis of the County Leachate. Samples shall be collected from the leachate storage lagoon sample point, designated LL-1. Analysis shall be performed in accordance with EPA SW-846, Method 1311, for the following 8 metals; Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver. The County shall provide results of the quarterly testing to the Company.

(b) The Company will track shipments of County Leachate and bill the County monthly as part of the normal Service Fee Invoice generated and delivered to the County each month.

(c) The County agrees that the delivery of County Leachate does not affect any other calculation or guarantee in the Service Agreement other than the above addition to the Service Fee Invoice, including, but not limited to, any process guarantee, guaranteed delivery, or fee sharing between the Company and the County.

3. The following shall be added to **Section 6.09 – Supplemental Waste**

(h) Notwithstanding any other provision of this Agreement, the Company will not process more than 4,125 tons of Supplemental Waste at the Facility for the first nine months of calendar year 2019. The County shall be due a 75% share in any revenue earned from Supplemental Waste processed in excess of 4,125 tons during this period.

All other terms of the Service Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the parties hereto have signed this Amendment No. 3 the day and year first above written.

COVANTA MARION, INC.

By:_____

Title:_____

MARION COUNTY BOARD OF COMMISSIONERS

By:_____
Chair

By:_____
Commissioner

By:_____
Commissioner

APPROVED AS TO FORM

By:_____
Marion County Legal Counsel

By:_____
Marion County Contracts

RECOMMENDED BY

By:_____
Marion County Public Works

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SERVICE AGREEMENT FOR THE SUPPLY AND PROCESSING OF SOLID WASTE, dated as of September __, 2013, between Marion County, Oregon (the "County"), a political subdivision of the State of Oregon, acting by and through its Board of Commissioners, with its principal office at the Marion County Courthouse, Salem, Oregon 97301, and Covanta Marion, Inc. (the "Company") (formerly Ogden Martin Systems of Marion, Inc.), 4850 Brooklake Road, NE, Brooks, Oregon, 97305.

RECITALS

WHEREAS, the County has principal governmental responsibility under the Oregon Revised Statutes, O.R.S. 459.005 et seq., for planning and implementation of programs for environmentally sound management of locally generated municipal solid waste;

WHEREAS, primary objectives for the County include encouraging waste reduction and recycling and assuring adequate capacity for processing and/or disposal of non-recycled solid waste;

WHEREAS, the County has long recognized the advantages of energy recovery and substantially reduced landfill disposal of solid waste that result from processing of solid waste in a resource recovery facility;

WHEREAS, in furtherance of that purpose the County entered a series of agreements with the Company during 1983-84, including the Second Amended and Restated Agreement for the Supply and Acceptance of Solid Waste, dated as of September 19, 1984 (the "1984 Agreement") which provided, among other things, for the Company to design, construct, operate and maintain such a resource recovery facility for the County, and for the County to supply non-recycled solid waste to the resource recovery facility;

WHEREAS, the resource recovery or "waste-to-energy" facility developed pursuant to the 1984 Agreement Company is located at 4850 Brooklake Road, NE, Brooks, Oregon (the "Facility");

WHEREAS, the 1984 Agreement had an initial term of twenty years and included an option to extend the initial Term for an additional ten years to September 19, 2014, which the County exercised on September 21, 1994;

WHEREAS, the County and its residents have achieved significant increases in waste avoidance, reduction and recycling, but a significant quantity of waste remains for which processing at a resource recovery facility or disposal in a landfill are necessary;

WHEREAS, the County's Solid Waste Management Plan established under O.R.S. 459.017 et seq., recommends entering a new agreement with the Company for processing of post-recycled solid waste generated by the residents, businesses and institutions of the County;

WHEREAS, the Company remains the owner and operator of the Facility, and the County and the Company desire to enter a new agreement pursuant to which the County agrees, among other things, to deliver or cause the delivery of solid waste generated within the County to the Facility, and the Company agrees, among other things, to accept, process and dispose of such waste, including use thereof as fuel to produce saleable electric energy, all in accordance with the terms hereof;

NOW, THEREFORE, in consideration of the premises and the mutual obligations undertaken herein, the parties hereby agree as follows:

ARTICLE I – CERTAIN DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below:

"Acceptable Waste" means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of normal collection of Solid Waste in the County, including but

not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and/or six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, Unacceptable Waste and Hazardous Waste.

"Additional Performance Adjustments" has the meaning specified in Section 6.13(b).

"Additional Waste Service Fee" has the meaning specified in Section 6.10(a).

"Adjusted Tons" has the meaning specified in Section 6.11.

"Affiliate" means a Person that controls, is controlled by or is under common control with the Company.

"Agreement" means this Service Agreement for the Supply and Processing of Solid Waste.

"Alternate Disposal Methods" means any reasonable and lawful method of disposal of Acceptable Waste which the County has determined to be adequate, other than the normal operation of the Facility, by which the Company or its agents assume control of and dispose of Acceptable Waste either through the use of the Facility, the Facility Site or any portion thereof, or otherwise through the use of alternate equipment or facilities (including a permitted sanitary landfill).

"Appendix" has the meaning specified in Schedule 7.

"Base Fee" has the meaning specified in Section 6.07(a)(i).

"Billing Period" means each calendar month in each Contract Year, except that (a) the first Billing Period shall begin on the Effective Date and shall continue to the last day of the month in which the Effective Date occurs and (b) the last Billing Period shall end on the last day of the final Contract Year regardless of whether such day is the last day of a calendar month.

"Boxed Medical Waste" means solid waste that is generated as a result of health care diagnosis, treatment or immunization of human beings or animals and managed in accordance with Section 6.07.

"Boxed Medical Waste Fee" has the meaning specified in Section 6.07(a)

"BTU" means British thermal unit.

"BTU Adjustment" has the meaning specified in Sections 6.11(b) and (c).

"Capital Project" means (a) replacement of all or any portion of the Facility that is damaged or otherwise removed from service due to Unforeseen Circumstances or County Fault, or (b) the design, construction, installation or alteration of the Facility pursuant to this Agreement.

"Change in Law" means (a) the adoption, pronouncement, promulgation or modification after the Contract Date of (i) any federal statute, regulation or legally binding determination by federal judicial authority not adopted, pronounced or published on or before the Contract Date or (ii) any State or County statute, ordinance, regulation, or legally binding determination by Oregon judicial authority that was not so adopted, pronounced, promulgated or modified on or before the Contract Date, or (b) the imposition of any material conditions in connection with the issuance, renewal or modification of any official permit, license or approval after the Contract Date, and which in the case of either (a) or (b) establishes requirements (*x*) affecting the design, operation or maintenance of the Facility more burdensome than the most stringent requirements in effect as of the Contract Date, agreed to in any applications of the Company for official permits, licenses or approvals pending as of Contract Date, or contained in any official permits, licenses, or approvals with respect to the Facility obtained as of the Contract Date; or *(y)* which affect the ability of the County to deliver or cause the delivery of non-recycled solid waste to the Facility or materially increase the cost to the County for

delivering or causing the delivery of such non-recycled solid waste to the Facility; provided that a change in federal, State, County or any other tax law shall not be a Change in Law.

"Company" has the meaning specified in the initial paragraph of this Agreement and includes the Company's permitted successors and assigns.

"Company Document Destruction Waste Fee" has the meaning specified in Section 6.08(c).

"Consulting Engineer" means one or more persons or entities with nationally recognized expertise and demonstrated experience in the areas of waste-to-energy and resource recovery facility design, construction, operation and maintenance selected and retained by the County to assist it with various matters that may arise under this Agreement.

"Contract Date" means the date first entered in and set forth in the first paragraph of this Agreement.

"Contract Year" means the fiscal year ending June 30th. The first Contract Year shall commence on the Effective Date and shall end on the following June 30th. The last Contract Year shall commence on July 1 and end on the last day of the Term of this Agreement as determined pursuant to Section 11.01(a) or (b). Respective yearly Standard Tonnage shall be ratably adjusted if the first and last Contract Years are less than three hundred sixty-five (365) days. Each Contract Year after the first Contract Year shall commence on July 1 immediately following the end of the prior Contract Year.

"Cost Substantiation" means, with respect to both the Company and the County, documentation that confirms the amount of an expenditure this Agreement requires one of the parties to reimburse the other, which amount shall be limited to direct costs and provided in a format and with sufficient specificity as reasonable to verify the subject amount. The County and the Company each reserves the right to audit such documentation when submitted.

"County" has the meaning specified in the initial paragraph of this Agreement.

"County By-Pass Waste" means Waste that the Company is obligated to accept, but that is rejected upon delivery at the Facility or is removed from the Facility before processing, or that is otherwise disposed by or on behalf of the County pursuant to Sections 6.13(a) or 6.13(b). "County By-Pass Waste" also includes excess Process Residue as provided in Section 6.13(d)(ii).

"County Fault Payment" has the meaning specified in Section 6.14(a).

"County Tons" means, for any relevant period, (a) Tons of Acceptable Waste delivered or caused to be delivered to the Facility or, as applicable, disposed of by Alternate Disposal Methods or (b) otherwise disposed of during such period by the County pursuant to Sections 6.13(b), but shall not include additional Waste delivered by the County pursuant to Section 4.04(b).

"Covanta Energy" refers to the Company's affiliate, Covanta Energy Corporation.

"Dispute Resolution" means the process described in Section 11.03.

"Document Destruction" means the process of combustion of Acceptable Waste for which the generator (or other person acting on behalf of the generator) has requested separate handling prior to combustion to ensure confidentiality or other security measures, consisting of direct placement of waste into the Facility's feed hopper through immediate loading by the Facility's overhead crane or use of the conveyor system when such material is received at the Facility; provided that Boxed Medical Waste and pharmaceutical waste or consumer goods are not eligible for Document Destruction.

"Document Destruction Waste" means waste eligible for Document Destruction.

"Document Destruction Waste Credit" has the meaning specified in Section 6.08(b).

"Effective Date" means 12:01 a.m. on September 20, 2014.

"Energy Purchaser(s)" means the entity or entities that purchase the electricity or thermal energy generated or produced at the Facility, net of that used by the Facility.

"Energy Contract" means any contract or arrangement for the sale or other compensable disposition to third parties of electricity or thermal energy produced by the Facility.

"Energy Credit" has the meaning specified in Section 6.04.

"Energy Credit Multiplier" means nine-tenths (0.9).

"Event of Default" has the meaning specified in Sections 10.02 and 10.03 hereof.

"Environmental Services Fund" has the meaning specified in Section 6.16(b).

"Environmental Regulation Compliance Guarantee" has the meaning specified in paragraph 3 of Schedule 2.

"Facility" means without limitation the steam and electric generating facility, together with all additions, replacements, appurtenant structures and equipment, buildings, structures, utilities, grounds, landscaping and fencing located at the Facility Site, including Capital Projects.

"Facility Site" means the real property described in Schedule 4, upon which the Facility is located and which the Company leases from Covanta Marion Land Corp. pursuant to the lease set forth in Schedule 5.

"Fault" of either party to this Agreement means any action or failure to act by such party that results from the negligence, gross negligence, omission or willful misconduct of such party. The occurrence of Fault, and the apportionment of each party's responsibility, if any, with respect thereto, shall be determined pursuant to the Dispute Resolution provisions of this Agreement in the absence of agreement by the County and the Company regarding such occurrence and responsibility.

"Ferrous Metal Credit" has the meaning specified in Section 6.06.

"Ferrous Metals Recovery System" means the ferrous metals separator, accessories and services at the Facility, which extract ferrous metal from Process Residue, including equipment and accessories for maintenance.

"Ferrous Removal Guarantee" has the meaning specified in paragraph 7 of Schedule 2.

"Full Acceptance Standard" has the meaning specified in paragraph 5 of Schedule 2.

"Guaranteed Facility Capacity" means the throughput capacity of the Facility specified in paragraph 1 of Schedule 2 at the Full Acceptance Standard.

"Gross Revenue" has the meaning specified in Section 5.02(b).

"Guaranteed Electrical Output" means the electrical generating and net export guarantees of the Facility as set forth in paragraph 2 of Schedule 2.

"Guaranteed Process Residue Quality" means the quality of the Process Residue produced by the Facility as set forth in paragraph 4 of Schedule 2.

"Hauler" means any Person who transports Waste to the Facility, or, as applicable, to alternate facilities in accordance with Alternate Disposal Methods.

"Hazardous Waste" means that portion of Solid Waste which by reason of its composition or characteristics is (1) hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq., and the regulations thereunder, or Section 466.005 et seq., of the Oregon Revised Statutes and the corresponding Oregon Administrative Rules, and any similar or substituted legislation or regulations or amendments to the foregoing; (2) any other materials which any governmental agency or unit having appropriate jurisdiction shall determine from time to time is harmful, toxic or dangerous, or otherwise ineligible for disposal through the Facility; and (3) any material which would result in Process Residue being Hazardous Waste under (1) or (2) above.

"Higher Heating Value" or "(HHV)" means the energy content of Acceptable Waste expressed as BTUs per pound of such Waste as received at the Facility.

"Legal Holidays" means those holidays observed by the County and specified by the County in a list delivered to the Company thirty (30) days before the beginning of each Contract Year.

"Lost Energy Revenues" has the meaning specified in Section 6.14(a).

"Maximum Reagent Utilization Guarantee(s)" means collectively the Carbon Utilization Guarantee, the Dolomitic Lime Utilization Guarantee and the Ammonia Utilization Guarantee, all as specified in paragraph 8 of Schedule 2, each of which is measured on an individual basis for purposes of compliance.

"Maximum Utility Utilization Guarantee(s)" means collectively the Purchased Electricity Guarantee, the Electrical Demand Guarantee and the Natural Gas Utilization Guarantee, all as specified in paragraph 9 of Schedule 2, each of which is measured on an individual basis for purposes of compliance.

"MCC" means the Marion County Code.

"Minimal Acceptance Standard" has the meaning specified in paragraph 6 of Schedule 2.

"Monthly Shortfall" means for any Billing Period the amount, if any, by which the Standard Tonnage for such Billing Period exceeds the County Tons delivered to the Facility during such Billing Period.

"Net Revenue" has the meaning specified in Section 5.02(b).

"Non-Ferrous Metal Revenue" and "NFMR" have the meaning specified in Section 6.05.

"Notice of Dispute" has the meaning specified in Section 11.03(a).

"Operation and Maintenance Expense" has the meaning specified in Section 6.02.

"Overdue Rate" means the annual rate of interest that is equal to (a) the prime rate of interest, as published by the Wall Street Journal (or, if it does not exist, then a similar, mutually acceptable publication), as such rate may change from time to time, plus one hundred basis points (1 percentage point) or (b) the highest rate allowed by the applicable Oregon statute, whichever rate is lower.

"Parent" means Covanta Holding Corporation, and its successors and permitted assigns under the parent guaranty entered into pursuant to Article II.

"Pass Through Costs" has the meaning specified in Section 6.03.

"Percentage Fee" has the meaning specified in Section 6.07(a)(ii).

"Performance Adjustments" has the meaning specified in Section 6.13(a).

"Performance Adjustment Refund" has the meaning specified in Section 6.13(f).

"Performance Guarantees" means each of the guarantees set forth in Schedule 2.

"Performance Tests" has the meaning specified in Schedule 3.

"Person" means a corporation, partnership, business trust, trust, joint venture, company, firm or individual.

"Principal Contact" has the meaning specified in Section 11.03(a).

"Process Rejects" means Unacceptable Waste and Hazardous Waste which is inadvertently accepted by the Company.

"Process Residue" means bottom ash, fly ash, grate siftings and other material derived from Acceptable Waste which remains after the combustion of Acceptable Waste, including ferrous and non-ferrous metals.

"Processing Shortfall" means, for any Contract Year, the amount, if any, by which the Standard Tonnage for such Contract Year exceeds the Tons of Waste processed through the Facility during such Contract Year.

"Projected Energy Revenues" means, for any Billing Period, the energy revenues that would have accrued for such Billing Period assuming (a) the delivery of the Standard Tonnage, (b) for each form of energy sold, the actual energy prices in effect for such Billing Period, and (c) for each form of energy sold, the average production thereof, stated in units of energy per Ton of Acceptable

Waste, that was available for sale during the most recent twelve months of operation of the Facility at the Full Acceptance Standard.

"Receiving Time" means the hours between 6:00 a.m. and 6:00 p.m. Monday through Saturday, excluding Legal holidays.

"Recovered Ferrous" has the meaning specified in paragraph 7 of Schedule 3.

"Reference Composition Acceptable Waste" has the meaning specified in paragraph 2, Table 1, of Schedule 2.

"Remaining Residue" has the meaning specified in paragraph 7 of Schedule 3.

"Residual Recoverable Ferrous Metal" has the meaning specified in paragraph 7 of Schedule 3.

"Resource Recovery" means the extraction and recovery of Secondary Materials and energy from Solid Waste.

"Scale Operators" has the meaning specified in Section 4.11(c).

"Schedule" means each of the several documents which are incorporated into and made a part of this Agreement, as identified in Section 11.12, which may be modified from time to time in accordance with the terms of the Agreement.

"Secondary Materials" means metals and any other substances the Company recovers for subsequent sale or other compensable use from Waste, either before or after combustion.

"Secondary Materials Credit" has the meaning specified in Section 6.05.

"Secondary Materials Credit Multiplier" means five tenths (0.5).

"Service Fee" has the meaning specified in Section 6.01.

"Solid Waste" means all materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited

to garbage, refuse, industrial and commercial waste (including cannery waste), sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous materials, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-products materials within the meaning of the Atomic Energy Act of 1954, as amended.

"Special Handling" means receipt, management and disposal of Acceptable Waste at the Facility in accordance with specific requirements for such Waste by the generator thereof (or other person requesting such requirements) or to satisfy particular operational or other requirements identified by the Company and agreed to by the generator (or other person requesting processing of such Waste). Special Handling shall include placement of waste directly into the Facility's feed hoppers by the overhead crane through manual loading of the grapple and bypassing the refuse pit, delivery to the waste storage pit under controlled conditions or mixing requirements with other Waste, or by the conveyor system on a priority basis according to Special Review requirements and the standard operating procedures in effect at the Facility for handling Supplemental Waste.

"Special Review" includes environmental, safety, operations and other evaluations performed by the Company of descriptive, analytical and other characterizations of Supplemental Waste supplied to the Company by the generators of such waste (or other persons requesting processing of such Waste) as part of the Company's process for considering whether to accept any specific Supplemental Waste for disposal at the Facility, and the purpose of which is to determine any conditions which must, in the reasonable judgment of the Company, be placed on the disposal and processing of specific quantities of Supplemental Waste to maintain the Company's compliance with this Agreement and permits for the operation of the Facility.

"Standard Tonnage" has the meaning specified in Schedule 7.

"State" means the State of Oregon.

"Supplemental Waste" means waste that is neither Boxed Medical Waste nor Document Destruction Waste but is otherwise Acceptable Waste that has been separated from the normal waste stream by the generator, delivered to the Facility by generators, waste haulers, or brokers and which requires Special Handling and/or Special Review.

"Supplemental Waste Credit" has the meaning specified in Section 6.09(d).

"Supplemental Waste Fee" has the meaning specified in Section 6.09(a).

"Term" has the meaning specified in Section 11.01.

"Termination Payment" has the meaning specified in Section 7.05.

"Tested Ferrous Recovery Percentage" has the meaning specified in paragraph 7 of Schedule 3.

"Tipping Fees" mean the fees established by the County from time to time that Haulers or other Persons are obligated to pay the County for delivery of Solid Waste, Acceptable Waste, Acceptable Waste that requires Special Handling, Document Destruction Waste, Supplemental Waste, and Boxed Medical Waste to the County's solid waste facilities, including the Facility.

"Ton" means a "short ton" of 2,000 pounds avoirdupois.

"Unacceptable Waste" means that portion of Solid Waste, exclusive of Hazardous Waste, such as, but not limited to, explosives, pathological and biological waste, radioactive materials, ashes, foundry sand, sewage sludge unless processed to permit incineration, cesspool, and other human waste, human remains, motor vehicles, including such major motor vehicle parts such as automobile transmissions, rear ends, springs and fenders, agricultural and farm machinery and equipment, marine vessels and major parts thereof, any other large type of machinery or equipment,

or nonburnable construction materials and/or demolition debris, which, in the judgment of the Company, (a) may present a substantial endangerment to public health or safety, (b) which would cause applicable air quality or water effluent standards to be violated by the normal operation of the Facility, or (c) has a reasonable possibility of adversely affecting the operation of the Facility, unless such Unacceptable Waste is delivered in minimal quantities and concentrations as part of normal waste collection in which case it shall constitute Acceptable Waste.

"Unforeseen Circumstance" means any act, event or condition that has had, or may reasonably be expected presently to have, a material adverse effect on the rights or the obligations of the parties under this Agreement, or a material adverse effect on the Facility, or the ownership, possession or operation by the Company (or its permitted assigns pursuant to Section 11.02) of the Facility, if such act, event or condition is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement provided that no act, event or condition that results from the Company's failure to maintain the Facility in accordance with Article IV shall be deemed an Unforeseen Circumstance. Such acts or events may include, but shall not be limited to, the following:

(a) An act of God, including volcanic eruption, landslide, lightning, earthquake, fire, flood (but not including reasonably anticipated weather conditions for the geographic area of the Facility); explosion, sabotage or similar occurrence; acts of a public enemy, extortion, war, blockade or insurrection, riot or civil disturbance; or terrorism.

(b) The order and/or judgment of any federal, state or local court, administrative agency or governmental body, excepting decisions of federal courts interpreting the federal tax laws and decisions of state courts interpreting state tax laws (or, in the case of ownership of the Facility for tax purposes, excepting the decision of or regulations promulgated by any federal, state, or local court,

administrative agency or governmental body), if it is not also the result of the willful or negligent action or inaction of the party relying thereon; provided that neither the contesting in good faith of any such order and/or judgment nor the failure to so contest shall constitute or be construed as a willful or negligent action or inaction of such party;

(c) The failure to issue, suspension, termination, interruption, denial or failure to renew any permit, license, consent, authorization or approval essential to the operation of the Facility, but not including the license or consent of Martin, GmbH; provided that such act or event shall not be the result of the willful or negligent action or inaction or the party relying thereon and neither the contesting in good faith of any such order nor the reasonable failure to so contest shall be construed as a willful or negligent action or inaction of such party;

(d) A Change in Law;

(e) The failure of any appropriate federal, state, county or public agency, including any special district for the community of Brooks or similar public authority, or private utility having operational jurisdiction in the area in which the Facility is located, to provide and maintain utilities, services, water and sewer lines and power transmission lines to the Facility Site which are required for and essential to the operation of the Facility;

(f) Any subsurface condition (including the presence of Hazardous Waste) at the Facility Site which shall require a redesign of or change in the Facility and which was unknown to the Company on the Contract Date and could not have been discovered with reasonable diligence by the Company on or before the Contract Date;

(g) The failure of any subcontractor or supplier to furnish labor, services, materials or equipment on the dates agreed to; provided that such failure is caused by circumstances that are otherwise an Unforeseen Circumstance as defined herein and materially adversely affects the

Company's ability to perform its obligations, and the Company is not able reasonably to obtain substitute labor, services, materials or equipment in a timely manner;

(h) The condemnation, taking, seizure, involuntary conversion or requisition of title to or use of the Facility, the Facility Site, or any material portion or part thereof by the action of any federal, State or local government or governmental agency or authority; or

(i) Any action or failure to act of any Hauler if at the time of such action or failure to act such Hauler is not under the specific direction and control of the Company, the Parent, Covanta Energy, or any other subsidiary, affiliate or Person controlled in whole or in part by any of them.

"Unrecovered Ferrous" has the meaning specified in paragraph 7 of Schedule 3.

"Waste" means Acceptable Waste delivered to the Facility by or on behalf of the County, or otherwise disposed of pursuant to Section 4.03(c) by the Company or pursuant to Sections 6.13(a), 6.13(b) or 7.02 by or on behalf of the County.

"Work" means all mental, physical and mechanical exertion necessary for the operation and maintenance of the Facility as required to be performed under this Agreement, and all materials, machinery, and equipment incorporated or to be incorporated into the Facility including without limitation, Capital Projects.

"Year Prior Standard Tonnage" means with respect to any Billing Period for which adjustments are to be determined under Section 6.14, the sum of the Standard Tonnages for the eleven Billing Periods immediately preceding the Billing Period for which adjustments are to be determined.

"Year Prior Tonnage" means with respect to any Billing Period for which adjustments are to be determined under Section 6.14, the County Tons delivered to the Facility or otherwise disposed of

for the eleven Billing Periods immediately preceding the Billing Period for which adjustments are to be determined.

ARTICLE II – EFFECTIVE DATE AND CONDITION PRECEDENT

The rights, obligations and liabilities of each party hereunder shall be effective as of the Effective Date, provided that on or prior to the Contract Date the Parent shall have entered into a guaranty agreement for the benefit of the County, in substantially the form attached hereto as Schedule 10, whereby the Parent absolutely and unconditionally guarantees the obligations of the Company under this Agreement.

ARTICLE III – REPRESENTATIONS

3.01 Representations of the County

The County represents that as of the Contract Date:

(a) The County is a political subdivision of the State, acting by and through its Board of Commissioners, and is duly qualified and authorized to carry on the governmental functions and operations contemplated by this Agreement.

(b) The County has the power, authority and legal right to enter into and perform this Agreement, and the execution, delivery and performance hereof (i) have been duly authorized, (ii) do not require the approval of any other governmental body, (iii) will not violate any judgment, order, law or regulation applicable to the County and (iv) do not conflict with, constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon any assets of the County under any agreement or instrument to which the County is a party or by which the County or its assets may be bound or affected.

(c) This Agreement has been duly entered into and constitutes a legal, valid and binding obligation of the County enforceable in accordance with its terms.

(d) There are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the ability of the County to perform its obligations under this Agreement.

(e) The County periodically revises and submits to the Oregon Department of Environmental Quality a Solid Waste Management Plan ("SWMP") for the County, as contemplated by Chapter 459 of the Oregon Revised Statutes and regulations promulgated thereunder, and such SWMP is in full force and effect as of the date hereof and anticipates that the County will continue to rely on the Facility for processing of Solid Waste that originates in the County during the Term of this Agreement and any extensions thereof.

3.02 Representations of the Company

The Company represents that as of the Contract Date:

(a) The Company is a corporation duly organized and existing in good standing under the laws of the State and has the corporate power and authority to own or hold under lease its properties and to enter into and perform its obligations under this Agreement, and each other agreement or instrument entered into or to be entered into by the Company pursuant to this Agreement.

(b) The Company has the power, authority and legal right to enter into and perform this Agreement, and each other agreement or instrument entered into or to be entered into by the Company pursuant to this Agreement, and the execution, delivery and performance hereof and thereof (i) have been duly authorized, (ii) have the requisite approval of all governmental bodies, (iii) will not violate any judgment, order, law or regulation applicable to the Company or any provisions of the Company's certificate of incorporation or by-laws and (iv) do not (A) conflict with, (B)

constitute a default under or (C) result in the creation or any lien, charge, encumbrance or security interest upon any assets of the Company under any agreement or instrument to which the Company is a party or by which the Company or its assets may be bound or affected.

(c) The Company on its own behalf, or pursuant to an agreement with the Parent and/or Covanta Energy, as the case may be, holds or is expressly authorized under the necessary patent rights, licenses and franchises to operate the Facility pursuant to the terms of this Agreement.

(d) This Agreement, and each other agreement or instrument entered into by the Company pursuant to this Agreement, have been duly entered into and constitute, and each agreement or instrument to be entered into by the Company pursuant to this Agreement, when entered into, will be duly entered into and will constitute legal, valid and binding obligations of the Company enforceable in accordance with their respective terms.

(e) There are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition of the Company, or the ability of the Company to perform its obligations under this Agreement, or any other agreement or instrument entered into or to be entered into by the Company pursuant to this Agreement.

ARTICLE IV – OPERATION OF FACILITY; DELIVERY AND PROCESSING OF WASTE

4.01 Company's Performance Guarantees

The Company, as an inducement to the County to enter this Agreement, hereby guarantees to the County that it will conform to the Performance Guarantees, which are described in Schedule 2 and are of the essence of this Agreement. Accordingly, the Company hereby guarantees to the

County that the Company shall fully comply with each and every Performance Guarantee in accordance with the terms of this Agreement.

4.02 County Commitment to Deliver Waste

(a) On and after the Effective Date, the County shall cause to be delivered to the Facility or, as applicable, in accordance with Alternate Disposal Methods, the Standard Tonnage during each Billing Period.

(b) The County hereby designates the Facility as the County's resource recovery facility pursuant to Oregon Revised Statutes Section 459.125 for the disposal of not less than the Standard Tonnage.

4.03 Commitment to Accept, Process and/or Dispose of Waste

(a) The Company, on and after the Effective Date, agrees to accept, process and/or dispose of Waste delivered to the Facility or, as applicable, in accordance with Alternate Disposal Methods, in an amount at least equal to the Standard Tonnage set forth in Schedule 7. Except as provided in Section 6.14 and Article VII, the foregoing obligations of the Company to accept, process and/or dispose of the Standard Tonnage on and after the Effective Date (which shall not be subject to extension due to an Unforeseen Circumstance) shall be absolute and unconditional. The Company, however, shall have no obligation to accept Hazardous or Unacceptable Waste.

(b) The monthly schedule of Standard Tonnage in Schedule 7 shall be adjusted annually to accommodate anticipated scheduled maintenance and downtime of the Facility, and, in addition, the Company may on fifteen (15) days notice request a change in such monthly schedule to accommodate changes in scheduled maintenance and downtime. Such annual adjustments and monthly schedule changes shall be made by the mutual consent of the County and the Company, which consent shall not be unreasonably withheld.

(c) In the event the Facility is unable to process the Standard Tonnage in whole or in part during a given Billing Period, the Company shall be obligated to accept, process and/or dispose of the Standard Tonnage as set forth in Schedule 7 for the applicable Billing Period by using to the extent necessary Alternate Disposal Methods including use of the Facility as a transfer station. If the Company determines that it is necessary to use an Alternate Disposal Method, the Company 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 facility and (ii) the amount of County Tons per day to be caused to be delivered by the County to such alternate facility or facilities; provided that the Company shall continue to accept 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. The Company 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 to use a different or additional alternate facility.

4.04 Additional Waste

(a) Subject to the provisions of paragraphs (b) and (c) of this Section 4.04, and in addition to the Company's rights under Section 6.09, the Company shall be free to accept additional Waste, whether under contracts or on a spot basis, in excess of the Standard Tonnage. For purposes of this Agreement, "spot basis" shall mean deliveries made on an interruptible basis during a period of less than two weeks by Haulers that are not under contract with the County regarding delivery of waste.

(b) Subject to Sections 6.07, 6.08 and 6.09 of this Agreement, the Company and the County may enter into contracts for the disposal of additional Waste at any time on such terms and

conditions as they may mutually agree. The Company shall not enter into contracts with third parties for the processing of additional Waste through the Facility, except on a spot basis, without first obtaining the consent of the County, which consent will not be unreasonably withheld.

(c) The County may at any time, subject to the Company's rejection rights, deliver additional Tons of Acceptable Waste to the Facility, up to the amount of the disposal capacity of the Facility not otherwise committed by contract, pursuant to the terms and conditions of this Agreement (including payment of the Additional Waste Service Fee, if applicable, for each additional Ton of Waste).

4.05 Operation of Facility

(a) The Company shall operate and maintain the Facility in such a manner as to ensure that the Facility is able, subject to the requirements of good operating and maintenance practices for similar facilities, to process Acceptable Waste and to generate electric power, on a twenty-four hours per day and seven days per week basis, all with the object of maximizing the revenues generated by the Facility and minimizing the costs of operation and maintenance of the Facility in accordance with good engineering practices for operation and maintenance of facilities of this type.

(b) The County and the Company shall each designate in writing a person to act as its service coordinator with respect to matters which may arise during performance of this Agreement, such persons to have authority pursuant to their respective written designations to transmit instructions, receive information and confer with the other party's service coordinator. At any time after the initial designation by either party of its service coordinator, such party may designate a successor service coordinator by written notice to the other party.

4.06 Facility Maintenance

(a) Safety of Persons and Property. The Company shall: (i) take all reasonable precautions for the safety of and provide all reasonable protection to prevent damage, injury or loss by reason of or related to the operation of the Facility to all employees working in the Facility, permitted visitors and all other persons who may be involved with the operation or maintenance of the Facility, all materials and equipment or other property under the care custody or control of the Company on the Facility Site, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities; (ii) establish and maintain safety procedures for the Facility at a level consistent with applicable law and normal boiler and electrical generating plant practice; (iii) establish safety regulations and enforce such regulations as well as all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; (iv) provide all written and verbal notifications required under all applicable laws, ordinances, rules, regulations and lawful orders of any public authority relating to the safety of persons or property or their protection from damage, injury or loss; and (v) designate a qualified and responsible member of its organization at the Facility whose duty shall be plant safety, the prevention of fires and accidents, and the coordination of such activities, as shall be necessary, with federal, State and County officials.

(b) Repair and Maintenance. The Company shall maintain the Facility and Facility Site at all times in good, clean and orderly condition including implementing necessary repairs, purchasing necessary replacement equipment or parts for the Facility and clean-up thereof consistent with meeting the Performance Guarantees of Schedule 2, normal steam and electrical generating plant practice and industry standards for facilities of this type.

(c) Employees. The Company shall staff the Facility with the appropriate number of properly qualified and trained hourly and salaried employees consistent with good management and

operating practice. The Company shall use all reasonable efforts to staff the Facility with residents of the County.

(d) Facility Equipment. The Company shall: (i) keep the Facility in good operating condition and repair, ordinary wear and tear excepted, and replace all parts and equipment as necessary to enable the Facility to meet the Performance Guarantees described in Schedule 2; (ii) not permit any person, other than persons with adequate training for such purposes, to repair, overhaul or otherwise operate or use the Facility in conjunction with such repair or overhaul activity; (iii) operate the Facility in compliance with all applicable federal, State and County laws, rules and regulations, including those pertaining to the environment and the federal Occupational Safety and Health Act, as amended; and (iv) notify the County promptly if the Facility should be seriously damaged, irrespective of cause.

4.07 County Visits and Inspections

(a) At any time during the Term of this Agreement and upon prior reasonable notice to the Company, the County and its representatives, including without limitation, the Consulting Engineer, shall have (i) the right to visit the Facility and (ii) with the consent of the Company, which shall not be unreasonably withheld, to take visitors through the Facility to observe its various functions and operations; provided that such visits shall be conducted in a manner that minimizes interference with the Facility's operation, maintenance and performance.

(b) The County and its representatives, including without limitation, the Consulting Engineer, may at the County's cost and expense and with full cooperation of the Company, conduct an annual inspection to determine whether the Facility is in compliance with the Company's Performance Guarantees as enumerated in Schedule 2. The County shall give the Company at least thirty (30) days prior notice of such inspection and shall prepare a report, a copy of which shall be

provided to the Company, describing the results of such inspection. The Company shall have thirty (30) days from the receipt of any such report to dispute its findings. The County shall, upon request of the Company, and at the Company's own cost and expense, cause the Facility to be reinspected to verify the correction of any material deficiency noted in the report.

(c) If, upon inspection, the County shall discover any deficiencies in cleanliness, repair, replacement or appearance in the Facility, the County may, but shall not be required to, give the Company written notification thereof.

(d) In connection with the inspections and visits described above, the County shall, on behalf of itself, its agents and representatives, comply, and cause its agents and representatives to comply, with all reasonable rules and regulations adopted by the Company, including a requirement that each person inspecting or visiting the Facility sign a statement agreeing (i) to assume the risk of the inspection or visit but not the risk of injury due to the intentional or grossly negligent acts of the Company and (ii) not to disclose or use, consistent with applicable law, any confidential information of the Company other than for the purpose for which it was furnished.

4.08 Record Keeping, Reporting and County Testing

(a) The Company shall maintain and calibrate all Facility instrumentation and maintain an information system to provide storage and ready retrieval of Facility operating data, including all information necessary to verify calculations made pursuant to this Article IV.

(b) The Company shall prepare and maintain proper, accurate, and complete books and records and accounts of all transactions related to the Facility and shall provide the County with monthly operations reports as part of its Service Fee statement for each Billing Period no later than twenty (20) working days after the close of the previous calendar month, including, but not limited to, the following operating data: (i) the amount of County Tons and additional Waste received at the

Facility pursuant to Section 4.04; (ii) Acceptable Waste that requires Special Handling, Document Destruction Waste, Supplemental Waste and Boxed Medical Waste received; (iii) the amount of additional Acceptable Waste delivered by third parties and not on behalf of the County; (iv) the total quantity of Process Rejects and Process Residue leaving the Facility; (v) the Tons of County By-Pass Waste; (vi) the gross and net electric and/or thermal or other energy generated and exported during the month; (vii) if applicable, a statement of the gross and net revenues received during such Billing Period from the sale of energy pursuant to each Energy Contract; (viii) a description of scheduled and unscheduled Facility downtime during the month; and (ix) a description of anticipated Facility downtime for the following two (2) months. These reports shall present the data in a form acceptable to the County and with respect to the immediately preceding clauses (i) through (v), the County shall provide that data to the Company no later than five (5) working days after the close of the previous calendar month and the County shall use reasonable efforts to provide such data sooner.

(c) The Company shall provide the County and its representatives with reasonable access, including a compatible computer data communication link to each Facility monitoring device or meter, to the Scale House and to all other records necessary to substantiate the Service Fee.

(d) At the County's request, the Company shall test the Facility on an annual basis, and on its own initiative and sole discretion the Company may do so at such more frequent intervals as it deems necessary, to determine whether the Company is substantially in compliance with its obligations under this Agreement. If the County requests a test more often than annually, the County shall, at least one month prior to any such test, notify the Company that the Company is not substantially in compliance with its obligations under this Agreement and specify the Company's failure(s). The Company shall either (i) correct such failure(s) and notify the County of such correction and state that no test is required, or (ii) notify the County that the Company is substantially

in compliance with such obligations. Prior to any such test, the Company can elect, within its sole discretion, to clean the Facility's boilers. If the results of such a County requested test indicate that such failure(s) do not exist, the County shall pay the cost of such test and the Company's loss of energy revenues, if any, during the test. Conversely, if the results of such a County requested test indicate that such failure(s) do exist, the Company shall pay the cost of the test, the County's loss of energy revenues during such test, if any, and any other damages that are the direct result of such a test.

4.09 Rejection Rights

(a) Rejection of Deliveries. The Company may reject Waste delivered at hours other than the Receiving Time, or in excess of the Standard Tonnage for any Billing Period, if the Company is under no contractual obligation, pursuant to Section 4.04(c), Section 4.10 or otherwise, to accept such Waste. Waste which the Company refuses to accept in accordance with the terms of this Section 4.09(a) shall not be included in the computation of the Service Fee or the Standard Tonnage.

(b) Composition of Acceptable Waste. Nothing in this Agreement shall be construed to mean that the County guarantees the composition of any Waste with respect to the proportion of any material contained therein, the energy value thereof, or any other aspect thereof; nor shall the Company's Performance Guarantees be construed, except as provided in Schedule 2, to diminish due to any variation in the composition of the Waste.

4.10 Receiving and Operating Hours; Storage of Waste

(a) The Company shall keep the Facility, or alternate facilities, if any, in accordance with Alternate Disposal Methods, open to receive Waste during the Receiving Time.

(b) If the Company requests and the County agrees, the County shall deliver and the Company shall accept Waste at times other than the Receiving Time at no additional cost to the County.

(c) Upon the County's request and seven (7) days prior written notice (or such shorter notice as may be practicable in the event of a natural disaster or other emergency condition), the Company shall accept deliveries of Waste at times other than the Receiving Time. With the exception of Waste the Company accepts pursuant to a request by the County under Section 4.10(b), the County shall pay all additional costs, if any, incurred by the Company as a result of such additional hours of operation upon submission of Cost Substantiation and without regard to whether the request arises under this Section 4.10(c) or otherwise.

(d) The Company shall operate the Facility on a twenty-four hours per day, seven days per week basis, consistent with normal steam and electrical generating plant practice, without regard to the Facility's schedule for receiving Waste under this Section 4.10.

(e) After delivery to the Facility and acceptance by the Company, no Acceptable Waste, Unacceptable Waste or Hazardous Waste may be stored outside the Facility structure, except during an emergency and then only insofar as applicable environmental and safety requirements are satisfied.

4.11 Weighing of Waste Deliveries, Etc.

(a) The Company shall maintain weighing facilities at the Facility Site (the "Scale House"), which shall be operated by the County, for the purpose of determining the various quantities of waste delivered to the Facility and the respective quantities of all categories of materials leaving the Facility. The County shall provide the Company with a daily record of all transactions at the Scale House, and the Company shall have reasonable periodic access to the Scale House, without

notice, for purposes of monitoring and reviewing operation thereof and may audit Scale House records, including software, as it may deem reasonably necessary. The County and the Company will work together to develop, maintain and from time-to-time modify and update a system of weight records containing the weight, date, time and vehicle identification number of each waste transport vehicle entering and exiting the Facility.

(b) If testing of the weighing facilities indicates at any time that the scales do not meet the accuracy requirements of Oregon Department of Agriculture, Measurement Standards Division, the necessity for and extent of any adjustments to the weight records actually recorded during the preceding thirty (30) days shall be subject to negotiation by the County and the Company. If all weighing facilities are incapacitated or are being tested, the County and the Company shall estimate the quantity of Acceptable Waste delivered on the basis of truck volumes and estimated data obtained through historical information pertinent to the County. These estimates shall be the basis for records during the scale outage and shall take the place of actual weight records during the scale outage. The County shall also provide each affected Hauler with copies of all weight tickets for the Hauler's deliveries to the Facility. The County and the Company shall each maintain copies of all daily records and weight tickets for a period of at least two (2) years.

(c) The County shall provide properly qualified County employee(s) ("Scale Operator(s)") to perform the function of weighing or computing the weight of all waste arriving at the Scale House. Such County employees shall be under the County's sole supervision, direction and control, and the County shall be responsible for all wages, fringe benefits and other compensation due to the Scale Operators. In addition to the other indemnification and liability provisions of this Agreement, the County will be responsible for and shall indemnify the Company against any property damage caused by the Scale Operators while on the Facility Site insofar as such damage is

not covered by the insurance required by Schedule 6 of this Agreement, including the self-insurance and deductible provisions thereof.

(d) The County shall supply and maintain Scale House software reasonably satisfactory to the Company, and such software may not be materially modified without the prior written consent of the Company. The County will take such security precautions as the Company may reasonably request to prevent improper modification of such software. The County is responsible for maintenance and repair of the Scale House computer system and related software. The Company is responsible for maintenance and repair of the scales and Scale House.

(e) If during the Term of this Agreement or any extension thereof the Company reasonably believes the County has failed to provide satisfactory operation of the Scale House including its computer system, the Company shall give the County written notice of the lack of satisfactory performance. The Company shall specify the nature of the unsatisfactory performance and the County shall have twenty (20) days in which to cure the unsatisfactory performance. If the County cures the alleged unsatisfactory performance to the reasonable satisfaction of Company, the County will continue to operate the Scale House, and if the County fails to implement a satisfactory cure, the Company may assume operation of the Scale House pursuant to the provisions of this Section 4.11, in the event of which the parties shall make appropriate adjustments to this Agreement by amendment; provided that if the County disputes the Company's claim of alleged unsatisfactory performance or the Company believes the County has failed to cure, the matter will be submitted to Dispute Resolution pursuant to Section 11.03 of this Agreement.

4.12 Regulations of Haulers

(a) During the Term of this Agreement and any extension hereof, the County shall require each Hauler to satisfy the provisions of Chapter 8.05 of the MCC, as amended, concerning the

issuance of franchises authorizing collection or transportation of Waste, including requirements to apply for, obtain and maintain such franchises from the County.

(b) The County shall require each Hauler to obtain and maintain property and casualty insurance in accordance with the MCC to insure against damage to and loss or destruction of the Facility, the Facility Site or any alternate facilities utilized in accordance with Alternate Disposal Methods, in an amount at least equal to $500,000 for each occurrence. Each such policy shall name the County as an additional insured and provide that it shall not be canceled, terminated, amended or permitted to lapse except upon at least ten (10) days prior written notice to that effect to the County and the Company. Upon receiving such notice the Company may, but shall not be required to, pay any amounts required to keep such insurance in force and the County shall reimburse the Company for such payments, if any.

ARTICLE V – MANAGEMENT OF PROCESS RESIDUE AND PROCESS REJECTS

5.01 Process Residue

The County shall be responsible for removing from the Facility and associated transportation, reuse or disposal of all Process Residue, including without limitation all ferrous metal separated by the Ferrous Metal Recovery System and excluding non-ferrous metal that the Company recovers at the Facility from Waste or Process Residue, as described in Section 6.05. Such removal, transport, reuse and disposal shall be accomplished in accordance with all applicable federal, state and local codes, rules and laws and regulations regulating such material, its transportation, reuse and disposal. Except as provided in Section 6.06, the Company has no financial interest with respect to Process Residue removed from the Facility by or at the direction of the County.

5.02 Ferrous Metals

(a) If the Ferrous Metal Recovery System does not operate, for any reason, for a period of more than ten (10) consecutive days, or for more than a total of thirty (30) days during any Contract Year, the Company shall pay the County for the loss in Gross Revenue, as Gross Revenue is defined in paragraph (b) below, at the end of each Contract Year. Such loss in Gross Revenue shall be calculated as follows:

> The average daily Gross Revenues for the Contract Year, based on the number of days the Ferrous Metal Recovery System was operable at the Ferrous Removal Guarantee, times the number of days (over 10 consecutive days or 30 days per Contract Year) the Ferrous Metal Recovery System was not fully operable.

(b) In the event the Ferrous Metal Recovery System is operating but does not meet the Ferrous Removal Guarantee for such period, the Company shall pay the County at the end of the Contract Year for the loss of Gross Revenue for such period, an amount equal to the product of (i) a number derived by subtracting one from the fraction formed by dividing the Ferrous Removal Guarantee in Schedule 2 by the Tested Ferrous Recovery Percentage for such period, (ii) the total tons of ferrous metal recovered during such period and (iii) the average Gross Revenue per ton received by the County for the total tons of ferrous metal sold during such period. For purposes of this Section 5.02, "Gross Revenue" means the total revenue received by the County for sale of recovered ferrous metal, and "Net Revenue" means Gross Revenue minus (x) all direct costs incurred by the County in transporting the recovered ferrous metal and (y) an $11,972.88 portion of the Facility's monthly operation and maintenance expense, which amount is stated as of July 1, 2013 and shall be escalated each Contract Year in accordance with Schedule 8 of this Agreement. For any Contract Year where the Net Revenue is a positive amount, the County and the Company shall divide the Net Revenue, with fifty percent (50%) going to the County and fifty percent (50%) going

to the Company, and the County shall pay the Company its share of Net Revenue in accordance with Section 6.06.

(c) The Company may, at any time, perform tests to determine whether the Ferrous Metal Recovery System meets the Ferrous Removal Guarantee set forth in Schedule 2 of this Agreement. The Company shall bear all costs of performing said tests.

(d) The County may request, at any time, a test by the Company of the Ferrous Metal Recovery System, and if the test determines the Ferrous Removal Guarantee has been met, the County shall pay for all costs of the test. In the event the test indicates the Ferrous Removal Guarantee has not been met, the Company shall pay all costs of the test.

(e) In the event the Ferrous Metal Recovery System does not meet the Ferrous Removal Guarantee, the Company shall pay the County for the loss of Gross Revenue as provided in paragraphs (b) of this Section 5.02 for the period that the Ferrous Removal Guarantee is not met.

5.03 Process Rejects

(a) The County shall use reasonable efforts to cause only Acceptable Waste to be delivered to the Facility or, as applicable, in accordance with Alternate Disposal Methods. However, any inadvertent deliveries by the County of Process Rejects to the Facility or, as applicable, in accordance with Alternate Disposal Methods shall not constitute a breach of the County's obligation hereunder.

(b) The Company shall remove from the Facility or, as applicable, any alternate facility being used by the Company in accordance with Alternate Disposal Methods, transport and dispose at a site or sites as directed by the County all Process Rejects delivered to the Facility by or on behalf of the County, which shall be at the cost and expense of the County (as a Pass Through Cost) based on the Company's direct costs. The Company shall act as the agent of the County for purposes of this

Section 5.03 with respect to the transport and disposal of Hazardous Waste but not otherwise under this Agreement. The removal, transport and disposal of all Process Rejects shall be accomplished in accordance with all applicable federal and state laws, rules and regulations. The Company shall provide Cost Substantiation for all direct costs incurred under this Section 5.03(b).

5.04 Availability of Disposal Sites

During the Term of this Agreement and any extension thereof, the County shall cause one or more properly permitted sanitary landfills to be made available to the Company between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, exclusive of Legal Holidays, for proper disposal of Process Rejects (subject to contrary direction by the County pursuant to Section 5.03(b)) and County By-Pass Waste. If because of an Unforeseen Circumstance the County is unable to make or to continue to make available to the Company any landfill previously in use or proposed to be used pursuant to this Section 5.04, the County shall nevertheless make available to the Company other properly permitted sanitary landfills or suitable emergency disposal sites sufficient to satisfy the provisions of this Article V.

ARTICLE VI – SERVICE FEE, OTHER PAYMENTS AND ANNUAL RECONCILIATION

6.01 Service Fee

For each Billing Period during the Term of this Agreement and any extension hereof, the County shall pay a Service Fee to the Company for accepting, processing and/or disposing of the Standard Tonnage and recovering energy therefrom pursuant to the terms of this Agreement and in accordance with the following equation, except a provided in Sections 6.04 and 6.06:

SF=(OM+AWSF+PT+BMWF+SWF+FC+PAR+(LER or CFP))-(EC+SMC+SWC+PA)+/-BTUA-APA

Where:

SF = Service Fee

OM = Operation and Maintenance Expense

AWSF = Additional Waste Service Fee

PT = Pass Through Costs

BMWF = Boxed Medical Waste Fee

SWF = Supplemental Waste Fee

PAR = Performance Adjustment Refund

LER = Lost Energy Revenues

CFP = County Fault Payment

EC = Energy Credit (pursuant to Section 6.04, the Company pays the Energy Credit to the County upon receipt of the revenues described therein rather than as part of the Company's statement for the Service Fee for a given Billing Period)

SMC = Secondary Materials Credit

FC = Ferrous Metals Credit (payment of the Ferrous Metals Credit is subject to the alternatives set forth in Section 6.06)

SWC = Supplemental Waste Credit, including Document Destruction Waste Credit

PA = Performance Adjustments

BTUA = BTU Adjustment

APA = Additional Performance Adjustments

6.02 Operation and Maintenance Expense

For any Billing Period, Operation and Maintenance Expense shall be the amount set forth in Schedule 1, which shall be adjusted, if necessary, pursuant to Article VII hereof and escalated in accordance with Schedule 8.

6.03 Pass Through Costs

(a) Pass Through Costs for any Billing Period shall be the sum of the costs and expenses set forth in Schedule 9 and Sections 5.03(b) and 7.03 that are accrued with respect such Billing Period. The Company shall provide Cost Substantiation for all Pass Through Costs.

(b) The Company agrees to use reasonable and good faith efforts to procure acceptable reagents at competitive prices.

6.04 Energy Credit

For any Billing Period, the Energy Credit shall be the product of (a) all revenues actually received during such Billing Period from the sale of energy pursuant to each Energy Contract, including any amounts paid as renewable energy credits, liquidated damages and the amount of recovery on any judgment against any Energy Purchaser pursuant to each Energy Contract in such Billing Period in respect of any dispute regarding the amounts due to the Company pursuant to any Energy Contract, net of all applicable costs of obtaining such judgment recovery and (b) the Energy Credit Multiplier. The Company shall pay the County the Energy Credit upon receipt of the revenues described in clause (a) immediately above.

6.05 Secondary Materials Credit

For any Billing Period the Secondary Materials Credit shall be the product of (a) the net revenues actually received (provided such net revenues are positive) during such Billing Period from the sale or use of Secondary Materials and (b) the Secondary Materials Credit Multiplier; provided that (i) no portion of any costs the Company incurs for the purpose of recovering non-ferrous metal from Waste, either before or after combustion, or any revenues the Company receives from the sale of such recovered non-ferrous metal (hereafter "Non-Ferrous Metal Revenue" or "NFMR") shall be included in determining the Secondary Materials Credit and (ii) the Ferrous Metals Credit to which

Section 6.01 refers shall be determined pursuant to Section 6.06 hereof rather than this Section 6.05. The Company is entitled to retain all Non-Ferrous Metal Revenue.

6.06 Ferrous Metals Credit

The FC Credit shall be determined as follows:

(a) For any Contract Year in which Net Revenue is a positive amount, the County and the Company shall divide the Net Revenue equally between them ("Ferrous Metals Credit"), and, subject to Section 6.06(c), the County shall pay the Company its share of such Net Revenue within 30 days following the end of such Contract Year.

(b) For any Contract Year in which Net Revenue is a negative amount, Gross Revenues shall be retained by the County as a credit against its direct costs in transporting recovered ferrous metal during the Contract Year.

(c) Subject to Section 6.17, the County may elect to use a third-party vendor for transportation and sale of ferrous metals recovered at the Facility, in which case the County also retains the right to direct such vendor to (i) disburse to the County the full amount of such ferrous metal revenue or (ii) to disburse such revenue to the County and the Company based on their estimated respective shares thereof; alternatively, the County and the Company may mutually agree to distribute such ferrous metals revenue in conjunction with the Company's statement for the Service Fee for a given Billing Period.

6.07 Boxed Medical Waste

(a) The fee paid to the Company for processing Boxed Medical Waste generated outside of the County shall be the sum of the Base Fee and the Percentage Fee ("Boxed Medical Waste Fee"), which are determined as follows:

(i) The Base Fee is $100.73 per ton stated as of July 1, 2013, which shall be escalated with such escalation calculated for each Contract Year as "X(n)," where "n" is the number of the Contract Year following the Contract Year ending June 30, 2014, by multiplying by an Escalation Factor for such Contract Year "E(n)", or

X(n) = $100.73 [E(n)]

E(n) is equal to a fraction the numerator of which is the "2nd half" Consumer Price Index for all Urban Consumers for Portland, Oregon, as originally published by the U.S. Department of Labor, Bureau of Labor Statistics ("CPI-UP") for the Contract Year preceding the nth Contract Year, and the denominator of which is 228.7 (CPI-UP for the 2nd half 2012). If applicable, paragraphs 2 and 3 of Schedule 8 shall be used to calculate the escalation of the Base Fee.

(ii) The County, from time to time, shall establish a Tipping Fee for Boxed Medical Waste generated outside of the County, and the Percentage Fee referred to above in this Section 6.07(a) shall be twenty-five percent (25%) of the difference between the out-of-County Tipping Fee for Boxed Medical Waste and the Base Fee paid to the Company.

(iii) In no event shall the total of the Base Fee plus the Percentage Fee exceed forty percent (40%) of the Tipping Fee as established by the County for Boxed Medical Waste generated outside of the County. The Company is not entitled to any Additional Waste Service Fee pursuant to Section 6.10(a) of this Agreement for processing Boxed Medical Waste generated outside of the County.

(b) Deliveries to the Facility of Boxed Medical Waste generated outside of the County shall be made pursuant to written contracts the County enters with Haulers of such Boxed Medical Waste, all of which shall expressly provide for termination by the County with or without cause upon 30 days written notice and require the Haulers to obtain and maintain property and casualty insurance

sufficient to insure against damage to and loss or destruction of the Facility, the Facility Site or any alternate facilities utilized in accordance with Alternate Disposal Methods in an amount at least equal to $500,000 for each occurrence. Each such policy shall name the County as an additional insured and provide that it shall not be canceled, terminated, amended or permitted to lapse except upon at least ten (10) days prior written notice to that effect to the County and the Company. Upon receiving such notice the Company may, but shall not be required to, pay any amounts required to keep such insurance in force and the County shall reimburse the Company for such payments, if any.

(c) The respective rights and obligations of the County and the Company under this Section 6.07 are subject to the following additional conditions:

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(i) If the County fails to cause the delivery of at least ~~one thousand (1,000)~~ seven hundred (700) Tons of out-of-County Boxed Medical Waste per Contract Year, the Company may terminate its obligations under this Section 6.07 upon sixty (60) days written notice to the County;

(ii) Special requirements and delivery times for Boxed Medical Waste shall be determined by mutual consent of the Company and the County, which as a minimum shall require that the combustion process for both in-County and out-of-County Boxed Medical Waste employ direct placement of waste into the Facility's feed hopper through immediate loading by the Facility's overhead crane or use of the conveyor system when such material is received at the Facility; and

(iii) The maximum amount out-of-County Boxed Medical Waste accepted at the Facility shall be determined by the County.

6.08 Document Destruction Waste

(a) The Company shall contract directly with all Document Destruction Waste customers. The County shall determine the amount of the Tipping Fee the Company charges to all agencies or instrumentalities of Oregon state government and all customers from within Marion County for

acceptance of Document Destruction Waste. The County will promptly notify the Company of changes in the Tipping Fee at least thirty (30) days prior to the effective date of the change.

(b) The Company shall be responsible for invoicing and collecting the applicable Tipping Fees for all Document Destruction Waste accepted by the Company for processing. Calculation of the total amount of the Tipping Fees received by the Company for processing all Document Destruction Waste delivered to the Facility during a given Billing Period shall be included in the statement the Company prepares for the applicable Billing Period in accordance with Section 6.12(a), and such statement shall also identify the County's share of that total ("Document Destruction Waste Credit"), which shall be paid to the County on a monthly basis as a credit against the otherwise applicable amount of the Service Fee. The Document Destruction Waste Credit is combined with the Supplemental Waste Credit in the Billing Period statements. Subject to Section 6.09(e) of this Agreement, the Document Destruction Waste Credit for each Ton of Document Destruction Waste processed shall be equal to the Tipping Fee paid for such Ton less the Company Document Destruction Waste Fee.

(c) The Company Document Destruction Waste Fee shall consist of: (i) $99.91 per ton stated as of July 1, 2013, with a $15.00 minimum charge per delivery, which shall be escalated in the same manner as the Supplemental Waste Fee, as provided in Section 6.09 of this Agreement; plus (ii) an administrative fee of $29.99 per ton of Document Destruction Waste processed stated as of July 1, 2013, which shall be increased for each subsequent Contract Year in accordance with Schedule 8.

(d) The time periods for delivery of Document Destruction Waste to the Facility shall be determined by the mutual consent of the Company and the County. Document Destruction Waste

shall not count toward Standard Tonnage or be subject to the Additional Waste Service Fee but shall otherwise constitute Waste for the purposes of Article VI of this Agreement.

6.09 Supplemental Waste

(a) The fee paid to the Company for disposal of all in-County Supplemental Waste shall consist of: (i) $99.91 per ton stated as of July 1, 2013, with a $15.00 minimum charge per delivery ("Supplemental Waste Fee"); plus (ii) an administrative fee of $29.99 stated as of July 1, 2013 per ton of Supplemental Waste processed, which shall be increased for each subsequent Contract Year in accordance with Schedule 8. The Supplemental Waste Fee shall be escalated for each Contract Year based on the following equation:

$X(n) = \$99.91[E(n)]$

where "n" is the number of the Contract Year following the Contract Year ending June 30, 2014 and "E(n)" is equal to a fraction, the numerator of which is the "2nd half" Consumer Price Index for all Urban Consumers for Portland, Oregon, as originally published by the United States Department of Labor, Bureau of Labor Statistics ("CPI-UP") for the Contract Year preceding the nth Contract Year, and the denominator of which is 230.8 (CPI-UP for the 2nd half 2012).

(b) The Company shall be responsible for invoicing and collecting Tipping Fees for all Supplemental Waste generated from within the County and informing the County in writing each month of the amount of said Supplemental Waste processed in the preceding month and the amount due to the County as a credit to the Service Fee to be included as a part of the statement prepared by the Company for each Billing Period in accordance with Section 6.12(a).

(c) Subject to conditions set forth in this paragraph, the Company shall be entitled to market the unused disposal capacity of the Facility and negotiate disposal rates for Supplemental Waste received from outside the County. Any such agreement shall be entered by the Company and

the affected waste generator or its designee directly and the Company will be responsible for credit investigations, invoicing and collection of fees. The Company's right to market unused disposal capacity for use in connection with out-of-County Supplemental Waste is subject to the County's rights to (i) prohibit the Company from accepting certain types of out-of-County Supplemental Waste if the County determines that processing of such waste at the Facility is inconsistent with public health or safety, which is a right the County will exercise reasonably and following consultation with the Company, and (ii) approve of the amount of unused capacity that is available for such use in connection with out-of-County Supplemental Waste, which is intended to assure that Supplemental Waste accepted by the Company does not displace any in-County Acceptable Waste, other in-County waste or Boxed Medical Waste that would yield greater revenue for the County.

(d) Subject to Section 6.09(e), the Company and the County will share the net revenue generated from the processing of out-of-County Supplemental Waste in accordance with the following equation and conditions:

Disposal Fee minus Company Costs = Net Disposal Fee

Net Disposal Fee multiplied by 0.5 = County Share ("Supplemental Waste Credit").

The Company's costs, which shall equal $29.99 for each ton of Supplemental Waste processed, stated as of July 1, 2013, include, but are not limited to, sales and administrative costs related solely to Supplemental Waste. The minimum County share payable to the County shall be $74.99 per ton of Supplemental Waste processed, stated as of July 1, 2013. Such costs of the Company and the above-stated minimum County share shall be escalated in accordance with Schedule 8 of this Agreement. Calculation of the total amount of the fees received by the Company for processing of all Supplemental Waste delivered to the Facility during a given Billing Period shall be included in the statement the Company prepares for the applicable Billing Period in accordance with Section

6.12(a) and identify the County's share of that total, which shall be paid to the County on a monthly basis as a credit against the Service Fee.

(e) The Supplemental Waste Credit, with which the Document Destruction Waste Credit is combined, shall not apply to the portion, if any, of the combined total of Supplemental Waste and Document Destruction Waste processed at the Facility during a given Contract Year that exceeds two thousand five hundred (2500) Tons, and all revenue received from processing Supplemental Waste and Document Destruction Waste in excess of two thousand five hundred (2500) Tons during a given Contract Year shall be for the Company's account.

(f) The time periods for delivery of Supplemental Waste to the Facility shall be determined by the Company such that those deliveries do not affect the County's rights hereunder.

(g) Supplemental Waste shall not count toward Standard Tonnage or be subject to the Additional Waste Service Fee but shall otherwise constitute Waste for the purposes of Article VI of this Agreement.

6.10 Additional Payments

(a) For each Ton of Waste in excess of the Standard Tonnage delivered by the County and accepted by the Company, the County shall pay the Additional Waste Service Fee, which is set forth in Schedule 1, as escalated in accordance with Schedule 8, unless a different amount is payable pursuant to Section 4.04(c).

(b) To the extent that alternative contractual arrangements have been made, pursuant to Section 4.04(b) hereof, with respect to Tons of Waste in excess of the Standard Tonnage such arrangements will control the amount of any payments. Such payments will be billed monthly in accordance with Section 6.12(a) unless another arrangement is specified in writing.

6.11 BTU Adjustment to Service Fee

(a) Within thirty (30) days following the conclusion of each calendar quarter the Company shall calculate the average energy content or (HHV expressed as BTUs per pound of Waste) of the waste delivered to the Facility during such quarter and provide the resulting figure to the County in the Company's next Billing Period statement.

(b) For each quarter during which the average energy content of the waste delivered to the Facility is greater than four thousand seven hundred (4,700) BTU per pound of Waste (HHV) (excluding consideration of Boxed Medical Waste, Supplemental Waste and Document Destruction Waste accepted during the quarter), the Service Fee shall be adjusted as follows: the County shall pay the Company the amount that represents the difference between the Adjusted Tons for the quarter and the quantity of waste processed at the Facility for the quarter (measured in Tons) times the applicable rate for Acceptable Waste received in excess of one hundred sixty thousand (160,000) Tons per year (the "Higher BTU Adjustment"). In the preceding sentence, Adjusted Tons equals the quantity of waste processed at the Facility during the quarter (measured in Tons) times average BTU value measured for the quarter/4,700. The Higher BTU Adjustment shall be reflected in the Service Fee for the next Billing Period and identified in the statement prepared by the Company in accordance with Section 6.12(a).

(c) For each quarter during which the average energy content of the waste delivered to the Facility is less than four thousand three hundred (4,300) BTU per pound (HHV) (excluding consideration of Boxed Medical Waste, Supplemental Waste and Document Destruction Waste accepted during the quarter), the Service Fee shall be adjusted as follows: the Company shall pay the County the amount that represents the difference between the quantity of waste processed at the Facility for the quarter (measured in Tons) and Adjusted Tons for the quarter times the applicable

rate for Acceptable Waste received in excess of one hundred sixty thousand (160,000) Tons per year (the "Lower BTU Adjustment"). In the preceding sentence, Adjusted Tons equals the quantity of waste processed at the Facility during the quarter (measured in Tons) times 4,300/average BTU value measured for the quarter. The Lower BTU Adjustment shall be applied as a credit to the Service Fee for the next Billing Period and identified in the statement prepared by the Company in accordance with Section 6.12(a).

6.12 Billing and Payments

(a) Subject to the alternatives provided by Section 6.06(c), for each Billing Period the Company shall render a statement to the County by the 15th day of the following Billing Period, which shall set forth the amount of each and every component of the Service Fee set forth in Section 6.01 and as further described in Sections 6.02 through 6.11 and Section 6.13, including appropriate supporting documentation reasonably acceptable to the County. The County shall pay the Service Fee (if positive) due to the Company within thirty (30) days of its receipt of such statement. The Company shall pay the Service Fee (if negative) due to the County within thirty (30) days of the date of such statement.

(b) The Company shall provide the County with copies of each statement submitted to any Energy Purchaser pursuant to any Energy Contract.

6.13 Company Non-Performance

(a) If during any Billing Period, the Company fails to process the Standard Tonnage through the Facility due to the Fault of the Company, the Company shall nevertheless accept and dispose of the Standard Tonnage by utilizing the Facility, Alternate Disposal Methods or a combination thereof, in which case the County shall pay the Service Fee and the Company shall pay Performance Adjustments for such Billing Period. "Performance Adjustments" means, for any

Billing Period, an amount equal to the difference between (i) the Energy Credit for such Billing Period calculated on the basis of Projected Energy Revenues for the same Billing Period and (ii) the Energy Credit for the Billing Period calculated on the basis of actual energy revenues accrued for the same Billing Period.

(b) If during any Billing Period due to its Fault the Company fails to accept and dispose of the Standard Tonnage by utilizing the Facility, Alternate Disposal Methods or a combination thereof, the County shall cause the disposal of the quantity of Waste that is not processed or disposed of by the Facility and through Alternate Disposal Methods, in which case the County shall pay the Service Fee and the Company shall pay the County the Performance Adjustments for such Billing Period as well as an adjustment equal to the sum of the following ("Additional Performance Adjustments") for which the County shall provide Cost Substantiation:

(i) The product of (A) the County's actual cost per Ton for disposal of Acceptable Waste (including amortized capital cost of any landfill owned by the County and used to dispose of County By-Pass Waste), (B) the number of Tons of County By-Pass Waste during such Billing Period, and (3) the difference between one (1.0) and the number determined pursuant to Section 6.13(d)(ii)(B); and

(ii) All other incremental direct cost increases incurred by the County.

(c) No Performance Adjustments shall be payable for failure to produce electricity during maintenance of the turbine-generator; provided that Tons of Waste processed through the Facility during such maintenance downtime shall not exceed fifteen thousand (15,000) Tons in any period of three Contract Years.

(d) If at any time a Performance Test of the Facility conducted in accordance with Schedule 3 demonstrates that the Facility does not meet the Guaranteed Electrical Output or the Guaranteed Process Residue Quality due to the Fault of the Company:

(i) The Company shall commence and continue payment of Performance Adjustments until such time as a Performance Test of the Facility demonstrates that the Facility meets the Guaranteed Electrical Output and the Guaranteed Process Residue Quality; and

(ii) For each Billing Period following such Performance Test until such time as a Performance Test demonstrates that the Facility meets the Guaranteed Process Residue Quality all Tons of Process Residue in excess of the number of Tons calculated by multiplying (A) the Tons of Waste delivered to the Facility during such Billing Period by (B) the average Tons of Process Residue per Ton of Acceptable Waste resulting from operation of the Facility subsequent to the most recent twelve (12) months for which a Performance Test demonstrated the Facility's compliance with Guaranteed Process Residue Quality shall be County By-Pass Waste for which the cost of disposal shall be the responsibility of the Company.

(e) At any time that the Facility performs at less than the Full Acceptance Standard due to the Fault of the Company, the Company may, at its sole cost and expense, alter the Facility to bring its performance up to the Full Acceptance Standard; provided that no expenditure by the Company in connection with such alteration shall be a basis for an increase in the Service Fee.

(f) If, for any Contract Year, the Company has paid Performance Adjustments pursuant to Section 6.13(a) for one or more Billing Periods and the aggregate number of Tons of Waste not processed through the Facility for all such Billing Periods is greater than the Processing Shortfall, if any, then the County shall pay the Company the following amount ("Performance Adjustment Refund"):

(i) If there is no Processing Shortfall, all such Performance Adjustments shall be refunded to the Company; or

(ii) If there is a Processing Shortfall, a refund to the Company shall be made in the amount of (A) the aggregate of such Performance Adjustments multiplied by (B) a fraction the numerator of which is the difference between the Processing Shortfall and such aggregate number of Tons not processed through the Facility and the denominator of which is such aggregate number of Tons not processed through the Facility.

The amount of any refund due to the Company pursuant to this Section 6.13(f) shall be included in the statement for the last Billing Period in such Contract Year.

6.14 County Non-Performance

(a) If during any Billing Period the Facility is temporarily shut down, either partially or totally, or is otherwise unable to accept or process Waste at the Full Acceptance Standard due to the Fault of the County or its officials, agents, employees, contractors or subcontractors (other than the Company), or due to the condemnation of all or any portion of the Facility or the Facility Site by the County, the Company shall have no obligation to accept, process and/or dispose of Waste through Alternate Disposal Methods, and the County shall pay the Service Fee and an additional amount equal to the sum of (i) the increase, if any, in the Company's direct costs of operation and maintenance of the Facility as a direct result of the County actions just described, for which the Company shall provide Cost Substantiation, and (ii) the product of (A) one tenth (0.1), and (B) the difference between (1) the Projected Energy Revenues for such Billing Period, and (2) the actual revenues from the sale of energy pursuant to each Energy Contract for such period of time (such product being hereafter referred to as the "Lost Energy Revenues" and the sum of (i) and (ii) above referred to as "County Fault Payment"). If the Facility is unable to process Waste at the Guaranteed

Facility Capacity due to Fault of the County, the Company shall continue to process Waste through the Facility to the extent capacity is available after the Company has fulfilled its contractual commitments to third parties.

(b) The following shall apply for any Billing Period in which there is a Monthly Shortfall, unless the Year Prior Tonnage for such Billing Period is an amount at least equal to or greater than the Year Prior Standard Tonnage for such Billing Period plus such Monthly Shortfall:

(i) If the Year Prior Tonnage for such Billing Period is less than or equal to the Year Prior Standard Tonnage for such Billing Period, the County shall pay the Service Fee, and shall pay an adjustment equal to the Lost Energy Revenues; or

(ii) If the Year Prior Tonnage for such Billing Period is greater than the Year Prior Standard Tonnage for such Billing Period, the County shall pay the Service Fee, and shall pay an adjustment equal to the Lost Energy Revenues determined on the assumption that the actual revenues from the sale of energy for such Billing Period (as used in clause (a)(ii)(B)(2) of this Section 6.14) are equal to the revenues derived by processing the County Tons for such Billing Period plus the excess of Year Prior Tonnage for such Billing Period over Year Prior Standard Tonnage for such Billing Period.

(c) If (i) the County Tons that are processed in any Billing Period exceed the Standard Tonnage and (ii) any adjustments have been paid by the County pursuant to Section 6.14(b) above during the previous eleven Billing Periods and have not previously been recovered through payments pursuant to this Section, the County shall pay the Service Fee, and the Company shall pay an amount (not to exceed such unrecovered adjustments) calculated by multiplying such unrecovered adjustments by a fraction the numerator of which is the number by which such County Tons exceed

the Standard Tonnage and the denominator of which is the difference between the Year Prior Standard Tonnage for such Billing Period and the Year Prior Tonnage.

(d) To the extent any adjustment would otherwise be payable pursuant to Section 6.14(b), or has been paid during the eleven (11) Billing Periods prior to the current Billing Period and not recovered through Section 6.14(c), the County may elect to submit to the Company on the basis set forth in Section 6.11 its demonstration that the average BTU content of Waste delivered during the 12 most recent Billing Periods exceeded 4,500 BTU (HHV) per pound and a proposal to reduce the adjustments currently payable, or recover any adjustment previously paid, to the extent that the Company has received the amount of energy revenues it would have received if the County had delivered the Year Prior Standard Tonnage of Waste having an average BTU content of 4,500 BTU (HHV) per pound. Any such reduction or recovery shall be determined on the same basis as is set forth in Section 6.11. In the event that the Company does not submit the reports and calculations required by Section 6.11 for any of the previous four quarters, the average BTU content of Waste delivered during the twelve (12) most recent Billing Periods shall be deemed to exceed 4,500 BTU (HHV) per pound.

(e) If at any time due to the Fault of the County, the Facility is damaged or destroyed in part, the Company shall be entitled to undertake the required Capital Project as the Company may in its reasonable judgment deem necessary to repair the Facility.

6.15 Adjustments Cumulative

The adjustments under Sections 6.13 and 6.14 shall apply cumulatively, and upon the occurrence of an Unforeseen Circumstance under Article VII shall include Lost Energy Revenues, provided that, if more than one such provision is applicable in any Billing Period, the Performance Adjustments and Lost Energy Revenues for such Billing Period, if any, shall be adjusted by (a)

multiplying Performance Adjustments by the ratio of (i) energy revenues lost through Fault of the Company to (ii) the difference between Projected Energy Revenues and actual energy revenues, and (b) multiplying Lost Energy Revenues by the ratio of *(x)* energy revenues lost through Fault of the County to *(y)* the difference between Projected Energy Revenues and actual energy revenues. This Section 6.15 is intended to allocate liability for any loss of energy revenues between the Company and the County. It shall not be construed to require either party to pay to the other an adjustment in excess of such other party's actual lost revenues as determined in accordance with Sections 6.13 and 6.14, respectively.

6.16 Source of Payments from County

(a) In consideration of the payments and adjustments set forth in this Article VI, the Company hereby grants to the County (i) the right to allocate the available capacity of the Facility not otherwise contracted to third parties pursuant to Section 4.04 among Haulers, including Haulers franchised or to be franchised by the County pursuant the provisions of Oregon Revised Statutes Section 459.125 et seq., and Chapter 8.05 of the Marion County Code, as amended, and (ii) in furtherance of the County's obligation to pay the Service Fee, the right and obligation to collect from such Haulers the applicable Tipping Fees for Waste processing and disposal, which the County shall establish pursuant to Section 6.16(c) below and apply the proceeds of such collection as provided in Section 6.16(b) below.

(b) The County shall establish, and maintain a fund, herein referred to as the "Environmental Services Fund" (the name of which the County may from time to time change) into which the County shall deposit all Tipping Fees and Performance Adjustments received by the County, and such other amounts from its general or other special revenues as the County may from time to time in its sole discretion deem prudent or appropriate, and from which it shall pay the

Service Fee and other obligations arising under this Agreement. The County shall at all times maintain within the Environmental Services Fund an amount of not less than two million dollars ($2,000,000.00). The Environmental Services Fund shall be available for the payment of any amount payable by the County pursuant to this Agreement.

(c) The County shall fix, establish, maintain, collect and pay into the Environmental Services Fund Tipping Fees which shall be fair and adequate to permit the payment of the Service Fee and all other obligations of the County under this Agreement.

(d) Except as provided in Section 10.05(c), the obligation of the County to pay the Service Fee and other obligations arising under this Agreement are special and limited obligations, payable only out of the Environmental Services Fund.

(e) In the event that (i) the County fails to pay amounts owed to the Company pursuant to this Article VI within sixty (60) days following receipt of a Company invoice therefor or (ii) the amount held in the Environmental Services Fund falls below the amount required by paragraph (b) of this Section 6.16, then, in addition to all other remedies afforded to the Company by law or under this Agreement, the Company shall be entitled (but shall not be obligated) to perform all of the County's rights, powers and privileges under and pursuant to this Section 6.16 until the earlier of (*x*) such time as all amounts owed to the Company pursuant to this Article VI are paid in full, and the amount held in the Environmental Services Fund is replenished to not less than two million dollars ($2,000,000.00), or (*y*) the termination of this Agreement by the Company pursuant to Section 10.05 hereof.

6.17 Annual Reconciliation

Within thirty (30) days of the end of any Contract Year, the Company shall prepare and render a statement, which shall be accompanied, as appropriate, with an invoice or payment, to account for the following for such Contract Year:

(a) If the quantity of any reagents and/or utilities consumed by the Facility exceeds the applicable Maximum Reagent Utilization Guarantee and/or the Maximum Utility Utilization Guarantee, the Company shall be liable for and pay to the County the costs for all such excess reagent and/or utility usage. The cost for any excess reagent and/or utility usage shall be the product of (i) the actual amount of any reagent and/or utility usage consumed in excess of the applicable Maximum Reagent Utilization Guarantee and/or Maximum Utility Utilization Guarantee during such Contract Year times (ii) the average unit cost for the applicable reagent and/or utility during such Contract Year; and

(b) The calculations and potential payments set forth in Sections 5.02(a), 5.02(b), 6.06(a), 6.06(b) and 6.13(f).

ARTICLE VII – UNFORESEEN CIRCUMSTANCES

7.01 Respective Obligations of the Company and County

If an Unforeseen Circumstance during any Billing Period prevents the Facility from (a) accepting and processing any portion of the Standard Tonnage or (b) accepting and processing Waste in conformance with the Full Acceptance Standard, the Company shall nevertheless accept and dispose of the Standard Tonnage by utilizing Alternate Disposal Methods and the County shall pay the Service Fee.

7.02 Unavailability of Facility and Alternative Disposal Methods

If during any Billing Period an Unforeseen Circumstance prevents the Company from accepting and disposing of Waste through Alternate Disposal Methods, the Company shall have no obligation to accept and dispose of Waste, the County shall pay the Service Fee and the County shall dispose of its Solid Waste at its cost and expense, provided that: (a) the Company shall use its best efforts to minimize all costs associated with the Facility and the amount of the Service Fee; (b) the County's obligation under this paragraph to pay the full amount of the Service Fee shall be limited to a period of not more than thirty (30) days and for the sixty (60) days that follow the County's payment obligation shall be limited to fifty percent (50%) of the Service Fee; and (c) assuming such Unforeseen Circumstance continues beyond ninety (90) days, the County's obligation to pay the Service Fee is suspended until such time as the Company resumes acceptance and processing of the Standard Tonnage at the Facility, through use of Alternate Disposal Methods, or a combination thereof, except that to the extent the Company accepts and processes or disposes of Waste after the above-described 90-day period through the use of the Facility, Alternate Disposal Methods, or a combination thereof and in a quantity that is less than the Standard Tonnage at the Facility, the County shall pay a pro rata portion of the Service Fee based on the quantity of Waste accepted and processed or disposed; and (d) assuming such Unforeseen Circumstance continues for more than three hundred sixty-five (365) days and prevents the Company from accepting and processing the Standard Tonnage at the Facility, through use of Alternate Disposal Methods, or a combination thereof, either party can elect to terminate this Agreement without further cost or obligation.

7.03 Change in Service Fee Due to Unforeseen Circumstance

In the event that an occurrence of Unforeseen Circumstances, or the cumulative effect of multiple occurrences of Unforeseen Circumstances, is reasonably expected to (a) cause the Service

Fee to increase to a level that is more than one hundred twenty (120) percent of the otherwise applicable amount of the Service Fee (after accounting for adjustments authorized under Section 6.02 hereof and Schedule 8) and (b) continue for more than six (6) months, the County can elect to assume such additional cost as part of the Service Fee or, upon thirty (30) days notice to the Company, terminate this Agreement and pay the Termination Payment under Section 7.05 as well as the increased Service Fee for the thirty-day notice period. Subject to the County's rights under Section 7.04 of this Agreement, an increase in the Service Fee due to Unforeseen Circumstances that does not meet the conditions of the immediately preceding sentence shall be paid by the County as a Pass Through Cost. References in this Section 7.03 to increases in the Service Fee refer to incremental direct increases in the cost of operating and maintaining the Facility and all other components of the Service Fee as set forth in Section 6.01 of this Agreement, for which the Company shall provide Cost Substantiation.

7.04 County Inability to Deliver Waste

If for the remaining Term of this Agreement an Unforeseen Circumstance or the cumulative effect of multiple events of Unforeseen Circumstances (a) prevents the County, and/or the entities that deliver Waste to the Facility on behalf of or at the direction of the County, from delivering or causing delivery of a minimum of eighty (80) percent of the Standard Tonnage or (b) would cause the sum of the Service Fee and the costs incurred for waste collection and transportation by the entities that deliver Waste to the Facility on behalf of or at the direction of the County to increase by more than twenty (20) percent above the level thereof in the absence of the above-referenced Unforeseen Circumstance or the cumulative effect of multiple events of Unforeseen Circumstances, the County can elect, upon thirty (30) days notice to the Company, to terminate this Agreement and pay the Termination Payment under Section 7.05 as well as the increased Service Fee for the thirty-

day notice period; provided that if the cost for waste collection and transportation for the entities that deliver Waste to the Facility on behalf of or at the direction of the County, insofar as those costs are caused by Unforeseen Circumstances, would be the same if those entities were disposing of Acceptable Waste at the Facility or at other facilities permitted for receipt of Acceptable Waste, such costs shall not be included in determining the twenty percent increase threshold under preceding clause (b); and provided further that the County has the duty to mitigate the impact of the matters to which preceding clause (a) refers, the Company has the duty to mitigate the impact of the matters to which preceding clause (b) refers, and the reference in this Section 7.04 to the County's duty to mitigate, as well as any other reference in this Agreement to either party's duty to mitigate, is for avoidance of doubt only such that the absence elsewhere in this Agreement of a specific reference to a party's duty to mitigate does not diminish in any manner either party's independent legal obligation to mitigate damages. If the County elects to terminate this Agreement under the circumstances described in preceding clause (b), the County's notice of termination shall be accompanied by a statement, certified to be true and correct by the County's Chief Administrative Officer, setting forth with respect to the costs incurred for waste collection and transportation by the entities that deliver Waste to the Facility on behalf of or at the direction of the County (x) the level of those costs exclusive of any increases due to Unforeseen Circumstances and (y) the increases in the same costs that are attributable to Unforeseen Circumstances. The Company shall be entitled to audit the cost information set forth in the above-described certified statement; provided, that the County shall not be required to disclose any proprietary or trade secret information of an entity delivering Waste to the Facility, unless such information is required to be disclosed by Applicable Law.

7.05 Termination Payment

The Termination Payment to which Sections 7.03 and 7.04 of this Agreement refer shall be the following amount: 0.10 x [OM + AWSF + PT (but only for the portion thereof described in paragraph 8 of Schedule 9) + BMWF + SWF] + [(EC/0.90) x 0.10] + SMC + FC + NFMR + [the prior Contract Year revenue, if any, for processing of Supplemental Waste and Document Destruction Waste in excess of 2500 Tons at the Facility, as provided in Section 6.09(e) of this Agreement]. The numerical value for each component of the preceding equation shall be the average monthly amount thereof during the most recent six months as of the date the County elects under either Section 7.03 or Section 7.04 to terminate this Agreement multiplied by the number of months remaining in the Term of this Agreement as of that same date without consideration of the extension under Section 11.01(b), unless the extension has been exercised on or before the date of such termination, in which case the additional number of months of the extension shall be included in the above described calculation. The terms used in the preceding equation have the meanings described in Article VI of this Agreement.

7.06 Other Provisions With Respect to Unforeseen Circumstances

Subject to Sections 7.01 through 7.05 of this Agreement, but otherwise notwithstanding anything to the contrary contained herein:

(a) Neither the County nor the Company shall be liable to the other for any failure or delay in performance of any obligation under this Agreement due to the occurrence of an Unforeseen Circumstance.

(b) The party experiencing an Unforeseen Circumstance shall, as a condition precedent to the right to claim benefits that arise under this Article VII, promptly notify the other party by telephone, on or after the date the party experiencing such Unforeseen Circumstance first learns of

the commencement thereof, which shall be followed within fifteen (15) days by a written description, of (i) the date such Unforeseen Circumstance commenced, (ii) its estimated duration and cost impact, if any, on the Service Fee, (iii) its estimated impact on the parties' respective obligations under this Agreement, and (iv) the areas where costs can be reduced to mitigate the impact of the Unforeseen Circumstance and the approximate amount of such cost reductions. Except where this Agreement has been terminated pursuant to Section 7.03 or Section 7.04, the party experiencing an Unforeseen Circumstance shall (*x*) provide prompt written notice of the cessation of such Unforeseen Circumstance and (*y*) as promptly as possible, eliminate the cause therefore, reduce costs to the maximum extent practicable and resume performance under this Agreement.

ARTICLE VIII – CAPITAL PROJECTS AND OTHER FACILITY CHANGES

8.01 Authorization of Capital Projects

(a) Unforeseen Circumstances or County Fault. The Company may undertake a Capital Project that results from Unforeseen Circumstances or the Fault of the County subject to the following conditions:

(i) At least sixty (60) days prior to initiating any such Capital Project, unless Applicable Law requires initiation of the Capital Project on a shorter time frame, the Company shall provide written notice to the County of the following: (A) the facts and circumstances that necessitate the Capital Project; (B) the scope of the Capital Project including all Work involved in implementing the Capital Project (C) the estimated cost of the Capital Project; (D) any required changes to this Agreement due to the Capital Project; (E) the availability of insurance to finance all or part of the cost of the Capital Project; (F) whether a third party (or parties) is or may be liable (in

whole or in part) with respect to the necessity for implementing the Capital Project; and (G) any Adjustments to the Service Fee as necessary due to the Capital Project.

(ii) If a Capital Project under this subsection results from an Unforeseen Circumstance, the County's pro rata share of the cost of the Capital Project shall be the product of (A) and (B) where (A) is a fraction for which the numerator is number of months remaining in the Term of this Agreement as of the date the Capital Project commences full commercial operation and the denominator is the number of months that represent the anticipated useful life of the Capital Project and (B) is the cost of the Capital Project, provided that the cost of the Capital Project shall be reduced based on the amount of any insurance proceeds and the Company's equity capital contribution, if any.

(iii) If a Capital Project under this subsection results from Fault of the County, the County's shall be responsible for the full cost of the Capital Project, provided that the County's responsibility for that cost shall be reduced based on (A) the amount of any insurance proceeds, (B) the ratio of County fault to the fault of others in any case where the County's fault is only partial and (C) the Company's equity capital contribution, if any.

(b) Other Capital Projects. For all other Capital Projects, and provided that the Company is asking the County to support the Cost of the subject Capital Project, the process for authorization is as follows:

(i) The Company shall send to the County a proposal for such Capital Project, which shall include a description of the purpose and need for the Capital Project, the necessary revisions to the Facility's plans, drawings and specifications, and the cost to construct the Capital Project together with changes, if any, in Operation and Maintenance Expense, Pass Through Costs, or other components of the Service Fee or any other provisions of this Agreement.

(ii) The County shall promptly review the Company's proposal and notify the Company in writing as to whether the County tentatively agrees to proceed with the Capital Project, and if so, the County and the Company shall use their best efforts expeditiously to agree on all necessary amendments to this Agreement, including: (A) determination of the County's pro rata share of the cost of the Capital Project, which shall not exceed the product of (x) and (y) where (x) is a fraction for which the numerator is number of months remaining in the Term of this Agreement as of the date the Capital Project commences full commercial operation and the denominator is the number of months that represent the anticipated useful life of the Capital Project and (y) is the cost of the Capital Project reduced by the amount of any related insurance proceeds; (B) modifications the County has determined to be necessary for the County to share in financing the Capital Project; and (C) specifying the Company's equity share of such financing.

(iii) If the County does not agree to proceed with the Capital Project, the Company can do so at its own expense, in which case there will not be any change in the Service Fee or any other change in the parties' obligations under this Agreement. If the Capital Project is necessary for continued operation of the Facility and neither party agrees to proceed with the Capital Project, then either party can elect to terminate this Agreement without further cost or obligation.

8.02 Company Work Changes and Alterations

The Company hereby reserves the right, without the County's prior approval, but only after fifteen (15) days prior written notice to the County, to make, at the Company's cost and expense, changes or alterations to the Facility, if such changes or alterations (a) would improve the efficiency of the Facility or facilitate the Company's compliance with the Performance Guarantees, as the case may be, and (b) would not adversely affect the Facility, the Performance Guarantees or cause an increase to the Service Fee or the Additional Waste Service Fee.

ARTICLE IX – FURTHER AGREEMENTS

9.01 Licenses, Approvals and Permits

The County shall cooperate as may reasonably be requested by the Company in connection with obtaining in a timely manner the permits, licenses and approvals required to be obtained by the Company in connection with the operation of the Facility. The Company shall use its best efforts to obtain and/or maintain all permits, licenses, and approvals required to be obtained and/or maintained by the Company in connection with the operation of the Facility.

9.02 Non-Discrimination

The Company shall not discriminate or permit discrimination against any person because of race, color, religion, national origin, gender or sexual orientation. This prohibition against discrimination is a material term of this Agreement.

9.03 Energy Contracts

(a) The Company shall not, without the consent of the County, which consent will not be unreasonably withheld, amend any Energy Contract in any manner which would have the effect, if applied to the quantities of electricity or other energy actually sold over the previous twelve Billing Periods, of reducing the Energy Credit for such Billing Periods.

(b) To the extent that the Company shall incur, while this Agreement is in effect, any liability to an Energy Purchaser under an applicable Energy Contract due to the Fault of the County, the County shall reimburse the Company out of the Environmental Services Fund for all amounts paid by the Company in satisfaction of such liability.

9.04 Insurance

The Company shall maintain the types of insurance and coverage amounts set forth in Schedule 6.

ARTICLE X – DEFAULT AND TERMINATION

10.01 Remedies for Breach

Either party may terminate this Agreement on the occurrence of an Event of Default by the other party in accordance with this Article X.

10.02 Events of Default by Company

The following shall constitute Events of Default on the part of the Company:

(a) Persistent and repeated failure of the Company to timely perform any material obligation under this Agreement, such as, but not limited to, operation of the Facility in violation of the environmental standards or permits, refusals or failures to supply properly skilled labor, failure to supply or cause to be supplied proper materials, failure to properly maintain the Facility, failure to make or cause to be made prompt payment to subcontractors, failure to make or cause to be made prompt payment for materials or labor, and disregard for laws, ordinances, rules, regulations or orders of any public authority having jurisdiction over the Facility, the Facility Site, or the Company's obligations under this Agreement; provided that the failure of the Facility to operate at or below the Full Acceptance Standard shall not constitute an Event of Default unless the Facility also fails to satisfy the Minimal Acceptance Standard for the period specified in paragraph (b) of this Section 10.02.

(b) Failure of the Company for a period of six (6) consecutive months to operate the Facility at or above the Minimal Acceptance Standard;

(c) Failure of the Company to make any payment hereunder within thirty (30) days of the date such payment is due; or

(d)(i) The Company being or becoming insolvent or bankrupt of ceasing to pay its debts as they become due or making an arrangement with or for the benefit of its creditors or consenting to or

acquiescing in the appointment of a receiver, trustee or liquidator for the Facility or for any substantial part of its property, (ii) a bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by or against the Company under the laws of any jurisdiction, which proceeding has not been stayed or dismissed within thirty (30) days, (iii) any action or affirmation by the Company approving of, consenting to, or acquiescing in, any such proceeding, or (iv) the levy of any distress, execution or attachment upon the property of the Company which shall substantially interfere with its performance hereunder.

10.03 Events of Default by County

The following shall constitute Events of Default on the part of the County:

(a) Persistent and repeated failure of the County to timely perform any material obligation under this Agreement, except the obligation described in Section 10.03(b) hereof;

(b) Failure of the County to pay amounts owed to the Company under this Agreement within sixty (60) days following receipt of a Company invoice therefor; or

(c)(i) The County being or becoming insolvent or bankrupt or ceasing to pay its debts as they become due or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, (ii) a bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by or against the County under the laws of any jurisdiction, which proceeding has not been stayed or dismissed within thirty (30) days, (iii) any action or affirmation by the County approving of, consenting to, or acquiescing in, any such proceeding, or (iv) the levy of any distress, execution or attachment upon the property of the County which shall substantially interfere with its performance hereunder.

10.04 Termination of Agreement by the County

(a) If an Event of Default described in Sections 10.02(a) or 10.02(b) occurs and if, within a period of thirty (30) days following the Company's receipt of notice from the County describing in reasonable detail the nature of such Event of Default the Company has neither (i) remedied or (ii) commenced and is pursuing with due diligence a remedy for any such Event of Default, the County may terminate this Agreement upon sixty (60) days prior written notice to the Company. An Event of Default of the character described in Section 10.02(d) hereof shall not require notice by the County as hereinabove provided and shall terminate this Agreement forthwith.

(b) If an Event of Default on the part of the Company occurs, the County, in addition to exercising its right of termination, shall be entitled to seek its direct damages for such an Event of Default, which shall not include recovery of special or consequential damages, and the aggregate amount of such direct damages payable by the Company in respect of all Events of Default resulting in such termination shall in no event exceed seven million dollars ($7,000,000.00).

10.05 Termination of Agreement by the Company or Release of the Company

(a) If an Event of Default described in Section 10.03(a) occurs and if within a period of thirty (30) days following the County's receipt of notice from the Company describing in reasonable detail the nature of such Event of Default the County has neither (i) remedied or (ii) commenced and is pursuing with due diligence a remedy for any such Event of Default, the Company may terminate this Agreement upon sixty (60) days prior written notice to the County.

(b) If an Event of Default described in Sections 10.03(b) or 10.03(c) shall occur and be continuing, then the Company may terminate this Agreement upon thirty (30) days prior written notice to the County.

(c) If this Agreement is terminated pursuant to this Section 10.05 due to an Event of Default on the part of the County, the Company's recourse with respect to such default shall not be limited to the Environmental Services Fund, and the Company, in addition to exercising its right of termination, shall be entitled to seek its direct damages for such an Event of Default, which shall not include recovery of special or consequential damages, and the aggregate amount of such direct damages payable by the County in respect of all Events of Default resulting in such termination shall in no event exceed seven million dollars ($7,000,000.00).

10.06 Manner of Payment Upon Termination

Subject in all respects to the provisions of Sections 10.01 through 10.06 inclusive of this Agreement, including without limitation the duty to pay direct damages, which shall not include recovery of consequential damages, if this Agreement is terminated due to an Event of Default, the County and the Company shall within thirty (30) days following termination of this Agreement reconcile all amounts then due and payable hereunder. Upon determining, as a result of such reconciliation, the total amount of the outstanding unpaid balance which the County or the Company owes the other, the County or the Company, as the case may be, shall, within ninety (90) days thereof, make its final payment in complete discharge of its obligations under this Agreement, except those obligations which survive the termination of this Agreement. If the parties disagree regarding the final amount the Company or the County shall be entitled to receive, the amount, if any, for which there is no dispute shall be timely paid and the remaining amount for which a dispute remains shall be resolved in accordance with Section 11.03.

ARTICLE XI – MISCELLANEOUS

11.01 Term

(a) Unless sooner terminated in accordance with the provisions hereof, and subject to Section 11.01(b), this Agreement shall continue in effect until the third anniversary of the Effective Date (the "Term").

(b) This Agreement shall be extended for a period of twenty-four (24) months following the Term hereof if (i) no later than nineteen (19) months prior to expiration of the Term the Company or the County provides notice to the other of its intention to extend the Agreement for the period described above and (ii) within thirty (30) days of the date of the notice to which the preceding clause refers the other party fails to provide notice declining to extend the Agreement for the period described above. The notices described in the preceding sentence shall be provided in the manner specified in Section 11.10.

11.02 Assignment and Parent Guaranty

(a) This Agreement may not be assigned by either party without the prior consent of the other party except that the Company may, without such consent, assign its interest hereunder (i) as collateral for or otherwise in connection with arrangements for the financing or refinancing of all or part of the Facility or (ii) to any successor or Affiliate that shall assume all the obligations and Performance Guarantees under this Agreement, provided that in the event of any such assignment, the Parent shall acknowledge the continuing effectiveness of its guaranty given pursuant to Section 2.01; and provided further that the Parent Guaranty under this Agreement shall not be affected, without the consent of the County, which shall not be unreasonably withheld, by any sale, transfer or other conveyance of any type pursuant to which there is a change in the ownership of the shares of the Company without regard to the corporate ownership tier in which such a change may occur.

(b) This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto pursuant to this Section 11.02. Any attempted assignment made contrary to this Section 11.02 shall be void.

11.03 Dispute Resolution

The following provisions govern resolution of disputes that may arise between the parties under this Agreement.

(a) Informal Resolution. In the event any claim, controversy or dispute arises between the Company and the County under this Agreement, including a party's failure to provide a timely approval or concurrence, the County and the Company shall, prior to engaging in any adjudicative process, including filing a complaint in court or serving a demand for arbitration, undertake in good faith to resolve the dispute informally, as follows: within thirty (30) days of the Effective Date, the County and the Company will each provide to the other the name and email address of the person, which may change from time to time, who will serve as that party's principal contact for informal dispute resolution (the "Principal Contact"). When necessary, informal dispute resolution under this Section 11.03(a) shall be initiated by the Principal Contact of one of the parties submitting to the Principal Contact of the other party (by electronic mail) a Notice of Dispute briefly identifying the matters in dispute, together with that party's proposed resolution of the disputed matters and the factual and/or legal bases for such proposed resolution. Within seven (7) days of receipt of the Notice of Dispute, the other party's Principal Contact shall submit its reply (by electronic mail), which shall identify the party's position on the matters in dispute and the extent, if any, to which the parties' respective descriptions of those matters differ, as well as the party's proposed resolution of the disputed matters and the factual and/or legal bases for such proposed resolution. Unless otherwise agreed, within ten (10) days of the above-described reply the Principal Contacts of the

parties shall meet in person for one (1) business day, along with other appropriate representatives of the parties, to resolve the dispute. The persons participating in the meeting on behalf of each party shall have the technical and/or legal expertise appropriate given the nature of the dispute. If the dispute is not resolved at the meeting, and absent an agreement by both parties to continue the informal dispute resolution process, either party can declare the informal dispute resolution process ended with respect to the matters at issue. Notwithstanding the foregoing, the informal process for dispute resolution shall not prevent either party from pursuing limited judicial remedies where immediate action is necessary to prevent irreparable injury. No statement, written or oral, made by any representative of either party during the informal dispute resolution process shall be admitted into evidence for any purpose during any subsequent litigation of the disputes sought to be resolved, whether that litigation is in court or before an arbitrator.

(b) Arbitration. In the absence of informal resolution of a dispute, the Company and the County may agree to arbitrate any dispute arising out of this Agreement. Unless otherwise agreed in writing, the Company and the County shall continue to perform their respective obligations under this Agreement during any arbitration proceeding.

(c) Other Remedies Reserved. Subject to Sections 7.02 through 7.05, 10.04(b), 10.05(c), 11.03(a), 11.03(b) and 11.07, nothing in this Agreement restricts the rights of either party to pursue all remedies available at law or equity for protection and enforcement of its rights under this Agreement.

11.04 Indemnification

(a) Company Indemnification. The Company agrees that it shall protect, indemnify, and hold harmless the County and its officials, officers, members, employees, and agents (the "County Indemnified Parties") from and against all liabilities, actions, damages, claims, demands,

judgments, losses, costs, expenses, suits, or actions and attorneys' fees, and shall defend the County Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person or persons not parties to this Agreement, or for loss or damage to property of persons not parties to this Agreement arising out of (i) the negligence, omission or other wrongful conduct of the Company or any of its officials, agents, employees, contractors or subcontractors in connection with the Company's obligations or rights under this Agreement, (ii) the operation of the Facility by or under the direction of the Company or (iii) the performance (or nonperformance) of the Company's obligations under this Agreement; provided that, with respect to Hazardous Waste, the Company's obligation to indemnify the County shall be limited to loss or liability occasioned solely due to the Company's negligence or other wrongful conduct in connection with its obligations pursuant to Section 5.03 of this Agreement, and the Company is not required to reimburse or indemnify any County Indemnified Party for any loss or claim caused in whole or in part due to the negligence or other wrongful conduct of any County Indemnified Party; and provided further that and the County Indemnified Party whose negligence or other wrongful conduct is adjudged to have caused such loss or claim shall reimburse the Company for the costs of defending any suit with respect thereto.

(b) County Indemnification. The County agrees that it shall protect, indemnify, and hold harmless the Company, Covanta Marion Land Corp., the Parent, the Company's subcontractors of any tier, and their respective officers, members, employees and agents (the "Company Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and attorneys' fees, and shall defend the Company Indemnified Parties in any suit, including appeals, for personal injury to, or death, of any person or persons not parties to this Agreement, or for loss or damage to property of persons not parties to this Agreement arising out of (i) the negligence, omission or other wrongful conduct of the County or any of its officials, agents

or employees, contractors or subcontractors (other than Company) in connection with the County's obligations or rights under this Agreement, (ii) performance (or nonperformance) of the County's obligations under this Agreement, and (iii) Hazardous Waste; provided that the County shall have no obligation to indemnify the Company for its sole negligence or other wrongful conduct in connection with its obligations under Section 5.03 of this Agreement, and the County is not required to reimburse or indemnify any Company Indemnified Party for any loss or claim caused in whole or in part due to the negligence or other wrongful conduct of any Company Indemnified Party, and the Company Indemnified Party whose negligence or other wrongful conduct is adjudged to have caused such loss or claim shall reimburse the County for the costs of defending any suit with respect thereto.

(c) Waiver of Subrogation. As more fully described in Schedule 6, the Company and the County hereby waive any and every claim for recovery from the other for any and all loss or damage to each other resulting from the performance of this Agreement to the extent such loss or damage is recovered under insurance policies.

(d) Survival. The indemnification provisions of this Section 11.04 survive termination of this Agreement.

11.05 Effect of Termination

Upon the termination of this Agreement, whether at the completion of the Term, the extension under Section 11.01(b), or pursuant to either Article VII or Article X of this Agreement, the obligations of the Company and the County pursuant to Articles IV, V, VI and IX and Sections 11.01, 11.02 and 11.03 shall cease; provided that any obligation, for the payment of money or otherwise, arising from the conduct of the parties pursuant to this Agreement prior to such termination shall not be affected by such termination and shall remain in full force and effect.

11.06 Overdue Obligations to Bear Interest

All amounts due hereunder, whether as damages, credits, revenue or reimbursements, that are not paid when due shall bear interest at the Overdue Rate on the amount outstanding from time to time on the basis of a 360-day year, counting the actual number of days elapsed, and all such accrued interest shall, to the extent permitted by law, be added to the amount due.

11.07 Limitation of Liability

(a) For the Company. 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 SPECIFIED IN SECTION 6.13 OF THIS AGREEMENT RESULTING FROM THE FAULT OF THE COMPANY. ACCORDINGLY, WITH RESPECT TO THOSE CIRCUMSTANCES, THE COMPANY SHALL BE LIABLE AND OBLIGATED TO PAY TO THE COUNTY ONLY THOSE DIRECT DAMAGES AND OTHER AMOUNTS AS MAY BE SPECIFICALLY DUE AND PAYABLE UNDER THE TERMS OF SECTION 6.13 AND 6.15 OF THIS AGREEMENT.

(b) For 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 COMPANY AS A RESULT OF CIRCUMSTANCES SET FORTH IN SECTIONS 6.10 AND 6.14 OF THIS AGREEMENT RESULTING FROM THE FAULT OF THE COUNTY. ACCORDINGLY, WITH RESPECT TO THOSE CIRCUMSTANCES, THE COUNTY SHALL BE LIABLE AND OBLIGATED TO PAY

TO THE COMPANY ONLY THOSE DIRECT DAMAGES AND OTHER AMOUNTS AS MAY BE SPECIFICALLY DUE AND PAYABLE UNDER THE TERMS OF SECTIONS 6.10, 6.14 AND 6.15 OF THIS AGREEMENT.

(c) WITH RESPECT TO THE MATTERS THAT ARE THE SUBJECT OF SECTIONS 6.10, 6.13 AND 6.14 OF THIS AGREEMENT, THE REMEDIES PROVIDED IN THOSE SECTIONS SHALL BE EXCLUSIVE OF ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY; PROVIDED THAT THE PARTIES HERETO MAY ENFORCE SUCH OBLIGATIONS BY APPROPRIATE PROCEEDINGS IN COURTS OF EQUITY OR LAW HAVING JURISDICTION. WITH RESPECT TO ANY OTHER REMEDIES SET FORTH IN THIS AGREEMENT, THAT IS, FOR AVOIDANCE OF DOUBT, REMEDIES SET FORTH ELSEWHERE IN THIS AGREEMENT OTHER THAN SECTIONS 6.10, 6.13 AND 6.14, AS WELL AS ANY OTHER REMEDIES AVAILABLE TO EITHER PARTY AT LAW OR IN EQUITY, NEITHER THE COUNTY OR THE COMPANY, OR THE COMPANY'S SUBCONTRACTORS OF ANY TIER OF ANY OBLIGATIONS UNDER THIS AGREEMENT, SHALL BE LIABLE FOR OR OBLIGATED IN ANY MANNER TO PAY SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES WHETHER BECAUSE OF A BREACH OF WARRANTY CONTAINED IN THIS AGREEMENT OR ANY OTHER CAUSE, WHETHER BASED UPON CONTRACT, TORT (INCLUDING CLAIMS BASED UPON NEGLIGENCE), WARRANTY, OR OTHERWISE, ARISING OUT OF THE PERFORMANCE OR NONPERFORMANCE OF ANY OBLIGATIONS UNDER THIS AGREEMENT.

11.08 Industrial Property Rights

The Company shall pay all royalties and license fees relating to the operation and maintenance of the Facility. The Company hereby warrants that the design, construction,

performance testing and operation and maintenance of the Facility or the use of any component unit thereof or the use of any patent, patented article, machine or process, or a combination of any or all or the aforesaid, as contemplated by this Agreement shall not infringe any patent, trademark or copyright or constitute the unauthorized use of a third person's trade secrets. The Company (i) shall defend any claim or lawsuit brought against the County or any of its officials, agents, employees or representatives for infringement of any such patent, trademark or copyright, or for the unauthorized use of trade secrets by reason of the design, construction or operation of the Facility, or (ii) the Company, at its option, may acquire the rights of use under infringed patents, or modify or replace infringing equipment with non-infringing equipment equivalent in quality, performance, useful life and technical characteristics and development, and the Company shall indemnify and hold harmless the County and its officials, agents, employees or representatives against all liability, judgments, decrees, damages, interest, costs and expenses (including reasonable attorneys' fees) recovered against the County or any of its officials, agents, employees or representatives sustained by any or all by reason of any actual or alleged infringement or unauthorized use. The Company is not, however, required to reimburse or indemnify any person for loss or claim due to the negligence or intentional wrongful conduct of such person.

11.09 Relationship of the Parties

Except as otherwise explicitly provided herein, neither of the parties to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by any other party and nothing in this Agreement shall be deemed to constitute either party a partner, agent or legal representative of the other party or to create any fiduciary relationship between or among the parties. The County shall not have, through this Agreement or otherwise, (a)

any title to or ownership interest in the Facility or (b) physical possession of or control over the Facility.

11.10 Notices

Any notices or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person, or sent by certified or registered mail, return receipt requested, postage prepaid, or overnight courier, as follows:

If to the Company:
Covanta Marion, Inc.
4850 Brooklake Road, NE
Brooks, OR 97305
Attention: Plant Manager

With a copy to:

Covanta Energy Corporation
445 South Street
Morristown NJ 07960
Attention: General Counsel

If to the County:
Marion County Board of Commissioners
PO Box 14500
Salem, OR 97309
Attention: Chair

With a copy to:

Office of Legal Counsel
Marion County
325 13th Street, NE, Suite 404
PO Box 14500
Salem, OR 97309

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by written notice to the other party.

11.11 Waiver

The waiver by either party of a default or a breach of any provision of this Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either party with knowledge of the existence

of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

11.12 Entire Agreement, Modifications

The following schedules are attached to this Agreement and are incorporated into and made a part of the Agreement:

Schedule 1 Initial Pricing

Schedule 2 Performance Guarantees

Schedule 3 Performance Test Procedures

Schedule 4 Description of the Facility Site

Schedule 5 Lease of the Facility Site

Schedule 6 Insurance

Schedule 7 Waste Delivery

Schedule 8 Escalation Adjustment

Schedule 9 Pass Through Costs

Schedule 10 Form of Parent Guaranty

This Agreement, including the recitals hereto and the foregoing Schedules, constitutes the entire understanding of the parties with respect to the subject matter and supersedes all prior agreements and negotiations. The parties hereby affirm that the terms, conditions and provisions of this Agreement, inclusive of the Schedules, and any amendments that may be entered in accordance with the terms and conditions hereof, shall govern the obligations of the parties with respect to the operation and maintenance of the Facility. To the extent that the terms of any Schedule conflict with provisions within the body of this Agreement, the latter shall control.

11.13 Headings

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

11.14 Governing Law

This Agreement and any question concerning its validity, construction or performance shall be governed by the laws of the State, irrespective of the place of execution or of the order in which the signatures of the parties are affixed or of the place or places of performance.

11.15 Counterparts

This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which taken together shall be deemed a single instrument.

11.16 Severability

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

11.17 Cooperation Regarding Claims

If either party hereto shall receive notice or have knowledge of any claim, demand, action, suit or proceeding that may result in either (i) a claim for indemnification by such party against the other party pursuant to Section 11.04, or (ii) an Unforeseen Circumstance as to such party, such party shall, as promptly as possible, give the other party notice of such claim, demand, action, suit or

proceeding, including a reasonably detailed description of the facts and circumstances relating to such claim, demand, action, suit or proceeding and a complete copy of all notices, pleadings and other papers related thereto, and, in the case of a claim for indemnification pursuant to Section 11.04, such claim and the basis therefor in reasonable detail; provided that failure promptly to give such notice or to provide such information and documents shall not relieve the other party of any obligation of indemnification it may have under Section 11.04 unless such failure shall materially diminish the ability of such other party to respond to or to defend such claim, demand, action, suit or proceeding against the party failing to give such notice. The parties hereto shall consult with each other regarding and cooperate in respect of the response to and the defense of any such claim, demand, action, suit or proceeding and, in the case of a claim for indemnification pursuant to Section 11.04, the party against whom indemnification is claimed shall, upon its acknowledgment in writing of its obligation to indemnify the party seeking indemnification, be entitled to assume the defense or to represent the interests of the party seeking indemnification in respect of such claim, demand, action, suit or proceeding, which shall include the right to select and direct legal counsel and other consultants, appear in proceedings on behalf of such party and to propose, accept or reject offers of settlement.

11.18 Venue

The County and the Company hereby agree that any action, suit or proceeding arising out of this Agreement or any transaction contemplated hereby shall be brought in the Circuit Court of Multnomah County, Oregon, and that neither the County nor the Company shall object to the institution or maintenance of any such action, suit or proceeding in such court based on improper venue, forum non conveniens, or any other ground relating to the appropriate forum for such action, suit or proceeding.

11.19 Further Assurances

The Company and the County further covenant to cooperate with one another in all respects necessary to insure the successful consummation of the transactions contemplated by this Agreement, and each will take all actions within its authority to insure cooperation of its officials, officers, agents and other third parties including, in the case of the County, enforcement of the terms of the franchises of the Haulers.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement the day and year first above written.

ATTEST: (CORPORATE SEAL)

COVANTA MARION, INC.

By: Sheila Stalins

Title: Asst Secretary

By: _____

Title: SVP Business Management

ATTEST: (SEAL)

MARION COUNTY, OREGON

By: _____

Title: _____

By: Janet Carlson

Title: Chair

By: David A. Batte

Commissioner

SCHEDULE 1

INITIAL PRICING

The following are the specified amounts for various expenses and fees under the Service Agreement (the "Agreement"), each is stated as of July 1, 2013 and the figures shown, with the exception of item 1 and the Minimum Charges, are per ton amounts:

1.	Operations and Maintenance Expense for a Billing Period	$ 628,704.00
2.	Additional Waste Service Fee	
	a. For Waste in excess of the Standard Tonnage and equal to or less than one hundred sixty thousand (160,000) Tons per year	$ 21.62
	b. For Waste in excess of one hundred sixty thousand (160,000) Tons per year	$ 17.74
3.	Supplemental Waste Fees	
	In-County Fee	$ 99.91
	In-County Administrative Fee	$ 29.99
	Minimum Charge per delivery	$ 15.00
4.	Boxed Medical Waste Fee	$ 100.73
5.	Document Destruction Waste Fees	
	In-County and State of Oregon Agencies	$ 99.91
	In-County and State of Oregon Administrative Fee	$ 29.99
	Minimum Charge per delivery	$ 15.00

SCHEDULE 2
PERFORMANCE GUARANTEES

1. CAPACITY GUARANTEE

The Facility shall be capable of processing, in a seven (7)-day period, not less than Three Thousand Eight Hundred Fifty (3,850) Tons of Acceptable Waste having an energy content not greater than Four Thousand Seven Hundred (4,700) BTU (HHV) per pound and not less than Four Thousand Three Hundred (4,300) BTU (HHV) per pound (the "Guaranteed Facility Capacity").

To determine whether the Facility complies with the Guaranteed Facility Capacity, the actual number of Tons of Acceptable Waste processed having an energy content (i) in excess of Four Thousand Seven Hundred (4,700) BTU (HHV) per pound or (ii) less than Four Thousand Three Hundred (4,300) BTU (HHV) per pound, as determined in accordance with Schedule 3, shall be adjusted to an equivalent number of Tons processed by multiplying the actual number of Tons processed by (x) the actual BTU (HHV) content per pound and dividing by Four Thousand Seven Hundred (4,700) BTU (HHV) per pound, when the actual energy content is greater than Four Thousand Seven Hundred (4,700) BTU (HHV) per pound, or (y) by the difference of 2.0 and the ratio of the actual BTU (HHV) content per pound divided by Four Thousand Three Hundred (4,300), when the actual energy content is less than Four Thousand Three Hundred (4,300) BTU (HHV) per pound.

2. ENERGY EFFICIENCY GUARANTEE

The Facility shall produce a minimum of five hundred twenty-eight (528) kilowatt hours (kWh) prior to any in-plant use of electrical energy, and four hundred forty-eight (448) kWh net

of in-plant use of electrical energy, plus or minus four percent (4%), per Ton of Reference Composition Acceptable Waste as specified in Table 1 below when the Facility is operated at a through-put rate of approximately five hundred fifty (550) Tons per day (the "Guaranteed Electrical Output"). The energy content of Reference Composition Acceptable Waste and correction to the electrical output for Reference Composition Acceptable Waste shall be determined in accordance with the procedures set forth in Schedule 3.

Table 1

Reference Composition Acceptable Waste

Energy Content	4,500 BTU (HHV) per pound	
Carbon	25.00%	by weight
Hydrogen	3.420%	by weight
Oxygen	21.37%	by weight
Nitrogen	0.900%	by weight
Sulfur	0.095%	by weight
Chlorine	0.20%	by weight
Fluorine	0.015%	by weight
Oxidizable Iron	1.000%	by weight
Ash and Inerts	18.0%	by weight
Moisture	30.0%	by weight
	100.00%	

3. ENVIRONMENTAL REGULATION COMPLIANCE GUARANTEE

The Facility shall comply with all applicable Federal, State and local laws, regulations and standards in effect on the Contract Date, including the terms and conditions of Oregon Title V Operating Permit No. 24-5398-TV-01, Oregon Department of Environmental Quality, determined in accordance with the applicable U.S. Environmental Protection Agency Test Methods ("Environmental Regulation Compliance Guarantee"). The obligation to comply with the Environmental Regulation Compliance Guarantee is subject to the Company's right to limit

and/or refuse acceptance of deliveries of Acceptable Waste having an elevated content of sulfur, chlorine and/or mercury if such waste could reasonably be expected to impair the Facility's ability to comply with the Environmental Requirements.

4. PROCESS RESIDUE QUALITY GUARANTEE

The Facility shall produce Process Residue which shall contain not more than five percent (5%) (by dry weight) combustible matter and not more than thirty percent (30%) moisture when operated with Acceptable Waste as determined by the procedures of Schedule 3 (the "Guaranteed Process Residue Quality").

5. FULL ACCEPTANCE STANDARD

The Full Acceptance Standard shall mean the Performance Guarantees set forth in paragraphs 1 through 4 of this Schedule 2.

6. MINIMAL ACCEPTANCE STANDARD

The Minimal Acceptance Standard shall mean eighty-five percent (85%) of the Full Acceptance Standard for the Guaranteed Facility Capacity and Guaranteed Electrical Output, one hundred twenty-five percent (125%) of the Guaranteed Process Residue Quality, and one hundred percent (100%) of the Environmental Regulation Compliance Guarantee.

7. FERROUS REMOVAL GUARANTEE

The Facility shall recover from the Process Residue which results from processing Acceptable Waste at least seventy percent (70%) by weight of all magnetic ferrous metals in such Process Residue insofar as magnetic ferrous metals are in the size range minus 10 inch through plus 5/8 inch ("Ferrous Removal Guarantee").

8. MAXIMUM REAGENT UTILIZATION GUARANTEE

The Maximum Reagent Utilization Guarantee consists of the Carbon Utilization Guarantee, the Dolomitic Lime Utilization Guarantee and the Ammonia Utilization Guarantee, which are, respectively, the following maximum rates of consumption per Ton of Waste processed at the Facility:

Carbon Utilization Guarantee:

Equal to or less than one hundred ten percent (110%) of the quantity used during the most recent stack test for mercury emissions

Dolomitic Lime Utilization Guarantee:

Equal to or less than one hundred ten percent (110%) of the amount used during the previous quarterly pH test of the ash component of Process Residue

Ammonia Utilization (also known as aqueous ammonia) Guarantee:

Nine-tenths (0.90) of a gallon of ammonium hydroxide (aqueous ammonia), at a nineteen percent (19%) concentration of ammonia, per ton of Waste processed based on a nitrogen oxide emission limit equal to or greater than two hundred five (205) parts per million

The Maximum Reagent Utilization Guarantee set forth in this paragraph 8 of Schedule 2 is subject to Unforeseen Circumstances provisions of Section 7.03 of the Agreement.

9. MAXIMUM UTILITY UTILIZATION GUARANTEE

The Maximum Utility Utilization Guarantee consists of the Purchased Electricity Guarantee, the Electrical Demand Guarantee and the Natural Gas Utilization Guarantee, which are, respectively, the following maximum rates of consumption by the Facility:

Purchased Electricity – Shall not exceed 200,000 kWh per Contract Year, provided that if major maintenance of the Facility's turbine generator is required during a Contract Year, Purchased Electricity shall not exceed nine hundred thousand (900,000) kWh for that Contract Year, and provided further that the major maintenance of the turbine generator which qualifies for purchased electricity greater than 200,000 kWh per year shall not occur more frequently than once every five (5) years unless otherwise agreed to in writing by the County

SCHEDULE 3
PERFORMANCE TEST PROCEDURES

1. INTRODUCTION

The purpose of the Performance Test Procedures that follow will be to determine whether the Facility complies with certain Performance Guarantees set forth in Schedule 2. A Capacity Test, an Energy Efficiency Test, an Environmental Regulation Compliance Test, a Process Residue Quality Test and a Ferrous Recovery Test will be performed in accordance with the procedures set forth below. The Residue Quality Test will be performed in conjunction with the Capacity Test. These tests are referred to collectively as the "Performance Tests."

2. INITIATION AND NOTICE

The Performance Tests may be initiated by the Company or the County in accordance with Section 4.08(d) of the Agreement.

3. CAPACITY TEST

Facility capacity throughput will be tested during a continuous seventy-two (72) hour period for the purpose of determining whether the Facility meets the Guaranteed Facility Capacity set forth in Schedule 2. Acceptable Waste fired during the Capacity Test will be pre-selected to be as nearly representative of the Reference Composition Acceptable Waste as is reasonably possible. If required, the Acceptable Waste energy content during the test period shall be determined based on the test procedure set forth in this Schedule 3. The number of Tons of Acceptable Waste processed in the seventy-two (72) hour period will be multiplied by seven-thirds (7/3) to obtain the equivalent seven (7) day throughput, which equivalent seven (7) day

throughput shall be compared to the Guaranteed Facility Capacity set forth in paragraph 1 of Schedule 2.

The capacity throughput will be measured using the weigh scales at the Facility, the accuracy of which shall be maintained in accordance with State requirements. All scales will be calibrated by the Company prior to the test. The County may witness such calibration.

Acceptable Waste will be delivered to the Facility by the County in the amounts required by the Company for the purpose of conducting preliminary tests, the Capacity Test itself, or any additional tests.

Preliminary test runs may be performed prior to any Capacity Test run for the purpose of checking and making adjustments to the equipment and familiarizing test personnel with the Facility and equipment.

Acceptable Waste stored in the pit will be at a level agreed upon by the Company and the County at the beginning and end of each Capacity Test run. Acceptable Waste in the feed chutes shall likewise be at specified levels at the beginning and end of each Capacity Test run.

Prior to any Capacity Test, all operating conditions will be established and stabilized. During such tests, all operating conditions which might affect the results thereof will be maintained at levels that are as constant as possible, recognizing the heterogeneous nature of the Acceptable Waste.

The Facility will be operated in a manner consistent with expected day-to-day long-term operation of the Facility. All equipment and accessories will be operated in their expected day-to-day long-term mode.

During the Capacity Test, the Company will take residue samples at six (6)-hour intervals that will be used to arrive at composite daily residue samples for analysis of unburned

combustibles content. The process of obtaining samples will be witnessed and the corresponding analysis conducted by an independent laboratory acceptable to the County.

Within a reasonable period of time following successful completion of the Capacity Test, the Company will submit to the County six (6) copies of the Capacity Test report. Copies of the original Capacity Test data sheets and log sheets will be available to the County upon request.

Shutdown of part or all of the Facility to make necessary repairs to equipment or to correct normal operational problems will be permitted. If the County and Company agree, a shutdown time of up to twelve (12) unit hours may be excluded from the seventy-two hour Capacity Test run period.

4. ENERGY EFFICIENCY TEST

The objective of the Energy Efficiency Test is to measure the total electrical energy generation per Ton of Reference Composition Acceptable Waste at the normal throughput rate of the Facility.

a. Approach. Electrical generation is dependent upon the throughput rate, composition and higher heating value (HHV) of Waste. For Performance Test purposes, it is recognized that the Acceptable Waste delivered to the Facility may not be representative of the Reference Composition Acceptable Waste, and the total generated electrical energy must, therefore, be corrected to the amount that would have been obtained by the combustion of the Reference Composition Acceptable Waste. It is further recognized that, by using the Facility's combustion system as a calorimeter, the specific HHV of the delivered Acceptable Waste may be determined simultaneously with measurement of the total electrical energy output and the results can then be corrected to the specified conditions as described hereinafter.

For the Energy Efficiency Test, the Facility will be operated at a throughput rate of approximately five hundred fifty (550) Tons per day of Acceptable Waste. Acceptable Waste fired during such test will be pre-selected to be as nearly representative of the Reference Composition Acceptable Waste as is reasonably possible. The Facility will be operated in a manner consistent with expected day-to-day long-term operation of the Facility. All combustion trains will be operated with normal boiler blow down and maintained at equal conditions of operation by observation and appropriate adjustment of all operating parameters. The Energy Efficiency Test shall be conducted in accordance with the American Society of Mechanical Engineers Performance Test Code 34 Waste Combustors with Energy Recovery (PTC 34, 2007) (the "Test Code"), as modified herein for determination of all heat losses, heat outputs and heat credits, using the boiler-as-a calorimeter method.

b. Test Procedures. The Energy Efficiency Test described herein shall be performed when the Facility's boilers have had a minimum of two (2) weeks operating time to allow the boilers to become fouled to a normal operating cleanliness.

During an eight-hour test, pertinent operating data will be recorded at appropriate intervals and in accordance with the Test Code. Data and measurements will include, but not necessarily be limited to the following:

1. Acceptable Waste feed rate.
2. Boiler outlet steam rates, net after soot blowing, temperatures and pressures.
3. Feed water rates, temperatures and pressures.
4. Boiler drum pressures.
5. Turbine-generator throttle flow.
6. Ambient air temperatures and temperatures at the air pre-heater inlets and outlets.

7. Flue gas rates and temperatures at the economizer outlets.

8. CO_2, O_2, CO and H_2O in the flue gas at the economizer outlets.

9. Bottom ash, grate siftings, and fly ash quantities and unburned carbon content.

10. Barometric pressure.

11. Ambient wet/dry bulb temperatures.

12. Process Residue quench water quantities and temperatures.

13. Moisture in the Process Residue.

14. Turbine-generator electrical output.

15. Turbine exhaust pressure.

16. Boiler blow down rate.

Test measurements will be taken from instruments that have been installed at the Facility, calibrated within sixty (60) days prior to the start of the test, and the accuracy of which has been agreed upon by the County and the Company. Special portable instrumentation may also be used where required and agreed upon by the parties.

c. Data Analysis. Utilizing the test data and measurements from the Energy Efficiency Test, calculations will be made in accordance with the Test Code for the determination of all boiler heat losses, heat outputs, and heat credits. Pertinent data and measurements from that test will be averaged for all combustion trains.

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

Calculations for heat losses will include heat in the output steam.

Calculations for heat losses will include:

1. Carbon loss due to unburned combustibles in the Process Residue.

2. Incomplete combustion of carbon monoxide.

3. Sensible and latent heat in the wet flue gas.

4. Heat loss due to radiation and convection from the boilers.

5. Sensible heat in the Process Residue.

6. Heat loss in the quench cooling water vapor in the combustion gases.

7. Heat loss in the blow down.

Acceptable Waste HHV 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.

Adjustments to heat losses and heat credits to account for the difference in the as-fired composition and the Reference Composition Acceptable Waste will be made in accordance with Sections 7.4 and 7.5 of the Test Code. Acceptable Waste fuel composition will be adjusted for HHV, percent moisture and percent non-combustibles. Gas exit temperature will be adjusted to account for the actual composition of the as-fired fuel.

After adjustments to heat losses and heat credits as above, the measured boiler heat output and steam flow will be adjusted to the steam flow and corresponding turbine-generator throttle flow which would have been obtained from Reference Composition Acceptable Waste. By use of the turbine-generator performance curve (as verified by the Company) an adjusted gross electrical output for the test condition corresponding to the Reference Composition Acceptable Waste and to turbine-generator operation at the local annual average ambient temperature conditions will be determined.

5. ENVIRONMENTAL REGULATORY COMPLIANCE

a. The Facility will be tested in accordance with all then-current and applicable federal, State and local environmental regulations. The Company shall be responsible for conducting all such tests including all related sampling, testing and analysis. The methods and procedures for emissions testing shall be those test methods and procedures specified in federal, State and local laws, regulations, standards and permits applicable at the time of such testing, or in the absence thereof, methods and procedures consistent with accepted practices in the "waste to energy" industry.

b. Testing will be performed on each combustion unit as required by the environmental agency having jurisdiction. Each combustion unit being tested will be operated at a throughput rate of approximately two hundred seventy five (275) Tons of Acceptable Waste per day.

c. It is understood that the Environmental Regulation Compliance Guarantee (as defined in Schedule 2) is governed by the laws, regulations and permit requirements in effect as of the Contract Date.

6. PROCESS RESIDUE QUALITY TEST

The Facility will be operated at a throughput rate of approximately five hundred fifty (550) Tons per day of Acceptable Waste for an eight (8)-hour period.

Such an eight-hour period shall constitute the test period for the Process Residue Quality Test, and the Process Residue produced during the test period shall be weighed, sampled and analyzed to determine moisture content and dry weight percentage of unburned combustible matter. Representative samples of Process Residue produced shall be taken at ten (10)-minute intervals during the test period. The test protocol shall specify the sampling point and method of

sampling to assure collection of a representative sample of Process Residue. The grab samples of residue may exclude those items which because of their substantial bulk or general nature can be considered relatively noncombustible.

Eight (8) composite samples of one (1) hour each of Process Residue shall be prepared by combining six (6) samples of 10-minute duration each per hour. The eight 1-hour composite samples shall be analyzed to determine the dry weight percentage of unburned combustible matter and moisture content in accordance with the following American Society for Testing and Materials (ASTM) test methods:

(i) ASTM Method D-2015 using an adiabatic bomb calorimeter to determine the percentage of combustible matter.

(ii) ASTM Method D-3302 to determine moisture content.

The results for the eight 1-hour composite samples shall be averaged and the resulting average compared with the Process Residue Quality Guarantee. The amount of carbon reagent that results from operation of the carbon injection system shall be subtracted from the unburned carbon results prior to comparing with the Process Residue Quality Guarantee. The carbon feed rate shall be recorded during the test period.

7. FERROUS RECOVERY TEST

The objective of the Ferrous Recovery Test is to determine the capability of the Ferrous Metal Recovery System and its ability to meet or exceed the Ferrous Removal Guarantee. The Ferrous Recovery Test shall be conducted for a continuous eight (8)-hour test period when the Facility is operated at or near the design capacity refuse throughput rate of 550 tons per day, and the Ferrous Recovery System will be operated continuously

During the test, all residue handling equipment shall be operating satisfactorily and the grizzly scalper shall be assumed to separate the Process Residue into an under ten (10)-inch stream (the "Test

Stream") and an over ten (10)-inch stream. At the conclusion of the test the weight of the ferrous metal recovered by the System ("Recovered Ferrous"), which is the weight of the remaining ferrous metal, will be determined.

Periodic samples of the Test Stream after the Recovered Ferrous has been removed ("Remaining Residue") shall be collected throughout the test period and composited. The weight of the composited sample of Remaining Residue shall be approximately one percent (1%) of the weight of the Test Stream. The weight of the composited sample of Remaining Residue, and the total weight of the Remaining Residue generated during the test period, shall be determined.

The composited sample of Remaining Residue shall be screened through a 5/8 inch top size screen. Following that screening process, the greater-than 5/8 inch portion of the sample shall be spread thinly and evenly on a clean paved surface, and a high strength magnet shall be passed over this portion to extract the Residual Recoverable Ferrous Metal ("Residual Recoverable Ferrous Metal"), after which the Residual Recoverable Ferrous Metal shall be weighed. The weight of the Residual Recoverable Ferrous Metal divided by the weight of the composited sample of Remaining Residue is the fraction of Unrecovered Ferrous ("Unrecovered Ferrous") in the Test Stream. The weight of the Unrecovered Ferrous shall be determined by multiplying the fraction to which the previous sentence refers by the total weight of Remaining Residue generated during the test period. The Tested Ferrous Recovery Percentage shall be equal to one hundred times the weight of the Recovered Ferrous divided by the sum of the weight of the Recovered Ferrous plus the weight of the Unrecovered Ferrous.

SCHEDULE 4

FACILITY SITE

Beginning at the Northeasterly corner of Block 6, Rail Road Addition to the town of Brooks in Section 17, Township 6 South, Range 2 West of the Willamette Meridian in Marion County, Oregon, all recorded in Volume 1, Page 56 of Town Plats of said County and State; thence South 33 °12° 43° West 199.92 feet along the Easterly line of said Block 6 to the Northerly right of way line of "A" Street, said point being a 3/4" iron pipe; thence North 56° 58° 13° West 100.00 feet along said right of way line to the Westerly boundary line of said Addition, said point being a 3/4" iron pipe, thence South 33° 13° 30° West 599.82 feet to the Southwest corner of said Addition, said point being a 1" iron rod; thence South 50° 58° 13° East 126.11 feet along the Southwesterly line of said Addition, said point being a 5/8" iron rod; thence South 33° 15° 03° West 111.43 feet to the Northeasterly corner of that tract of land conveyed to Jacob Naylor and wife by deed recorded in Volume 120, Page 65 of the Deed Records of said County and State, said point being a 3/4" iron pipe; thence North 22° 56° 18° West 470.40 feet to the Northwesterly corner of said tract, said point being a 5/8" iron rod; thence North 82° 56° 18° West 75.25 feet along the prolongation of the northerly line of said tract; thence North 2° 23° 33° East 1028.00 feet to the South right of way line of Brooklake Road (County Road No. 609); thence South 87° 36° 27° East 525.19 feet along said South right of way line; thence South 58° 47° 50° East 90.64 feet along said South right-of-way line; thence South 56° 58° 30° East 187.89 feet along said right of way to the Westerly line of the town of Brooks, Marion County, Oregon, as recorded in Volume 1, Page 41 of Town Plats of said County and State; thence South 33° 12° 43° West 5.00 feet along said Westerly line; thence South 56° 58° 30° East 266.00 feet along said road right-of-way to the point of beginning.

Said parcel containing 16.96 acres more or less of which 1.40 acres more or less is within the right of way of public streets as platted within the town of Brooks, Marion County, Oregon, and recorded in Volume 1, Page 43 of Town Plats of said County and State. Beginning at a point 68 feet West of the center of the Southern Pacific right of way and on the South line of the town of Brooks; thence running in a Westerly direction along the North line of the land heretofore conveyed to J.W. Fruit by A. Bainter and wife 408 feet; thence in a Northerly direction along the East line of the land heretofore conveyed to J.S. Dunlavy by M.L. Jones and wife, 100 feet; thence in an Easterly direction parallel with the North line of the said land heretofore conveyed to J.W. Fruit by A. Bainter and wife 463 feet to a point 68 feet West of the center of the said Southern Pacific right of way; thence in a Southerly direction parallel with said Southern Pacific right of way about 124 feet to the place of beginning; and being a part of the Linus Brooks and wife's Donation Land Claim No. 64 in Township 6 South, Range 2 West of the Willamette Meridian, in Marion County, Oregon.

ALSO: Beginning at a point 68 feet West of the center o the Southern Pacific right of way and at the Northeast corner of the land heretofore conveyed by M.L. Jones and wife to Jacob Naylor and wife, the Deed of which was recorded on Page 340, of Book 107, Record of Deeds for Marion County, Oregon; thence running in a Westerly direction along the North line of said land heretofore conveyed by M.L. Jones and wife to Jacob Naylor and wife 463 feet; thence in a

Northerly direction along the East line of the land heretofore conveyed to J.S. Dunlavy by M.L. Jones and wife, 47 feet thence in an Easterly direction and straight line to the place of beginning; and being a part of the Linus Brooks and wife's Donation Land Claim No. 64 in Township 6 South, Range 2 West of the Willamette Meridian in Marion County, Oregon. That portion of C Street in Brooks, Marion County, Oregon, lying between Lot 1, Block 5, and Lot 4, Block 6, Railroad Addition to the Town of Brooks, in Marion County, Oregon.

AND ALSO: All of Lot Number One (1), in Block Number 5 of the Railroad Addition to the Town of Brooks in the County of Marion, State of Oregon, according to the official county records thereof.

AND ALSO: Fractional lot Numbered 2 in Block Numbered 5 of the Railroad Addition to the Town of Brooks, according to the duly recorded map and plat thereof in the office of the County Recorder of said County.

Tract 1: Lots Three (3), and Four (4) Block Six (6), Railroad Addition to the Town of Brooks, Marion County, Oregon.

Tract 2: The South one-fifth of Lot Number Two in Block Number Six, Railroad Addition, Brooks, Marion County, Oregon.

The North four-fifth of Lot Two and all of Lot One in Block Six, Railroad Addition, Brooks, Marion County, Oregon.

Lots 3 and 4, Block 7, Railroad Addition to Brooks, Marion County, Oregon. Beginning at the most Easterly corner of Block Seven (7), of Railroad Addition to the Town of Brooks in Marion County, in Oregon; thence Southerly 31° 15° West along the Easterly line of said Block 100 feet; thence North 58° 45° West parallel with the Northerly line of said Block 100 feet to the Westerly line of said Block; thence North 31° 15° West along said Westerly line 100 feet to the most Northerly corner of said Block and to the Southerly line of "A" Street in said town of Brooks; thence South 58° 45° East along said street line and along the Northerly line of said Block 100 feet to the place of beginning.

SCHEDULE 6

INSURANCE

1. Types and Amounts of Insurance Coverage. The Company shall obtain and maintain the following insurance with respect to the operation of the Facility, which shall be procured in such amounts and form and with the deductible limits specified in this Schedule 6 for Property Damage Coverage and such deductible limits as may be reasonably acceptable to the County with respect to coverage other than Property Damage Coverage, and which insurance shall at all times be adequate to protect the interests of the various Persons that are beneficiaries under such insurance policies (the "Insureds") to the extent they appear in this paragraph 1 (for purposes of this Schedule 6, all notifications, requests for approval or other communications with the County shall be directed to the Marion County Risk Manager, PO Box 14500, Salem, OR 97309):

(a) Workers' Compensation Insurance Coverage in compliance with the Workers' Compensation Law of the State extended by the Broad Form All States Endorsement, the United States Longshoremen and Harbor Worker's Coverage Endorsement and the Voluntary Compensation Coverage Endorsement.

(b) Employers' Liability Insurance Coverage subject to the minimum Limit of Primary Bodily Injury Liability Insurance required to support the purchase of the Umbrella Liability Insurance set forth in paragraph 1(e) of this Schedule 6.

(c) Commercial General Liability Insurance covering all premises and operations including independent contractors, products and operations, which shall not exclude coverage for Explosion, Collapse and Underground Hazards and shall include coverage for Environmental Pollution as well as punitive or exemplary damages awarded against an Insured

in all jurisdictions where such damage awards are not contrary to established law. The applicable limit of liability shall be the minimum Combined Single Limit of Primary Insurance required to support the purchase of the Umbrella Liability Insurance set forth in paragraph 1(e) of this Schedule 6.

(d) Comprehensive Automobile Liability Insurance Coverage applicable to all owned, hired and non-owned vehicles subject to the minimum Combined Single Limit of Primary Insurance required to support the purchase of the Umbrella Liability Insurance set forth in paragraph 1(e) of this Schedule 6.

(e) Umbrella Liability Insurance Coverage which shall be a following form as respects all underlying coverages. The Limit of Liability shall be at least $50,000,000 per occurrence and, as applicable, in the aggregate. The umbrella coverage shall sit above the coverages identified in paragraphs 1(b), 1(c) and 1(d) of this Schedule 6.

(f) Property Damage Coverage on an All Risks Basis (including Inland Transit and Ocean Marine) in an amount not less than 100% of the replacement cost of the Facility to protect against loss of, damage to or destruction of the Facility. Such insurance shall be endorsed to also:

(i) Cover loss of, damage to or destruction caused by flood and/or earthquake and/or volcanic eruption (provided that earthquake and volcanic eruption coverage shall be limited to $25,000,000) and/or testing;

(ii) Include the Agreed Amount Clause (in lieu of the co-insurance clause); and

(iii) The deductible amounts for such insurance shall not exceed the following:

Coverages	Deductibles Per Occurrence
1. Flood	$250,000
2. Earthquake and Volcanic Eruption	$250,000
3. All Other	$50,000

The Company may elect deductible amounts that are higher than the amounts specified immediately above, provided that the County shall not be responsible for payment of any deductible amounts or for uninsured claims, costs or losses in excess of the deductible amounts specified immediately above.

(g) Business Interruption and Extra Expense Insurance on the Facility to protect the Company and the County for the loss of revenues attributable to the Facility (and extra expenses incurred) by reason of the total or partial suspension of, or interruption in, the operation of the Facility caused by loss, damage to, or destruction of any part of the Facility or Facility Site as a result of the perils insured against pursuant to paragraph 1(f) of this Schedule 6 covering a period of suspension or interruption of at least twelve (12) calendar months, in an amount not less than that required for the Operation and Maintenance Expense during any such period. Such insurance shall exclude any loss of revenues sustained during the first fifteen (15) days of total or partial interruption of use of the Facility. All policies obtained pursuant to paragraph 1(f) of this Schedule 6 may be subject to normal exclusions relating to nuclear risks, war risks and other such perils as are generally imposed by Insurers on similar properties.

(h) Environmental Impairment Liability Insurance in an amount not less than two million dollars ($2,000,000) per incident and four million dollars ($4,000,000) annual aggregate.

(i) The Company shall carry such additional insurance as the County may reasonably request from time to time.

2. Additional Insureds. The Company shall name the County (including its officers, employees and agents) as additional insureds (the "Additional Insureds") on all insurance policies required pursuant to this Schedule 6 as the County's interests may appear in accordance with the contracts and agreements (related to the Facility and Facility Site) to which it is a party.

3. Special Insurance Provisions. With respect to the insurance specified in this Schedule 6:

(a) Such coverages shall not be canceled or materially changed without giving the County at least forty-five (45) days prior written notification thereof;

(b) The Insurers shall have no recourse against the Additional Insureds for payment of any insurance premium; however, such Additional Insureds shall have the option of paying any such premium in order to prevent cancellation of insurances for non-payment of premiums;

(c) Neither the Company nor any of the Additional Insureds shall have the unilateral right to make an insurance settlement under the policies of insurance set forth herein, provided that the Company has the unilateral right to make insurance settlements for claims for workers' compensation or workers' personal injury.

(d) If at any time the insurance coverage set forth in this Schedule 6 shall fail to comply with the insurance requirements specified, the Company shall, upon notice to that effect, promptly apply for a new policy, submit such policies to the County for prior approval, and upon obtaining such approval, file a certificate thereof with the County. If the Company fails to comply with any such insurance requirements, and such insurance requirements are reasonably available from acceptable insurers, then the County may at its option pay a renewal premium or otherwise fulfill the particular insurance requirements and deduct the cost thereof

from any monies due the Company from the County. Failure of the Company to take out and/or maintain any required insurance shall not relieve the Company from any liability hereunder.

(e) The Company and any subcontractor shall evidence compliance with the Workers' Compensation law by supplying for the County, for its written approval prior to the commencement of any part of the Work, the following attested documentation:

(i) A Workers' Compensation certificate, prescribed for proof of compliance with the Workers' Compensation law; and

(ii) If the Company or any subcontractor (employer) is self-insured under a Workers' Compensation Policy it shall present a certificate evidencing that fact to the County from the Workers' Compensation Board.

(f) With respect to the interests of the Additional Insureds such insurance shall not be invalidated by any action or inaction of the Company and shall insure such Additional Insureds regardless of any breach or violation of any warranty, declaration or condition contained in such insurance by the Company.

(g) Such liability insurance as is afforded by the insurance set forth in paragraphs 1(b), (c), (d) and (e) shall be primary without the right of contribution from any other insurance that is carried (or self-insured) by an Additional Insured with respect to their interests in the Facility or the Facility Site and, further, such liability insurance shall expressly provide that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each Insured.

(h) The Company shall arrange for appropriate certificates of insurance to be issued to each Additional Insured by each Insurer of the insurance set forth in paragraph 1 of this Schedule 6.

(i) The Company will furnish the County as an Additional Insured a report signed by a Company-appointed firm of independent insurance brokers stating the opinion of such firm that the insurance then carried and maintained complies with the terms of this Schedule 6. The Company will also cause such firm to advise the County as an Additional Insured in writing at least thirty (30) days prior to the termination of any such insurance for any reason other than expiration of the term thereof in the ordinary course of business and will cause such firm to advise the County in writing within sixty (60) days of the date that such insurance has been renewed.

4. Indemnification. To the extent that the Company and/or the County as an Additional Insured have, under any contract or agreement related to the Facility and/or Facility Site:

(a) Assumed liability for bodily injury, property damage and/or personal injury liability, an endorsement shall be issued to the effect that such insurance as is afforded by the insurance set forth in paragraph 1 of this Schedule 6 shall apply to such assumed liability; or

(b) Waived their rights of subrogation with respect to any such liability, the Insurers under the policies of insurance set forth in paragraph 1 of this Schedule 6, shall by endorsement of such policies of insurance, waive their rights of subrogation against the Company and the County as an Additional Insured; provided, however, that the exercise by such Insurers of rights retained by the Company and/or the County as an Additional Insured shall not in any way delay payment of any claim that would otherwise be payable by such Insurers but for the existence of rights of subrogation derived from such rights retained by the Company and/or the County as an Additional Insured.

This Schedule 6 is subject in all respects to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7.

5. Parent Corporation. In recognition of the Parent's unconditional guaranty of the Company's obligations under the Agreement, wherever the term "the Company" is used in this Schedule 6, it shall be deemed to include the Parent and any other subsidiary of the Parent involved in any way with either the Facility or the Facility Site.

6. Waiver of Subrogation. The Company and the County hereby waive any and all claims for recovery from the other for any loss or damage to each other resulting from the performance of this Agreement insofar as such loss or damage is covered by valid and collectible insurance policies and to the extent that such loss or damage is recovered under said insurance policies. Inasmuch as this mutual waiver will preclude the assignment of any such claim, to the extent of such recovery, by subrogation (or otherwise) to an insurance company (or any other person), the Company and the County each agree to give to each insurance company which has issued, or may issue in the future, policies of insurance, written notice of the terms of this mutual waiver and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver.

SCHEDULE 7

WASTE DELIVERY

The Standard Tonnage shall be 145,000 Tons of Acceptable Waste for each Contract Year and shall be prorated on the basis of a 360-day year for any Contract Year less than 12 calendar months. The Standard Tonnage for each Billing Period in any Contract Year shall be determined at least 60 days prior to the beginning of each Contract Year by the mutual consent of the Company and the County in the form of an annual appendix ("Appendix") to this Schedule 7. The sum of the Standard Tonnages for the Billing Periods in any Contract Year shall equal the Standard Tonnage for such Contract Year.

Delivery of County Tons shall not exceed One Thousand (1,000) Tons in any day or Three Thousand Eight Hundred Fifty (3,850) Tons in any week without the consent of the Company. The Company and the County may revise the Appendix for the current Contract Year at any time by mutual consent.

SCHEDULE 8

ESCALATION ADJUSTMENT

1. Except as otherwise provided, any amount set forth in this Agreement ("X(o)"), which is subject to escalation pursuant to this Schedule shall be calculated for each Contract Year as "X(n)", where "n" is the number of the Contract Year following the Contract Date, by multiplying by an Escalation Factor for such Contract Year ("E(n)"), or

X(n) = [X(o)] [E(n)]

Where E(n) is equal to a fraction, the numerator of which is the Consumer Price Index for all Urban Consumers for Portland, Oregon, as originally published by the United States Department of Labor, Bureau of Labor Statistics ("CPI-UP"), for the second half of the Contract Year preceding the nth Contract Year, and the denominator of which is CPI-UP for the second half of the X(o) as established and specified in this Agreement.

2. If CPI-UP is no longer published at any time that the escalation is to be calculated, the calculation shall be made using a comparable index or price reasonably satisfactory to the Company and the County, and if the base or method of calculation used for CPI-UP or any substituted index or price is altered, the escalation shall be calculated to reflect the actual percentage change in such index or price during the period beginning with the second half of the Contract Year in which the amount to be escalated occurred and continuing to the date for which the escalation is to be calculated.

3. If the CPI-UP is not available for the second half of the Contract Year in question due to the schedule of publication of the CPI-UP, the Company shall extrapolate the CPI-UP from the three most recent publications of the CPI-UP.

SCHEDULE 9

PASS THROUGH COSTS DURING OPERATIONS

Pass Through Costs payable by the County to the Company in any Billing Period shall include the following items:

1. Any costs incurred by the Company for premiums for the insurance policies provided for in paragraphs 1(f), (g) and (i) of Schedule 6.

2. The cost of carbon, dolomitic lime, ammonia, purchased electricity including electric service demand charges, and natural gas, all as limited, respectively, by the Carbon Utilization Guarantee, the Dolomitic Lime Utilization Guarantee, the Ammonia Utilization Guarantee, the Purchased Electricity Guarantee, the Electrical Demand Guarantee and the Natural Gas Utilization Guarantee set forth in Schedule 2 and reconciled in accordance with Section 6.17 of the Agreement.

3(a). Any sales, 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 by the State, the County or any other taxing jurisdiction of the State against the Company, the Facility or the Facility Site, upon or with respect to the Facility or the Facility Site, 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, and (c) any federal tax imposed pursuant to an amendment to the Internal Revenue Code of 1954, as amended, or any successor laws, on energy produced by the Facility (other than upon or measured by incremental value of energy from the Facility in the nature of a true windfall profits tax) or based on the environmental impact of the Facility.

4. All costs, fees or charges of the County, including any license or franchise fee payable to permit the Company to perform its obligations under this Agreement.

5. All costs of transportation and landfill or other disposal or processing of (a) Process Residue, (b) Process Rejects, (c) up to five thousand (5000) Tons of County By-Pass Waste in any Contract Year resulting from Company Fault and (d) County By-Pass Waste resulting from an Unforeseen Circumstance but only insofar as the Agreement has not been terminated pursuant to Section 7.03(a) thereof.

6. Subject to Cost Substantiation, the County agrees to pay the Company as a Pass Through Cost: (a) fifty percent (50%) of the monthly rental fee that the Company pays to Covanta Marion Land Corp. pursuant to the Ground Lease dated as of November 1, 1986, between the Company and Covanta Marion Land Corp. provided that the amount of the monthly rental fee on which the County's fifty percent share is based shall not exceed the amount of the monthly rental fee under the above-described Ground Lease as of January 1, 2013; and (b) the cost of all insurance, if any, required to be carried pursuant to the Ground Lease.

7. Subject to Cost Substantiation, the following charges, fees and costs: (a) utility interconnection charge; (b) environmental permit fees; (c) the cost of annual stack testing consisting of 100% Rata Testing, 100% Fugitive and Visible Emissions, 100% Mercury (inlet), 80% Dioxins/Furans, and 80% Metals (lead, cadmium, mercury); (d) the cost of ASME ORO

SCHEDULE 10

FORM OF PARENT GUARANTY

THIS GUARANTY, made as of the _____ day of September, 2013, by Covanta Holding Corporation, a Delaware corporation ("Covanta"), having its principal place of business in Morristown, New Jersey, to and for the benefit of Marion County, Oregon (the "County"), a political subdivision of the State of Oregon (the "State"), acting by and through its Board of Commissioners.

WITNESSETH:

WHEREAS, Covanta Marion, Inc., an Oregon corporation ("Company") and a wholly-owned subsidiary of Covanta, and the County have completed negotiation of a Service Agreement (the "Agreement"), which the Company executed on the date first written above in this guaranty;

WHEREAS, Covanta is willing to guarantee, as set forth below, the performance of the Company under the Agreement; and

WHEREAS, such guaranty by Covanta is a condition precedent to the County's obligations under the Agreement.

NOW, THEREFORE, as an inducement to the County to enter into and perform the Agreement, Covanta agrees as follows:

(1) Covanta hereby absolutely and unconditionally guarantees the full and prompt performance by the Company, and by any successor or assign of the Company, including any Affiliate, of all the Company's obligations under the Agreement in accordance with the terms and conditions contained therein.

(2) If an Event of Default on the part of the Company occurs, Covanta absolutely and unconditionally guarantees payment of all amounts due and owed by the Company to the County up to and including the amount of seven million dollars ($7,000,000.00).

(3) This guaranty shall be governed by the laws of the State and Covanta hereby agrees to service of process in the State for any claim or controversy arising out of this guaranty or relating to any breach thereof and to submit to the exclusive jurisdiction of any court of competent jurisdiction in the State.

(4) This guaranty shall be binding upon and enforceable against Covanta, its successors, assigns, and legal representatives, and is for the benefit of the County, its successors and assigns.

(5) Any term used herein and defined in the Agreement shall have the meaning attributed to it in the Agreement.

(6) Each and every default in the performance of the Agreement shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder by the County as each cause of action arises.

(7) Covanta shall pay to the County all reasonable costs and expenses (including legal fees) incurred by the County in the successful prosecution of any of the remedies available to the County in respect of this guaranty.

(8) The obligations of Covanta under this guaranty shall remain in full force and effect until all obligations of the Company under the Agreement have been performed or provided for, and those obligations shall not be affected, modified or impaired by any state of facts or the happening from time to time of any event, including without limitation, any of the following, whether or not with notice to or the consent of Covanta:

(a) The invalidity, irregularity, illegality or unenforceability of, or any defect in the Agreement;

(b) Any present or future law or order of any government or of any agency thereof purporting to reduce, amend or otherwise affect the Agreement or to vary any terms of payment under the Agreement;

(c) The waiver, compromise, settlement, release or termination by the Company of any or all of the obligations, covenants or agreements of the County under the Agreement;

(d) The transfer, assignment or mortgaging, or the purported or attempted transfer, assignment or mortgaging by the Company of all or any part of the interest of the County or the Company in the Facility or any failure of or defect in the title with respect to the interest of the Company in the Facility;

(e) The modification or amendment (whether material or otherwise) by or with the consent of the Company of any obligation, covenant or agreement set forth in the Agreement;

(f) The Company taking any of the actions that it is required to take under the Agreement or the Company's failure take such actions;

(g) Any failure, omission or delay on the part of the County or any other person to enforce, assert or exercise any right, power or remedy conferred on the County or such other person in the Agreement or this guaranty; or

(h) The default or failure of Covanta fully to perform any of its obligations set forth in this guaranty.

PARENT GUARANTY

THIS GUARANTY, made as of the 11th day of September, 2013, by Covanta Holding Corporation, a Delaware corporation ("Covanta"), having its principal place of business in Morristown, New Jersey, to and for the benefit of Marion County, Oregon (the "County"), a political subdivision of the State of Oregon (the "State"), acting by and through its Board of Commissioners.

WITNESSETH:

WHEREAS, Covanta Marion, Inc., an Oregon corporation ("Company") and a wholly-owned subsidiary of Covanta, and the County have completed negotiation of a Service Agreement (the "Agreement"), which the Company executed on the date first written above in this guaranty;

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WHEREAS, such guaranty by Covanta is a condition precedent to the County's obligations under the Agreement.

NOW, THEREFORE, as an inducement to the County to enter into and perform the Agreement, Covanta agrees as follows:

(1) Covanta hereby absolutely and unconditionally guarantees the full and prompt performance by the Company, and by any successor or assign of the Company, including any Affiliate, of all the Company's obligations under the Agreement in accordance with the terms and conditions contained therein.

(2) If an Event of Default on the part of the Company occurs, Covanta absolutely and unconditionally guarantees payment of all amounts due and owed by the Company to the County up to and including the amount of seven million dollars ($7,000,000.00).

(3) This guaranty shall be governed by the laws of the State and Covanta hereby agrees to service of process in the State for any claim or controversy arising out of this guaranty or relating to any breach thereof and to submit to the exclusive jurisdiction of any court of competent jurisdiction in the State.

(4) This guaranty shall be binding upon and enforceable against Covanta, its successors, assigns, and legal representatives, and is for the benefit of the County, its successors and assigns.

(5) Any term used herein and defined in the Agreement shall have the meaning attributed to it in the Agreement.

(6) Each and every default in the performance of the Agreement shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder by the County as each cause of action arises.

(7) Covanta shall pay to the County all reasonable costs and expenses (including legal fees) incurred by the County in the successful prosecution of any of the remedies available to the County in respect of this guaranty.

(8) The obligations of Covanta under this guaranty shall remain in full force and effect until all obligations of the Company under the Agreement have been performed or provided for, and those obligations shall not be affected, modified or impaired by any state of facts or the happening from time to time of any event, including without limitation, any of the following, whether or not with notice to or the consent of Covanta:

(a) The invalidity, irregularity, illegality or unenforceability of, or any defect in the Agreement;

(b) Any present or future law or order of any government or of any agency thereof purporting to reduce, amend or otherwise affect the Agreement or to vary any terms of payment under the Agreement;

(c) The waiver, compromise, settlement, release or termination by the Company of any or all of the obligations, covenants or agreements of the County under the Agreement;

(d) The transfer, assignment or mortgaging, or the purported or attempted transfer, assignment or mortgaging by the Company of all or any part of the interest of the County or the Company in the Facility or any failure of or defect in the title with respect to the interest of the Company in the Facility;

(e) The modification or amendment (whether material or otherwise) by or with the consent of the Company of any obligation, covenant or agreement set forth in the Agreement;

(f) The Company taking any of the actions that it is required to take under the Agreement or the Company's failure take such actions;

(g) Any failure, omission or delay on the part of the County or any other person to enforce, assert or exercise any right, power or remedy conferred on the County or such other person in the Agreement or this guaranty; or

(h) The default or failure of Covanta fully to perform any of its obligations set forth in this guaranty.