

LANDFILL GAS PURCHASE AGREEMENT

THIS LANDFILL GAS PURCHASE AGREEMENT ("Agreement"), made and entered into this 27th day of March, 2007, by and between **TIMBERLINE ENERGY, LLC**, a Delaware Limited Liability Company, doing business at 14520 West Archer Drive, Golden, Colorado, 80401, hereinafter referred to as the "DEVELOPER" and **HERNANDO COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is 20 N. Main Street, Room 460, Brooksville, Florida 34601 Florida hereinafter referred to as "COUNTY";

WITNESSETH:

WHEREAS, the COUNTY is authorized to construct, acquire, improve, maintain, and operate its Solid Waste Management Facilities in the COUNTY; and

WHEREAS, the COUNTY has constructed an active landfill gas ("LFG") collection and flaring system at the Hernando County Northwest Solid Waste Management Facility ("Landfill") in order to remain in compliance with applicable federal, state, and local laws and regulations, and to control landfill gas migration and atmospheric emissions, including odors; and

WHEREAS, the COUNTY plans to construct subsequent expansions to the LFG Management System; and

WHEREAS, the COUNTY recognizes that the use of recovered LFG is of environmental and economic benefit to the COUNTY; and

WHEREAS, the COUNTY desires to enter an Agreement with the DEVELOPER whereby the DEVELOPER would make certain payments to the COUNTY for the rights to and sale of LFG to a Buyer.

NOW, THEREFORE, in consideration of the premises and mutual promises and conditions contained herein, it is mutually agreed between the parties as follows:

Section 1. Definitions. Unless the context indicates otherwise, as used herein, the terms set forth below shall be defined as follows:

(a) Beneficial End Use Product means products derived from LFG that may include, but are not limited to: processed LFG, pipeline quality LFG, electric power, thermal energy, CO₂, or any two or more of the foregoing. The use of such products shall result in a tangible financial gain for the COUNTY.

(b) British Thermal Unit (BTU) means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit, for example from 58.5 to 59.5 degrees Fahrenheit, under standard pressure of 30 inches of mercury at or near its

point of maximum density. One BTU equals 252 calories, (gram), 778 foot-pounds, 1,055 joules, 2.931×10^{-4} kWh, or .293 watt hours.

(c) BTU per Cubic Foot means a measure of the heat available or released when one cubic foot of gas is burned. Landfill Gas has an expected value of 500 to 600 BTU per Cubic Foot.

(d) Buyer means the party or parties to which DEVELOPER will sell a Beneficial End Use Product derived from the recovery and/or processing of LFG.

(e) Commercial Operations means from the date when the DEVELOPER's LFG Utilization Facility begins deliveries of a Beneficial End Use Product to a Buyer.

(f) Commercial Quantities means an economically viable quantity of LFG (minimum of one (1) standard cubic feet per minute (scfm) provided by the COUNTY at the Delivery Point pursuant to this Agreement).

(g) Condensate means the liquid formed from the condensing of the vapors that occurs during the collection, transportation, and processing of LFG.

(h) Day means a calendar day.

(i) Delivery Point(s) means the point(s) at which the LFG enters the DEVELOPER's header or connection piping for delivery to the DEVELOPER's LFG Utilization Facility. The point(s) are located at or near the COUNTY's Flare Station facilities.

(j) Flare Stations means the equipment and appurtenances used to incinerate LFG. The Flare Stations are used to incinerate LFG in conformance with applicable federal, state, and local rules and regulations, and to control odors.

(k) Force Majeure means acts of God; winds, hurricanes, tornadoes, fires, epidemics, landslides, floods; strikes, lock-outs, acts of public enemies; insurrections; explosions; a change in law not due to improper conduct or to any negligent or intentional act or omission; or any cause or event, not reasonably within the control of the party claiming Force Majeure except for the financial inability of such party caused by factors other than any of the foregoing.

(l) Heating Value means the amount of heat produced by the complete combustion of a unity quantity of fuel. The gross or higher heating value (HHV) is that which is obtained when all of the products of combustion are cooled to the temperature existing before combustion, the water vapor formed during combustion is condensed, and all the necessary corrections have been made. The net or lower heating value (LHV) is obtained by subtracting the latent heat of vaporization of the water vapor, formed by the combustion of the hydrogen in the fuel, from the gross or higher heating value.

(m) Landfill means the Hernando County Northwest Solid Waste Management Facility located at 14450 Landfill Road, Brooksville, Florida where Class I and Class III wastes are permanently deposited in solid waste disposal units.

(n) Landfill Gas (LFG) means any and all gases resulting from the decomposition of refuse material within the Landfill, consisting principally of methane, carbon dioxide and traces of other constituent gases.

(o) LFG Management System means the network of LFG recovery wells and interconnecting pipes together with attendant valves, condensate sumps and pumps, monitoring devices and other related equipment installed for the purpose of extracting, collecting, and transporting LFG to the Delivery Point(s).

(p) LFG Purchase Agreement means this Agreement between the COUNTY and DEVELOPER for: the construction and operation of DEVELOPER's LFG Utilization Facility; the connection to the Delivery Point(s) for the recovery and utilization of LFG; and the purchase of the LFG provided by the COUNTY at the Delivery Point(s).

(q) LFG Utilization Facility means the DEVELOPER's building or enclosure and equipment required for the processing and delivery of the Beneficial End Use Product to the Buyer, such equipment may include, but is not limited to, compression equipment, an oil and gas cooler, a condensate knockout tank, scrub areas, generating equipment, electric generation and related facilities.

(r) LFG Utilization Facility Site means an area located within the Landfill property upon which the DEVELOPER may access, install, and construct the LFG Utilization Facility. The LFG Utilization Facility Site shall be at a site mutually agreed to by the COUNTY and DEVELOPER.

(s) Leachate means the liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials.

(t) Utility Interface (i) in the case where LFG is used to generate electric power, this term shall mean the step-up transformer, metering facilities, protection circuitry, transmission lines, poles, and any other equipment necessary to interconnect the LFG Utilization Facility with the grid of the electric utility in whose franchise area the Landfill is located, or (ii) in the case where LFG is converted to other beneficial products, this term shall mean the metering facilities, pipelines, valves and any other equipment necessary to interconnect the LFG Utilization Facility with the transmission or distribution pipelines or other facility of the electric utility, pipeline company, or other Buyer.

Section 2. Rights Granted to DEVELOPER. Subject to the limitations and other provisions of this Agreement, COUNTY hereby grants to DEVELOPER the following:

(a) Landfill Gas. Developer has the right and license to connect, process, sell, and utilize the LFG that is generated from the Landfill and other contiguous landfill expansion areas and delivered to the Buyer during the term of this Agreement. It shall be the DEVELOPER's responsibility to connect and utilize all LFG made available by the COUNTY for direct sale as fuel or conversion to a Beneficial End Use Product for sale to a Buyer. Title to and risk of loss for the LFG will pass to Buyer. DEVELOPER shall have the exclusive right to claim and utilize any emission allowances and reduction credits that may be associated with LFG.

(b) Site of LFG Utilization Facility. In accordance with the provisions of this Agreement, the COUNTY will make available to DEVELOPER an area located within the Landfill property mutually agreeable to the COUNTY and DEVELOPER an area located within the Landfill property mutually agreeable to the COUNTY and DEVELOPER, by license, as required by DEVELOPER for construction of a LFG Utilization Facility and site improvements, commencing as of the effective date of this Agreement and terminating at the termination of this Agreement. COUNTY hereby covenants (i) that it has title to the LFG Utilization Facility Site in fee and (ii) that DEVELOPER shall have exclusive use of the LFG Utilization Facility Site during the term of this Agreement so long as DEVELOPER is not in default of its obligations under this Agreement.

(c) Access. COUNTY will make available to the DEVELOPER access to the LFG Utilization Facility Site for construction, installation, operation, and maintenance of the DEVELOPER's supplied facility equipment, transmission lines, sewer, electric, water, and telephone lines that are necessary for the operation of the facility.

Section 3. Obligations of COUNTY.

(a) Obligation. The Developer will design and install the initial wells and collection system. The COUNTY shall design, construct, upgrade, expand, operate, and maintain the LFG Management System and provide additional blowers and flares to the COUNTY's Flare Stations as needed to maintain compliance with federal and state regulations. The COUNTY will consult with the DEVELOPER on the placement and configuration of the LFG extraction wells and other equipment required to meet such regulations, in an effort to enhance the beneficial use of the LFG and the overall operation of the LFG Management System. The DEVELOPER's comments shall not be binding on the COUNTY.

Subject to these limitations and other provisions of this Agreement, COUNTY shall:

(1) Cooperate in the construction, development, and operation of the Landfill so as to enhance the production of LFG, while controlling odors and maintaining compliance with all applicable regulations;

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(2) ~~Not~~ interfere with the DEVELOPER's operation and maintenance of the LFG Utilization Facility, providing DEVELOPER is complying with all applicable laws and regulations;

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(3) instruct its independent contractors, agents and employees to comply with Sections 3(a)(1) and (2) described above;

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(4) ~~Promptly~~ repair at its expense, major cracks, fissures, erosion or physical changes in the Landfill which have an adverse effect on the production of LFG or on the LFG Management System in accordance with applicable LFG regulations;

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(5) comply with applicable federal, state and local laws, rules, ordinances and regulations relating to or regulating the construction and operation of the Landfill except for said responsibilities of the DEVELOPER as established under this Agreement; and

(6) maintain consistent cover on the Landfill to meet current federal and state requirements.

(b) Access to the DEVELOPER's Facilities. Access to the DEVELOPER's LFG Utilization Facility shall be by the established entranceway to the Landfill via the scalehouse. The COUNTY shall take appropriate steps to ensure that this access route to the LFG Utilization Facility is available to the DEVELOPER at all times (i.e., 24 hours per day, 7 days per week). When utilizing the access route, the DEVELOPER shall abide by all of the applicable policies and safety regulations of the COUNTY. In certain cases, such as ..., the COUNTY will notify the DEVELOPER of the need to enter the DEVELOPER's premises.

(c) Documents. As reasonably requested by DEVELOPER, COUNTY shall:

(1) allow DEVELOPER to inspect, in accordance with Chapter 119, Florida Statutes, any documents in its possession regarding LFG production from the Landfill, the quantity, age, and type of refuse in the Landfill, tipping records, etc.; and

(2) allow DEVELOPER to inspect, in accordance with Chapter 119, Florida Statutes, any environmental information, environmental impact reports or studies, permits or permit applications, zoning information including variances or variance applications, and any other available data relating to the Landfill and COUNTY's or DEVELOPER's activities contemplated in this Agreement, and allow DEVELOPER to copy any such material or documents as may be in COUNTY's possession.

(d) Good Faith. COUNTY shall perform its obligations hereunder in good faith and acting reasonably, cooperate with DEVELOPER so that DEVELOPER can meet its responsibilities and obligations under this Agreement.

(e) Caveats. Notwithstanding any portion of this Agreement to the contrary, it is understood and agreed to by DEVELOPER that the COUNTY does not warrant or guarantee the rates of production, the chemical composition, or heating content of the LFG from the Landfill. DEVELOPER is relying on its own calculations and evaluation of the Landfill in this regard.

Section 4. Obligations of DEVELOPER.

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(a) Obligations. The operation of the LFG Utilization Facility and any other activity of DEVELOPER shall not interfere with the management and operational requirements of the Landfill. The DEVELOPER shall design, construct, operate, and maintain the initial gas wells and gas collection system portion of the LFG Management System. The County shall be responsible for providing blowers and flares to the COUNTY's Flare Stations as needed to maintain compliance with federal and state regulations. The DEVELOPER will consult with the COUNTY on the placement and configuration of the LFG extraction wells and other equipment.

(b) LFG Utilization Facility. DEVELOPER shall, at its sole expense, permit, design, install, construct, operate, replace, expand, upgrade, and maintain the LFG Utilization Facility required for the processing and delivery of the Beneficial End Use Product to the Buyer. The design, installation, construction, operation, replacement, expansion, upgrade, if any, and maintenance of such LFG Utilization Facility shall be in accordance with federal, state, and local requirements, and industry standards.

(c) Delivery Point(s). DEVELOPER shall, at its sole expense, provide and install:

(1) Header piping, connection piping, valves, pipe supports, and any other auxiliary items from the DEVELOPER's LFG Utilization Facility to the Delivery Point(s).

(2) A tee, valve, and blind flange at the Delivery Point(s) for the purpose of connecting to the COUNTY's LFG Management System.

(3) Any needed blower booster(s) or blower(s) to manage the flow of LFG from the Delivery Point(s) to the LFG Utilization Facility.

(4) For the COUNTY's use, the DEVELOPER, at its own expense shall install, operate and maintain flow meter(s), and continuous recorder near the Delivery Point(s) for the purpose of determining the quantity and methane content of LFG delivered to the DEVELOPER. The COUNTY and DEVELOPER shall mutually select the final location for the flow meter(s). Flow meter(s) shall be calibrated quarterly by the COUNTY's representative certified to perform such calibrations. The DEVELOPER may independently pay for calibration of the meter(s) by a third party certified to perform such calibrations with consent from the COUNTY. The DEVELOPER shall analyze the COUNTY's LFG daily for the content of methane and

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other constituents deemed necessary by the parties. Periodically, the COUNTY may independently arrange and pay for the sampling and analysis of the gas by an appropriately certified laboratory. If the County's and the DEVELOPER's analysis differ by less than ten percent (10%), the results shall be averaged for purposes of this section. If the results differ by more than ten percent (10%), the COUNTY and the DEVELOPER shall arrange for sampling by a mutually agreed upon third party laboratory.. The COUNTY and the DEVELOPER shall share equally in the cost of the third party laboratory.

(d) Commercial Operations. DEVELOPER shall commence Commercial Operations within 18 months from the effective date of this Agreement.

(e) Operations. In addition to the following, DEVELOPER shall operate the LFG Utilization Facility in accordance with the Wellfield Maintenance Agreement of even date herewith attached hereto and incorporated herein as Exhibit "A". DEVELOPER shall:

(1) Operate the LFG Utilization Facility, and all associated DEVELOPER supplied equipment in a prudent manner in accordance with good engineering practices and in a manner consistent with industry standards.

(2) Maintain the LFG Utilization Facility, COUNTY's Flare Station(s), and all associated DEVELOPER supplied equipment in good working order throughout the term of this Agreement.

(3) Repair the LFG Utilization Facility, COUNTY's Flare Station(s), and all associated DEVELOPER supplied equipment, as necessary, to restore normal operations and system redundancies to ensure compliance with the terms of this Agreement.

(4) Maximize the use of the available LFG from the COUNTY and sell and deliver Beneficial End Use Product to a Buyer.

(5) Maintain a constant and balanced draw from the COUNTY's LFG Management System in order for the COUNTY to maintain a balance of their system.

(6) Maintain air emissions generated by the operations to any applicable standards or permits.

(7) Flare all LFG that may be available due to excess quantity, scheduled and unscheduled maintenance, or shut-off by Buyer. Meet permit requirements, control odors, operate, repair, and maintain the COUNTY's Flare Station(s).

(8) Control on-site odors from the DEVELOPER's facilities in order to control on-site and off-site impacts in accordance with applicable standards, ordinances, permits, rules and regulation.

(9) Maintain noise levels from the operation of the DEVELOPER's facilities at any point of the Landfill site boundary in accordance with Section 30.1302 of the COUNTY's landfill operation.

(10) Control and dispose of all wastes generated from the DEVELOPER's facilities according to current environmental regulations, including gas condensate and waste cooling water.

(11) Comply with all applicable federal, state, and local laws, rules, ordinances and regulations and any other said responsibilities of the DEVELOPER as established under this Agreement.

(12) Provide information to COUNTY, as necessary, for COUNTY to comply with New Source Performance Standards (NSPS) reporting requirements, or other regulatory reporting requirement.

(13) Comply with annual inspection and implement recommendations made by the COUNTY's consulting engineer on annual inspection of the flare and facility property.

(f) Good Faith. DEVELOPER shall perform its obligations hereunder in good faith and acting reasonably, cooperate fully with COUNTY so that COUNTY can meet its responsibilities and obligation under this Agreement. DEVELOPER shall comply with all laws and regulations applicable to the work being performed under this Agreement.

(g) Design Review. DEVELOPER shall submit to COUNTY for review, comment and approval all design documents relating to the implementation of this Agreement including plans, specifications and drawings for the procurement, installation, and construction of the LFG Utilization Facility during the term of this Agreement. Any such review, comment and approval will not be unreasonably withheld. The purpose of such review is to ensure that the facilities constructed on the COUNTY's property will not interfere with the COUNTY's operations, and will comply with all applicable laws (e.g., permitting, zoning, and environmental requirements), as well as the provisions of this Agreement. The COUNTY shall not have the right to review or approve any proprietary information, or to approve the detailed terms of DEVELOPER's design documents, but COUNTY may provide comments to DEVELOPER on such design, and DEVELOPER agrees to make such changes as may be necessary to comply with COUNTY's requirements. If changes to these design documents are made, DEVELOPER will submit such changes to the COUNTY for review and COUNTY shall notify DEVELOPER in a reasonable time (such time in no event to exceed thirty (30) days) of its comments on such changes. Any recommendation of rejection shall be reasonable, based on the design standards set forth in this Agreement and accompanied by a detailed

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explanation of the reasons for the rejection. County will also propose reasonable alternatives to DEVELOPER to eliminate the reasons for the rejection. COUNTY and DEVELOPER recognize that delays in the construction of these systems may delay DEVELOPER's construction schedule. Therefore, COUNTY and DEVELOPER agree to exercise reasonable efforts to expedite the review and approval process. DEVELOPER will provide COUNTY with a complete set of "as built" plans for the DEVELOPER's LFG Utilization Facility. The review process described in this paragraph does not relieve the DEVELOPER of its obligations to obtain the required building permits and site plan review approval, or any other local, state or federal approvals required for the DEVELOPER's LFG Utilization Facility.

Neither the COUNTY's authority to review and approve design documents relating to the implementation of this Agreement nor any decision made by the COUNTY in good faith in conjunction with such review and approval shall give rise to any duty or responsibility of COUNTY to DEVELOPER, any subcontractor, any supplier, or any other person or organization performing any of the work, or to any surety for any of them.

The COUNTY's actions pursuant to this section shall not create any vested rights for the DEVELOPER. Nothing in this Agreement shall be construed to eliminate the need for the DEVELOPER to comply with all applicable laws and regulations.

(h) Permits. DEVELOPER shall, at its own expense, prepare and file permit applications and diligently prosecute the processing of such permit application for the purpose of obtaining all environmental and other permits which are required under applicable local, state, and federal laws and regulations for the construction, installation, and operation of the LFG Utilization Facility, associated electrical transmission lines, an/or steam, or LFG transmission pipelines, on and off-site. In connection therewith, the COUNTY agrees to make available to the DEVELOPER all known public records within the COUNTY's possession of environmental information reports, environmental impact reports, air impact assessment studies, copies of all environmental applications filed, and other available data relating to and used in connection with obtaining any environmental permits necessary for the installation and operation of any equipment or the conducting of any other activities at the Landfill.

Any permit modifications or applications that may affect existing COUNTY permits shall be submitted ~~to the COUNTY~~ for review and comment prior to submission to the applicable regulatory agency. The DEVELOPER shall incorporate any comments from the COUNTY subsequent to final review by the COUNTY and re-submit to COUNTY for final approval, authorization, and signature.

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(i) Laws and Regulations. The DEVELOPER must agree to abide by and conduct its programs and provide its services in compliance with the applicable provisions of:

- Florida Worker's Compensation Statutes and Regulations, Florida Statutes, Chapter 440 and Florida Administrative Code (F.A.C), Rule 38F
- Florida Workplace Safety and Health Regulations, F.A.C – Rule 38I
- Federal Civil Rights Act of 1866
- Federal Civil Rights Act of 1871
- Federal Equal Pay Act of 1963
- Federal Civil Rights Act of 1964
- Federal Age Discrimination and Employment Acts of 1967
- Federal Rehabilitation Act of 1973
- Federal Americans with Disabilities Act of 1990
- Federal Civil Rights Act of 1991
- Florida Civil Rights Act of 1992
- American National Standards Institute
- National Fire Protection Association
- Occupational Safety and Health Act, Code of Federal Regulation, Chapter 29, Parts 1910 and 1926, General Industry Standards and Construction Industry Standards, as amended, with particular attention to the Hazard Communications, Trenching and Shoring and Confined Space Entry Standards.
- All other applicable ordinances, statutes, laws and amendments thereto.

The DEVELOPER is presumed to be familiar with all applicable federal, state and local laws, ordinances, code rules and regulations that may in any way affect the work.

(j) Site Security. The LFG Utilization Facility Site shall be fenced and gated and locked during construction and operations. The fencing shall contain signage on each side, warning of any hazards and providing telephone numbers for notification of emergency situations. Employees of the COUNTY shall not be permitted on the LFG Utilization Facility Site, except in the event of an emergency or disaster, unless accompanied by an authorized employee of the DEVELOPER. Subject to the exemptions included in this subsection for entry onto the LFG Utilization Facility Site, the COUNTY's employees shall not enter the site unless:

- (1) DEVELOPER's employee is on the site at the same time, or
- (2) DEVELOPER requests assistance from the COUNTY or a duly authorized representative, or
- (3) It is necessary for the COUNTY to collect samples from the discharges of the DEVELOPER's facility, or
- (4) A situation that requires immediate attention. The COUNTY will notify the DEVELOPER within 24 hours of entrance onto the DEVELOPER's site.

The fencing, gating, and site security requirements of this subsection shall be limited to the DEVELOPER's LFG Utilization Facility Site.

(k) Project Plan. The DEVELOPER must prepare and submit to the County a preliminary Project Plan for the LFG Utilization Facility Project, during the construction process. The Plan will cover a number of aspects of the DEVELOPER's operations and will include at a minimum;

- Testing requirements for startup of the LFG Utilization Facility;
- LFG Utilization Facility Operating Plan that demonstrates at a minimum the facility's ability to process the initial LFG flows (LFG available from the COUNTY at startup of the Facility) from the Landfill;
- Reporting requirements to governmental agencies for permits associated with LFG Utilization Facility;
- Testing and monitoring procedures of the LFG Utilization Facility to assure compliance with permit conditions;
- An Emergency, Disaster and Safety Plan

The Project Plan will be finalized and accepted by the County prior to the startup of the LFG Utilization Facility. Once accepted by the COUNTY, the DEVELOPER is obligated to adhere to the Plan. Deviations from the plan are only permissible if they are made in writing to the COUNTY and accepted in writing by the COUNTY. Operations will commence after completion of the startup period and approval of the Project Plan by the COUNTY.

(l) Project Schedule. The DEVELOPER shall be responsible for developing and keeping current a project schedule for each of the elements of the LFG Utilization Facility construction which show: the sequence of project development, permitting, design, construction, startup, ~~and commencement~~ of operations, system testing, and monitoring, and reporting to governmental agencies. The COUNTY will review and accept the Project Schedule before any construction shall commence. The COUNTY will be informed of monthly progress and changes in the schedule by the DEVELOPER.

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(m) Transmission Line. Any off-site pipeline or transmission line to the Buyer's premises shall comply with and be included within the requirements and liabilities assumed by the DEVELOPER under this Agreement. Any portion of the pipeline or transmission line on public right of way shall be clearly marked according to industry or governmental standards. The depth of the pipeline or transmission line shall comply with local permitting code and/or State law whichever is applicable.

Section 5. Term.

(a) Agreement Term. This Agreement shall have a term of twenty (20) years which shall begin on the date when the DEVELOPER commences Commercial Operations of the LFG Utilization Facility, consistent with the provisions of this Agreement. At the end of the term, this Agreement shall terminate, unless extended by mutual written agreement of the COUNTY and DEVELOPER, provided that the party

wishing to extend gives the other at least one hundred eighty (180) days written notice of such desire. The term of this Agreement also may be extended if and when the COUNTY adds additional LFG extraction wells in the Landfill and the DEVELOPER agrees to expend additional capital funds to increase the capacity of its LFG Utilization Facility, provided the COUNTY and the DEVELOPER consent in writing to the extension. If the County does not renew the agreement then the DEVELOPER will be reimbursed for the cost of the wells and collection system installed by DEVELOPER.

(b) Effective Date. This agreement shall become effective on the day it is executed by a duly authorized representative of the COUNTY. Until the effect date, this Agreement shall be of no force or effect.

Section 6. Payment.

(a) Initial Payment for LFG Rights. DEVELOPER shall pay the COUNTY a lump sum of Five Thousand and No/100 Dollars (\$5,000.00) within ninety (90) days of the effective date of this Agreement, or upon financing the LFG Utilization Facility, whichever comes first. This lump sum payment to the COUNTY shall constitute the DEVELOPER's payment for an exclusive right to and use of LFG from the Landfill.

(b) Payment for LFG Delivered. DEVELOPER shall pay the COUNTY a 3% royalty for all gross revenue derived from the sale of the landfill gas, CO₂, emissions credits or other products. The royalty shall increase to 6% for all landfill gas btu's above 110,000 btu/year.

(c) If the Developer is operating the wells and gas collection system, the Developer will deducted \$2,000/month from the royalty payment. However at no time will the royalty payment minus the \$2,000/month deduction be less than \$1,000/month.

(e) Payment Due Date. All monies due to the COUNTY on a monthly payment basis shall be payable in arrears along with documentation of revenues monthly payment are due on or before the twenty-fifth (25th) day of the calendar month following the month in which DEVELOPER actually receives revenues from its sale of the Beneficial End Use Products converted from the LFG from the Landfill. The COUNTY shall have the right to inspect, copy, and audit during reasonable business hours the sale journal and any other pertinent books and records of the DEVELOPER relating to the calculations of the revenues upon which the payment of LFG delivered will be based or any other payment to the COUNTY. If the above indexes are not available for any reason, the parties shall mutually agree on the use of a replacement index or indexes.

(f) Tax and Emission Credits. If any federal, state, or local tax or emission credits become available, DEVELOPER shall pay a fee to the COUNTY for any tax or emission credits received by the DEVELOPER for the LFG Utilization Facility. The fee shall be equal to the royalty amount.

(g) Utility Interface Costs. The DEVELOPER is solely responsible to pay for all utility interface costs.

Section 7. Financing. COUNTY acknowledges that DEVELOPER may desire to finance some or all of the equipment or personal property required to undertake work to be performed under this Agreement and hereby consents to any encumbrance or lien on the machinery, equipment, fixtures, and buildings that make up the LFG Utilization Facility and Utility Interface for the purpose of obtaining such financing, provided:

(a) DEVELOPER shall give COUNTY notice of the existence of such encumbrance or lien together with the name and address of the holder of such encumbrance or lien, and a copy of the encumbrance or lien.

(b) That the existence of such encumbrance or lien shall not relieve DEVELOPER from any liability or responsibility for the performance of its obligations under this Agreement.

Under no circumstances shall DEVELOPER cause any mortgage or lien to exist on the COUNTY property, Landfill, access road, or LFG Utilization Facility Site, and no security interests may be granted in any underground transmission lines, pipelines, or underground equipment or fixtures associated with the project.

Section 8. General Obligations.

(a) Planning and Expansion. DEVELOPER recognizes that future development of the COUNTY Landfill may include additional facilities. COUNTY and DEVELOPER agree to exchange information on a regular basis for planning and coordination of all activities to promote the safe and orderly development and operation of the Landfill.

(b) Interests Retained by COUNTY. All materials, minerals, water, natural gas, and other items existing in, on, or under the Landfill (including, but not limited to, the refuse, cell liners, leachate, condensate, and waste spoilage removed from Landfill during construction of LFG Management System and cover) shall at all times remain the property of COUNTY.

(c) Independent Contractor. In the performance of any activities pursuant to this Agreement, the DEVELOPER will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the COUNTY. The Developer shall be solely responsible for the means, methods, sequences, and procedures utilized by the DEVELOPER. None of the Developer's employees, officers, agents, or any other individual directed to act on behalf of the DEVELOPER for any act related to the Agreement shall represent, act, purport to act, or be deemed to be the agent, representative, employee or servant of the COUNTY.

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(d) Condensate. The DEVELOPER is responsible for the collection and removal of condensate from the DEVELOPER's condensate sumps, DEVELOPER's condensate knockout vessel(s) and the LFG Utilization FACILITY, and the proper handling and delivery of the condensate to the COUNTY's leachate collection system (leachate manhole) or leachate storage tanks. The COUNTY shall have the right to collect and test samples from the DEVELOPER's facilities before discharging into the COUNTY's facilities.

(e) Gas Migration and Emissions. DEVELOPER and COUNTY acknowledge that the primary objective of the LFG Management System is and will continue to be to control LFG migration, emissions and odors, in order to meet all local, state and federal regulatory requirements and the requirements of existing and future landfill permits. DEVELOPER shall operate the LFG Utilization Facility in a manner that is conducive to this primary objective.

FURTHERMORE the COUNTY is to provide all of the needed LFG Management System components and all replacement, expansions, and additions and the operation thereof to collect the LFG generated at the Landfill to the greatest extent possible so that (i) the operation of the Landfill will remain in compliance with applicable federal, state and local laws and regulations, and (ii) the operation of the Landfill will control LFG migration and odors.

(f)

The COUNTY shall design, permit, construct and pay for any additional equipment or other improvements that are necessary to ensure compliance with applicable regulations due to (i) a change in applicable laws or regulations that occurs after the effective date of this Agreement or (ii) an expansion of or other change, provided that such failure is not caused by DEVELOPER's acts or omissions during DEVELOPER's maintenance, repair and operation.

(g) Non Waiver.

(1) The failure of either party to exercise any right shall not be considered a waiver of such right in the event of any further default or noncompliance.

(2) No action taken by COUNTY or DEVELOPER after the effective date of the termination of this Agreement pursuant to Section 14 in accepting one or more payments from the other or undertaking any other activity which would have been authorized by this Agreement but for its termination, shall be construed that this Agreement is not terminated or as a waiver of the termination.

(h) Inspections. COUNTY has the right to conduct inspections of the DEVELOPER's facilities to verify operations compliance, environmental compliance and

compliance with applicable local, state, and federal regulations and said responsibilities of this Agreement

Section 9. Limitations of Liability.

(a) Except as otherwise provided herein, COUNTY provides no warranties or guarantees, either expressed or implied, as to the amount or chemical composition of the LFG to be extracted and made available to the DEVELOPER at the Delivery Point(s) hereunder, including, but without limitation, any warranty of merchantability or fitness of the LFG for a particular purpose; provided, however, if the Landfill does not produce Commercial Quantities of LFG, DEVELOPER may terminate this Agreement as provided in Section 14(d).

(b) Provided DEVELOPER is complying with applicable laws and regulations, DEVELOPER will be solely responsible for the determination of the suitability of the LFG to be used under this Agreement for any and all purposes contemplated by DEVELOPER.

(c) Nothing contained within this Agreement shall be construed to mean that DEVELOPER has assumed any of COUNTY's responsibilities to comply with any environmental laws and regulations, whether federal, state, or local.

(d) In no event shall Developer be liable to COUNTY with respect to any claims arising from the ownership of the Landfill.

(e) COUNTY shall not be liable for damages, including consequential damages, loss of revenues and/or lost profits, for COUNTY employees' entry on the LFG Utilization Facility Site at the Landfill pursuant to Section 4(j) herein. Further, COUNTY shall not be liable for consequential damages, loss of revenues and/or lost profits for any reason whatsoever.

(f) DEVELOPER is liable for any fines and/or repair for any environmental damage due to the DEVELOPER's facilities construction and operations.

(g) Nothing contained in this Agreement constitutes a waiver of the COUNTY's sovereign immunity or the limitations on liability contained in Section 768.28, Florida Statutes.

Section 10. Indemnification. To the fullest extent permitted by Laws and Regulations, the selected DEVELOPER shall indemnify and hold harmless the COUNTY and the officers, directors, employees, agents and other consultants of the COUNTY from and against all claims, expenses, losses and damages (including but not limited to all fees and charges of the DEVELOPER, engineers, architects, attorneys and other professionals) caused by, arising out of or resulting from the performance of services, provided that any such claim, damage, loss or expense: (1) is attributable to bodily injury, sickness, disease, death, or personal injury, or to property damage including the loss of

use resulting there from, and (2) is cause in whole or in part by any act or omission of the DEVELOPER, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the services or anyone for whose acts any of them may be liable. The DEVELOPER agrees that it will pay the reasonable costs of the COUNTY's legal defense, including fees of attorneys as may be selected by the COUNTY and shall defend, satisfy, and pay any judgments which may be rendered against the COUNTY in connection with the above hold harmless agreement. The DEVELOPER acknowledges that specific consideration has been received for this hold harmless/indemnification provision.

The provisions of this Section 10 shall survive the termination of this Agreement.

Section 11. Insurance. Before starting and throughout the Term of this Agreement, the DEVELOPER shall procure and maintain insurance of the types and to the limits specified in Section A below.

The DEVELOPER shall require each of its Subcontractors, if any, to procure and maintain, until completion of that Subcontractor's work, insurance of types and to the limits specified in Section A (i) through (v) inclusive below. It shall be the responsibility of the DEVELOPER to ensure that all its Subcontractors meet these requirements.

(a) Coverage. Except as otherwise stated, the amount and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation: Coverage to apply for all employees at the STATUTORY limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act, and Jones Act; in addition, the policy must include EMPLOYERS LIABILITY for limits of Five Hundred Thousand and No/100 Dollars (\$500,000.00)/each accident; One Million and No/100 Dollars (\$1,000,000.00)/disease – policy limit; Five Hundred Thousand and No/100 Dollars (\$500,000.00)/disease – each employee, and a waiver of subrogation in favor of COUNTY, its agents, employees and officials.

(2) Commercial General Liability: Coverage must be afforded, under a per occurrence form policy, including Premise Operations, Independent Contractors, Products and Completed Operations, Broad Form Property Damage Endorsement, with a Hold Harmless and Named Additional Insured Endorsement in favor of the COUNTY for limits not less than Four Million and No/100 Dollars (\$4,000,000.00)/general aggregate; Two Million and No/100 Dollars (\$2,000,000.00)/products-completed operations (aggregate); Two Million and No/100 Dollars (\$2,000,000.00)/personal injury and property damage liability; Two Million and No/100 Dollars (\$2,000,000.00)/each occurrence; Fifty Thousand and No/100 Dollars (\$50,000.00)/fire damage legal; Five Thousand and No/100 Dollars (\$5,000.00)/medical payments.

(3) Business Auto Policy: Coverage must be afforded including coverage for all owned vehicles, hired/non-owned vehicles, with an Additional Named Insured Endorsement in favor of the COUNTY, for a combined single limit (bodily injury and property damage) of not less than One Million and No/100 Dollars (\$1,000,000.00)/combined single limit (bodily limits; injury/property damage); personal injury protection/statutory One Million and No/100 Dollars (\$1,000,000.00) /uninsured/underinsured motorist; One Million and No/100 Dollars (\$1,000,000.00)/hired /non-owned auto liability.

(4) Builder's Risk /Installation Floater: When this agreement includes construction of or additions to above ground buildings or structures, or installation of machinery or equipment, Builder's Risk and/or Installation Floater coverage must be provided as follows:

(i) All Risk Coverage – All risk Coverage on a completed value form shall provide primary, non-contributory coverage with a waiver of subrogation in favor of the COUNTY.

(ii) Amount of Insurance – one-hundred percent (100%) of the completed value of such addition(s), building(s), or structure(s), or machinery and equipment.

(iii) Waiver of Occupancy Clause or Warranty – Policy must be specifically endorsed to eliminate any "Occupancy Clause" or similar warranty or representation that the building(s), addition(s), or structure(s) will not be occupied by the COUNTY.

(iv) Maximum Deductible – Five Thousand No/100 Dollars (\$5,000.00) each claim. Higher deductibles are permitted subject to COUNTY approval.

(v) Additional Named Insured – The COUNTY must be included as an additional named insured.

(vi) Notice of Cancellation and/or Restriction – The policy must be specifically endorsed to provide the COUNTY with thirty (30) days' notice of cancellation and/or restriction.

(vii) Flood Insurance – When the buildings or structures are located within an identified special flood hazard area, flood insurance protecting the interest of the DEVELOPER and the COUNTY must be afforded for the lesser of the total insurable value of such buildings or structures, or the maximum amount of floor insurance coverage available under the National Flood Insurance Program.

OR

(5) Property Insurance Coverage: When construction of any above ground building or structure, or installation of machinery or equipment is complete, coverage must be provided as follows:

(i) All Risk Coverage – All Risk Coverage on a completed value from shall provide primary, non-contributory coverage with a waiver of subrogation in favor of the COUNTY.

(ii) Amount of Insurance – one hundred (100%) of the "replacement cost value."

(iii) Maximum Deductible – Five Thousand and No/100 Dollars (\$5,000.00) each claim. Higher deductibles are permitted subject to COUNTY approval.

(iv) Additional Named Insured – The COUNTY must be included as an additional named insured.

(v) Notice of Cancellation and/or Restriction – The policy must be specifically endorsed to provide the COUNTY with thirty (30) days' notice of cancellation.

(vi) Flood Insurance – When the buildings or structures are located within an identified special flood hazard area, flood insurance protecting the interest of the Contractor must be afforded for the lesser of the total insurable value of such buildings or structures, or the maximum amount of flood insurance coverage available under the National Flood Insurance Program.

(6) Environmental Impairment Insurance: Coverage shall be provided and maintained as a separate policy for One Million Dollars and No/100 Dollars (\$1,000,000.00) per occurrence; Two Million Dollars and No/100 Dollars (\$2,000,000.00) aggregate.

(7) Business Interruption: Coverage shall be maintained in an amount sufficient to cover COUNTY's loss of revenues or consequential damages for the period of time it would take to repair or replace the damage or loss that caused said loss or damage.

(b) Waiver of Subrogation/Cause of Action. DEVELOPER agrees to waive any rights of recovery against the COUNTY for damage or loss to DEVELOPER's property or other asset, and any loss of revenue or consequential damages, howsoever caused, and agrees to require appropriate waivers of subrogation from its insurance companies.

(c) Certificates of Insurance. Certificates of all insurance required from the Developer shall be filed with the COUNTY as the Certificate Holder, before operations are commenced. The insurance indicated on the Certificate shall be subject to its approval for adequacy and protection. The certificate will state the types of coverage provided, limits of liability, and expiration dates. The COUNTY shall be identified as an Additional Named Insured for each type of coverage required by Section A (2) through A (6) above. The required certificates of insurance may refer specifically to this Agreement and the above sections in accordance with which such insurance is being furnished, and may state that such insurance is as required by such sections of this Agreement.

The DEVELOPER shall provide a Certificate of Insurance to the County with a thirty (30) days' notice of cancellation. In addition, the County will be shown as Additional Named Insured, with a Hold Harmless Agreement in favor of the COUNTY, where applicable. The certificate should also indicate if coverage is provided under a "claims made" or "per occurrence" form. If any coverage is provided under a claims made form, the certificate will show a retroactive date, which should be the same date as the Agreement (original date if Agreement is renewed) or prior.

If the initial insurance expires prior to the completion of work, renewal certificates and/or required copies of policies shall be furnished thirty (30) days prior to the date of their expiration.

Section 12. Removal and Restoration.

(a) Ownership of Equipment. Except as otherwise provided in this Agreement, the LFG Utilization Facility and related equipment shall remain the personal property and/or responsibility of DEVELOPER (collectively "DEVELOPER's Equipment"), notwithstanding the above, however, no equipment shall be removed that will affect the operations of the COUNTY's Flare Stations needed to remain in compliance with applicable federal, state, and local laws and regulations, and to control landfill gas migration and atmospheric emissions, including odors.

(b) Transfer of Ownership upon Expiration or Termination. Upon the expiration or termination of the Agreement, the below ground portions of the LFG Utilization Facility and the building shall become the personal property and responsibility of COUNTY. DEVELOPER shall have no further responsibility with respect to the below ground portions of the LFG Utilization Facility after DEVELOPER conveys title to such equipment, fee and clear of any encumbrances, liens or security interest.

Notwithstanding the above, within thirty (30) or (90)? days after the expiration or termination of this Agreement, , the DEVELOPER shall, at its sole expense, remove all LFG Utilization Facility and any associated Transmission equipment except for the building from the Landfill and return the LFG Utilization Facility Site to its original condition.

Nothing in this Section 12 shall be construed to create an obligation on the COUNTY to buy any portions of the LFG Utilization Facility. Should DEVELOPER fail to remove DEVELOPER's Equipment as required under this Section 12, such property shall be deemed abandoned and shall become the property of COUNTY. Should the COUNTY incur cost associated with the removal of abandoned equipment and/or site restoration associated with such abandonment, the DEVELOPER shall be liable for such cost. This liability shall expire twelve (12) months after the abandonment if the COUNTY has not notified the DEVELOPER in writing that site clean-up has been completed or is underway including the actual or estimated cost of such clean-up.

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(c) Removal and Restoration Bond. Before starting and throughout the term of this Agreement, DEVELOPER shall procure and maintain a bond or financial security instrument under forms acceptable and approved by the COUNTY to ensure the removal of the DEVELOPER's facilities and the restoration of the land upon the expiration or termination of this Agreement. The amount of the bond or financial security instrument shall be Fifty Thousand and No/100 Dollars (\$50,000.00).

Section 13. Force Majeure. If by reason of Force Majeure either party is unable to carry out, either in whole or in part, its obligations herein contained, such party shall not be deemed in default during the continuation of such inability, provided that:

(a) The non-performing party, as soon as possible but no later than two (2) weeks after the occurrence of the cause of the Force Majeure, gives the other party written notice describing the particulars of the occurrence; and

(b) The suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; and

(c) No obligations of either party which arose prior to the occurrence causing the suspension of performance be excused as a result of the occurrence; and

(d) That the non-performing party endeavors to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

Neither party shall be required to settle strikes, lockouts, or other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in its judgment, not in its best interest. The fee required to be paid by DEVELOPER set forth in Section 6(b) shall not apply, and DEVELOPER shall be relieved of its obligation there from, so long as an event of Force Majeure has occurred and is continuing.

Section 14. Termination.

(a) DEVELOPER's Default. The failure of the DEVELOPER to comply with any provision of this Agreement shall place the DEVELOPER in default. Prior to terminating the Agreement, the COUNTY shall notify the DEVELOPER in writing.

Notification shall make specific reference to the provision which gave rise to the default. The COUNTY shall provide the DEVELOPER thirty (30) days to propose a written remedy and schedule, which shall not be unreasonably withheld, delayed, or conditioned. If the COUNTY disapproves of DEVELOPER's proposed remedy and schedule, the COUNTY may, at its sole option, ~~direct an alternative remedy and schedule or provide~~ DEVELOPER with ninety (90) days prior written notice of termination.

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Events of default by DEVELOPER warranting termination by COUNTY shall include, but not be limited to, one or more of the following:

- (1) the filing by or against DEVELOPER of a petition in bankruptcy or the complete cessation of the business operations of DEVELOPER;
- (2) failure by DEVELOPER to pay the fees due the COUNTY pursuant to Section 6, Payment;
- (4) failure by the DEVELOPER to maintain the LFG Utilization Facility, the COUNTY's Flare Station(s), and all associated DEVELOPER supplied equipment in good working order throughout the term of this Agreement;
- (5) failure to operate the system or to maintain compliance with environmental regulations and noise limitation and odor control requirements;
- (6) failure to pay for any damages assessed to the DEVELOPER;
- (7) failure to commence Commercial Operations within eighteen (18) months from the effective date of this Agreement.

(b) Repeated Defaults by DEVELOPER. In the event that the DEVELOPER's record of performance shows that the DEVELOPER has frequently, regularly or repetitively defaulted in the performance of any of the material covenants and conditions required herein to be kept and performed by the DEVELOPER and regardless of whether the DEVELOPER has corrected each individual condition of default, the DEVELOPER may be deemed a "habitual violator" and all of said defaults may be considered collectively to constitute a condition of default. The COUNTY may thereupon issue the DEVELOPER a final warning citing the circumstances therefore, and any single material default by the DEVELOPER within one (1) year after said warning shall be grounds for termination of this Agreement. In the event of any such single subsequent default within one (1) year, the COUNTY may terminate this Agreement upon the giving of written final notice to the DEVELOPER. The COUNTY's Environmental Services Director shall be the sole authority to determine and deem the DEVELOPER as a "habitual violator".

(c) COUNTY's Default. The failure of the COUNTY to comply with any provision of this Agreement shall place the COUNTY in default. Prior to terminating the

Agreement, the DEVELOPER shall notify the COUNTY in writing. Notification shall make specific reference to the provision which gave rise to the default. The DEVELOPER shall provide the COUNTY thirty (30) days to propose a written remedy and schedule which shall set forth the specific timeframe for curing default. In the event of a default by the COUNTY, the COUNTY shall pay DEVELOPER an amount for capital expenditures for the LFG Utilization Facility consistent with Section 12(b) of the Agreement, or the DEVELOPER may remove the above ground portion of the LFG Utilization Facility at the DEVELOPER's option.

(d) Termination for Insufficient Quantities of LFG. Should the DEVELOPER determine, following LFG Utilization Facility start-up, that LFG can no longer be reasonably recovered from the Landfill in Commercial Quantities, DEVELOPER shall have the right to surrender and terminate this Agreement including its rights to the LFG upon ninety (90) days prior written notice to COUNTY. In the event of such termination by the DEVELOPER:

(1) the DEVELOPER shall continue to make payments to the COUNTY for the right to and use of the LFG in accordance with Section 6(b), whichever is in effect at the time, for a three (3) month period following notification of termination;

(2) the DEVELOPER shall continue to make payments for any monies due to the COUNTY for the sale of the Beneficial End Use Product and any other monies required by the provisions of this Agreement;

Section 15. Damages and Administrative Charges. Except where otherwise specifically provided, the measure of damages to be paid by the DEVELOPER to the COUNTY due to any failure by the DEVELOPER to meet any of its obligations under this Agreement shall be the actual damages incurred by the COUNTY. Said damages shall include, but shall not be limited to, the following damages:

(a) The COUNTY's Damages in the Event of Termination of DEVELOPER. If the COUNTY terminates this Agreement because of a default by the DEVELOPER, the DEVELOPER shall be liable to the COUNTY for all actual damages incurred by the COUNTY as a result of DEVELOPER's default.

(b)

(c) The COUNTY's Damages Due to DEVELOPER's Failure to Comply with Environmental Regulations. If the DEVELOPER fails to comply with any applicable environmental regulations, the DEVELOPER shall pay to the COUNTY the following:

(1) All lawful fines, penalties, and forfeitures charged to the COUNTY by any governmental agency charged with enforcement of environmental laws and regulations or judicial orders.

(2) The actual costs, including, but not limited to, legal, administrative and any associated fees, incurred by the COUNTY as a result of the failure to comply with the environmental regulations including any costs incurred in investigating and remedying the conditions which led to the failure to comply with the environmental regulations.

(d) Administrative Charges. The parties acknowledge and agree that it is difficult or impossible to accurately determine the amount of damages that would, or might, be incurred by the COUNTY due to those failures or circumstances described in this section of the Agreement and for which the DEVELOPER would otherwise be liable. Accordingly, administrative charges may be assessed against the DEVELOPER for the following failures to comply with the Agreement:

(1) If DEVELOPER fails to operate and perform the system within permit and/or regulatory requirements or standards, the COUNTY shall give Notice to the DEVELOPER of the foregoing failure. If the DEVELOPER fails to remedy the foregoing failure within two (2) days of the receipt of the Notice from the COUNTY, administrative charges in an amount equal to fifty (50%) of the "daily average payment" to the COUNTY for the sale of the COUNTY's LFG shall be assessed against the DEVELOPER per day until such time as the DEVELOPER has remedied the foregoing failure. If it is not possible to remedy the failure within two (2) days of receipt of the Notice, the DEVELOPER and COUNTY shall agree to a reasonable extended time-period. The "daily average payment" shall be based on normal historical operating days for the six (6) month period immediately preceding the COUNTY's Notice.

(2) If DEVELOPER fails to keep and utilize the LFG Utilization Facility at the levels of manpower and equipment necessary to adequately operate the system, the COUNTY shall give Notice to the DEVELOPER of the foregoing failure. If the DEVELOPER fails to remedy the foregoing failure within one (1) week of the receipt of the Notice from the COUNTY, administrative charges in the amount equal to fifty percent (50%) of the "daily average payment" to the COUNTY for the sale of the COUNTY's LFG shall be assessed against the DEVELOPER per day until such time as the DEVELOPER has remedied the foregoing failure. If it is not possible to remedy the failure within one (1) week of receipt of the Notice, the DEVELOPER and COUNTY shall agree to a reasonable extended time-period. The "daily average payment" shall be based on normal historical operating days for the six (6) month period immediately preceding the COUNTY's Notice.

(3) If DEVELOPER fails to supply information or reports required by the COUNTY and/or any regulatory agency within the timeframe agreed to by the COUNTY and/or regulatory agency, the COUNTY shall give Notice to the DEVELOPER of the foregoing failure. If the DEVELOPER fails to remedy the foregoing

failure within ten (10) day of receipt of the Notice from the COUNTY, administrative charges in the amount of One Hundred and No/100 Dollars (\$100.00) per day shall be assessed against the DEVELOPER until such time as the COUNTY determines that the DEVELOPER has remedied the foregoing failure. If it is not possible to remedy the failure within ten (10) day's receipt of the Notice, the DEVELOPER and COUNTY shall agree to a reasonable extended time-period.

Section 16. Representations and Warranties.

(a) Warranties of COUNTY. COUNTY hereby agrees, warrants, and represents to DEVELOPER, as of the date of execution of this Agreement, that:

(1) The COUNTY has not entered into any other agreements with respect to the LFG conveyed to DEVELOPER under this Agreement or with respect to any of the other rights conveyed to DEVELOPER pursuant to Section 2 of this Agreement. COUNTY warrants that DEVELOPER shall take the LFG free and clear of any liens or encumbrances. COUNTY hereby warrants to DEVELOPER that COUNTY has the title to the LFG Utilization Facility Site, access to the site, the Landfill, and the LFG.

(2) No part of the LFG project was financed by grants or subsidized energy financing and the energy credit was not claimed with respect to property used in such recovery Project.

(3) The execution and delivery of this Agreement and related documents have been duly authorized, and constitute legal, valid, and binding obligations of the COUNTY which are enforceable in accordance with their terms and do not violate any law, rule or regulation.

(4) As of the effective date of this Agreement, the solid waste that the COUNTY accepts for disposal within the solid waste disposal units is nonhazardous solid waste as defined by Chapter 62-701, F.A.C. COUNTY also covenants that during the term of the Agreement, COUNTY will continue to accept only nonhazardous solid waste or material deemed nonhazardous in nature as defined by Chapter 62-701, F.A.C.

(b) Warranties of DEVELOPER. DEVELOPER hereby agrees, warrants and represents to COUNTY, as of the date of execution of this Agreement, that

(1) DEVELOPER is a duly organized, validly existing entity in good standing under the laws of the State of Florida. DEVELOPER has all requisite corporate power to own its properties and to carry on the business that is now being conducted, to execute and deliver this Agreement and to engage in the transactions contemplated in this Agreement.

(2) The execution, delivery and performance by DEVELOPER of this Agreement is within the corporate powers of DEVELOPER, have been duly authorized by all necessary corporate action, and do not violate any law, rule or regulation, or the terms of the articles of incorporation or bylaws of DEVELOPER.

Section 17. Assignment. The COUNTY and DEVELOPER shall bind themselves and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement. Neither party hereto may sell, assign or transfer this Agreement or any interest it may have hereunder, without prior written approval of the other party, such approval to be not unreasonably withheld, and provided that any such assignment shall not unduly interfere with the rights of the non-assigning party hereunder, and further provided that such assignee agrees to be bound by the terms of this Agreement to the same extent as assignor. In no event will assignment relieve the assignor of its obligations hereunder. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of COUNTY or DEVELOPER, nor shall it be construed as giving any right or benefit hereunder to anyone other than the COUNTY or the DEVELOPER.

Section 18. Notices. Any notice to be given under this Agreement shall be in writing and shall be deemed to have been properly given and received (i) when delivered in person to the authorized representative of the party to whom the notice is addressed, or (ii) on the date received as indicated on the prepaid certified or registered receipt when sent by prepaid mail, return receipt requested, to the party to be notified at the address indicated as follows:

To DEVELOPER:

Timberline Energy, LLC
15420 West Archer Drive
Golden, CO 80401

To COUNTY:

Hernando County

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Either party may change such representative or address under this Agreement by providing written notice to the other party.

Section 19. Taxes. DEVELOPER shall, during the term of this Agreement, pay or arrange for the payment of all general taxes that may be levied upon or assessed against the system, facilities, equipment, machinery and improvements constructed or installed by it in, on, or adjacent to the Landfill. To the extent permissible by law, COUNTY shall recognize DEVELOPER's Equipment as an environmental pollution control system as defined under applicable tax laws and, therefore, shall be free from state sales taxes as provided by state statutes.

Section 20. Interest of Members of COUNTY and Others. No officers, members, or employees of the COUNTY, no member of its governing body, no other public official of the governing body of the locality or localities in which services for facilities under this Agreement are to be carried out, who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this Project, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 21. Interest of DEVELOPER. DEVELOPER covenants that it presently has no interest and shall not acquire an interest, direct, or indirect, which shall conflict with the performances or services required to be performed under this Agreement. Developer further covenants that in the performance of this Agreement, the DEVELOPER shall employ no person having any such interest.

Section 22. Covenant against Contingent Fees DEVELOPER warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for DEVELOPER, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for DEVELOPER, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this section, the COUNTY shall have the right, but not the duty, to terminate this Agreement without liability, and, at its discretion, to deduct from the Agreement such price, or otherwise recover the full amount of such fee, commission, percentage, gift or other consideration.

Section 23. Potential Conflicts of Interest. DEVELOPER is specifically aware of, and concurs with, the public need for the COUNTY to prohibit any potential conflicts of interest that may arise as a result of the execution of this Agreement. As a result, DEVELOPER has extensively reviewed all of its contracts, letters of agreement, and any other indication of commitment on its behalf to perform services for any client other than Hernando COUNTY, which could in any way present the reasonable possibility of an actual conflict of interest with Hernando COUNTY. DEVELOPER has not identified any such contracts., y.

In view of the potential of this Agreement being a long-term contractual relationship between the parties, DEVELOPER specifically agrees to comply with the following organizational requirements in performing its services under this Agreement:

(a) Direct supervision of DEVELOPER employees and agents under this Project shall be given by BILL OWEN, and the designated Project Managers assigned to each specific Project.

(b) DEVELOPER specifically warrants and agrees that any and all information, concepts, policies and regulations relating to the Project under this

Agreement shall be held by DEVELOPER in strict confidentiality within DEVELOPER's Project Team, except as may be affected by Chapter 119, Florida Statutes. No dissemination of any such information by DEVELOPER shall be made until after clear written authorization to do so has been granted by the COUNTY, except as may be otherwise required by law or directed by COURT Orders and except for disclosures to DEVELOPER's legal counsel or accountants. Notice of such disclosures permitted hereunder shall be immediately given to the COUNTY.

Section 24. Records and Audits. If federal funds are used for any work under this Agreement, the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to any books, documents, papers, and records of DEVELOPER which are directly pertinent to work performed under this Agreement, for purposes of making audit, examination, excerpts, and transcriptions.

The COUNTY and its auditors shall be entitled to audit the books and records of the DEVELOPER to the extent that such books and records relate to the performance of this Agreement. DEVELOPER agrees to maintain such records and accounts including all books, documents, papers, financial records and other evidences pertaining to work performed under this Agreement. Said records shall be made available at its office at all reasonable time during the term of this Agreement, and for three (3) years from the date of final payment under this Agreement, for audit or inspection by the COUNTY, or any of its duly authorized representatives, unless a shorter period is authorized by the COUNTY in writing.

Section 25. Equal Opportunity Employment. DEVELOPER agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfers; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Section 26. Claims for Services. No claim for services rendered by DEVELOPER not specifically provided for in this Agreement will be honored by the COUNTY.

Section 27. Severability. If any of the provisions contained in this Agreement are held for any reason to be invalid, ~~illegally~~, or unenforceable, such a ~~holding~~ shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

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Section 28. Modifications or Amendments in Writing. No modification, amendment or alteration in terms or conditions contained herein shall be effective unless contained in a written document executed by the parties with the same formality as herein.

(a) Headings. The headings appearing in this Agreement are intended for convenience and reference only, and are not to be considered in construing this Agreement.

(b) Disclaimer of Joint Venture, Partnership and Agency. This Agreement shall not be interpreted or construed as creating an association, joint venture or partnership between COUNTY and DEVELOPER or Buyer or to impose any partnership obligation or liability upon such parties. Neither COUNTY nor DEVELOPER or Buyer shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another party.

(c) Governing Law. All questions with respect to the construction of this Agreement and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Florida. Venue shall be in Hernando COUNTY, Florida.

(d) Amendment to Agreement. The COUNTY and DEVELOPER agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, deleted, modified, superseded or otherwise altered, except by written amendment executed by the parties hereto. Such amendment(s) are not valid, binding and enforceable unless signed by the Board of County Commissioners or by a COUNTY representative duly authorized by the Board of County Commissioners.

(e) Successors and Assigns. All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

(f) DEVELOPER Right to Utilization Facility Design. It is acknowledged that the DEVELOPER and Buyer have or will have expended considerable time and expense in developing the design for the LFG Utilization Facility and associated electrical transmission, steam or LFG transmission lines, and, therefore, could consider such design to be proprietary. The COUNTY agrees on behalf of itself and its agents and representatives to maintain the proprietary nature of the design by not constructing like facilities without the written approval of the DEVELOPER and Buyer.

(g) Remedies Not Exclusive. The remedies in this Agreement are not exclusive and supplement any other remedies provided at law or in equity.

(h) Order of Precedence. In resolving inconsistencies among (2) or more components of this Agreement, precedence shall be given in the following order:

(1) Agreement

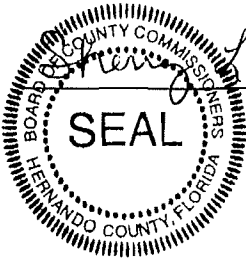
- (2) COUNTY's RFP Document
- (3) DEVELOPER's Proposal

SIGNATURE BLOCK BEGINS ON PAGE 33

In Witness whereof, the parties hereto have made and executed this agreement on the day and year first written above.

ATTEST:

Board of County Commissioners
Hernando County, Florida



Sherry L. Green, Deputy By: [Signature]

Date:

As authorized for execution by the
Board of County Commissioners
at its April 24, 2007 meeting

Attest:

Timberline Energy, LLC, a
Delaware Limited Liability
Company

By: [Signature]
Gregory H. Pilden, President

Date: April 25, 2007

