

Schedule 1.1
(Plant Site Lease)
(Amended and Restated Project Development and Gas Sales Agreement)

Definitions

"Abandonment" means, except to the extent due to an Event of Force Majeure, the voluntary termination by County of the operation of the Collection Facilities or the Expansion Collection Facilities.

"Acts" has the meaning given in Section 11.5.2 of the Project Development Agreement.

"Affected Party" means a party that seeks relief from the performance of its respective obligations under a Primary Project Contract due to an Event of Force Majeure.

"Affiliate" of a specified Person means any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the specified Person. As used in this definition the terms "control," "controlled by" or "under common control with" means possession, directly or indirectly, or power to direct or cause the direction of management or policies of such Person (whether through the ownership of securities or other partnership, membership or other ownership interests, by operation of law, by contract or otherwise); provided that in any event, any Person which owns directly, indirectly or beneficially fifty percent (50%) or more of the securities having voting power for the election of directors or other governing body of a corporation or fifty percent (50%) or more of the partnership interests or other ownership interests of any other Person will be deemed to control such Person. Notwithstanding the foregoing, no individual shall be deemed to be an Affiliate of a Person solely by reason of his being a director, committee member, officer or employee of such Person.

"Agent" means a Person designated by the Financing Parties to receive notice.

"Alternative Energy Tax Credit" means that tax credit for producing fuel from a nonconventional source as described in Section 29 of the Internal Revenue Code of 1986, as it may be amended from time to time.

"Annual Maintenance Schedule" means an annual schedule for repair and maintenance outages for each of the Collection Facilities and Plant as developed and mutually agreed by County and Bio Energy in accordance with Section 4.7. of the Project Development Agreement.

"Applicable Law" means any Governmental Rule which is applicable to or affects the construction, operation, maintenance, ownership or use of the Plant, the Collection Facilities, the Plant Site or the Landfill Site, including any Governmental Rule pertaining to zoning or land use restrictions, environmental protection, pollution or sanitation, and any waiver, exemption, release, variance, order, Permit, authorization, right or license of, from, imposed or otherwise issued by a Governmental Authority.

"Approved Rate" means the Prime Rate plus two percent (2%) per annum, in either case not to exceed the maximum interest rate allowed by then-applicable law.

"Billing Meters" means Landfill Gas measuring stations installed, operated and maintained at (a) County's expense at (i) County's side of the Gas Delivery Point and (ii) the New Flare Station, and (b) at Bio Energy's expense at (iii) each initial entry point to Bio Energy's gas processing or electricity generating facilities at the Plant.

"Billing Period" means each calendar month during each Operating Year, provided, that (a) the first Billing Period of the first Operating Year shall commence on the Commercial Operating Date and end on the last day of the first full month thereafter and (b) the final Billing Period shall terminate on the PDA Termination Date.

"Bio Energy Condemnation Value" has the meaning given in Section 13.2 of the Plant Site Lease.

"Bio Energy Indemnified Parties" means Bio Energy, its officers, directors, agents, attorneys, Financing Parties and employees, Ingenco, and any other direct or indirect equity holders of Bio Energy .

"Bio Energy Lease Default" has the meaning given in Section 14.1 of the Plant Site Lease.

"Bio Energy PDA Default" has the meaning given in Section 13.1 of the Project Development Agreement.

"Business Day" means any day, other than a Saturday, Sunday or day that financial institutions in Seattle, Washington are authorized or are required to be closed.

"CAA" means the Clean Air Act, 42 U.S.C. § 7401 et seq.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.C.S. § 9601 et seq.

"Change in Law" means any of the following events occurring after the PDA Effective Date: (a) the enactment of any new Applicable Law; (b) the modification of any Applicable Law; (c) the commencement of any Applicable Law which has not entered into effect; (d) a change in the interpretation of any Applicable Law; (e) the imposition of a requirement for a Permit that was not required as of the PDA Effective Date, but excluding any Permits which were not required at the PDA Effective Date but the requirement for which was reasonably foreseeable at the PDA Effective Date; provided that none of foregoing shall constitute a "Change in Law" to the extent that it enforces compliance with obligations existing under Applicable Law with which a party is obligated to comply at the PDA Effective Date or (ii) such circumstances arose as a result of any default or neglect on the part of a party, its Subcontractors or its or their respective Representatives.

"Claims" means demands, actions, causes of action, proceedings, judgments, awards, debts, deficiencies, liabilities, damages, costs, expenses (including reasonable attorneys' fees and costs of investigation), penalties and fines.

"Collection Facilities" means the network of recovery wells and connecting pipes together with attendant valves, pumps, monitoring devices, knock-out vessels, vacuum pumps, blowers and compressors, and other extraction related equipment installed for the purpose of extracting and recovering Landfill Gas at the Landfill, as more specifically described in Exhibit B to the Project Development Agreement; provided that "Collection Facilities" shall expressly exclude the Expansion Collection Facilities; provided further, that "Collection Facilities" shall exclude the area known as landfill cell no. 1.

"Collection Facilities Outage" means any interruption in the ability of County or the Collection Facilities to deliver Landfill Gas to the Gas Delivery Point.

"Commencement Date" means the date that Bio Energy takes possession and control of the Plant Site in accordance with the terms of the Plant Site Lease.

"Commercial Operation" means that the gas processing generation equipment within the Plant has completed testing, start-up and commissioning activities and is prepared to commence deliveries of Product Gas in accordance with the requirements of the receiving pipeline.

"Commercial Operation Date" means the date upon which Commercial Operation occurs.

"Commercial Operation Deadline" means 600 days after the Permit Acquisition Date.

"Condemnation Award" shall mean the amount of compensation awarded to Bio Energy and County in connection with a Total Taking or Partial Taking, as set forth in Section 13.2 or 13.3, respectively, of the Plant Site Lease.

"Condemning Authority" has the meaning given in Section 13.1 of the Plant Site Lease.

"Condensate" means water and other liquids derived from the Landfill Gas delivered to the Plant.

"Condensate Delivery Point" means the location at the Plant Site boundary at which the Plant will deliver Condensate to County, as will be mutually agreed by Bio Energy and County.

"Condensate Quality Failure" has the meaning assigned thereto in Section 4.10.5 of the Project Development Agreement.

"Conditions Precedent" means the conditions precedent set forth in Sections 3.1.1 and 3.1.2 of the Project Development Agreement, individually or collectively, as the context may require.

"Confidential Information" has the meaning assigned thereto in the applicable Primary Project Contract.

"Confidentiality Agreement" means the Confidentiality Agreement dated as of February 13, 2003 between Energy Developments, Inc. and King County, Washington.

"Conforming Process Gas" has the meaning assigned thereto in Schedule 5.1 to the Project Development Agreement.

"Construction Start Date" means the date that Bio Energy begins mobilization activities at the Plant Site with one or more construction contractors.

"Consultation Period" means the period of time commencing on the date of delivery of a Notice of Intent to Terminate and ending: (i) ten (10) days following delivery of such notice in case of a Bio Energy PDA Default under Section 13.1.2 of the Project Development Agreement or a County PDA Default under Section 13.2.2 of the Project Development Agreement; and (ii) thirty (30) days following delivery of such notice with respect to any other PDA Default; or (c) in the case of the Plant Site Lease, thirty (30) days following delivery of such notice with respect to a Lease Default.

"County" means King County, Washington, a municipal corporation organized under the laws of the State of Washington.

"County Cure Plan" means the plan provided by County to Bio Energy in accordance with Section 14.1 of the Project Development Agreement that details County's proposed method and timetable for curing the circumstances that have given rise to a particular Triggering Event Notice.

"County Indemnified Parties" means the County and its agents, attorneys and employees.

"County Lease Default" has the meaning given in Section 14.2 of the Plant Site Lease.

"County PDA Default" has the meaning given in Section 13.2 of the Project Development Agreement.

"Cure Plan" means the County Cure Plan as adopted by the Technical Expert, including all modifications (if any) thereto made by the Technical Expert.

"Cure Rights" means Bio Energy's rights to assume implementation of the Cure Plan from County in accordance with Section 14.3 of the Project Development Agreement.

"CWA" means the Clean Water Act, 33 U.S.C. § 1251 et seq.

"Delivered Gas" means, for any given time period, the quantity of all Landfill Gas produced or collected by the Collection Facilities and the Expansion Collection Facilities and delivered to the Gas Delivery Point, as measured by the applicable Billing Meter. For purposes of clarification, Delivered Gas does not include Flared Gas, but does include both Processed Gas and Landfill Gas that is delivered to the Plant Flare.

"Delivery Period" means the period commencing on the earlier of (a) the Commercial Operations Date; or (b) 14 months following the Permit Acquisition Date and ending on the PDA Termination Date.

"Disclosing Party" means a party providing another party with Confidential Information.

"Draw Event" has the meaning given in Section 13.8.6 of the Project Development Agreement.

"Easement Area" has the meaning given in Section 2.2 of the Plant Site Lease.

"Election Notice" has the meaning given (a) in connection with the Project Development Agreement, in Section 13.3.4(b) of the Project Development Agreement, and (b) in connection with the Plant Site Lease, in Section 14.3.4(b) of the Plant Site Lease.

"Emissions Credits" means all emissions credits, offsets and allowances generated by, and associated with, the generation, collection, distribution, sale or use of fuel or energy, or generated by, and associated with, alternative or renewable energy projects, reforestation projects, or conservation activities. Such emissions credits, offsets and allowances shall include, but are not limited to, those credits and allowances for reductions of sulfur dioxide and other sulfur compounds, acid rain precursors, methane, carbon dioxide, carbon monoxide, chlorinated hydrocarbons and other carbon compounds, nitrogen-oxygen compounds, other greenhouse gases, other ozone precursors, particulate matter, metals and toxic air pollutants.

"Environmental Claims" means all claims, demands, suits, causes of action for injuries to persons or property damage ((a) excluding any such claims, demands, suits or causes of action for depreciation of property values, lost use of property, lost revenues, costs of specific performance or consequential or punitive damages suffered directly by any party to the Project Development Agreement, and (b) including any such claims, demands, suits or causes of action occasioned by the claims, demands, suits or causes of action of persons not party to the Project Development Agreement, as applicable) arising out of Environmental Conditions or Environmental Noncompliance, including actual or threatened damages to natural resources; claims for the recovery of response costs, or administrative or judicial orders directing the performance of investigations, removal, remedial or other response actions directing the performance of investigations, removal, remedial or other response actions under CERCLA, RCRA or other Environmental Laws; a requirement to implement "corrective action" pursuant to any order or permit issued pursuant to RCRA; claims for restitution, contribution or equitable indemnity from third parties or any Governmental Authority; fines, penalties, liens against property; and claims for injunctive relief or other orders or notices of violation from any Governmental Authority.

"Environmental Conditions" means any environmental conditions, circumstances or other matters of fact, pertaining to, relating to or otherwise affecting the environment, including any natural resources (including flora and fauna), soil, vibration, surface water, ground water, any present or potential drinking water supply, subsurface strata, sound or the ambient air, and relating to or arising out of the presence, use, handling, storage, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, pouring, emptying, discharging, injecting,

escaping, leaching, disposal (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Hazardous Materials), dumping or threatened release (as such term is used in CERCLA or other similar Environmental Laws) of Hazardous Materials.

"Environmental Expenses" means all liabilities, losses, costs and expenses arising out of Environmental Conditions or Environmental Noncompliances, including costs of investigation, cleanup, remedial, removal or other response action, the costs associated with posting financial assurances for the completion of response, remedial or corrective actions, the preparation of any closure or other necessary or required plans or analyses, or other reports or analyses submitted to or prepared by Governmental Authorities, including the cost of health risk assessments, epidemiological studies and the like, retention of engineers and other expert consultants, legal counsel, capital improvements, operation and maintenance testing and monitoring costs, power and utility costs and pumping taxes or fees, and administrative, oversight and other costs incurred by Governmental Authorities; provided, however, that "Environmental Expenses" shall only include those Environmental Expenses which are reasonably necessary and are in reasonable amounts in view of the then existing circumstances giving rise to such Environmental Expenses.

"Environmental Laws" means any law, regulation, rule or ordinance now or hereinafter in effect relating to Environmental Conditions, including CERCLA, the TSCA, the RCRA, the CWA, the CAA, the FIFRA, the AEA, the EPCRA, the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, the Oil Pollution Act of 1990, 33 U.S.C. § 2761, the Occupational Health and Safety Act, 29 U.S.C. § 651 et seq., and the Pollution Prevention Act, 42 U.S.C. 13101 et seq.; the Washington Environmental Laws; any amendments thereto now or hereafter adopted or that otherwise become effective; any plans, rules, regulations, or ordinances adopted (including fire, land use, zoning, and other codes and regulations relating to Environmental Conditions), or other guidelines, guidance or policies promulgated pursuant to the preceding laws; and any common law principles (including decisions by or orders of courts, agencies, boards of appeals or similar bodies with mandatory or persuasive authority) relating to the Environmental Conditions.

"Environmental Noncompliance" means any violation of Environmental Laws, including: (a) the discharge, emission, release or threatened release (as such term is used in CERCLA, the CWA, the CAA or other similar Environmental Laws) of any Hazardous Materials in violation of any Environmental Laws; (b) any noncompliance with Environmental Laws regarding the construction, modification, operation and maintenance of physical structures, equipment, processes or facilities; (c) any noncompliance with federal, state or local requirements governing occupational safety and health related to Hazardous Materials; (d) any facility operations, procedures, designs, or other matters which do not conform to the statutory or regulatory requirements of Environmental Laws, including the CAA, the CWA, the TSCA and the RCRA; (e) the failure to have obtained or to maintain in full force and effect Permits, variances or other authorizations necessary for the legal operation of any equipment, process, facility or any other activity, to the extent required for compliance with Environmental Laws; or (f) the operation of any facility, process, or equipment in violation of any permit condition, schedule of compliance, administrative or court order, to the extent required for compliance with Environmental Laws.

"EPC Agreement" means the Engineering, Procurement and Construction Agreement, to be entered into between Bio Energy or Ingenco and a construction contractor in connection with the design, engineering and construction of, and the procurement of equipment for, the Plant.

"EPCRKA" means the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001 et seq.

"Equipment Delivery Date" means the date Bio Energy takes delivery at the Plant Site of the gas processing equipment that will be incorporated into the Plant.

"Equipment Order Date" means the date that Bio Energy (either itself or by or through its representative or contractors) has provided written purchase orders to the applicable equipment suppliers for all major gas processing equipment that will be incorporated into the Plant. The Equipment Order Date is a Milestone that is scheduled to be achieved by the end of the [30th day] following the Permit Acquisition Date.

"Evaluation Period" has the meaning given (a) in connection with the Project Development Agreement, in Section 13.3.4(b) of the Project Development Agreement, and (b) in connection with the Plant Site Lease, in Section 14.3.4(b) of the Plant Site Lease.

"Event of Force Majeure" means any event or circumstance (or combination thereof) and the continuing effects of any such event or circumstance (whether or not such event or circumstance was foreseeable or foreseen on the PDA Effective Date) which is (a) not attributable to the act, neglect, omission, breach of contract or of statutory duty, gross negligence or willful misconduct of the Affected Party, its Representatives or its Subcontractors and (b) which could not have been prevented, overcome or remedied by the Affected Party through its exercise of reasonable diligence under the circumstances. "Events of Force Majeure" include the following events and circumstances to the extent that they, or their effects and consequences, satisfy the requirements set forth in clauses (a) and (b) of the immediately preceding sentence:

- (a) act of God, landslides, fire, lightning, flood, storm, tornado, volcanic eruption, earthquakes or extreme adverse weather or environmental conditions (but excluding adverse weather conditions which are within the range of conditions historically experienced at the Landfill Site);
- (b) act of public enemy, armed conflicts or act of foreign enemy (including acts of terrorism (whether state-sponsored or otherwise)), blockades, embargoes, insurrections, riots, sabotage or epidemics, civil disturbances, explosions and wars (whether declared or undeclared);
- (c) Changes in Law;
- (d) breakdowns in machinery, equipment or facilities on the transmission and distribution system of the Person with whom the Plant is interconnected and which transmits Product Gas generated by the Plant or any other event or disturbance on such system which causes a forced outage of the Plant; and
- (e) strikes, whether widespread or local, that effect the delivery of critical equipment that cannot be substituted on a commercially reasonable basis.

provided, however, that lack of money, financial inability to perform or changes in a Party's costs of performing its obligations hereunder shall not constitute an Event of Force Majeure.

"Exercise Period" has the meaning given in Section 8.2 of the Project Development Agreement.

"Expansion Collection Facilities" means the network of recovery wells and connecting pipes together with attendant valves, pumps, monitoring devices, knock-out vessels, vacuum pumps, blowers and compressors, and other extraction related equipment installed for the purpose of extracting and recovering Landfill Gas from a Landfill Expansion Cell.

"Extended Cure Period" has the meaning given (a) in connection with the Project Development Agreement, in Section 13.3.3(b) of the Project Development Agreement, and (b) in connection with the Plant Site Lease, in Section 14.3.4(b) of the Plant Site Lease.

"FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 *et seq.*

"Financial Closing" means the execution and delivery of the Financing Documents by each of the parties thereto and the satisfaction of all conditions precedent to the initial draw-down under such Financing Documents.

"Financing Documents" means the loan agreements, leases, partnership agreements, notes, indentures, underwriting agreements, security agreements, and related documents entered into in connection with any construction financing or permanent financing of the Plant, provided, that if initial financing includes only construction financing then (i) such term shall only include such documents entered into in connection with such construction financing and (ii) after Financial Closing, such term shall include all such documents entered into in connection with such permanent financing.

"Financing Party" or "Financing Parties" means any Person(s) providing financing under the terms of any Financing Document.

"Flared Gas" has the meaning given in Section 5.3. of the Project Development Agreement. For purposes of clarification, Flared Gas does not include Delivered Gas (including any Delivered Gas that is burned in the Plant Flare).

"Flared Gas Quantity" means the quantity in MMBTUs of Flared Gas burned in the New Flare during a Billing Period.

"Gas Delivery Point" means the location at which the Collection Facilities connect to the Plant at the Landfill, as mutually agreed to by the Parties.

"Gas Sales Agreement" means the Landfill Gas Sales Agreement between Bio Energy (Washington), LLC and King County dated January 20, 2004.

"Gas Sale Payment" means the gas sale payment payable by Bio Energy to County for the Delivered Gas and Flared Gas Quantity pursuant to Section 6.1 of the Project Development Agreement, as calculated in accordance with the formulas set forth in Schedule 5.1 to the Project Development Agreement.

"Good Engineering Practice" means the practices, methods, standards, procedures and acts which meet or exceed manufacturer's specifications, which are generally accepted and followed by a prudent, diligent, skilled and experienced operator acting in accordance with standards generally adopted by (i) in the case of the Collection Facilities and Expansion Collection Facilities, operators of landfill gas collection facilities located in the United States that have similar characteristics to the Collection Facilities and Expansion Collection Facilities and (ii) in the case of the Plant, operators of gas processing generation facilities located in the United States that have similar characteristics to the Plant, and which in each such case, at the particular time in question, in the exercise of reasonable judgment by an independent engineering professional in light of the facts known, or which in the exercise of due diligence, should have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with reliability, safety, environmental protection, project economics and Applicable Law. "Good Engineering Practices" is not intended to be limited to the consideration of any one practice, method, standard, procedure or act to the exclusion of all others, but rather is intended to include the consideration of that spectrum of possible practices, methods or acts which, in the exercise of reasonable judgment of an independent engineering professional in light of the facts known, might yield the desired result, and includes taking reasonable steps to ensure that:

(a) adequate materials, resources and supplies, are available to meet the needs of the Collection Facilities and Plant, as applicable, under normal conditions and reasonably anticipated abnormal conditions;

(b) sufficient operating personnel are available and are adequately experienced and trained to operate the Collection Facilities and Plant, as applicable, properly, efficiently and taking appropriate account of applicable Manufacturers' Recommendations and are capable of responding to abnormal conditions;

(c) preventative, routine and non-routine maintenance and repairs are performed on a basis that ensures reliable long-term and safe operation, taking account of applicable Manufacturers' Recommendations, and such maintenance and repairs are performed by knowledgeable, trained and experienced personnel utilizing proper equipment, tools and procedures;

(d) appropriate monitoring and testing is done to ensure equipment is functioning as designed and to provide assurance that equipment will function properly under both normal and abnormal conditions; and

(e) equipment is operating in a manner safe to workers, the general public, the environment, plant and equipment.

"Governmental Authority" means any federal, provincial, state, municipal, local or territorial government and any political subdivision thereof, or any other governmental, quasi-governmental, judicial, public or statutory department, ministry, agency, authority, board, bureau, corporation, commission, entity, or instrumentality or any arbitrator with authority to bind a party at law.

"Governmental Rule" means (a) any constitution, statute, law, regulation, ordinance, rule, judgment, order, decree, Permit, concession, agreement, directive, guideline, policy, requirement or other governmental restriction or (b) any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Authority, in each such case having the effect or force of law, including Environmental Laws.

"Hazardous Materials" means hazardous wastes, hazardous substances, hazardous constituents, air contaminants or toxic substances, whether solids, liquids or gases, including substances defined or otherwise regulated as "hazardous materials," "regulated substances," "hazardous wastes," "hazardous substances," "toxic substances," "pollutants," "contaminants," "carcinogens," "hazardous air pollutants," "criteria pollutants," "reproductive toxins," "radioactive materials," "toxic chemicals," or other similar designations in, or otherwise subject to regulation under, any Environmental Laws, including petroleum hydrocarbons, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls and radionuclides.

"Improvements" has the meaning set forth in Section 13.5.1 of the Project Development Agreement.

"Indemnified Party" means a County Indemnified Party or Bio Energy Indemnified Party, as the context may require.

"Indemnifying Party" means a Party that is required to defend, indemnify and hold harmless an Indemnified Party in accordance with the terms of the applicable Primary Project Contract.

"Indemnity Claim" means a claim for indemnity, as notified by an Indemnified Party to an Indemnifying Party, in connection with a particular Claim or Environmental Claim.

"Ingenco" means Industrial Power Generating Company, LLC, a Delaware limited liability company.

"Initial Cure Period" means thirty (30) days after written notice of a default has been given by a party that is entitled to performance to a party obligated to render such performance under any of the Primary Project Contracts.

"Initial Lease Term" has the meaning given in Section 3 of the Plant Site Lease.

"Initial PDA Term" has the meaning given in Section 2.1 of the Project Development Agreement.

"Interconnection Agreement" means the agreement to be entered into between Bio Energy and a third party providing for the construction and installation of the facilities that are required to interconnect the Plant with the third party's applicable transmission or distribution system or gas pipeline.

"Landfill" means the existing landfill (including the Collection Facilities) commonly known as the Cedar Hills Regional Landfill and which is owned and operated by County and located on the Landfill Site. The term "Landfill" includes each Landfill Expansion Cell and any Expansion Collection Facilities installed with respect to any Landfill Expansion Cell.

"Landfill Expansion Cell" means a portion of the Landfill that is opened for collecting waste after the PDA Effective Date.

"Landfill Gas" means (a) methane, carbon dioxide and other gases produced by the anaerobic decomposition of waste material within the Landfill, and (b) any and all, other materials, including entrained liquids, recovered in association with such methane, carbon dioxide and other gases, including all of the foregoing items set forth in clauses (a) and (b) that are generated in the Landfill and collected by the Collection Facilities or the Expansion Collection Facilities; provided that "Landfill Gas" shall expressly exclude any landfill gas generated in the landfill from the area known as cell no. 1.

"Landfill Site" means the real property consisting of an approximately 920 acre site located in Maple Valley, King County, Washington, as such real property is further described on Exhibit A to the Project Development Agreement (which, after the Commencement Date, shall exclude the Plant Site).

"LC Amount" has the meaning given in Section 13.8.1 of the Project Development Agreement.

"LC Issuer" has the meaning given in Section 13.8. of the Project Development Agreement.

"LC Issuer Insolvency" has the meaning given in Section 13.8.5 of the Project Development Agreement.

"Lease Default" means a County Lease Default or a Bio Energy Lease Default, individually or collectively, as the context may require.

"Lease Term" has the meaning given in Section 3 of the Plant Site Lease.

"Lease Termination Date" means the earlier of (a) the last day of the Lease Term; and (b) the date the Lease is terminated by County or Bio Energy pursuant to a Termination Notice issued in accordance with the terms of the Plant Site Lease or is otherwise terminated in accordance with the terms thereof.

"Letter of Credit" has the meaning given in Section 13.8.1 of the Project Development Agreement.

"Loss" means any loss, liability, cost, expense, claim, deficiency, penalty, award or damage and any deductible paid in accordance with any insurance.

"Manufacturer's Recommendations" means the instructions, procedures and recommendations which are issued by the manufacturer of any plant or equipment used at the Collection Facilities or the Plant, as applicable, and which relate to the operation, maintenance or repair of such plant and equipment, together with any revisions or updates thereto that are issued from time to time by the manufacturer.

"Meter" means a Billing Meter as described in Section 7 of the Project Development Agreement, individually or collectively as the context may require.

"Milestones" means any specific tasks or achievements necessary to complete the Plant and achieve Commercial Operation, as set forth on Schedule 4.1.1 to the Project Development Agreement.

"Milestone Date" means, with respect to any particular Milestone, the date by which such Milestone is scheduled to be completed, as set forth on Schedule 4.1.1 to the Project Development Agreement.

"MMBTU" mean one million Btus, where a "Btu" means the amount of heat required to raise the temperature of one avoirdupois pound of pure water from 60 degrees Fahrenheit to 61 degrees Fahrenheit.

"New Flare Station" means the North Flare Station relocated pursuant to the Flare Station Relocation Plan developed by Bio Energy and County in accordance with Section 4.4 of the Project Development Agreement.

"New Flare Station Site" means the real property located within the Landfill Site where the New Flare Station will be located.

"New Tax Credit" means tax credits or other applicable incentives, other than the Alternative Energy Tax Credit that are adopted, increased or expanded after the PDA Effective Date.

"Nonconforming Condensate" has the meaning given in Section 4.10.6 of the Project Development Agreement.

"Non-Performing Party" has the meaning given in Section 13.3.1 of the Project Development Agreement.

"North Flare Station" means the flare station located at the northern side of the Landfill comprised of five flares (and associated ancillary equipment) that are used for burning-off Landfill Gas.

"Notice of Intent to Terminate" means a notice by a non-defaulting Party to a defaulting Party of its intent to terminate the Project Development Agreement, in accordance with its terms

"Operating Year" means (a) for the first Operating Year, the period beginning on the Commercial Operation Date and ending on the first anniversary of the last day of the month during which the Commercial Operation Date occurs and (b) thereafter, each three hundred sixty-five (365) day period beginning on an anniversary of the first day of the month immediately following the month during which the Commercial Operation Date occurs and ending on the immediately succeeding anniversary of such date; provided, that the final Operating Year shall terminate on the PDA Termination Date.

"Original Project Agreements" has the meaning provided in Recital F to the Project Development Agreement.

"Original Project Development Agreement" means Project Development Agreement between Bio Energy (Washington), LLC and King County dated January 20, 2004.

"Original Site Lease" means the Power Plant Site Lease between Bio Energy (Washington), LLC and King County dated January 20, 2004.

"Outage" means (a) in the case of the Plant, any interruption in the ability of the Plant to accept Landfill Gas at the Gas Delivery Point and (b) in the case of the Collection Facilities, any interruption in the ability of the Collection Facilities to deliver Landfill Gas to the Gas Delivery Point.

"Party" or "Parties" has, with respect to a particular Primary Project Contract, the respective meaning assigned to it in the applicable Primary Project Contract.

"PDA" or "Project Development Agreement" or "Amended PDA" means the Amended and Restated Project Development and Gas Sales Agreement dated May __, 2007, by and between Bio Energy and County.

"PDA Default" means a County PDA Default or a Bio Energy PDA Default, individually or collectively, as the context may require.

"PDA Effective Date" has the meaning given in the introductory paragraph of the Project Development Agreement.

"PDA Term" means the Initial PDA Term, as extended by the First Extension Term and the Second Extension Term (as each such term is defined in Section 2 of the Project Development Agreement), in accordance with the terms of Sections 2.2 and 2.3 of the Project Development Agreement.

"PDA Termination Date" means the earlier of (a) the last day of the PDA Term; and (b) the date the PDA is terminated by County or Bio Energy pursuant to a Termination Notice issued in accordance with the terms of the Project Development Agreement or is otherwise terminated in accordance with the terms thereof.

"Permit" means any authorization, consent, approval, license, franchise, ruling, permit, certification, exemption, filing, variance, order, judgment, decree, publication, notices to, declarations of or registration by or with any Governmental Authority in connection with the

ownership, financing, design, engineering, construction, operation or maintenance of the Collection Facilities or the Plant, as the case may be.

"Permit Acquisition Date" means the date upon which Bio Energy has obtained each of the Required Permits and all actions taken by the Governmental Authority issuing each such Required Permit has become final and non-appealable by all Persons.

"Permit Condition Precedent" has the meaning given in Section 3.1.2 of the Project Development Agreement.

"Permit Filing Date" means the date that is thirty (30) days following the SEPA Completion Date, by which date Bio Energy shall have submitted applications for each of the Required Permits; provided that such thirty (30) day period shall be extended by a number of days equal to the number of days by which such submissions have been delayed by: (a) an Event of Force Majeure; or (b) County's failure to perform or delay in performing any of its respective obligations under any Project Contract to which it is a party; and provided, further, that if Bio Energy is required to apply for a Prevention of Significant Deterioration permit, then Bio Energy and County shall mutually agree to an appropriate extension of the Permit Filing Date. For purposes of satisfying the Permit Filing Date, an application will be deemed to have been submitted as of the filing date, notwithstanding that a Governmental Authority may seek or request additional information from Bio Energy in connection with the initial filing.

"Permitted Uses" has the meaning given in Section 7.1 of the Plant Site Lease.

"Person" means any natural person, firm, corporation, company, voluntary association, general or limited partnership, joint venture, trust, unincorporated organization, Governmental Authority or any other entity, whether acting in an individual, fiduciary or other capacity.

"Plant" means the gas processing facility to be owned and constructed by Bio Energy on the Plant Site, whether completed or at any stage of its construction, including without regard to level of development, land, engineering and design documents, all gas processing or energy producing equipment (including electric generating equipment) and its auxiliary equipment, fuel storage and handling facilities and equipment, a switchyard, interconnection facilities and electric transmission line; all pipelines, compressors, flares located on the Plant Site; any of the foregoing items or equipment located on the Plant Site or the Easement Areas which may be required from time to time to deliver or carry Landfill Gas or other fuel to the Plant or processed gas or electricity to from the Plant, including the Plant Transmission Line; and all other improvements related solely to the gas processing facility and located on the Plant Site or the Easement Areas, as more particularly described in the Plant Site Lease, plus appurtenant easements and rights of way between the Parties.

"Plant Flare" means the flare and / or thermal oxidizer located at the Plant (and associated ancillary equipment) that is used for burning-off Landfill Gas and [reject gas by-products of processing].

"Plant Site" has the meaning given in Section 2.1 of the Plant Site Lease.

"Plant Site Lease" means the Plant Site Lease, dated as of May __, 2007 between Bio Energy and County.

"Plant Site Lease Improvement" means each of the leasehold improvements on the Plant Site that will be completed by the County, as more fully set forth in the Plant Site Lease.

"Plant Transmission Line" means the gas transmission line and related interconnection facilities that will be built on an Easement Area as described in the Plant Site Lease, which line will deliver Product Gas to the Product Gas Delivery Point.

"Primary Project Contracts" means the Plant Site Lease and the Project Development Agreement, individually or collectively, as the context may require.

"Prime Rate" means the "Prime Rate" of interest per annum published in the *Wall Street Journal*.

"Process Gas" means Delivered Gas that is processed at the Plant by Ingenco into Product Gas or for the generation of electricity. Process Gas does not include Delivered Gas that is burned in the Plant Flare.

"Product Gas" means the gas produced by the Plant that is pipeline quality and suitable for injection into the interstate natural gas pipeline owned by Northwest Pipeline Company, its successor, or into any other pipeline interconnected to the Plant.

"Product Gas Delivery Point" means the location at which the Product Gas is delivered from the Plant into the interstate natural gas pipeline owned by Northwest Pipeline Company or its successor, or into any other third party's applicable transmission or distribution system or gas pipeline.

"Product Gas Pipeline Easement" has the meaning given in Section 2.2 of the Plant Site Lease.

"Project Contracts" means the Plant Site Lease, the Project Development Agreement, and the Interconnection Agreement; provided, however, that each Project Contract that has a stated term (including any stated renewal term) that has expired in full at the end of such stated term (or stated renewal term) and each Project Contract which does not have a stated term that has been fully performed in accordance with its terms (including through the final payment of all amounts due or to become due thereunder) shall cease to be a Project Contract as of the date thereof.

"PSCAA" means the Puget Sound Clean Air Agency.

"Purchase Period" has the meaning given in Section 8.3 of the Project Development Agreement.

"Purchaser" has the meaning given in Section 15.3 of the Project Development Agreement.

"Quality Specification" has the meaning given in Section 4.10.2 of the Project Development Agreement.

"RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.

"RCW" means the Revised Code of Washington.

"Recipient Party" means a party receiving Confidential Information from another party.

"Records Act" means the Washington State Public Records Act, Section 42.17.250 et seq.

"Related Parties" shall mean, with respect to a particular Person, the Affiliates and Representatives of such Person.

"Representative" means, with respect to any Person, any shareholder, officer, director, attorney, agent, employee or other representative of such Person.

"Required Permit" means each Permit set forth on Schedule 4.1.1 to the Project Development Agreement, to the extent such Permits are required to be obtained by Bio Energy under Applicable Law.

"Restoration Costs" has the meaning given in Section 13.5.2 of the Project Development Agreement.

"Restoration Obligations" has the meaning given in Section 13.5.2 of the Project Development Agreement.

"Right of First Offer" has the meaning given in Section 8.1 of the Project Development Agreement.

"Rights Notice" has the meaning given in Section 8.2 of the Project Development Agreement.

"SCF" has the meaning given in Section 7.1 of the Project Development Agreement.

"Scheduled Collection Facilities Outage" means the temporary shutdown of all or any portion of the Collection Facilities for the inspection, repair or maintenance thereof, the timing and duration of which shutdown shall be set forth on the Annual Maintenance Schedule.

"Scheduled Outage" means a Scheduled Collection Facilities Outage or a Scheduled Plant Outage, individually or collectively, as the context may require.

"Scheduled Plant Outage" means the temporary shutdown of all or any portion of the Plant for the inspection, repair or maintenance thereof, the timing and duration of which shutdown shall be set forth on the Annual Maintenance Schedule.

"SEPA Checklist" means the environmental checklist relating to the Plant filed in accordance with Ch. 43.21C of the RCW (and state and local regulations and ordinances implementing such provisions).

"SEPA Completion Date" means the date upon which Bio Energy has either (a) received a determination of non-significance under SEPA in respect of the Plant, or (b) an environmental impact statement has been completed in accordance with SEPA in respect of the Plant on terms and conditions satisfactory to Bio Energy, and in the case of both (a) and (b), all actions taken by the Governmental Authority issuing such approval have become final and non-appealable by all Persons.

"Start-up Period" means the period commencing on the date as set forth in the notice provided by Bio Energy to County pursuant to Section 5.1 of the Project Development Agreement and ending on the Commercial Operation Date.

"State" means the State of Washington.

"Subcontractor" means, in relation to any Person, any other Person that has a contract with such first person to perform any obligation of such first Person under a Project Contract.

"Target Construction Start Date" means the date that is two hundred and sixty (260) days following the Equipment Order Date, by which date Bio Energy shall have begun mobilization activities at the Plant Site with one or more construction contractors; provided that such two hundred sixty (260) day period shall be extended by a number of days equal to the number of days by which Construction Start has been delayed by: (a) an Event of Force Majeure; (b) County's failure to perform or delay in performing any of its respective obligations under any Project Contract to which it is a party; or (c) Bio Energy's failure to receive processing equipment from its chosen equipment manufacturer on or before the delivery date specified in the applicable equipment purchase order, provided that an extension for a delay in equipment delivery shall not exceed ninety (90) days.

"Target Equipment Order Date" means the date that is thirty (30) days following the Permit Acquisition Date; provided that such thirty (30) day period shall be extended by a number of days equal to the number of days by which the Equipment Order Date has been delayed by: (a) an Event of Force Majeure; or (b) County's failure to perform or delay in performing any of its respective obligations under any Project Contract to which it is a party.

"Target Permit Acquisition Date" means the date that is 210 days following the SEPA Completion Date; provided that such 210 day period shall be extended by a number of days equal to the number of days by which the Permit Acquisition Date has been delayed by: (a) an Event of Force Majeure; (b) County's failure to perform or delay in performing any of its respective obligations under any Project Contract to which it is a party; or (c) the failure of a Governmental Authority to grant or otherwise issue a Required Permit after application for such Required Permit has been timely made and satisfies all material requirements under Applicable Law; and provided, further, that such date shall be extended until such time as all actions taken by the Governmental Authority issuing each such Required Permit become final and non-appealable by all Persons; and provided, further, that if Bio Energy is required to apply for a

Prevention of Significant Deterioration permit, then Bio Energy and County shall mutually agree to an appropriate extension of the Target Additional Permit Acquisition Date.

"Target SEPA Filing Date" means the date that is sixty (60) days following the PDA Effective Date, by which Bio Energy will file the SEPA Checklist; provided that such sixty (60) day period shall be extended by a number of days equal to the number of days by which such filing has been delayed by: (a) an Event of Force Majeure; or (b) County's failure to perform or delay in performing any of its respective obligations under any Project Contract to which it is a party.

"Tax" means each federal, state, local and other net income, gross income, gross receipts, sales, use, ad valorem, business or occupation, transfer, franchise, profits, withholding, payroll, employment, excise, property or leasehold excise tax, customs, duty or other fee, assessment or charge of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amount with respect thereto.

"Technical Expert" means the third party selected by the County and Bio Energy in accordance with Section 14.2 of the Project Development Agreement to resolve disputes regarding an County Cure Plan.

"Terminating Party" has the meaning given in Section 13.3.1 of the Project Development Agreement.

"Termination Notice" means a termination notice delivered by a non-defaulting Party to a defaulting Party under the Project Development Agreement or the Plant Site Lease, as applicable, as authorized by and delivered in accordance with the terms of such agreement.

"Total Taking" has the meaning given in Section 13.1 of the Plant Site Lease.

"Transfer Condition Precedent" has the meaning given in Section 3.1.1 of the Project Development Agreement.

"Transfer Condition Precedent Satisfaction Date" means the date on which the Bio Energy Transfer is consummated, resulting in the satisfaction of the Transfer Condition Precedent.

"Transmission Line Easement" has the meaning given in Section 2.2 of the Plant Site Lease.

"Triggering Event" means an Unscheduled Collection Facilities Outage that causes Landfill Gas volumes at the Gas Delivery Point to drop by at least two (2) standard deviations below the mean gas volume (as previously measured at the Gas Delivery Point for the preceding six (6) months) for at least seven (7) consecutive days.

"Triggering Event Notice" Means notice provided by Bio Energy to County in accordance with Section 14.1 of the Project Development Agreement that Bio Energy believes that a Triggering Event has occurred.

"TSCA" means the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.

"Unscheduled Collection Facilities Outage" means any Outage that is not a Scheduled Collection Facilities Outage or an Outage attributable to, and to the extent of, an Event of Force Majeure with respect to the Collection Facilities.

"Unscheduled Outage" means an Unscheduled Collection Facilities Outage or an Unscheduled Plant Outage, individually or collectively, as the context may require.

"Unscheduled Plant Outage" means any Outage that is not a Scheduled Plant Outage or an Outage attributable to, and to the extent of, an Event of Force Majeure with respect to the Plant.

"Washington Environmental Laws" means any state or local law, regulation, rule or ordinance now or hereafter in effect relating to Environmental Conditions including the Model Toxics Control Act, Ch. 70.105D RCW; Ch. 70.105 RCW, Hazardous Waste Management; Ch. 70.95 RCW, Solid Waste Management – Reduction and Recycling; and the Washington Clean Air Act, Ch. 70.94 RCW; and amendments thereto now or hereafter adopted or that otherwise become effective; any plans, rules, regulations, orders or ordinances adopted or that otherwise become effective; any plans, rules, regulations, orders or ordinances adopted (including fire, land, use, zoning and other codes and regulations relating to Environmental Conditions), or other guidance or policies promulgated pursuant to the preceding laws; any local laws, ordinances, codes or regulations pertaining to or otherwise addressing Environmental Conditions; or any terms or conditions in state or local permits, licenses or other authorizations relating to Environmental Conditions; and any common law principles (including decisions by or orders of courts, agencies, boards of appeals or similar bodies with mandatory or persuasive authority) relating to Environmental Conditions.

Rules of Construction and Interpretation

1. The singular number includes the plural number and vice versa.
2. Reference to any Person includes such Person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by the applicable agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individuality.
3. Reference to any gender includes each other gender.
4. References to "or" shall be deemed to be disjunctive but not necessarily exclusive.
5. Reference to any agreement, document, or instrument means (i) such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and (ii) includes all exhibits, schedules and other attachments thereto.
6. Reference to any section, exhibit or schedule means such section of, or such exhibit or schedule to, the agreement in which it is used, as the case may be, and references in any section or definition to any clause means such clause of such section or definition.
7. "Hereunder," "hereof," "hereto," "herein" and words of similar import shall be deemed references to the agreement in which it is used as a whole and not to any particular section or other provision of such agreement.
8. "Including" (and with correlative meaning "include") means including without limitation on the generality of any description preceding such term.
9. Headings are for convenience of reference only and shall not be used for purposes of construction or interpretation of the subject agreement.
10. References to any Applicable Law shall be construed as a reference to such Applicable Law as it may have been, or may from time to time be, amended, replaced or re-enacted and shall include any subordinate legislation, rule or regulation issued or promulgated under any such statute.
11. Where reference is made herein to any document being submitted to a party, such submission shall be deemed to require such Party's written approval, unless such approval is specifically not required.
12. References to (i) days (other than Business Days) shall refer to calendar days, (ii) weeks shall refer to calendar weeks, (iii) months shall refer to calendar months and (iv) years (other than Operating Years) shall refer to calendar years.
13. All accounting terms used but not expressly defined herein have the meanings given to them under generally accepted accounting principles of the United States of America as consistently applied by the Person to which they relate.
14. In computing any period of time prescribed or allowed under an agreement (i) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including," (ii) the day of the act, event or default from which the designated period of time begins to run shall be included, (iii) for any given period of time used in an agreement, such period shall be computed as beginning at 12:00 midnight on the first day of such period Seattle, Washington time and ending at 12:00 midnight Seattle, Washington time on the last day of such period, and (iv) if the last day of the period so computed is not a Business Day in the place where performance is due, then the period shall run until the close of business on the immediately succeeding Business Day.

15. In the event of any discrepancy between the Project Development Agreement and the Plant Site Lease, Bio Energy and the County shall negotiate in good faith to reach a mutually agreeable construction or method of handling the applicable inconsistency. If the parties cannot agree on such a construction or method, the terms of the Project Development Agreement shall control.