Co-Owners shall jointly decide on any renewal thereof and on the terms of the renewal of this Agreement.

10.2 This Agreement shall supersede the MOU and the MOU shall be hereby terminated.

10.3 This Agreement shall not be assigned by either Co-Owner, in whole or in part, without the prior written consent of the other Co-Owner.

10.4 This Agreement shall enure to the benefit of and bind the Co-Owners and their respective successors and permitted assigns.

10.5 In the event that any payments are made by Durham or York, on behalf of the Co-Owners’ joint obligations for which reimbursement from the other Co-Owner is required under this Agreement, then such reimbursement shall include reasonable interest thereon.

10.6 This Agreement shall be governed by and interpreted in accordance with the laws of Ontario.

10.7 Any notice required to be given under this Agreement shall be in writing and delivered as follows:

to Durham at:

The Regional Municipality of Durham
605 Rossland Road East
Whitby, Ontario
L1N 6A3

Attention: Regional Clerk

to York at:

The Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Attention: Regional Clerk

[EXECUTION PAGE FOLLOWS]
IN WITNESS WHEREOF each of the Co-Owners hereto has duly executed and sealed this Agreement by the hands of their officers, duly authorized in this regard.

SIGNED, SEALED AND DELIVERED in the presence of:


THE REGIONAL MUNICIPALITY OF YORK

Name: Bill Fisch
Title: Regional Chair

Name: Bruce Macgregor
Title: Chief Administrative Officer

THE REGIONAL MUNICIPALITY OF DURHAM

Name: Roger Anderson
Title: Regional Chair and CEO

Name: P.M. Madill
Title: Regional Clerk
### SCHEDULE “A” – OVERSIZING COMPONENTS

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Work <em>(roadways, berms, landscaping)</em></td>
<td>$5,800,000</td>
</tr>
<tr>
<td>Fire Protection Piping/Equipment</td>
<td>$1,250,000</td>
</tr>
<tr>
<td>Water Supply Piping</td>
<td>$345,000</td>
</tr>
<tr>
<td>Sewer System Piping</td>
<td>$85,000</td>
</tr>
<tr>
<td>Natural Gas Pipeline</td>
<td>$1,400,000</td>
</tr>
<tr>
<td>Electrical and Switchyard</td>
<td>$4,850,000</td>
</tr>
<tr>
<td>Tipping Floor and Waste Storage Pit</td>
<td>$4,305,000</td>
</tr>
<tr>
<td>Crane</td>
<td>$3,205,000</td>
</tr>
<tr>
<td>Larger Ash Processing Equipment</td>
<td>$1,690,000</td>
</tr>
<tr>
<td>Larger Ash Building</td>
<td>$1,595,000</td>
</tr>
<tr>
<td>Stack</td>
<td>$2,605,000</td>
</tr>
</tbody>
</table>
## SCHEDULE “B”

**HOST COMMUNITY AND SITE SERVICING ITEMS**

<table>
<thead>
<tr>
<th>Item</th>
<th>50-50 Cost Share Items</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Land required for construction of Energy Park Drive, a Facility Access Road, the Energy Park stormwater pond and off-site servicing excluding the sanitary trunk sewer</td>
</tr>
<tr>
<td></td>
<td>• Construction of oversized off-site utilities (watermain, sanitary sewer, storm sewers/channels, electrical service, electrical interconnection (with hydro), natural gas pipeline and service, excluding the sanitary trunk sewer</td>
</tr>
<tr>
<td></td>
<td>• Construction of Energy Park Drive (base road with no landscaped median, sidewalks, standard rather than decorative lighting)</td>
</tr>
<tr>
<td></td>
<td>• Facility Access Road</td>
</tr>
<tr>
<td></td>
<td>• Waterfront Trail</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Proportional Cost Share Items</th>
<th>Operational Costs such as:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Operating costs for HHW facility</td>
</tr>
<tr>
<td></td>
<td>• Payment in Lieu of Taxes</td>
</tr>
<tr>
<td></td>
<td>• Advisory Committee</td>
</tr>
<tr>
<td></td>
<td>• Ambient Air Monitoring</td>
</tr>
<tr>
<td></td>
<td>• Owner’s Consultant</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Non-Cost Share Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Landscaped median, sidewalks, and decorative lighting for Energy Park Drive</td>
</tr>
<tr>
<td>• Expropriation of lands not required for Energy Park Drive</td>
</tr>
<tr>
<td>• Surplus Durham-owned Lands (Courtice WPCP) transferred to Clarington</td>
</tr>
<tr>
<td>• Bowmanville Science Park EA</td>
</tr>
<tr>
<td>• Land and construction costs for sanitary trunk sewer</td>
</tr>
</tbody>
</table>
SCHEDULE “C”

MANAGEMENT OF FACILITY

Notwithstanding anything contained in this Schedule to the contrary, each entity responsible for the management of the Facility will abide by its authorities, approvals, policies and practices where required.

EFW Project Management: Construction Work

Management Committee

The Management Committee shall be responsible for providing guidance and overall direction for the Project, including:

- review of strategic issues affecting the management and delivery of the Project
- consideration of issues referred by the Project Managers and identifying solutions within the scope of the Project Agreement
- providing the Project Managers, and the Owners’ Representative with guidance, as required, for the proper conduct of the Project
- making recommendations on matters requiring Council authority, including approval of budgets, approval of scope changes and exercise of remedies including termination of the Project Agreement
- receiving reports from the Project Managers and the Owners’ Representative and providing guidance and instructions
- approving those matters under the Project Agreement as more particularly set out in Appendix 1 attached

Co-Owner/Contractor Committee

The Co-Owner/Contractor Committee shall report to the Management Committee and its roles and responsibilities shall include:

- the review of quarterly progress reports submitted by the Project Manager and DBO Contractor
- the review of payment reports
- making appropriate recommendations to Project Managers with respect to change order proposals
- initiating any change in Project scope of work once approved by the Regional Councils
- making recommendations on the award of the Environmental Performance Adjustments and Service Level Adjustments in accordance with the Project Agreement
• reviewing and discussing concerns raised by Energy From Waste Site Liaison Committee

**Project Manager**

The Project Manager shall be responsible for co-ordination of the Project, including:

• acting as the primary contact with the DBO Contractor
• managing the Project in accordance with direction from the Management Committee
• developing procedures for monitoring, controlling and reporting on all aspects of the Project Agreement
• managing the Milestone Management Plan and payment review for the DBO Contractor and the Owners’ Consultant
• overseeing the Co-Owners’ sign off of acceptance tests
• preparing and submitting project status/progress reports to the Management Committee as required
• acting as the principal point of contact between DBO Contractor and Regional stakeholders
• providing information and direction to the Owners’ Consultant with respect to Change Orders and Change Requests
• providing information to Durham Finance to facilitate the separate billing between the Co-Owners
• preparing initial drafts of Committee and Council reports
• responding to public enquiries and communicating with media with the assistance of the Co-Owners’ communications group
• advising on any significant developments which may affect the Project and identifying what corrective actions have been taken or should be taken
• assessing and making recommendations on all Scope Changes
• monitoring EA compliance and environmental protection/monitoring
• monitoring compliance with the Certificate of Approval
• ensuring that the DBO Contractor and consultants are communicating with all regulatory authorities in a timely manner and all approvals and permits are acquired in accordance with the Project schedule

**Owners’ Consultant**

The Owners’ Consultant shall be responsible for:
- performing contract administration on the Co-Owners’ behalf
- acting as the subject matter expert representing the Co-Owners on all aspects of design, build, commissioning and final acceptance
- acting as technical liaison between the Co-Owners and the DBO Contractor, including review and drafting of correspondence to the DBO Contractor
- participating / preparing construction progress reports (weekly, biweekly or monthly)
- reviewing design, document, sample and shop drawings, and ensuring compliance with applicable building codes and regulatory requirements
- onsite monitoring of all daily construction activities
- reviewing of major DBO design submittals and providing comments / concerns as necessary
- reviewing and monitoring of construction activities and milestones
- scheduling and milestone progress monitoring
- reviewing / verifying Change Orders put forward by the DBO Contractor
- monitoring payment items closely for all Milestone based – debits and credits
- reviewing and commenting on draft progress / milestone payment applications
- monitoring and reviewing equipment installation and commissioning activities
- reviewing and commenting on the acceptance test protocol prepared by the DBO Contractor
- monitoring acceptance test on behalf of the Co-Owners, and reviewing / approving the final Acceptance Test Report
- ensuring the DBO Contractor is complying with all regulatory requirements and permit requirements, and is coordinating required inspections and submissions to the regulatory authorities
- substantial performance reviews, reviewing warranty inspections, production of deficiency lists and following-up to ensure deficiency list work is scheduled and completed in a timely manner
- recommending appropriate deficiency holdback values, value of penalty / bonus adjustments according to the Project Agreement
- approving those matters under the Project Agreement more particularly set out in Appendix 1 attached

REPORTING REQUIREMENTS

The Project Manager will submit a written project progress report monthly to the Management Committee. The progress report shall include the following:
a) Activity summary  
b) Current schedule  
c) Current cash flow, project summary report updates: including all approved Change Orders and recommended Change Orders  
d) Outstanding or new issues  
e) Key events for the next three months  
f) Miscellaneous items  

**EFW Project Management: Operations Component**  

**Management Committee**  
The Management Committee shall be responsible for providing guidance and overall direction, including:  
- review of strategic issues affecting the management and delivery of the Project  
- consideration of issues referred by the Project Managers and identifying solutions within the scope of the Project Agreement  
- providing the Project Managers, and Owners’ Representative with guidance when required, for the proper conduct of the Project  
- approval of Environmental Performance Adjustments and Service Level Adjustments in accordance with the Project Agreement  
- planning future upgrades and expansions to the Facility  
- making recommendations to Council including approval of budgets, approval of Scope Changes and exercise of remedies including termination of the Project Agreement  
- receiving reports from the Project Managers and the Owners’ Representative and providing guidance and instructions  
- considering the use of Surplus Capacity by Co-Owners or third parties  
- approving those matters under the Project Agreement as more particularly set out in Appendix 1 attached  

**Project Manager**  
The Project Manager shall be responsible for Project management, including:  
- acting as the primary contact with the DBO Contractor  
- managing the Project in accordance with direction from the Management Committee  
- developing a procedure which may be required for monitoring, controlling and reporting on all aspects of the Project Agreement
• managing the payment review / approval for the DBO Contractor and distributing for comment
• acting as the principal point of contact between DBO Contractor and Regional stakeholders
• providing information to Durham Finance to facilitate the separate billing between the Co-Owners
• compiling the reports necessary for the evaluation of the Environmental Performance Adjustment and Service Level Adjustment in accordance with the Project Agreement
• preparing Committee and Council reports
• responding to public enquiries and communicating with media with the assistance of Co-Owners’ communications group
• advising on any significant developments which may affect the Project in meeting its objectives and identifying what corrective actions have been taken or should be taken
• assessing and making recommendations on all scope changes
• monitoring EA compliance and environmental protection/monitoring
• monitoring compliance with the Certificate of Approval
• ensuring the DBO Contractor and consultants are communicating with all regulatory authorities in a timely manner
• ensuring that the DBO Contractor has assembled an adequate QA/QC monitoring program and it is strictly followed throughout the project
• ensuring that the DBO Contractor maintains accurate records with respect to critical correspondence and updates
• coordinating third party monitoring, studies and audits as required
• managing scale-house operations and reporting

REPORTING REQUIREMENTS
The Project Manager will submit a written project progress report on a quarterly basis to the Management Committee. The progress report shall include the following:

g) Activity summary
h) Current schedule
i) Current cash flow, project summary report updates: including all approved Change Orders and recommended Change Orders
j) Outstanding or new issues
k) Key events for the next three months
l) Miscellaneous items
Appendix 1

RESPONSIBILITIES UNDER THE PROJECT AGREEMENT

MANAGEMENT COMMITTEE

- approval to amend documents (s.3.2.1)
- issuing notice to proceed (s.5.1.1)
- replacement of DBO Project Manager, Plant Manager (s.11.1.4)
- decisions on directing $2 Million (s.11.1.21)
- adjustments to lump sum price (s.13.2.2)
- exercise of remedies for non-conformance (s.13.2.3)
- issuing change orders and approving change requests (s.15)
- major amendments to schedule as a result of force majeure (s.16.2.1)
- entitlement to performance liquidated damages (s.18.1.5)
- drawing on securities (s.20.3.3)
- exercising right to terminate for convenience, issuing notice of default and exercising remedies (s. 25, 26, 27, 28)
- dispute resolution (s.28)
- exercising option to renew (s.30.3)
- approval of planned facility shutdown (s.33.10)
- approval of recycling operations (s.34)
- receiving year end reports (s.36.4)
- approving environmental performance and service level adjustments (s.37)
- directing audits (s.39)
- initiating capital improvements to facility (s.41)
- approval of handback requirement (s.44)
- developing communications protocol

OPERATIONS ADVISORY COMMITTEE

- requiring and monitoring performance tests and procedures (s.21.3)
- co-ordination of waste disposal system, stakeholders (s.31.3.5)
- co-ordination of delivery of waste (s.32, 33.4)
- monitoring waste screening protocol (s.33.6)
- monitoring recovery of metals, handling of fly ash (s. 33.8, 33.9)
- emissions monitoring (s.33.11)
- approval of emissions testing (s. 35.2)
- receiving reports of testing (s. 35.3)
- receiving monthly operation reports (s.36.3)
- CEMS reporting (s.36.5)
- receipt of all technical reports and plans (s. 36.6, 36.7, 36.8, 36.9)
- notifying DBO if in breach (s.42.7)
OWNERS' CONSULTANT

- conducting inspections of work during construction phase (s.4.1.1)
- receiving plans from DBO demonstrating technical compliance (s.6.1.2)
- reviewing documents re: commissioning work (s.6.2.5)
- conducting acceptance testing and issuing acceptance test certificate (s.6.2.6, 6.3)
- co-ordination of Punch List work – receiving manuals and warranties (s.6.2.7)
- receipt of master project schedule (s.7)
- receipt of hazardous substance list and discharge of hazardous substances (s.10.4)
- determination of holdbacks where no discretion (s.18.1.5, 20.3.4)
- access to facility to inspect work for technical compliance (s.22.4, 31.1.2)
- advice on maintenance and compliance (s.31.5)

PROJECT MANAGERS

- issuing notices of non-conformance during construction phase (s.4.3)
- requiring additional information (s.6.1.4)
- receiving report on delays (s.6.2.3)
- emergency stop work order (s.9.1.4)
- replacement of DBO Plant Manager – construction (s.11.1.4)
- notification of claims and disputes (s.11.1.12)
- summary report of change orders and change requests (s.11.1.14)
- receipt of notices of emergencies (s.11.1.18)
- issuing payment certificates where no dispute (s.14.4.1)
- issuing final payment if no dispute (s.14.5.3)
- withholding payment if technical defect (s.14.7)
- minor amendments to schedule – less than two weeks delay (s.16.2.1)
- requests for corrective action during recall period (s.17.1, 17.2, 17.3, 17.5)
- determination of Schedule LDs (s. 18.1.2)
- substitution of performance security (s.20.3.5)
- requesting tests and procedures during construction phase (s.21.2.1, 21.3)
- receiving reports on compliance with master project schedule (s.22)
- receipt of operations and maintenance manuals (s.31.2)
- receipt of HR plan (s.31.3.1)
- daily communication to DBO (s. 31.3.8)
- delivery of Health & Safety Plan (s.31.4)
- notification of equipment failure (s. 31.6)
- requests to perform landscaping (s. 31.15)
- requesting tests and procedures during operating phase (s.21.3)
- meeting with Plant Manager and providing input into Project Managers’ performance (s.31.3.6, 31.3.7)
- operation of weigh scales (s.31.9)
- developing Punch List (s.6.2.5)