

Steel Hector & Davis

Tallahassee, Florida

Matthew M. Childs, P.A.
(904) 222-2300

February 15, 1996

Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399

960182-EQ

RE: **Petition of Florida Power & Light Company For
Approval of Agreement to Buy Out The Cypress
Energy Standard Offer Contract**

Dear Ms. Bayó:

Enclosed for filing please find the original and fifteen (15) copies of Florida Power & Light Company's Petition regarding the above matter.

Very truly yours,



Matthew M. Childs, P.A.

MMC:ml

RECORDED OF RECORDS

Miami Office
41st Floor
200 South Biscayne Boulevard
Miami, FL 33131-2398
(305) 577-7000
Fax (305) 577-7001

West Palm Beach Office
1900 Phillips Point West
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DOCUMENT NUMBER - DATE

01820 FEB 15 1996

FPSC-RECORDS/REPORTING

Tallahassee Office
Suite 601
215 South Monroe
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition of Florida Power)
& Light Company For Approval)
Of Agreement To Buy Out The)
Cypress Energy Standard Offer)
Contract)
_____)

DOCKET NO.

FILED: February 15, 1996

P E T I T I O N

Florida Power & Light Company ("FPL") requests approval of the Agreement, attached as Attachment A, which terminates the Standard Offer Contract between FPL and Cypress Energy Company and settles certain claims. FPL further requests a finding in the order approving the Agreement that FPL may recover payments made pursuant to Article III of the Agreement in the year(s) payments are made through FPL's Capacity Cost Recovery and Fuel and Purchased Power Cost Recovery Clauses. FPL further requests that this Petition be addressed through the Commission's Proposed Agency Action procedures as set forth in Florida Administrative Code Rule 25-22.029.

All orders, notices and other correspondence concerning this Docket should be sent to:

William G. Walker, III
Vice-President
Regulatory Affairs
Florida Power & Light Co.
9250 West Flagler Street
Miami, Florida 33174

Matthew M. Childs, P.A.
Charles A. Guyton
Steel Hector & Davis
215 South Monroe Street
Suite 601
Tallahassee, Florida 32301

DOCUMENT NUMBER-DATE

01820 FEB 15 96

FPSC-RECORDS/REPORTING

In support of this Petition, FPL states:

1. FPL is an electric utility subject to the Commission's jurisdiction pursuant to Chapter 366, Florida Statutes. FPL maintains its general offices at 9250 West Flagler Street, Miami, Florida 33174.

2. This request is made pursuant to Section 366.051, Florida Statutes and Florida Administrative Code Rule 25-17.0832(8)(b). Section 366.051 authorizes the Commission to set the price at which electric utilities will buy energy and capacity from cogenerators and is the statutory section relied on by the Commission in requiring FPL to enter the Standard Offer Contract with Cypress Energy. Florida Administrative Code Rule 25-17.0832(8)(b) provides for cost recovery of payments made pursuant to a standard offer contract.

3. The Standard Offer Contract at issue in this Docket was executed June 18, 1990 by Cypress Energy Company ("Cypress Energy"). The Contract provides that Cypress Energy would supply 180 MW of firm energy and capacity to FPL beginning January 1, 1996 and continuing through the year 2026, a period of 30 years. A copy of the Contract is appended hereto as Attachment B.

4. The pricing for the Standard Offer Contract between FPL and Cypress Energy was established by the Commission in Order No. 23234 which was entered in Docket No. 900004-EU on July 23, 1990. The pricing was reflective of a "statewide avoided unit" which the Commission found to be a 500 MW pulverized coal unit with an in-

service date of January 1, 1996 and the cost of fuel being the delivered price of coal at Big Bend Unit No. 4. This pulverized coal unit (the "statewide avoided unit") was not FPL's "next avoided unit" at the time it was designated as the basis for pricing under the Standard Offer Contract forms to be offered by the Florida electric utilities.

5. The Standard Offer Contract executed by Cypress Energy was offered by FPL pursuant to the Commission's cogeneration rules then in effect. Under that regulatory scheme, the Commission set a statewide 500 MW subscription limit for standard offer capacity designed to meet a need assessed on a statewide basis beginning in 1996. Contracts for capacity far exceeding 500 MW were received by FPL and, in extended proceedings culminating in Order No. 23792, 90 FPSC 11:286 (1990), the Commission awarded first place in the statewide subscription queue to Nassau Power Company for 435 MW and the remaining 65 MW to Cypress Energy. In Order No. 25808, 92 FPSC 2:814 (1992), the Commission found that FPL's need for power in 1996 had been fully met and that Nassau Power Company could not proceed with its potential project because FPL did not need it.

6. In response to FPL's November 1992 Petition for Declaratory Statement in which it advised the Commission that it had no need for additional generating capacity in 1996; that capacity supply alternatives selected by FPL were found by the Commission to be superior to the Standard Offer Contract; and, that no other Florida utility had agreed to purchase the Standard Offer

Contract capacity from FPL, the Commission issued its declaratory statement in Order No. PSC-93-0527-DS-EQ. In this Order, the Commission held that the Standard Offer Contract with Cypress Energy for 65 MW, was binding on FPL and qualified for cost recovery, without any specific demonstration of need, because it was below the jurisdictional threshold of 75 MW for the Power Plant Siting Act:

[W]e grant the Petition for Declaratory Statement stating the Cypress' contract qualified for cost recovery pursuant to Rule 25-17.0832(8)(b), formerly Rule 25-17.083 (8) F.A.C., to the extent of 65 MW.

* * *

When, in Order No. 23792, 115 MW of Cypress' project was disallowed as exceeding the subscription limit, the new policy had been fully applied to Cypress, thus creating the possibility of the 65 MW project at issue as to which no factual findings under the Siting Act were required. [footnote omitted]. See, 403.503(12), Fla. Stat., excluding from the definition of "electrical power plant" for Siting Act purposes "any steam or solar electrical generating facilities of less than 75 megawatts in capacity..." In effect, as to Cypress' 65 MW project, as of November 21, 1990 (the issuance date of Order No. 23792), the "cogeneration regulations," including Rule 25-17.0832(8)(b) did apply because the new policy only prohibited their use as a surrogate for a Siting Act fact finding, i.e., fact finding concerning solar or steam power plants 75 MW or larger. In contrast, as to Cypress' 65 MW project, the cogeneration regulations were applicable without more. Rule 25-17.0832(8)(b) provides that

Upon acceptance of the contract by both parties, firm energy and capacity payments made to a qualifying facility pursuant to a standard offer contract shall be recoverable by a utility through the Commission's periodic review of fuel and purchased power costs.

Order No. PSC-93-0527-DS-EQ, 93 FPSC 4:236, 238-39 (1993).

7. Cypress Energy Company has advised FPL that it has been acquired by Cypress Acquisition, Inc., which is a subsidiary of Stewart & Stevenson Services, Inc. Cypress Energy and South Florida Cogeneration Associates ("SFCA") have entered an agreement to jointly develop, construct, and own and operate the 65 MW facility needed to fulfill the commitment of Cypress Energy under its Standard Offer Contract. This would be accomplished by dedicating the net output of the existing 32 MW cogeneration facility at the Dade County Downtown Government Center and adding another 42 MW of capacity at that site, giving Cypress Energy and its partners a combined total of 74 MW with which to meet the 65 MW, 70% Capacity Factor requirements of its Standard Offer Contract.

8. At the present time and in the foreseeable future FPL does not need the capacity and energy to be supplied under the Cypress Energy Contract. As is shown in the attached excerpt from FPL's most recent Ten Year Power Plant Site Plan, appended hereto as Attachment C, FPL's next need for capacity is projected to occur in 2004. The costs associated with FPL's next planned unit, a natural gas fired CC unit, are substantially below the costs associated with the Cypress Energy Contract, which are based on a 1996 coal fired unit. In addition, FPL does not believe any utility in the state would find the purchase of energy and capacity to be supplied under the Cypress Energy Contract cost-effective.

9. As shown in Attachment D, the approval of this Agreement

will result in net present value savings of, at least, approximately \$50,000,000 to FPL customers relative to what they would have paid under the Cypress Energy Contract. Page 1 of Attachment D shows a comparison of total system costs from 1996 through 2023 under two scenarios. The first scenario reflects total system costs under FPL's base case as shown in its 1995 Ten Year Site Plan. Scenario 2 reflects total system costs with 65 MW of FPL's 2004 generating unit addition displaced by the 65 MW from the Cypress Energy unit and the corresponding payments to Cypress Energy. The difference of the two scenarios shows that purchasing the Cypress Energy output pursuant to the Standard Offer Contract previously approved by the Commission would cost FPL customers \$331,000,000 (nominal)/\$89,000,000 (net present value). Page 2 of Attachment D shows that the net present value of the payments to be made by FPL pursuant to Article III of the Agreement to buy out and terminate the Cypress Energy Standard Offer Contract - \$39,187,054 (\$48,553,000 nominal). Page 3 of Attachment D shows the net savings of the buyout to FPL's customer; in short, under the Agreement on a net present value basis FPL pays \$39,187,054 to save its customers \$89,000,000 under the Cypress Energy Standard Offer Contract.

10. In addition to saving FPL customers at least approximately \$50,000,000 on a net present value basis by buying out the Cypress Energy Standard Offer Contract, the comprehensive Agreement FPL has entered into settles associated matters. The

settlement of associated matters stems from claims against FPL regarding the existing facility at the Downtown Government Center which Cypress planned to use to perform under its Standard Offer Contract and are thus associated with the proposed buyout of the Standard Offer Contract.

11. Entering into the Agreement appended as Attachment A, which saves FPL's customers at least approximately \$50,000,000, is the most prudent, cost-effective course of action. Therefore, the Agreement should be approved, and a finding should be made that the payments under Article III of the Agreement are to be recovered by FPL through its Capacity Cost Recovery and Fuel and Purchased Power Cost Recovery clauses in the years of the payments. Payment of the agreed to buy-out is conditioned on Commission approval of the Agreement and a finding allowing cost recovery of the Article III payments through appropriate clauses in the year the payments are made. Absent the sought after approval and finding, FPL's customers face the higher contract payments, as FPL does not foresee any realistic chance of marketing the power to any other utility.

12. Affidavits supporting the facts alleged in this Petition are appended to this Petition as Attachment E.

WHEREFORE, for the reasons stated above, FPL respectfully requests approval of the Agreement appended to this petition as

Attachment A and a finding in the order approving the Agreement that FPL may recover from its customers in the years payments are made, through its Capacity Cost Recovery and Fuel and Purchased Power Cost Recovery clauses, all payments made by FPL pursuant to Article III of the Agreement. FPL further requests that this Petition be addressed through the Commission's Proposed Agency Action procedures as set forth in Florida Administrative Code Rule 25-22.029.

DATED this 15th day of February, 1996.

Respectfully submitted,

STEEL HECTOR & DAVIS
215 South Monroe Street
Suite 601
Tallahassee, FL 32301
Attorneys for Florida Power
& Light Company

By: 
Matthew M. Childs, P.A.

ATTACHMENT A

AGREEMENT TO TERMINATE

STANDARD OFFER CONTRACT

AGREEMENT

1 This AGREEMENT is made as of this 12th day of February, 1996, by and among
2 FLORIDA POWER & LIGHT COMPANY, a Florida corporation ("FPL"), CYPRESS
3 ENERGY COMPANY, a California corporation ("Cypress Energy"), CYPRESS
4 COGENERATION COMPANY, a California corporation ("Cypress Cogen"), SOUTH FLORI-
5 DA COGENERATION ASSOCIATES, a Florida general partnership ("SFCA") whose
6 partners are TEC Cogeneration Inc., a Florida corporation, and RRD Corp., a Delaware
7 corporation, THERMO ELECTRON CORPORATION, a Delaware corporation ("Thermo"),
8 and ROLLS-ROYCE INC., a Delaware corporation ("Rolls"). Each of FPL, Cypress Energy,
9 Cypress Cogen, SFCA, Thermo, and Rolls shall also be referred to herein as a "Party" and,
10 collectively, as the "Parties".

W I T N E S S E T H:

12 WHEREAS, Cypress Energy did, on June 18, 1990, execute and deliver to FPL that
13 certain Standard Offer Contract for the Purchase of Firm Capacity and Energy from a
14 Qualifying Facility (the "SOC"); and

15 WHEREAS, the pricing for the SOC was established by the Florida Public Service
16 Commission ("FPSC") in Order No. 23234 which was entered in Docket No. 900004-EU on
17 July 23, 1990; and

18 WHEREAS, in its Order No. PSC-93-0527-DS-EQ the FPSC held that the SOC was
19 binding on FPL; and

20 WHEREAS, Cypress Energy has, by virtue of certain development agreements with
21 Cypress Cogen and SFCA, agreed to develop the facility contemplated under the SOC,
22 utilizing, in part, the existing generating facility located at the Dade County Downtown
23 Government Center and leased by SFCA (the "Existing Facility") pursuant to the Lease
24 Agreement (defined below); and

25 WHEREAS, Thermo and Rolls are each guarantors of certain obligations of SFCA;
26 and

27 WHEREAS, the Memorandum, dated August 18, 1995, from SFCA and Cypress
28 Cogen to FPL, the attachments thereto, and supplemental materials telecopied to FPL on
29 August 31, 1995 (collectively the "Feasibility Study") set forth Cypress Energy's (or its
30 permitted successors' or assigns') ability to fulfill its obligations under the SOC; and

1 WHEREAS, based upon the representations made in the Feasibility Study by Cypress
2 Energy that starting work in September of 1995 on the modifications required to the Existing
3 Facility would enable the operational deadline in the SOC to be met, and in order not to
4 prejudice the capability of the Parties to fulfill their obligations under the SOC to complete
5 the project, and to permit the Parties the time needed to negotiate and seek approval of a
6 settlement that would benefit ratepayers by avoiding the necessity of incurring the expense
7 associated with operation under the SOC, the Parties agreed to a conditional suspension of the
8 SOC and a day-for-day extension of the performance period thereunder in that certain
9 agreement among the Parties dated September 12, 1995 (the "Agreement to Negotiate"); and

10 WHEREAS, SFCA, is the lessee of the Existing Facility pursuant to that certain
11 Agreement and Lease of Cogeneration Facility between Florida Energy Partners Limited
12 Partnership as Lessor and SFCA as Lessee dated as of July 3, 1984, as subsequently amended
13 (the "Lease Agreement") (attached hereto as Exhibit A), and pursuant to Section 20 of such
14 Lease Agreement SFCA has certain rights to purchase the Existing Facility (the "Facility
15 Purchase Option");

16 WHEREAS, FPL has determined that in the best interests of its ratepayers it should
17 pursue the "buy out," termination, and cancellation of the SOC, and in conjunction therewith,
18 the settlement of certain claims; and

19 WHEREAS, the Parties hereto have agreed to a "buy out," termination, and cancella-
20 tion of the SOC, the settlement of claims, and certain undertakings all on the terms and
21 conditions set forth below.

22 NOW, THEREFORE, in consideration of the promises and the mutual covenants and
23 conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, and
24 subject to the terms and conditions set forth herein, the Parties agree as follows:

25 ARTICLE I

26 Condition Precedent

27 1.1 Condition Precedent. The provisions of Sections 2.3, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7
28 and 4.1 of this Agreement hereof shall become effective upon, and the Parties shall not have
29 any rights or obligations thereunder until, the approval of this Agreement, without change or
30 modification, by the FPSC is issued and becomes final and non-appealable, which approval
31 shall include a finding that FPL may recover from its ratepayers in the year(s) payments are
32 made through appropriate clauses, all payments made by it pursuant to Article III hereof
33 below (the "Effective Date"). Notwithstanding anything herein to the contrary, no action or

1 inaction taken by the Parties pursuant to this Agreement prior to the Effective Date shall
2 prejudice any Party or constitute a waiver of any Party's rights, claims or obligations in
3 connection with the subject matter hereof.

4 ARTICLE II

5 Covenants of Cypress Energy, Cypress Cogen SFCA, Thermo and Rolls

6 2.1 Docket Support. Cypress Energy, Cypress Cogen and SFCA each hereby
7 covenant and agree to actively and fully support the efforts of FPL to obtain the FPSC's
8 approval of this Agreement (including cost recovery) as contemplated by Section 1.1 hereof.

9 2.2 Feasibility Study. Cypress Energy, Cypress Cogen and SFCA each hereby
10 represent and warrant to FPL that to the best of their knowledge and belief (after due
11 investigation) the Feasibility Study is reasonable and achievable and further covenant and
12 agree that the Feasibility Study describes a course of action which would be fully pursued if
13 this Agreement is not finally approved by the FPSC as contemplated by Section 1.1 hereof.

14 2.3 Existing Facility. SFCA hereby covenants and agrees that (i) it will take all
15 necessary action to maintain the Lease Agreement, in good standing, through the Primary
16 Term and any extension thereof as defined in the Lease Agreement, (ii) it will, at all times,
17 retain the full right and authority (without the necessity to obtain any consent or release from
18 any person or entity, other than building, operational or environmental permits as may be
19 required) to operate the Existing Facility, (iii) it will, at all times, reserve for FPL, subject
20 solely to dispatch by FPL, the available capacity and energy (electrical and thermal) output of
21 the Existing Facility, and (iv) it will, upon notification from FPL and upon (A) FPL's
22 payment of its pro rata share of the costs (based on the percentage of the total output of the
23 Existing Facility to be received by FPL) reasonably necessary to restart the Existing Facility,
24 and (B) FPL's agreement to pay SFCA for FPL's pro rata share (based on the percentage of
25 the total output of the Existing Facility to be received by FPL) of SFCA's variable costs of
26 production at the Existing Facility, supply to FPL the available capacity and energy output
27 (electrical and thermal) which FPL may request at any time and from time to time. Should
28 FPL notify SFCA to restart the Existing Facility, the availability of capacity and energy to
29 FPL shall be subject to the requirements in the Lease Agreement, Space Lease and the
30 Purchase and Sale Agreement (the "Project Agreements") to provide electricity and thermal
31 energy to Dade County and the requirements to provide thermal energy for useful purposes in
32 the amounts necessary to maintain its qualifying facility status under the Public Utility
33 Regulatory Policies Act of 1978.

1 ARTICLE III

2 Additional Agreements

3 3.1 Filing. FPL hereby agrees to file its petition seeking the approvals contemplat-
4 ed in Section 1.1 hereof with the FPSC no later than five (5) business days after the date of
5 this Agreement. The Parties also covenant to actively pursue in good faith FPSC approval of
6 this Agreement as described in Section 1.1 hereof.

7 3.2 SOC Termination and Cancellation. In consideration of FPL's agreement to
8 make the payments set forth in this Article III, to be made by FPL to Cypress Energy (or its
9 designated assignee), upon the Effective Date the SOC shall be automatically terminated,
10 canceled and of no force or effect.

11 3.3 Payments. FPL shall make the following payments to Cypress Energy:

12 (a) Within three (3) business days of the Effective Date, FPL shall pay Cypress
13 Energy (or its assignee, provided the name and address of such assignee is provided to FPL in
14 writing, on or before the Effective Date) the sum of six million dollars (\$6,000,000);

15 (b) Beginning on April 15, 1996 (or on the Effective Date in the event that the
16 Effective Date occurs after April 15, 1996) and each April 15 and October 15 thereafter until
17 and including on October 15, 2002, FPL on each such date shall pay to Cypress Energy (or
18 its assignee, provided the name and address of such assignee are provided to FPL in writing)
19 at least three days prior to the date that a payment is due) the sum of Two Million Six
20 Hundred Eighty-Nine Thousand Five Hundred Dollars (\$2,689,500) to the extent that SFCA is
21 obligated to make lease payments of this amount pursuant to the Lease Agreement, provided,
22 that if SFCA is obligated to pay a lesser sum, then FPL shall pay such lesser amount;

23 (c) (i) Beginning on the Effective Date and each January 1st thereafter until and
24 including on January 1, 2002, SFCA shall in good faith invoice FPL for the estimated annual
25 amounts as of April 15, 1996 (the "Estimated Maintenance Costs") payable by SFCA and
26 Cypress Energy (or their permitted successors or assigns) for the maintenance of the Existing
27 Facility; and FPL shall pay SFCA the Estimated Maintenance Costs via wire transfer of
28 immediately available funds such that SFCA receives payment by February 15 of each year;
29 (ii) beginning on October 15, 1996 and on each October 15th thereafter until and including on
30 October 15, 2002, SFCA shall provide FPL with a copy of its bill for real estate taxes (and any
31 other taxes which may have been paid during such calendar year) imposed upon the Existing
32 Facility ("Taxes"); and FPL shall pay SFCA the Taxes (a pro-rata portion thereof for the first
33 year) via wire transfer of immediately available funds such that SFCA receives payment by

1 November 25th of each year; and (iii) beginning on April 15, 1996 and on each January 1
2 thereafter until January 1, 2002, SFCA shall provide FPL with a copy of its bill for insurance
3 premiums due and owing by it for the Existing Facility (a pro-rata portion thereof for the first
4 year) ("Insurance Premiums"); and FPL shall pay SFCA the Insurance Premiums via wire trans-
5 fer of immediately available funds such that SFCA receives payment by February 15 of each
6 year; provided, however, that in no event shall FPL be obligated to pay SFCA an amount in
7 excess of Seven Hundred Thousand Dollars (\$700,000) per calendar year pursuant to this sub-
8 section (c).

9 3.4 Escrow Arrangement. At FPL's sole option and at any time, its obligations
10 under Subsection 3.3(b) hereof may be fully satisfied and discharged by entering into an
11 escrow agreement with an escrow agent, which agreement and agent are reasonably acceptable
12 to Cypress Energy (or its assignee) (the "Escrow Arrangement"), pursuant to which (i) FPL
13 pays all necessary and reasonable costs and expenses associated with the Escrow Arrange-
14 ment, (ii) FPL delivers to such escrow agent sufficient funds to purchase U.S. Treasury
15 securities with maturities and principal amounts as set forth in Schedule I hereto, and (iii) the
16 principal (together with accumulated interest) shall be paid to Cypress Energy (or its assignee)
17 on the payment dates set forth in Section 3.3(b) hereof, as satisfaction of FPL's payment
18 obligations under Section 3.3(b) hereof. Simultaneously with the formation and funding of
19 the Escrow Arrangement, Cypress Energy, Cypress Cogen, SFCA, Thermo, and Rolls shall
20 execute and deliver to FPL a release and satisfaction, in form and substance reasonably
21 acceptable to FPL, to evidence the full satisfaction and discharge of FPL's obligations under
22 Subsection 3.3(b) hereof.

23 3.5 FPL Audit Rights. For any calendar year for which FPL pays SFCA the
24 Estimated Maintenance Costs, Taxes, or Insurance Premiums pursuant to Section 3.3 hereof
25 but not later than three (3) years after such calendar year, FPL may, upon sixty (60) days
26 notice to SFCA, elect to have an audit performed by an independent auditor for such calendar
27 year, at FPL's sole expense, of the accounts and records relating to the actual maintenance
28 costs, Taxes, or Insurance Premiums paid by FPL pursuant to Section 3.3. Should the
29 independent auditor determine that any amounts paid by FPL for actual maintenance costs,
30 Taxes, or Insurance Premiums were in excess of the amount which was actually and reason-
31 ably incurred by SFCA, SFCA shall within fifteen (15) days following receipt of a copy of
32 the auditors report, remit such excess amounts to FPL via wire transfer of immediately
33 available funds.

34 3.6 Maintenance Costs Adjustments. As soon as practicable after the end of
35 calendar year 1996 and each calendar year thereafter until June 15, 2003 (each such period a
36 "Completed Year"), but in any event within ninety (90) days after the end of such Completed
37 Year, SFCA shall deliver to FPL a report (the "Completed Year Report") reflecting the actual

1 maintenance costs required for the maintenance of the Existing Facility for such Completed
2 Year (the "Actual Maintenance Costs"). If the Actual Maintenance Costs set forth in the
3 Completed Year Report are greater than the Estimated Maintenance Costs paid by FPL to
4 SFCA during the Completed Year (the "Cost Excess") subject to the limitations set forth in
5 Section 3.3 (c) above, FPL shall pay SFCA the Cost Excess via wire transfer of immediately
6 available funds such that SFCA receives payment within fifteen (15) days from the date of the
7 Completed Year Report. If the Actual Maintenance Costs set forth in the Completed Year
8 Report are less than the Estimated Maintenance Costs paid by FPL to SFCA during the
9 Completed Year (the "Cost Shortfall"), SFCA shall pay FPL the Cost Shortfall via wire
10 transfer of immediately available funds such that SFCA receives payment within fifteen (15)
11 days from the date of the Completed Year Report.

12 3.7 FPL's Facility Purchase Option. At least fourteen (14) months prior to the
13 expiration of the Primary Term (as defined in the Lease Agreement) or any extension thereof,
14 SFCA shall notify FPL of its intention of whether or not it will exercise the Facility Purchase
15 Option in the Lease Agreement. Whether the SFCA notice states that it does or does not
16 intend to exercise the Facility Purchase Option, FPL shall have the right to give SFCA written
17 notice no later than sixty (60) days from the date FPL receives SFCA's notice pursuant to this
18 Section 3.7 that FPL directs SFCA to exercise the Facility Purchase Option on its behalf,
19 whereupon SFCA shall so exercise such option in a timely manner following the appraisal of
20 the Facility as described below. In the event that FPL directs SFCA to exercise the Facility
21 Purchase Option on its behalf, SFCA also shall be obligated to terminate the Space Lease
22 unless requested otherwise by FPL provided, however, that any such request to not cancel the
23 Space Lease shall be subject to the requirements of the Project Documents. Once the Facility
24 Purchase Option is exercised by SFCA on behalf of FPL, SFCA shall promptly assign its
25 rights, title and interests in and to the Existing Facility to FPL at no additional charge. FPL
26 shall pay all costs associated with the exercise of the Facility Purchase Option by SFCA
27 which do not exceed the Fair Market Value of the Existing Facility. Any costs associated
28 with the exercise of the Facility Purchase Option which exceed the Fair Market Value of the
29 Existing Facility shall be at SFCA's sole expense. For purposes of this Agreement, "Fair
30 Market Value" shall mean the market value of the Existing Facility equipment at the time the
31 Facility Purchase Option is exercised which value shall be determined, within forty-five (45)
32 days of the date on which FPL directs SFCA to exercise the Facility Purchase Option on its
33 behalf, by an independent MAI appraiser familiar with the value of electric power generating
34 plant equipment and reasonably acceptable to FPL and SFCA. In determining the Fair Market
35 Value, the appraiser shall take into account the value of the equipment in the used generation
36 equipment market less the cost of removal and shipment.

37 3.8 Tolling Period. The Parties acknowledge that the time periods for performance
38 of the obligations by Cypress Energy (and its permitted successor and assigns) and FPL under

1 the SOC have been subject to a conditional suspension pursuant to the Agreement to Negoti-
2 ate in recognition of the representations by Cypress Energy that construction of the project
3 could have been completed in the timeframe outlined in the Feasibility Study and that the
4 parties needed a period of time to complete settlement negotiations so as to realize the
5 ratepayer benefits associated with purchase of the SOC without prejudice to either Parties'
6 abilities to otherwise pursue their rights under the SOC. Pursuant to the provisions in the
7 SOC, the Parties hereby agree that the time for performance of the obligations under the SOC
8 shall continue to be suspended and extended (on a "day-for-day" basis) until such time as the
9 FPSC issues its order regarding FPL's petition sought by Section 1.1 hereof and such order
10 becomes final and non-appealable, all on the same terms and conditions as set forth in the
11 third paragraph of paragraph 4 of the Agreement to Negotiate.

12 ARTICLE IV

13 Mutual Release and Representations and Warranties

14 4.1 Mutual Release. Simultaneously with the execution of this Agreement, the
15 Parties shall execute a mutual release of all claims attached hereto as Exhibit B (the
16 "General Release"). The General Release shall not affect the enforceability of, or the
17 obligations of the Parties, under this Agreement.

18 4.2 Representations and Warranties.

19 (a) Each of Parties hereby represents and warrants, with respect to itself,
20 that (i) with respect to the provisions which are not conditioned upon the approval of the
21 FPSC as set forth in Section 1.1 hereof, it has and (ii) with respect to the provisions which
22 shall become effective on the Effective Date, it will have, the legal right and authority to
23 enter into this Agreement, and that this Agreement is and when delivered will be, the legal,
24 valid and binding obligation upon it in accordance with its terms.

25 (b) Cypress Energy, Cypress Cogen and SFCA each hereby represent and
26 warrant that neither the execution or delivery of this Agreement by it, nor the performance
27 and observance by it of any of its agreements or obligations hereunder requires the consent or
28 approval by any third party, and does or will conflict with or result in a violation or breach of
29 or default under their respective organization documents or agreements, any law, order, rule,
30 regulation, injunction or decree of any court or other governmental authority, or any term,
31 condition or provision of any note, bond, mortgage, indenture, license, permit or other
32 agreement or instrument to which it is a party or to which the Existing Facility is subject.

1 (c) SFCA hereby represents and warrants that (i) each of the agreements
2 and documents listed in Exhibit C hereto is in full force and effect and that no default, or
3 occurrence that with the passage of time or provision of notice would constitute a default,
4 exists under any of those agreements or documents, (ii) no person, entity, governmental body,
5 agency or authority (other than SFCA and the Lessor (pursuant to the terms of the Lease
6 Agreement)) has any right, title, ownership, interest, or option in, to, or for the Existing
7 Facility, (ii) the Facility Purchase Option may be exercised in accordance with the terms of
8 Section 3.7 hereof and such exercise will not require the consent or approval of any person,
9 entity, governmental body, agency or authority, and (iv) each of the agreements, including
10 amendments to existing agreements, contemplated by the Settlement Agreement (as more fully
11 described in Exhibit C hereto) has been duly executed and delivered and is in full force and
12 effect.

13 (d) Each Party represents, warrants and agrees that in executing and
14 entering into this Agreement, it is not relying and has not relied upon any representation,
15 promise or statement made by anyone which is not recited, contained or embodied in this
16 Agreement. SFCA hereby covenants and agrees that it will not exercise any of the "Initia-
17 tives" contained in, and as defined by, the Settlement Agreement. Each Party understands and
18 expressly assumes the risk that any fact not recited, contained or embodied herein may turn
19 out hereafter to be other than, different from, or contrary to the facts now known to it or
20 believed by it to be true. Each Party intends by this Agreement, and with the advice of its
21 own independently selected counsel, to release fully, finally and forever all Claims (as defined
22 in the General Release) and to agree that this Agreement shall be effective in all respects
23 notwithstanding any such difference in facts, and shall not be subject to termination, modi-
24 fication or rescission by reason of any such difference in facts.

25 (e) Each Party represents and warrants that it has not heretofore assigned or
26 transferred or purported to assign or transfer, and agrees that it shall not hereafter assign or
27 transfer or purport to assign or transfer, to any person or entity all or any part of or any
28 interest in any Claim. Each Party agrees to indemnify and to hold harmless each other Party
29 against claim, contention, demand, cause of action, obligation or liability of any nature,
30 character or description whatsoever, including the payment of attorneys' fees and costs
31 actually incurred, whether or not litigation is commenced, which may be based upon or which
32 may arise out of or in connection with any such assignment or transfer or purported
33 assignment or transfer of any Claim.

1 ARTICLE V
2 Miscellaneous

3 5.1 Binding Effect. This Agreement shall be binding upon and inure to the benefit
4 of the Parties and each of their respective directors, officers, employees, subsidiaries,
5 affiliates, agents, advisors, attorneys, representatives, successors, assigns, heirs, executors and
6 administrators.

7 5.2 Entire Agreement. This Agreement constitutes the entire agreement among the
8 Parties and shall supersede any other agreements, representations or warranties, whether oral
9 or written, between or among the Parties hereto.

10 5.3 Governing Law. This Agreement shall be governed by and construed in
11 accordance with the laws of the State of Florida for all purposes, including both construction
12 and remedy, without regard to choice of law rules.

13 5.4 Headings. The headings throughout this Agreement are inserted for reference
14 purposes only, and are not to be construed or taken into account in interpreting the terms and
15 provisions of any article, nor to be deemed in any way to qualify, modify, or explain the
16 effect of any such term or provision.

17 5.5 Modifications. No modification, alteration, addition, change or amendment of
18 the terms of this Agreement shall be binding upon the Parties unless reduced to writing and
19 duly executed by each of them.

20 5.6 Counterparts: Facsimile Signatures. This Agreement may be executed in two
21 or more counterparts which, when taken together, shall be the same as if a single document
22 shall have been executed. Signatures may be exchanged by facsimile and this Agreement
23 shall be fully effective in such circumstance. The Parties further agree to furnish original
24 signatures as soon thereafter as possible.

25 5.7 No Admission of Liability. Neither this Agreement, nor any of its terms nor
26 any negotiations in connection herewith or the transactions contemplated hereby shall
27 constitute or be construed as an admission on the part of any Party, of any liability or
28 wrongdoing whatsoever, or of the truth of any of the claims or defenses asserted in any
29 litigation between or among any of the Parties.

30 5.8 Arbitration. All disputes arising under or in connection with this Agreement
31 that cannot be resolved by the Parties shall be finally settled by arbitration. Any Party may
32 commence arbitration proceedings by filing a notice for arbitration with the American

1 Arbitration Association ("AAA"), with a copy to the other affected Parties. The notice shall
2 request the AAA to appoint a disinterested arbitrator who is experienced and qualified in the
3 arbitration of commercial disputes. The arbitrator shall as soon as practicable conduct a
4 hearing in Dade County, Florida under the arbitration rules of the AAA, but will otherwise be
5 bound by the provisions of this Agreement and applicable substantive law. The decision of
6 any such arbitrator shall be final and binding on the Parties. Any litigation filed in connec-
7 tion with the enforcement of any award entered by said arbitrator shall be brought in the
8 United States District Court for the Southern District of Florida, if that court has jurisdiction,
9 or another appropriate court in Florida if it does not.

10 5.9 Agreement Inadmissible. This Agreement shall not be admissible in any action
11 or proceeding other than (i) the proceedings contemplated by Section 1.1 above or (ii) to
12 enforce the terms hereof.

13 5.10 Notices. Notices required under this Agreement shall be in writing and shall be
14 delivered in person or sent by registered mail or by a nationally recognized overnight courier,
15 return receipt requested, to the addresses specified below. Notices shall be effective upon
16 receipt; provided, however, that in the event a Party fails to notify the other of the correct
17 person and address for notices, any notice to that Party shall be deemed effective on the fifth
18 (5th) day following the date such notice is sent to the person and address last provided by
19 such Party.

20 IN WITNESS THEREOF, the Parties have duly executed this Agreement on the day
21 and year first above written.

FLORIDA POWER & LIGHT COMPANY

By: 

Name: Dennis P. Coyle
Title: General Counsel
Address: 700 Universe Boulevard
Juno Beach, FL 33408

CYPRESS ENERGY COMPANY

By: 

Name: Richard R Stewart

Title: President

Address:

2707 North Loop
Houston, Texas 77008

CYPRESS COGENERATION COMPANY

By: 

Name: Richard R Stewart

Title: President

Address:

2707 North Loop
Houston, Texas 77008

SOUTH FLORIDA COGENERATION ASSOCIATES

By: TEC COGENERATION, INC.,
its general partner

By: _____

Name:

Title:

Address:

By: RRD Corp., its general partner

By: _____

Name:

Title:

Address:

CYPRESS ENERGY COMPANY

By: _____
Name:
Title:
Address:

CYPRESS COGENERATION COMPANY

By: _____
Name:
Title:
Address:

SOUTH FLORIDA COGENERATION ASSOCIATES

By: TEC COGENERATION, INC.,
its general partner

By: Brian D. Hoff
Name: Brian D Hoff
Title: President
Address:

By: RRD Corp., its general partner

By: _____
Name:
Title:
Address:

CYPRESS ENERGY COMPANY

By: _____

Name:

Title:

Address:

CYPRESS COGENERATION COMPANY

By: _____

Name:

Title:

Address:

SOUTH FLORIDA COGENERATION ASSOCIATES

By: TEC COGENERATION, INC.,
its general partner

By: _____

Name:

Title:

Address:

By: RRD Corp., its general partner

By: David J. Whetton
Name: DAVID J WHETTON
Title: ~~President~~ PRESIDENT
Address:

THERMO ELECTRON CORPORATION

By: George N. Hatsopoulos
Name: *George N. Hatsopoulos*
Title: *President & Chairman*
Address:

ROLLS-ROYCE INC.

By: _____
Name:
Title:
Address:

THERMO ELECTRON CORPORATION

By: _____

Name:

Title:

Address:

ROLLS-ROYCE INC.

By:  _____

Name: *Thomas P. Dole*

Title: *Vice President + General Counsel*

Address:

SCHEDULE I

ESCROWED U.S. TREASURY SECURITIES

The securities to be purchased will be identified at the time FPL exercises its option as set forth in Section 3.4 of this Agreement.

EXHIBIT A

LEASE AGREEMENT

A true and correct copy of the Lease Agreement is attached to this Exhibit A.

AGREEMENT AND LEASE OF COGENERATION FACILITY

between

**FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP,
as lessor,**

and

**SOUTH FLORIDA COGENERATION ASSOCIATES,
as lessee**

Dated as of July 3, 1984

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Schedule A:	Description of Facility
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Schedule C:	Basic Rent
Schedule D:	Casualty and Termination Values
Schedule E:	Form of Certificate of Acceptance
Schedule F:	Operating Manual Documents
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Schedule H:	Form of Facility Lease Assignment

AGREEMENT AND LEASE OF COGENERATION FACILITY

AGREEMENT AND LEASE OF COGENERATION FACILITY, dated as of July 3, 1984 (this Lease), between FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership (Lessor), having an office at 225 Franklin Street, Boston, Massachusetts 02110, and SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Florida Uniform Partnership Act (Lessee), having an address c/o Rolls-Royce Inc., 375 Park Avenue, New York, New York 10152.

Lessor and Lessee agree as follows:

1. Defined Terms. Unless the context otherwise requires and except as specifically provided elsewhere herein, capitalized terms used herein have the meanings set forth below:

"Acceptance Date" means the Primary Term Commencement Date.

"Additional Rent" has the meaning set forth in Section 4(c).

"Adjusted Facility Cost" has the meaning set forth in Schedule C.

"Alternate Permanent Loan" has the meaning set forth in Section 29(a).

"Ancillary Systems" means the Absorption Chiller System and the Interbuilding Distribution System, each as defined in the Space Lease.

"Appraisal Procedure" has the meaning set forth in Schedule C.

"Assignment Documents" means the Assignment of Space Lease and the Collateral Assignment of Space Lease and Energy Purchase Contract.

"Assignment of Space Lease" means the Assignment of Space Lease, from Lessee to Lessor, dated as of the date hereof.

"Basic Rent" has the meaning set forth in Section 4(a).

"Basic Rent Payment Dates" has the meaning set forth in Schedule C.

"Business Day" means any day other than a day on which banking institutions in the State of New York or the Commonwealth of Massachusetts are authorized to close.

"Casualty Value" has the meaning set forth in Schedule D.

"Certificate of Acceptance" means the Certificate of Acceptance the form of which is set forth in Schedule E.

"Code" means the Internal Revenue Code of 1954, as now or hereafter amended, or any successor law thereto.

"Construction Contract" means the Contract for the Construction and Installation of a Cogeneration Facility, between Lessor and Contractor, dated as of February 10, 1984, as amended and restated as of June 30, 1984, and as further amended by a First Amendment, dated as of July 3, 1984, for the construction of the Facility, as the same may be amended from time to time pursuant to one or more Change Orders or Permitted Changes entered into or made pursuant to the terms and conditions thereof.

"Construction Loan" has the meaning set forth in and as further amended by Section 29(a).

"Contribution Agreement" means the Contribution Agreement, dated as of July 3, 1984, among Lessor, Lessee, Contractor and Rolls USA.

"Contractor" means Thermo Electron Corporation, a Delaware corporation, as contractor under the Construction Contract.

"County" means Metropolitan Dade County, a political subdivision of the State of Florida.

"Default" means an event which, but for notice, lapse of time or both, would constitute an Event of Default.

"Directive" means a written communication signed by the President or a Vice President of each of the partners of South Florida Cogeneration Associates or by one or more specified persons acting as agent for any successor Lessee or any partner of any successor Lessee.

"Energy Purchase Contract" means the Contract for the Purchase and Sale of Electrical and Thermal Energy, dated as of November 15, 1983, between Lessee and the County.

"Event of Default" means any event specified in Section 17(a).

"Event of Loss" means any of the following events occurring after the delivery of the Certificate of Acceptance: (a) the destruction of or damage to the Facility or the Premises or any part thereof to such extent as shall render repair of the Facility uneconomical for Lessee, (b) the condemnation, taking or confiscation of or the seizure or requisition of title to the Facility, the Premises, or any substantial portion of the Premises or the Facility by any

governmental authority, which portion is sufficient to render the restoration of the remaining portion thereof uneconomical for Lessee, or (c) any other event resulting in the Facility being permanently rendered unfit for normal use by Lessee.

"Extended Terms" has the meaning set forth in Section 3(b).

"Facility" means the cogeneration facility as more fully described in Schedule A, to be constructed on the Premises pursuant to the Construction Contract. The Facility includes the emissions stack referred to in the Construction Contract, but does not include the Ancillary Systems.

"Facility Lease Assignment" has the meaning set forth in Section 29(b).

"Facility Operating Revenues" mean all revenues attributable to the operation of the Facility and received by Lessee during any calendar year, whether pursuant to the Energy Purchase Contract, under any insurance policy covering business interruption or otherwise.

"Guaranty" means the Guaranty, dated as of July 3, 1984, from Rolls Ltd. to Lessor.

"Imposition" has the meaning set forth in Section 5(b).

"Initial Permanent Loan" has the meaning set forth in Section 29(a).

"Indemnified Party" means Lessor, the successors and assigns of Lessor (including any assignee of Lessor's interest in this Lease for security) and the agents, employees and partners thereof (if Lessor's interest in this Lease shall be assigned for security, the assignee thereof (including any participant of such assignee) shall be an Indemnified Party), and Lessor and its successors and assigns and their agents, employees and partners shall continue to be, Indemnified Parties hereunder notwithstanding such assignment) and, for limited purposes set forth in clauses (iv) and (v) of Section 5(a), an owner of a partner of Lessor.

"Independent Engineer" means the Independent Engineer appointed by Lessor from time to time as provided in the Construction Contract.

"Late Payment Rate" means, in relation to any period for which a late payment charge may be incurred under this Lease, an annual rate equal to the "prime rate" of the Lender from time to time hereunder, or the equivalent rate of interest quoted by such Lender as being charged thereby to its highest quality corporate borrowers, which rate is the rate quoted as being in effect on the first day of such period; if the Lender

shall be an insurance company or shall not quote a "prime rate", the Late Payment Rate shall be the "prime rate" of The First National Bank of Boston, or another bank selected by Lessor and Lessee, or the equivalent rate of interest quoted by such bank as being so charged; provided, in all cases, that the Late Payment Rate, if it shall be less than the late payment rate being charged by the Lender, shall be increased to a rate equal to the interest rate being then charged by the Lender. The identity of the bank whose prime rate shall be the basis of the Late Payment Rate may be changed by Lessee with the approval of Lessor, which approval shall not be unreasonably withheld, provided that such replacement bank shall be a major money center bank with assets in excess of \$100,000,000.

"Lease Term" means the Primary Term of this Lease as set forth in Section 3, together with any Extended Term for which the term of this Lease shall have been extended as provided herein.

"Legal Requirement" means any law, statute, ordinance, rule, regulation, order, decree or requirement of any governmental authority (including any agency or any court) having the power to enforce the same against Lessor, Lessee, the Facility or the Premises (including any requirement of any permit, license or other authorization issued with respect thereto).

"Lender" means any lender or trustee for one or more lenders, which lender or lenders shall be the registered owner of the note or notes secured by the Mortgage from time to time.

"Liens" means liens, mortgages, encumbrances, pledges, charges and security interests of any kind, including Permitted Encumbrances.

"Mortgage" means a deed of trust, mortgage, security agreement or other security instrument which constitutes a first priority lien upon the Facility or any part thereof or the Premises or any interest of Lessor therein.

"Net Proceeds" means the amount of any insurance proceeds or condemnation award paid with respect to the Facility or the Premises or the amount of any payment made pursuant to an agreement with any governmental authority in lieu of a condemnation award, in each case remaining after payment of all expenses incurred in the collection of such insurance proceeds or condemnation award or payment made in lieu of condemnation award and to which Lessor or Lessee is entitled.

"Operating Manual" means the documents prepared by the Contractor pursuant to the Construction Contract and specified in Schedule F.

1
"Operative Documents" has the meaning set forth in Section 5(a)(1).

"Parts" has the meaning set forth in Section 9(a).

"Permitted Encumbrances" means, as of any particular time during the Lease Term (1) easements, rights-of-way, servitudes, zoning laws, use regulations, other similar reservations, rights and restrictions and other minor defects and irregularities in the title to the Premises, none of which materially lessens the value of the Premises or materially impairs the use thereof for the purposes of operating and maintaining the Facility;

(ii) the right reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law to terminate such right, power, franchise, grant, license or permit (provided that the exercise of such right would not materially lessen the value of the Premises or materially impair its use for the purposes of operating and maintaining the Facility) or to condemn, appropriate, recapture or designate a purchaser of the Premises or the Facility;

(iii) any Liens which are not due or which Lessee, pursuant to Section 5, may permit to remain unpaid;

(iv) any liens of mechanics, materialmen, laborers, carriers or suppliers for work or services performed or materials furnished in connection with the Premises, the Facility or any part thereof which are not due, or are being contested at the time by appropriate legal proceedings, which proceedings shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Premises, the Facility or any interest therein to satisfy the same, and in the case of a contested lien provided that Lessee shall have complied with the provisions hereof dealing with such contest;

(v) the terms and conditions of the Space Lease and the Assignment Documents

(vi) any encumbrances permitted by the Space Lease with respect to the Premises;

(vii) any Mortgage and any other security interest permitted pursuant to Section 2.10 of the Space Lease;

(viii) any assignments of this Lease permitted by the terms hereof;

(ix) any Liens for taxes which are not due or are being contested at the time by appropriate legal proceedings so

long as such proceedings are being contested in accordance with this Lease; and

(x) any Liens arising out of judgments or awards against Lessee with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and with respect to which there shall have been secured a stay of execution pending such appeal or proceeding for review.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or governmental authority, or any agency or political subdivision thereof.

"Premises" means the space in which the Facility is to be constructed, installed and operated, and which is more fully described in Schedule B.

"Primary Term" has the meaning set forth in Section 3(b).

"Primary Term Commencement Date" has the meaning set forth in Section 2(b).

"Purchase Option" means the Purchase Option granted by Lessor to Lessee as set forth in Section 20(a).

"Purchase Option Agreement" means the Purchase Option Agreement, dated as of November 15, 1983, between Lessee and the County.

"Qualifying Cogeneration Facility" means a "qualifying cogeneration facility" under and as defined in the Public Utility Regulatory Policies Act of 1978, as amended (P.L. 95-617), and the regulations issued thereunder (18 C.F.R. Part 292).

"Rent" means Basic Rent, Supplemental Rent and Additional Rent, if any.

"RRD" means RRD Corp., a Delaware corporation.

"Rolls Ltd." means Rolls-Royce Limited, a corporation organized under the laws of England.

"Rolls USA" means Rolls-Royce Inc., a Delaware corporation.

"Space Lease" means the Agreement and Lease of Space and Ancillary Systems, dated as of November 15, 1983, between the County and Lessee.

"Supplemental Rent" has the meaning set forth in Section 4(b).

1

"TEC" means TEC Cogeneration Inc., a Florida corporation.

"Termination Date" has the meaning set forth in Section 13(a).

"Termination Value" has the meaning set forth in Schedule D.

"Thermo" means Thermo Electron Corporation, a Delaware corporation.

2. Construction of the Facility; Contractor's Access; Acceptance. (a) Lessor is entering into the Construction Contract with Contractor, pursuant to which Contractor will construct the Facility on the Premises as provided in the Construction Contract. Pursuant to the Construction Contract, the Independent Engineer will inspect and review the construction of the Facility by Contractor and the outcome of the performance testing described in the Construction Contract, and take such other action as may be required or permitted of the Independent Engineer under the Construction Contract. Commencing on the date of execution and delivery of this Lease by Lessor and Lessee, insofar as Lessee shall have the right to do so, Lessee shall provide to Lessor, Contractor, any subcontractor or supplier to Contractor and the agents, employees, licensees and invitees (which may include the County) of any thereof full, free and unrestricted access to the Premises and the other premises subject to the Space Lease at any and all times to perform any work in connection with the design, construction, installation, start-up and performance testing of the Facility as contemplated by the Construction Contract, and Lessee shall also provide all such other rights and privileges to the foregoing persons as has been provided to the lessee under the Space Lease so long as such persons are rendering performance under the Construction Contract. Lessor and the Independent Engineer and the agents, employees, licensees and invitees thereof shall be entitled to enter upon the Premises and other premises subject to the Space Lease in connection with their inspection of the Facility (including the components thereof) at such reasonable times as they may determine.

(b) When the Facility is "substantially complete" under and in accordance with the terms of Section 7.4 of the Construction Contract (except for Section 7.4(q) thereof), Lessee shall accept delivery of the Facility under this Lease on behalf of Lessor and as Lessor's agent, and on its own behalf as Lessee hereunder, and on such date Lessee shall evidence its acceptance of the Facility by the execution and delivery of the Certificate of Acceptance. Upon the delivery of the Certificate of Acceptance, the Facility shall become subject to this Lease (the date upon which such acceptance

shall occur is called the Primary Term Commencement Date). Lessor hereby appoints Lessee its agent for the purposes of accepting the Facility under the Construction Contract, which appointment shall not be revoked so long as this Lease shall not have expired or been terminated and so long as no Default or Event of Default or breach of any condition contained in Section 30 shall have occurred. Lessee agrees to act in a fiduciary capacity as such agent for Lessor, and, in connection with its acceptance of the Facility and the performance of its duties under this Section 2(b), to fully examine the Facility and to accept the Facility on behalf of Lessor only if the Facility is "substantially complete" as such term is described in the Construction Contract (except for Section 7.4(q) thereof). The appointment by Lessor of Lessee as agent for Lessor under this Section 2(b) shall not limit or restrict the rights of Lessee with respect to the acceptance of the Facility by Lessee on its own behalf.

3. Lease of the Facility and Premises; Term; Extended Terms. (a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, for a term commencing on the Primary Term Commencement Date, (i) the Facility and all components thereof and spare parts thereto now or hereinafter owned or acquired by Lessor, and (ii) the Premises, all for the term of this Lease as described herein, upon and subject to the covenants, agreements, terms, conditions, limitations and provisions set forth herein. Notwithstanding that the term of the Lease of the Facility and the Premises shall not commence until the Primary Term Commencement Date, provisions of this Lease which apply as of the date of the execution and delivery hereof, including the third sentence of Section 2(a), Section 2(b), Section 6(b), Section 12, Section 22, Section 26, Section 29 and Section 30, shall constitute separate and independent agreements between Lessor and Lessee which shall be separately enforceable at law and in equity from and after the date of the execution and delivery hereof without regard to the other provisions of this Lease.

(b) The initial portion of the term of this Lease (the Primary Term) shall commence as to the Premises and as to the Facility on the Primary Term Commencement Date, and shall terminate on the day before the sixteenth anniversary of the Primary Term Commencement Date. Notwithstanding the foregoing, if the Primary Term Commencement Date shall be the first day of a calendar month, the Primary Term shall end on the second day prior to the sixteenth anniversary of the Primary Term Commencement Date. Lessee shall have the right and option to extend the term of this Lease for two consecutive extended terms of two years each (the Extended Terms) unless the term of this Lease shall be sooner terminated. The first such Extended Term shall commence upon the expiration of the Primary Term and shall end at midnight of the day before the second anniversary of the first day of such Extended Term. The second Extended Term shall commence upon the expiration of the preceding

Extended Term, and shall end at midnight on the day before the second anniversary of the first day of such Extended Term. Lessee may exercise each such option to extend the term of this Lease by giving written notice to Lessor at least 120 days prior to the then expiration of this Lease. The giving of such notice shall automatically extend the Lease Term for an Extended Term and no instrument of extension need be executed, but no Extended Term shall take effect unless this Lease is in full force and effect immediately prior to the commencement thereof and unless there is no Event of Default or Default then in existence. If Lessee shall fail to give such notice, this Lease shall expire and terminate and Lessee shall have no further option to extend the Lease Term.

(c) The Premises are leased subject to (i) the existing state of the title thereof as of the date of the execution and delivery of this Lease, (ii) the existing condition of the Premises, including the location thereof (as would be shown by an accurate survey) and any party in possession thereof, (iii) Legal Requirements affecting the Premises, the premises leased under the Space Lease and the improvements constructed and to be constructed thereon and (iv) the Mortgage, provided in the case of the Mortgage that it shall contain provisions permitting Lessee to remain in possession of the Premises and the Facility under this Lease notwithstanding any action that may be taken by the Lender, including any action to realize upon the Lender's remedies under the Mortgage or otherwise against the Facility or the Premises, so long as there shall be no Event of Default outstanding hereunder.

4. Rent; Late Payments; Manner of Payment; Net Lease. (a) Lessee shall pay to Lessor as fixed rent for the Facility during the Lease Term the amounts set forth in Schedule C (Basic Rent) on the Basic Rent Payment Dates.

(b) Lessee shall pay to Lessor as supplemental rent for the Facility (Supplemental Rent), with respect to each calendar year or portion thereof occurring during the portion of the Lease Term commencing on the fifth anniversary of the Primary Term Commencement Date and ending upon the expiration of the Primary Term, an amount calculated by multiplying the Facility Operating Revenues for such year or portion thereof by 0.85%. Within 120 days after the end of each such year or portion thereof, Lessee shall pay to Lessor an amount equal to the Supplemental Rent due therefor. Such payment of Supplemental Rent shall be accompanied by a Directive setting forth the Supplemental Rent for such year or portion thereof, together with the calculations in reasonable detail necessary to determine the amount of such Supplemental Rent. If the Supplemental Rent for such year or portion thereof shall be miscalculated, Lessee shall forward on demand the amount of any deficiency (determined as above), or Lessor, promptly after receipt of a revised Directive, shall credit the amount of any

excess against the Supplemental Rent due for the following period. If the amount of the Facility Operating Revenues upon which Supplemental Rent is to be calculated for any calendar year or portion thereof shall be paid to Lessee under dispute or protest such that the amount thereof may be subject to being reduced, Lessee shall calculate the amount of Supplemental Rent as provided above and shall pay such Supplemental Rent to Lessor as so provided, but shall designate the portion thereof that is the subject of such dispute or protest. Upon receipt of such payment of Supplemental Rent accompanied by a certificate of Lessee stating that such dispute or protest is outstanding and specifying the disputed amount and the subject of such dispute or protest, Lessor shall retain the portion of such Supplemental Rent under dispute or protest and shall invest and reinvest the same, upon the direction of Lessee, in one or more obligations of the United States which matures in not less than 30 days. Upon resolution of the dispute or protest, such disputed amount and all income deriving therefrom shall be paid as a refund to Lessee, if Lessee shall have lost such dispute or protest, or otherwise shall be retained by Lessor. Income earned on any such amount in excess of expenses incurred in earning such income shall be paid to the Person entitled to receive such amount.

(c) All amounts which Lessee is required to pay pursuant to this Lease during the Lease Term (other than Basic Rent, Supplemental Rent, amounts payable upon any purchase of the Facility and amounts payable as liquidated damages pursuant to Section 17), together with every fine, penalty, interest and cost which may be added for non-payment or late payment thereof, shall constitute additional rent (Additional Rent). If Lessee shall fail to pay any Additional Rent when the same shall become due, Lessor shall have all the rights, powers and remedies with respect thereto as are provided herein or by law in the case of the non-payment of Basic Rent, and shall have the right to pay the same on behalf of Lessee.

(d) Lessee shall pay to Lessor interest, at the Late Payment Rate, on all overdue Basic Rent and Supplemental Rent to be paid to Lessor from the due date thereof until paid, and on all overdue Additional Rent paid by Lessor on behalf of Lessee from the date of payment by Lessor until repaid by Lessee.

(e) All payments of Rent which Lessee is obligated to pay to Lessor hereunder shall be made, in immediately available funds and in lawful money of the United States, to Lessor or to such other person as Lessor may designate from time to time at Lessor's address as set forth above or at such other address as Lessor or such person may designate from time to time. Lessee shall perform its obligations under this Lease at its sole cost and expense, and shall pay all Rent when due, without notice or demand.

(f) This Lease is a net lease. Notwithstanding any other provision hereof, all Rent and other sums payable to Lessor hereunder by Lessee, including sums payable as purchase prices, shall be paid without notice, demand, counterclaim, set-off, deduction, defense, abatement, suspension, deferment, diminution or reduction. The obligations and liabilities of Lessee hereunder shall in no way be released, discharged or otherwise affected (except as may be expressly provided herein) for any reason, including, without limitation: (i) any defect in the condition, quality or fitness for use (for a particular purpose or otherwise) of the Facility or any part thereof or the Premises or any portion thereof; (ii) any damage to, removal, abandonment, salvage, loss, scrapping or destruction of or any requisition or taking of the Facility or any part thereof or of the Premises or any portion thereof or any interest in any thereof; (iii) any restriction, prevention or curtailment of or interference with any use of the Facility or any part thereof or the Premises or any portion thereof; (iv) any defect in title to the Facility or any part thereof or the Premises or any portion thereof or any Lien on either such title; (v) any change, waiver, extension, indulgence or other action or omission in respect of any obligation or liability of Lessor; (vi) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Lessor, Lessee, County, Thermo, Contractor, TEC, RRD, Rolls USA or Rolls Ltd. or any action taken with respect to this Lease by any trustee or receiver of Lessee, Lessor, County, Thermo, Contractor, TEC, RRD, Rolls USA or Rolls Ltd., or by any court, in any such proceeding; (vii) any claim which Lessee has or might have against any Person, including, without limitation, any claim against Lessor for a refund due to Lessee hereunder; (viii) any failure on the part of Lessor to perform or comply with any of the terms hereof or of any other agreement; (ix) any invalidity, unenforceability or disaffirmance of this Lease or any provision hereof or of any other Operative Document; or (x) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, and whether ordinary or extraordinary, whether or not Lessee shall have notice or knowledge of any of the foregoing. This Lease shall be noncancellable by Lessee and, except as expressly provided herein, Lessee, to the extent permitted by law, waives all rights now or hereafter conferred by statute or otherwise to quit, terminate or surrender this Lease, or to any diminution or reduction of any Rent hereunder. All payments by Lessee to Lessor made as required hereby shall be final (but the finality of such payments shall not impair any right expressly given to Lessee hereunder to obtain a refund of all or any portion thereof), and Lessee shall not seek to recover any such payment or any part thereof for any reason whatsoever. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise except as expressly provided herein, Lessee shall nonetheless pay to Lessor an amount equal to each payment of Rent hereunder at the time and in the manner that such payment would have

become due and payable hereunder if this Lease had not been terminated in whole or in part until all payments required by the terms of this Lease have been made.

5. Indemnities; Impositions. (a) Subject to the limitations set forth in paragraph (f) below, Lessee shall pay when due, and shall protect, indemnify and save harmless each Indemnified Party from and against, all liabilities, obligations, claims, damages, judgments, penalties, causes of action, costs, losses and expenses, including, without limitation, fees and expenses of attorneys, imposed upon or incurred by or asserted against such Indemnified Party during or with respect to any portion of the Lease Term and thereafter for so long as Lessee shall be obligated hereunder by reason of or in any way arising out of (i) the Space Lease, the Purchase Option Agreement, this Lease, the Construction Contract (for the period after the delivery of the Certificate of Acceptance), the Energy Purchase Contract, the Assignment Documents, the Mortgage, the Facility Lease Assignment, any contract for the purchase of natural gas or the Certificate of Acceptance or any modification, amendment or waiver of or supplement to any thereof or any assignment thereof or any consent to such assignment (collectively, the Operative Documents), and any failure by Lessee to comply with any terms thereof or the occurrence of a Default or Event of Default thereunder (including the exercise of any remedies thereunder); (ii) the acquisition, design, manufacture, shipment, assembly, disassembly, delivery, construction, acceptance or rejection of the Facility or any component thereof; (iii) the ownership, delivery, non-delivery, inspection, non-inspection, lease, possession, use, operation, maintenance, construction, condition, sale, storage or other disposition of the Facility or any component thereof and the lease, possession, use, condition or disposition of the Premises or any portion thereof, including, without limitation (A) claims or penalties arising from any violation of the laws or regulations of the United States or any state thereof or any political subdivision of either thereof, or of any governmental agency or instrumentality of either thereof, or from any violation of any consent, permit, authorization or approval issued thereby or thereunder, (B) any injury to or death of persons or loss of or damage to property, whether or not accidental, (C) latent or other defects in the Facility or any component thereof or the Premises or any portion thereof, whether or not discoverable, (D) any claim for infringement of patent, trade secret, trademark, copyright or other proprietary right, (E) performance of any labor or services or the furnishing of materials or other property in respect of the Facility or any component thereof or the Premises or any portion thereof, and (F) any action (or failure to act) on the part of any of Lessee's agents, contractors, sublessees, licensees or invitees; (iv) compliance or non-compliance by such Indemnified Party with the Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 579 et. seq.) or the laws of the United

States or the State of Florida regarding public or private utilities (in the latter case, such indemnity shall not be effective during the time that Lessor shall be in possession of the Facility other than as a consequence of the termination of the Lease Term by reason of the occurrence of an Event of Default) if the same shall be applicable by reason of Lessor's ownership of the Facility (for the purposes of this clause (iv) and clause (v) below, any owner of a partner of Lessor shall be deemed to be an Indemnified Party and shall have the rights of an Indemnified Party hereunder), and Lessor shall cooperate reasonably with Lessee in complying with such laws, provided that Lessee pays all costs and expenses associated therewith; and (v) the failure of the Facility, Lessor, any partner of Lessor, or any owner or controlling person of any partner of Lessor at any time to have the benefit of the exemptions from otherwise applicable provisions of law (including the Federal Power Act and the Public Utility Holding Company Act) that are currently or may hereafter be available by reason of the Facility being a Qualifying Cogeneration Facility, including noncompliance with the Order Granting Application For Certification as a Qualifying Cogeneration Facility, issued by the Federal Energy Regulatory Commission on July 1, 1983, Docket No. QF83-248-000, and Lessor shall cooperate reasonably with Lessee in its efforts to maintain such exemptions, provided Lessee pays all costs and expenses associated therewith.

(b) Subject to the limitations set forth in paragraph (f) below, Lessee will pay when due and assume liability for, and will protect, indemnify, defend and save harmless each Indemnified Party from and against, all documentation, license and registration fees, all sales, use, personal property (tangible or intangible), mortgage, real estate, rent and stamp taxes, all income, gross receipts and franchise taxes, all betterment, public works and other assessments, all water and sewer rents, fees and charges and all other taxes, levies, fees, imposts, duties, charges or withholdings of any nature whatsoever, general or special, ordinary or extraordinary or expressly contemplated hereby or not, together with any penalties, fines or interest on any of the foregoing (all such impositions being herein collectively called Impositions), imposed by any governmental or taxing authority during or with respect to any portion of the Lease Term and thereafter as required hereby (i) upon or with respect to the Facility or any component thereof or the Premises or any portion thereof or any interest in any thereof, or (ii) upon or with respect to the financing, design, engineering, installation, construction, assembly, erection, purchase, delivery, ownership, leasing, possession, use, operation, maintenance, return or other disposition of the Facility or any component thereof or the Premises or any portion thereof, or (iii) upon or with respect to the rent, rentals, receipts, or earnings arising from the Facility or any component thereof or the Premises or any portion thereof or any interest in any thereof, or (iv) upon or

with respect to the Operative Documents, or (v) upon such Indemnified Party with respect to any of the matters referred to in clauses (i) through (iv) above. Any such Imposition may be contested by Lessee in good faith in any manner permitted by paragraph (d) below. The foregoing indemnity shall not apply to any tax paid or payable by an Indemnified Party based upon net income.

(c) Any payment or indemnity hereunder shall include any amount necessary to hold the Indemnified Party for whose benefit such payment or indemnity is made harmless on an after-tax basis (after giving effect all credits, deductions, allowances and exemptions allowable to such Indemnified Party arising out of the transactions contemplated hereby or by any Operative Document but assuming that, in the case of the limited partners of Lessor, such limited partners are taxable at the rate of 46% under the Code) from all Impositions required to be paid by such Indemnified Party with respect to such payment or indemnity under the laws of any applicable federal, state or local government or taxing authority.

(d) If any action, suit or proceeding shall be brought against such Indemnified Party by reason of any occurrence described in paragraph (a) above, Lessee, at its option, shall either pay or, at Lessee's expense, will resist and defend such action, suit or proceeding, or will cause the same to be resisted and defended, by counsel for the insurer of the liability or by counsel designated by Lessee with the prior approval of such Indemnified Party, which approval shall not be unreasonably withheld or delayed. If any claim is made, or any proceeding (including the written claim or written threat of such proceeding) commenced, against an Indemnified Party for any Imposition, as defined in Section 5(b) above, such Indemnified Party shall notify Lessee in a timely manner. If requested by Lessee in writing, such Indemnified Party shall permit Lessee to contest, at the cost and expense of Lessee (including, without limitation, all costs, expenses, losses, allocable internal legal and accounting costs, fees and disbursements of independent counsel and accountants, penalties and interest) and in accordance with Section 31, in the name of Lessee or such Indemnified Party, the validity, applicability or amount of such Imposition by (i) resisting payment thereof, (ii) not paying the same except under protest, if protest is necessary and proper, or (iii) if payment be made, using reasonable efforts to obtain a refund thereof in appropriate administrative and judicial proceedings. If the contest is made by the payment of any such Imposition and the claiming of a refund, Lessee shall either make such payment directly to the appropriate authority or furnish such Indemnified Party with sufficient funds to make such payment. If such Indemnified Party shall obtain a refund of all or any part of such Imposition paid by Lessee, such Indemnified Party shall pay Lessee the amount of such refund, provided that if at such time any Default or Event of Default shall have occurred and be

continuing such payment shall be made only at such time as such Default or Event of Default shall cease to be continuing; and provided further that such amount shall not be payable before such time as Lessee shall have made all other payments then payable under this Section 5.

(e) All amounts payable as indemnities pursuant to paragraph (a) or (b) above shall be payable, to the extent not theretofore paid and except to the extent that payment of such amounts is being contested in accordance with the terms hereof, on written demand by an Indemnified Party. Such a written demand shall specify the amounts payable as indemnity pursuant to such paragraph and the facts upon which the right to indemnification is based.

(f) The obligations of Lessee under this Section 5 shall survive the expiration or termination of this Lease; and each such obligation is expressly for the benefit of, and shall be enforceable by, each Indemnified Party. The foregoing indemnity of this Section 5 with regard to any Indemnified Party, however, shall not extend to any liability, obligation, loss, damage, penalty, claim, action, suit, cost, expense or disbursement (i) resulting from the willful misconduct or gross negligence of such party or (ii) resulting from any act, event or condition not caused or permitted by Lessee or any affiliate of Lessee that occurs or exists after possession of the Facility and the Premises has been redelivered by Lessee to Lessor in accordance with Section 38, but only so long as no Event of Default or Default shall have occurred and be continuing, or so long as the obligations of Lessee under Sections 17 and 18 shall not have been satisfied. In addition, if Lessor shall cause or permit the Facility to be "owned by a person primarily engaged in the generation or sale of electrical power (other than electric power solely from cogeneration facilities or small power production facilities)," as provided in Section 796(18)(B)(ii) of Title 16 of the United States Code (16 U.S.C. § 796(18)(B)(ii)) or any amendment thereof or any statute enacted in place thereof and intended to accomplish substantially the same objectives, and solely as a consequence thereof any Indemnified Party would have been entitled to a payment pursuant to clause (iv) or (v) of Section 5(a), then the indemnity of this Section 5 shall not extend to the liability, obligation, loss, damage, judgment, penalty, claim, action, suit, cost, expense or disbursement that would otherwise have given rise to the obligation to make such payment.

6. Representations, Warranties and Agreements as to the Facility; Completion; Enforcement of Claims Against Contractors. (a) LESSOR DOES NOT MAKE AND EXPRESSLY DISCLAIMS, AND LESSEE ACKNOWLEDGES THAT LESSOR HAS NOT MADE OR GIVEN AND HAS SO DISCLAIMED, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO ITS TITLE TO, OR THE PRESENT OR FUTURE MERCHANTABILITY, CONDITION, QUALITY,

DURABILITY, FITNESS, FREEDOM FROM PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT OR SUITABILITY OF, THE FACILITY OR ANY PART THEREOF IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR IN ANY RESPECT WHATSOEVER, OR ANY OTHER REPRESENTATION OR WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE FACILITY OR ANY PART THEREOF. NEITHER LESSOR NOR ANY INDEMNIFIED PARTY SHALL BE LIABLE FOR ANY LATENT OR PATENT DEFECT IN THE FACILITY OR ANY PART THEREOF. Lessee acknowledges as between Lessee and Lessor and any Indemnified Party that (i) the Facility is of the size, design, capacity and manufacture selected by Lessee, (ii) the Facility is acceptable to Lessee for the purposes of this Lease, (iii) Lessor is not a manufacturer or a dealer in property of such kind as the Facility and (iv) the Facility and the Premises are leased hereunder subject to all Legal Requirements now in effect or hereafter adopted and applicable thereto and in the state and condition of every part thereof when the same first became or becomes subject to this Lease, without representation or warranty of any kind by Lessor (or any partner thereof or any officer, director, shareholder or employee of either thereof), express or implied. Lessor does hereby represent and warrant that the Premises, on the date of the execution and delivery hereof, is free of all Liens created by Lessor except Permitted Encumbrances. Except as expressly provided herein, all risks incident to the foregoing matters, as between Lessor and Lessee, are to be borne by Lessee. Without limiting the foregoing, Lessor shall not have any responsibility or liability to Lessee or any other Person, regardless of any negligence of Lessor, with respect to (A) any injury to or death of person or loss of or damage to property or any liability, loss or damage caused or alleged to be caused directly or indirectly by the Facility or the Premises or by an inadequacy thereof or deficiency or defect (latent or patent) therein or by any other circumstance in connection therewith, (B) the use, condition, operation or performance of the Facility or the Premises or any risks related thereto, (C) any interruption of service from the Facility and any consequences thereof, including any loss of business or anticipated profits or any consequential damages arising therefrom, or (D) the operation, servicing, maintenance, repair, improvement or replacement of the Facility or the Premises or the failure to perform any of the foregoing; the foregoing shall not create an obligation on the part of Lessee to indemnify Lessor with respect to the foregoing except as may be provided by Section 5. The provisions of this paragraph have been negotiated, and, except to the extent otherwise expressly stated, the foregoing provisions are intended to be a complete exclusion and negation of any representations or warranties by Lessor, express or implied, with respect to the Facility and the Premises, whether arising pursuant to the Uniform Commercial Code or any other law, similar or dissimilar, now or hereafter in effect, or otherwise.

(b) Lessee represents and warrants as of the date of the execution and delivery hereof as follows:

(i) Lessee is a partnership duly organized and validly existing under the Uniform Partnership Act as enacted by the State of Florida, and has the legal right and power to enter into the Operative Documents to be entered into by it, and to perform and observe its agreements and obligations thereunder.

(ii) The execution and delivery of this Lease, the Space Lease and the Energy Purchase Contract by Lessee, and the performance and observance by Lessee of its agreements and obligations hereunder and thereunder, have been duly and validly authorized by all necessary action on the part of Lessee, and this Lease, the Space Lease and the Energy Purchase Contract constitute valid and legally binding obligations of Lessee which are enforceable against Lessee.

(iii) Neither the execution and delivery of this Lease, the Space Lease or the Energy Purchase Contract by Lessee, nor the performance and observance by Lessee of any of its agreements or obligations thereunder does or will conflict with or result in a violation or breach of or default under the partnership agreement of Lessee, any law, any order, rule, regulation, injunction or decree of any court or other governmental authority, or any term, condition or provision of any note, bond, mortgage, indenture, license, permit or other agreement or instrument to which Lessee is a party or to which Lessee, the Facility or the Premises is subject.

(c) Until an Event of Default shall have occurred and be continuing and after the Primary Term Commencement Date, Lessor hereby designates Lessee as the agent and attorney-in-fact of Lessor to enforce and prosecute, on behalf of or as agent for Lessor, all surviving obligations and warranties of Contractor to Lessor, if any, under the Construction Contract and all obligations and warranties of any subcontractor or supplier to Lessor, if any, arising in connection with the Construction Contract, in accordance with the Construction Contract, and all claims arising from breaches of warranties (whether express or implied) of Contractor (or any such subcontractor or supplier) in respect of the Facility.

and Lessee agrees to enforce and prosecute such obligations, warranties and claims in accordance with the terms and conditions hereof; provided, however, that any amounts recovered, less reasonable costs and expenses incurred in recovering such amounts, by Lessee or Lessor with respect to breach of warranty claims shall be paid to Lessor. If such amounts exceed \$1,000,000, they shall be held and applied by Lessor in accordance with Section 13 as though the event giving rise to the recovery of such funds were an event described in Section 13(c); if such amounts do not exceed \$1,000,000, they shall be paid to Lessee and applied by Lessee, to the extent possible, to put the Facility in the condition it would have been in had such breach not occurred. Lessor shall execute and deliver such documents and take such action, at Lessee's expense, as may be necessary to enable Lessee to obtain such warranty service as may be furnished for the Facility by Contractor (or any such subcontractor or supplier). Except as provided in Section 6(a), Lessor shall have no obligation or duty with respect to any of such matters.

(d) Notwithstanding the provisions of paragraph (c) above, if (i) Lessor shall have received any payment in excess of \$1,000,000 pursuant to paragraph (c) above, (ii) such payment was occasioned by a breach of warranty and (iii) the Facility could not be restored by Lessee to a value or condition in which the Facility would have been had such warranty not been breached, the portion of the payment remaining after Lessee shall have been reimbursed for its immediate costs in restoring the Facility, if any, shall be divided between Lessor and Lessee in proportion to the loss of the value of the Facility and the increase in operating expenses of the Facility over the remainder of the Lease Term, respectively. If Lessor and Lessee shall be unable to agree upon an apportionment within 30 business days, such apportionment shall be made by appraisers selected under and operating in accordance with the procedure for the determination of Fair Market Rental set forth in Schedule C. If the compensation for the breach of warranty claim shall consist of goods or services rather than cash, Lessor and Lessee shall share in the benefits thereof in the same proportion as set forth above, and Lessor's portion thereof shall be paid as Additional Rent to Lessor from savings in operating expenses as such savings accrue to Lessee.

(e) On the Primary Term Commencement Date, Lessor shall deliver to Lessee the amount of the funds (not to exceed 1 1/2% of the Contract Price, as such term is defined in the Construction Contract) necessary to complete the construction and installation of the Facility under the Construction Contract, and shall assign to Lessee, to the extent permitted, Lessor's rights under any payment and performance bond obtained by Contractor for Lessor's benefit. Lessee shall retain and apply such funds on behalf of Lessor in satisfaction of Lessor's obligations under the Construction Contract and in

accordance with the terms and conditions thereof. If Contractor shall fail to complete the construction and installation of the Facility, Lessee shall complete such construction and installation in accordance with the terms and conditions of the Construction Contract, or shall cause the same to be completed pursuant to any payment and performance bond assigned to Lessee as described above, and shall apply such funds thereto. Lessor shall not be obligated to pay any funds or perform any other act in connection with the completion of such construction and installation; and, notwithstanding Section 6(c), shall not be obligated (but shall have the right) to enforce the Construction Contract against Contractor to complete such construction and installation (the foregoing shall not relieve Lessee of its obligations hereunder to complete such construction and installation). Lessee is hereby appointed the agent and attorney-in-fact of Lessor to enforce the rights of Lessor with respect to any payment and performance bond obtained by Contractor and not assigned to Lessee pursuant thereto. Upon payment by Lessee of any sums necessary to perform the obligations of Contractor under the Construction Contract, Lessee shall be subrogated to the rights of Lessor against Contractor under the Construction Contract, and Lessor hereby assigns such rights with respect to such payment to Lessee. Notwithstanding any other provision of this Lease, after the delivery of the Certificate of Acceptance, Lessee shall not be entitled to elect to have an Event of Default under the Construction Contract constitute an Event of Loss thereunder, but shall be entitled to exercise all other remedies of Lessor as Owner thereunder except to enforce the payment of the amount specified in clause (III) of clause (y) of Section 13.1(a) of the Construction Contract.

7. Liens. During the Lease Term, Lessee shall not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to the Facility or the Premises or title to either thereof or any interest therein, except (a) Permitted Encumbrances, (b) assignments or subleases permitted by Section 15, (c) Liens incurred with the prior written consent of Lessor and (d) liens created by or resulting from any act of Lessor taken without the consent of Lessee. Lessee shall pay on or before the time prescribed by law (after giving effect to any applicable grace period) any taxes, assessments, fees and charges under the laws of any jurisdiction which, if unpaid, would result in any Lien prohibited by the preceding sentence. Lessee, at its expense, shall promptly take such action as may be necessary to duly discharge or eliminate, or bond in a manner reasonably satisfactory to Lessor, any Lien not excepted above if the same shall arise at any time.

8. Operation; Operating Manual; Permits; Maintenance. (a) Lessee shall maintain all copies of the Operating Manual delivered to it in good condition, on or near the Premises and readily accessible to the Facility, and the Operating Manual shall be available for inspection by Lessor at

all reasonable times. Lessee shall keep the Operating Manual current by revising the appropriate portions thereof to reflect all changes in operating and maintenance procedures adopted by Lessee with respect to the Facility or the Ancillary Systems, and shall provide Lessor promptly with two sets of any such revisions.

(b) Lessee, at its expense but on behalf of Lessor or Lessee, as the case may be, immediately after Lessee's acceptance of the Facility pursuant to Section 2(b) hereof, shall obtain and keep in full force and effect all licenses, permits, authorizations, approvals and orders necessary or appropriate for the ownership and operation of the Facility as a facility owned by Lessor and operated by Lessee for the cogeneration of electrical and thermal energy, assuming for such purposes that such facility is to be interconnected to the distribution lines of a public utility, and shall operate the Facility so as to maintain the exemptions from regulation that are currently available to Lessor, any partner of Lessor or any owner or controlling person of a partner of Lessor and any additional benefits that may become available by virtue of the Facility being a Qualifying Cogeneration Facility.

(c) Lessee, at its expense, shall operate the Facility in accordance with (i) the operating procedures set forth in the Operating Manual, which procedures shall be those required to enforce all warranties against the Thermo, its subcontractors and its suppliers in respect of the Facility or any part thereof, (ii) the terms and conditions of all Operative Documents, to the extent applicable, unless Lessor shall have consented to operations not in accordance therewith, which consent shall not be unreasonably withheld, (iii) the terms and conditions of all insurance policies in effect at any time with respect to the Facility or any part thereof or the Premises or any portion thereof and (iv) all Legal Requirements, unless the same shall be contested in accordance with Section 31.

(d) Lessee, at its expense, shall keep the Facility and the Premises in as reasonably safe a condition as its operations will permit, and shall maintain, service and repair the Facility and the Premises to the same extent as companies of established reputation operating similar properties maintain, service and repair those properties, and in any event (i) in accordance with all Legal Requirements, unless the same shall be contested in accordance with Section 31, (ii) to the extent required to maintain the Facility and the Premises, and each material portion thereof, in good operating condition, (iii) in accordance with the standards set forth in the Operating Manual, (iv) not in violation of the terms and conditions of any Operative Documents, to the extent applicable, unless Lessor shall have consented to operations not in accordance therewith, which consent shall not be unreasonably withheld, (v) the terms and conditions of all

insurance policies in effect at any time with respect to the Facility or any part thereof or the Premises or any portion thereof and (vi) subject to the occurrence of events beyond the reasonable control of Lessee, so that the Facility and the Premises, and each material portion thereof, will continue to have the capacity and functional ability to perform, or in the case of the Premises to be used, on a continuing basis (subject to normal interruption in the ordinary course of business for maintenance, service, repair and testing), in commercial operation, the functions for which it was specifically designed in accordance with the Project Description, Revision IV, dated September 15, 1983, attached to the Construction Contract. Lessee shall comply with such repair and maintenance standards and periodic maintenance inspections as shall be required to enforce warranty claims against Contractor (and its subcontractors and suppliers) in respect of the Facility or any part thereof. Lessee shall also maintain and make available to Lessor at reasonable times for inspection a maintenance log. Such log shall reflect all planned or regular maintenance carried out on the Facility and also all repairs, replacements, alterations and additions to the Facility, whether or not made in accordance herewith.

(e) Notwithstanding the foregoing provisions of Sections 8(c) and 8(d), Lessee shall not be obligated to operate, maintain, secure or repair the Facility as required to enforce any warranty with respect to the Facility or any part thereof against the Contractor or any of its subcontractors or suppliers if the failure to do so would not result in a warranty claim in excess of \$100,000 and if the part with respect to which such claim would be made is not material to the operation of the Facility, or if Lessor shall consent to a deviation by Lessee from so operating, maintaining, servicing or repairing the Facility, which consent shall not be unreasonably withheld or delayed. Lessor shall be entitled to withhold its consent if the practice Lessee seeks to implement is contrary to standard industry practice or if Lessor shall have received a recommendation to the contrary from the Independent Engineer.

(f) On the Primary Term Commencement Date, Lessee shall commence operation of the Facility with a trained, competent work force.

9. Replacement of Parts; Alterations and Additions of Parts; Removal of Parts; Exchange. (a) Lessee, at its own expense, shall promptly replace all necessary or useful appliances, parts, instruments, appurtenances, accessories and miscellaneous equipment of whatever nature (collectively, Parts) which may from time to time be incorporated or installed in or attached to the Facility or any part thereof and which may from time to time fail to function as contemplated by the Operating Manual, or become worn out, destroyed, damaged beyond repair, lost, condemned, confiscated, stolen or seized for any

reason whatsoever, it being understood, however, that no portion of the Ancillary Systems, or any items incorporated or installed in or attached to the Ancillary Systems subsequent to the date hereof, shall ever be or become part of the Facility. In the ordinary course of maintenance, service, repair and testing, Lessee may replace any Parts at its expense. All replacement parts shall be in at least as good operating condition as, and shall have a value and utility at least equal to, the Parts replaced, assuming such replaced Parts were of the value or utility and in the condition and state of repair required to be maintained by the terms of this Lease. Title to each replacement Part which shall have been incorporated or installed in or attached to the Facility as provided above shall vest in Lessor without further act, and each such replacement Part shall be deemed to constitute a part of the Facility and be subject to this Lease, it being understood and agreed that such replacement of Parts and such vesting of title are not intended to constitute rent or income to Lessor for federal income tax purposes. Immediately upon any replacement Part becoming incorporated or installed in or attached to the Facility, title to the Part replaced by it, without further act, shall vest in Lessee, free and clear of all rights of Lessor. All other Parts owned by Lessor and removed from the Facility shall remain the property of Lessor, no matter where located, until such time as title to such replacement Parts shall vest in Lessee as provided above.

(b) Except as expressly permitted herein, Lessee shall not make any alterations to the Facility or any part thereof, or to the Premises or any portion thereof, without the prior written consent of Lessor. Lessee, at its own expense and without the prior written consent of Lessor, shall make such alterations to the Facility as shall be required from time to time to cause the Facility to conform to this Lease or to Legal Requirements. In addition, Lessee, at its own expense, from time to time, may make such alterations to the Facility as Lessee may deem desirable for the proper operation and management of the Facility, but no such alteration, other than an alteration made pursuant to the Operating Manual, shall be made by Lessee without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed, if (i) the aggregate cost of such alteration (and similar alterations made contemporaneously or substantially contemporaneously therewith) and other alterations made in the same fiscal year of Lessee shall exceed \$500,000, (ii) such alteration would materially diminish the value or utility of the Facility or any part thereof or materially impair the condition of the Facility (or any part thereof) below its value, utility and condition immediately prior to such alteration, assuming the Facility and each part thereof was then of the value or utility and in the condition and state of repair required to be maintained by the terms of this Lease, or (iii) such alteration would entitle Lessee to remove a part from the Facility and such Part could not be so removed without

materially diminishing or impairing the value, utility or condition which the Facility would have had at such time had such alteration not been made. Lessor may not withhold such consent if the alteration at issue constitutes nothing more than a return of the Facility to its condition, value and utility prior to a previous alteration then being removed from the Facility, so long as, upon the completion of such alteration, the Facility complies with this Lease and has the same value, utility and condition as it had prior to both of such alterations having been made. Any alteration made in accordance with the third sentence of this Section 9(b) shall be and become part of the Facility, but the same shall remain the property of, and legal title thereto shall remain vested in, Lessee, subject nevertheless to the terms and conditions of this Lease, until the expiration or earlier termination of the Lease Term, and Lessee shall have no right to remove any such alteration from the Facility except in connection with a restoration of the Facility to the condition thereof preceding such alteration in accordance with the preceding sentence. Upon the expiration or earlier termination of the Lease Term, all such alterations then located on the Premises or constituting part of the Facility shall be vacated and surrendered by Lessee, with the remainder of the Facility, to Lessor and shall become the property of Lessor, unless Lessee shall have restored the Facility to its condition prior to such alteration and such restoration shall not result, directly or indirectly, in an impairment of the condition, value or utility of the Facility prior to such alteration and complies with the provisions of this Lease. Lessee agrees to execute and deliver to Lessor such deeds, bills of sale and other instruments of conveyance as Lessor may deem necessary or desirable to evidence such transfer of title to Lessor.

(c) Any Part and any alteration the title to which shall vest in Lessor pursuant hereto shall be free and clear of all Liens other than Permitted Encumbrances immediately prior to the installation, incorporation, construction or attachment of such Part or alteration, as the case may be, on or to the Facility. Any alteration the title to which shall remain in Lessee during the Lease Term pursuant hereto shall be free and clear of all Liens, other than a first purchase money lien, immediately prior to the installation, incorporation, construction or attachment of such alteration on or to the Facility, and shall be and remain free and clear of all Liens, other than a first purchase money lien, during the Lease Term and at the time possession of the Facility is delivered to Lessor as provided herein. Lessor shall have the right to do and perform all things necessary on the part of Lessee to prevent the foreclosure of such first purchase money lien, and Lessee shall grant Lessor a lien on and security interest in the alteration, subject only to such purchase money lien. Lessee shall not remove, or permit to be removed, from the Premises any portion of the Facility or any Part without the prior written consent of Lessor (which may be arbitrarily

withheld), except that Lessee may remove (i) any replaced Part that may be so removed without causing a violation of any provision hereof, (ii) any portion of the Facility or Equipment if title thereto shall have passed to Lessee as provided in Section 14 or 21 or (iii) any Part for which a substitute Part has been furnished and installed as provided in Section 9(d).

(d) In making repairs to any Part, Lessee may arrange with a repair facility or parts manufacturer to exchange for the Part to be repaired, while such Part is being repaired, an exchange Part (the Exchange Part), which may be leased to Lessee or loaned to Lessee during the period such Part is being repaired. In such cases, the Part being repaired (the Part Under Repair) may be removed from the Facility and the Premises for the purpose of being repaired, any other provision of this Lease to the contrary notwithstanding, provided that (i) the Exchange Part is in good repair, and the installation and operation thereof will not adversely affect the value, condition or utility of the Facility, (ii) the Exchange Part is installed in the Facility so that the Facility may continue to operate as contemplated hereby, (iii) if the Exchange Part is owned by Lessee, the Exchange Part, at the time of installation in the Facility, is free of Liens, other than any lien or encumbrance pursuant to which the Exchange Part is being installed in the Facility and a first purchase money lien, Lessee shall grant Lessor a lien on and security interest in the Exchange Part to secure the return of the Part Under Repair, and Lessor shall be entitled to do and perform all things necessary to prevent foreclosure of such two permitted liens, (iv) if such Exchange Part is installed in the Facility pursuant to a lease (or other agreement) between the repair facility to which the Part Under Repair is being sent or the manufacturer of the Part Under Repair and Lessee, Lessee's interest in such Lease (or other agreement) shall have been assigned to Lessor, pursuant to which Lessor shall be entitled to do and perform all things required to avoid or cure a default under such lease (or other agreement), (v) the term of the lease (or other agreement) pursuant to which the Exchange Part shall be installed shall have a term that does not expire until the Part Under Repair shall be repaired and returned to the Facility and the costs incurred in connection therewith shall be paid in full, (vi) the lease of the Exchange Part shall have no separate cost on the part of the Lessee thereunder and (vii) the lien of any Mortgage shall continue as to the Part Under Repair and Lessee shall maintain the perfection and priority of the Mortgage as a first and prior lien on the Part Under Repair, notwithstanding its return to a repair facility or the manufacturer. In lieu of satisfying the conditions set forth in clauses (iii), (iv), (v), (vi) and (vii) to the extent the same may be applicable, Lessee may provide Lessor with a bond, satisfactory to Lessor, which shall protect and indemnify Lessor against any losses, costs and expenses which may be incurred by Lessor in preserving its right to use the Exchange Part, in having installed in the

Facility either the Exchange Part or a fully restored Part Under Repair and in recovering possession of the Part Under Repair in a fully restored state, free of all liens and encumbrances except Permitted Encumbrances.

10. Identification. Lessee shall maintain in a conspicuous and prominent place on each principal component of the Facility reasonably specified by Lessor metal identification plates bearing the inscription "Florida Energy Partners Limited Partnership: Owner-Lessor" in letters not less than one inch in height. Except as above provided or as otherwise directed by Lessor, Lessee shall not allow the name of any Person other than Lessor to be placed on any component of the Facility as a designation that might reasonably be interpreted as a claim of ownership.

11. Insurance. (a) Lessee, at its expense, will maintain, during the Lease Term and thereafter as required hereby, with insurers of recognized responsibility qualified to do business in Florida and approved as provided in paragraph (b) of this Section:

- (i) insurance with respect to the Facility and the Premises against loss or damage by fire, lightning, earthquake, hurricane, flood, other reasonable foreseeable risks and risks from time to time included under the so-called "all risk" policy forms, including vandalism, malicious mischief, civil disturbance and terrorism, in an amount equal to the greater of the full insurable value of the Facility (which shall mean the replacement cost of the Facility from time to time) and the Casualty Value from time to time, plus an amount equal to any Rent then due and unpaid;
- (ii) comprehensive general liability (including blanket contractual and personal injury liability and property damage) insurance applicable to the Facility in such amounts as are usually carried by substantial corporations owning or operating similar properties but in any event with a combined single limit of not less than \$5,000,000 per occurrence, and excess comprehensive general public liability (including blanket contractual and personal injury liability and property damage) insurance applicable to the Facility and the Premises over the insurance

required by the preceding provisions of this clause (ii) with a combined minimum coverage of not less than \$25,000,000 per occurrence;

- (iii) boiler and pressure vessel insurance, including pressure pipes;
- (iv) war risk insurance upon the Facility as and when such insurance is obtainable from the United States Government or any agency or instrumentality thereof, and a state of war or national or public emergency exists or threatens, in an amount not less than the full insurable value of the Facility;
- (v) appropriate workers' compensation insurance with respect to any work performed on or in the operation or maintenance of the Facility or the Premises;
- (vi) pollution liability insurance applicable to the ownership and operation of the Facility, in such amounts and with such coverages as are usually carried by substantial corporations owning or operating similar properties but in any event with a combined single limit of not less than \$1,000,000 per occurrence; and
- (vii) such other insurance with respect to the Facility and the Premises in such amounts, against such insurable hazards and in such form as may reasonably be required by Lessor or the Lender or as are usually carried by substantial corporations owning or operating similar properties.

All the foregoing insurance policies shall be subject to such deductible amounts and retentions as are usual and customary for companies similarly situated; provided, however, that such deductible amounts and retentions shall not exceed the following amounts specified with respect to such policies:

(1) Fire and All Risk Coverage	\$100,000
(2) Flood	100,000
(3) Earthquake.....	100,000
(4) Surface Water.....	100,000
(5) Pollution Insurance.....	25,000

provided, further, that each such policy shall be in an amount sufficient to prevent Lessor or Lessee from becoming a coinsurer of any loss under such policy and, where applicable and available, shall contain an agreed amount endorsement. In addition, Lessee shall cause to be maintained liability coverage by contractors and major subcontractors at all times that any of the foregoing shall be performing services on or in connection with the Facility or the Premises, unless the same is being maintained by Thermo under the Construction Contract. Lessee agrees that all such insurance may be maintained in effect for the applicable portion of the Lease Term by Lessor, at Lessee's cost and expense, if Lessee shall fail to do so. Lessee shall immediately notify Lessor of the taking out of any such separate insurance and shall promptly deliver such policy or policies to Lessor.

(b) On or prior to the Primary Term Commencement Date, Lessee shall obtain the approval of Lessor (which approval shall not be unreasonably withheld or delayed) of the insurers with which the insurance referred to in Section 11(a) shall be maintained. Thereafter, Lessee shall notify Lessor in writing at least 30 days prior to obtaining coverage from any additional insurer or new insurer and Lessor shall have the right to approve (which approval shall not be unreasonably withheld) any such insurer. Notwithstanding the foregoing, Lessor's approval shall be deemed to have been given as to any insurer which, at the time the applicable policy is taken out, is rated "A" or better by Best's Insurance Guide.

(c) All insurance (other than workers' compensation insurance) maintained by Lessee pursuant to Section 11(a) shall:

- (i) specify as additional insureds, as their interests may appear, Lessor, the Lender and such other parties, if any, as shall be required to be so specified by the Operative Documents or instruments of record to the extent applicable;
- (ii) provide, except in the case of comprehensive general liability, pollution liability and errors and omissions insurance, that all claims for losses in excess of \$1,000,000 shall be adjusted with Lessor and Lessee jointly and shall be payable to Lessor, Lessee and the Lender, as their respective interests may appear;
- (iii) provide that Lessor shall have the right and obligation, as against the insurer, to pay any premium due if Lessee shall neglect to do same;

- (iv) provide that any losses shall be payable to Lessor, Lessee and the Lender, as their respective interests may appear, notwithstanding
- (1) any act or negligence of Lessee or Lessor or any breach of any condition or warranty in any policy of insurance,
 - (2) the occupation or use of the Facility or the Premises by Lessee for purposes more hazardous than permitted by the terms of the policy, or
 - (3) any change in the title to or ownership of any portion of the Facility or the Premises;
- (v) provide that no cancellation or material change thereof shall be effective until at least 30 days after being mailed to Lessor and all other named insureds by registered mail, return receipt requested; and
- (vi) waive any right of subrogation of the insurers against Lessor and waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of Lessor.

(d) On or before the Primary Term Commencement Date, Lessee shall deliver to Lessor copies certified by the insurer of all insurance policies with respect to the Facility which Lessee is required to maintain pursuant to this Section 11, or shall deliver to Lessor certificates of such insurers evidencing the existence of such policies, together with evidence that all premiums then due thereon have been paid. Satisfactory evidence of replacement policies shall be delivered not less than 30 days prior to the expiration date of the policies which such replacement policies are intended to replace.

(e) So long as no Event of Default has occurred and is continuing, insurance proceeds measured directly or indirectly by reference to Basic Rent, Supplemental Rent, Additional Rent or other sums due and payable by Lessee hereunder, including, without limitation, proceeds of business interruption insurance and proceeds from efficacy or delay insurance, if any, which are received by or payable to Lessor or Lessee shall be paid to Lessor for application against the Rent obligations of Lessee under this Lease. Sums so paid to Lessor and not required to be applied immediately to the

payments of Rent then due and payable shall be invested and reinvested together with interest thereon in accordance with section 4(b) to satisfy the obligation of Lessee to pay Rent thereafter becoming due. If an Event of Default shall have occurred and be continuing, sums so paid shall be held by Lessor as security for Lessee's performance of its obligations hereunder until such time as no Event of Default shall be continuing.

(f) To the extent that the proceeds of insurance carried pursuant to this Lease relate to comprehensive general liability, pollution liability, errors and omissions insurance, workers' compensation and indemnification insurance with respect to third-party claims, such proceeds shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds have been paid or as reimbursement to Lessee for having extinguished or satisfied such liability.

12. Financial Information. Commencing on the date of the execution and delivery hereof, Lessee shall furnish to Lessor and to any assignee of its interest in this Lease as security:

(i) within 120 days after the end of each fiscal year of Lessee and of any partner thereof, a balance sheet of Lessee and of each such partner as at the end of such fiscal year and the related statement of income and changes in financial position for such fiscal year, each prepared in conformity with generally accepted accounting principles consistently applied and, in the case of Lessee, certified by the Independent Auditor (as defined in Section 32) and, in the case of each such partner, certified by independent certified public accountants of national standing if such partner has caused its financial condition to be audited, or certified by the chief financial officer of its sole or majority stockholder;

(ii) within 45 days after the end of each quarter (except the last quarter) of each fiscal year of Lessee, a balance sheet of Lessee as at the end of such quarter and the related statement of income and changes in financial position for such quarter and for the period from the beginning of such fiscal year to the end of such quarter, prepared in conformity with generally accepted accounting principles consistently applied and accompanied by a Directive certifying to such effect; and

(iii) concurrently with each delivery of annual financial statements of Lessee, a Directive stating that a review has been made under the supervision of the signatory thereto of the transactions and condition of Lessee during the fiscal year covered by such financial statements and that, based upon such review and to the best of such signatory's knowledge, no Event of Default or Default has occurred and is continuing on the date that such certificate is delivered (or, if any such Event

of Default or Default shall have occurred and is continuing, specifying the nature thereof and what action is being or has been taken to cure the same).

13. Event of Loss; Other Damage or Taking. (a) If an Event of Loss shall occur, Lessee shall give Lessor prompt written notice thereof. On the first Basic Rent Payment Date following the 120th day after the date on which such Event of Loss shall have occurred, Lessee shall pay to Lessor the Casualty Value payable on such Basic Rent Payment Date (the Termination Date), together with all Basic Rent, Supplemental Rent, Additional Rent and other sums payable by Lessee pursuant to this Lease and accrued to the Termination Date. Upon payment in full of such sums to Lessor and upon the performance of all other obligations of Lessee hereunder then to be performed in accordance with the terms and conditions hereof, provided that no Default or Event of Default is continuing in existence, the Lease Term shall end as of the Termination Date and the obligations of Lessee hereunder (other than any such obligations expressed herein as surviving the termination of this Lease) shall terminate as of such date, and Lessor shall transfer to Lessee by quitclaim deed and other instrument of conveyance, without recourse or warranty, on an "as is", "where is" basis, all right, title and interest of Lessor in and to the Facility and the Premises and in and to any warranties of the Thermo or any of its subcontractors or suppliers for the Facility. At the time of such conveyance and transfer, title to the Facility and to Lessor's interest in the Premises shall be free and clear of all Liens, except for Permitted Encumbrances, other than the Mortgage and the Facility Lease Assignment, and for Liens created or imposed by Lessor with the consent of Lessee.

(b) Any Net Proceeds received at any time by Lessor or by Lessee from any governmental authority, insurer or other Person as a result of the occurrence of an Event of Loss shall be applied as follows:

- (i) all Net Proceeds received at any time by Lessee shall be promptly paid to Lessor, for application pursuant to the following provisions of this Section 13(b);
- (ii) so much of such Net Proceeds as shall equal the amount required to be paid by Lessee pursuant to Section 13(a) shall be applied on the date such payment is required to be made, in reduction of Lessee's obligation to pay such amount if not already paid by Lessee, or, if already paid by Lessee, shall be applied to reimburse Lessee for its payment of such amount; and

- (iii) if such Net Proceeds shall exceed the aggregate of the amounts payable pursuant to the foregoing clauses (i) and (ii), Lessor shall retain one-half of such excess amount and one-half of such excess amount shall be paid to Lessee.

(c) If after the delivery of the Certificate of Acceptance the Facility or any part thereof or any portion of the Premises shall be damaged or destroyed by fire or other casualty (including any casualty for which insurance coverage was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, or shall be taken in condemnation or other eminent domain proceedings, or shall be temporarily requisitioned, by any governmental authority other than such as shall constitute an Event of Loss, Lessee shall promptly prepare the reports and submit the evidence required hereby; and Lessee, at its sole cost and expense and whether or not the Net Proceeds, if any, in respect thereof shall be sufficient for the purpose, shall proceed with reasonable diligence until completion to repair, alter, restore, replace or rebuild the Facility and the Premises as nearly as possible to its value, condition and character immediately prior to such damage or destruction as provided below. All Net Proceeds from insurance (other than proceeds of efficacy and other similar insurance, if any, and proceeds measured directly or indirectly by reference to Basic Rent, Supplemental Rent or Additional Rent, including, without limitation, proceeds of business interruption insurance, and proceeds from delay insurance) or Net Proceeds from condemnation awards (but not any award for a temporary requisition) received by or payable to Lessor or Lessee on account of any damage to or destruction, taking or temporary requisition of the Facility or any part thereof (less, in each case, the actual costs, fees and expenses insured in the collection thereof) shall be paid to Lessor if the amount thereof is \$1,000,000 or more. Any such sums payable to Lessor shall, unless a Default or an Event of Default shall have occurred and be continuing, be paid over to Lessee or as it may direct from time to time as repair and restoration progresses to pay (or reimburse Lessee for) the cost of repair and restoration of the Facility and the Premises, if the conditions hereinafter set forth for such disbursement are met. Sums received by Lessor or Lessee on account of a temporary requisition or on account of a casualty or a taking if the amount thereof shall be less than \$1,000,000 shall be paid to Lessee. Lessee, promptly following any casualty or taking, without regard to the amount of the Net Proceeds therefrom, shall prepare and submit to Lessor (i) evidence of the estimated cost of such repair or restoration, (ii) a detailed description of the manner in which it is proposed to repair or restore the Facility and the Premises to the same operating capacity and functions and to the condition and state of repair existing prior to such event and (iii)

evidence that such proceeds, together with funds of Lessee available for such purpose, shall be sufficient to complete the repair or restoration of the Facility and the Premises. Upon approval of such evidence and such repair or restoration proposal by Lessor, which approval shall not be unreasonably withheld or delayed, and the receipt by Lessor of Lessee's written request for payment accompanied by evidence satisfactory to Lessor that (A) the sum requested is a proper item for costs incurred in connection with such repair or restoration, (B) such sum has been paid or will be applied to the payment of such costs and (C) the remaining insurance proceeds, together with funds of Lessee available for such purpose (which shall be applied prior to the application of any such insurance proceeds), shall be sufficient to complete repair and restoration of the Facility and the Premises, Lessor shall pay, if it shall have Net Proceeds not previously disbursed to Lessee, such sum to Lessee or as Lessee may direct from time to time as repair and restoration progresses to pay (or reimburse Lessee for) the cost of repair and restoration of the Facility and the Premises. Upon receipt by Lessor of evidence satisfactory to them that repair and restoration has been completed in good and workmanlike manner in accordance with any plans and specifications relating thereto, the cost thereof has been paid in full, and no mechanics' or similar Liens for labor or materials supplied in connection therewith exist, the balance, if any, of such sums shall be paid to Lessee.

(d) Notwithstanding the foregoing provisions of this Section, if any Event of Default or Default shall have occurred and be continuing, any amount payable to or for the account of, or to be retained by, Lessee pursuant to this Section 13 shall be paid to and retained by Lessor as security for the performance of the obligations of Lessee under this Lease. At such time thereafter as no Default or Event of Default shall be continuing, such amount shall be paid promptly to Lessee unless this Lease shall have been terminated pursuant to Section 17.

14. No Interest Conveyed to Lessee. This Lease does not convey to Lessee any right, title or interest in or to the Facility or the Premises except as a lessee. Nothing contained herein shall be construed as an election by Lessor to treat Lessee as having acquired the Facility for purposes of Section 48(d) of the Code, and Lessee will take no action with respect to the Facility which is inconsistent with Lessor's ownership of the Facility.

15. Assignment and Sublease. Without the prior written consent of Lessor, Lessee shall not sublease the Facility, the Premises or any part thereof or mortgage, pledge, encumber, transfer or assign any of its rights hereunder or relinquish possession or use of the Facility, the Premises or any part thereof to, or permit the Facility or any part thereof to be operated by, any other Person. Lessor shall have the

absolute right to refuse to consent to any such assignment or subletting if such assignment or subletting, by its terms or by operation of law, shall release Lessee from its obligations hereunder, shall release Thermo, Rolls USA or Rolls Ltd. from its obligations under the Contribution Agreement or the Guaranty or shall permit the Facility to be operated by any person other than Lessee, Thermo, Rolls USA, Rolls Ltd. or any subsidiary or affiliate thereof. Lessor shall be obligated to consent to any other assignment or subletting if it shall receive written confirmation from the obligors thereunder of their continuing obligations under the Contribution Agreement or the Guaranty, execution copies of the instruments of assignment or subletting and an agreement by the proposed assignee or sublessee to be bound by the terms and conditions of this Lease and, at the request of Lessor, to enter into a new lease of the Facility and the Premises with Lessor upon the terms and conditions substantially as set forth herein. No consent by Lessor to any assignment or subletting shall release Lessee from its obligations hereunder unless such release shall be expressly set forth in such consent.

16. Inspection and Reports; Required Notices from Lessee. (a) Lessor and its duly authorized agents may enter upon the Premises and examine and inspect, at their own expense, the Facility and the books and records of Lessee, and make copies and extracts therefrom, and may discuss Lessee's affairs, finances and accounts with Lessee's independent certified public accountants, and Lessee shall furnish to Lessor statements accurate in all material respects regarding the condition and state of repair of the Facility and the Premises, all at such times and as often as may be reasonably requested. Lessee shall not be obligated to disclose any information to Lessor that is of a proprietary nature unless such information is necessary or helpful to Lessor in determining the condition of the Facility or the Premises (including the safety and security thereof), the accuracy of Rent calculations or the compliance by Lessee with the terms and conditions of this Lease. Lessor shall not have any duty to make any such inspection or inquiry nor shall it incur any liability or obligation by reason of not making any such inspection or inquiry. To the extent permissible with respect to the period after the Primary Term Commencement Date, Lessee shall prepare and file in timely fashion, or, where Lessor shall be required to file, prepare and deliver to Lessor within a reasonable time prior to the due date for filing, any reports or other filings with respect to the Facility or the Premises, their condition or operation, which are required to be filed with any Federal, state or other governmental or regulatory authority, during any period included in the Lease Term and for such period of time thereafter as Lessee shall have all or any portion of the information necessary to prepare such report or filing available to it when the same is not available to Lessor.

(b) Promptly upon receiving notice thereof, Lessee shall give prompt written notice to Lessor of each claim against Lessee for damages or reimbursement of which Lessee has notice, and which arose with respect to the Facility or the Premises, was in excess of applicable insurance coverage, occurred in whole or in part (whenever asserted) during the Lease Term or during any time thereafter when Lessee had possession of the Premises or the Facility and was in any way relating to or arising out of any event or occurrence or state of facts as to which Lessor is indemnified by Lessee hereunder. Lessee, at Lessor's request from time to time, shall furnish to Lessor such information regarding such claim and the events giving rise to it. Promptly upon request, Lessee shall furnish Lessor with copies of all correspondence, papers, notices and documents whatsoever received by Lessee in connection therewith.

(c) Promptly (and in no event later than 10 Business Days after Lessee shall have obtained knowledge of the attachment or imposition of any Lien which it shall be obligated to discharge or eliminate pursuant to Section 7), Lessee shall notify Lessor of the attachment of such Lien and the full particulars thereof unless the same shall have been removed or discharged by Lessee.

(d) No later than 90 days before the fifth, tenth, fifteenth and twentieth anniversaries of the Primary Term Commencement Date, Lessee shall furnish to Lessor, at Lessee's expense, an opinion of counsel for Lessee (which may be regularly employed by Lessee), satisfactory to Lessor (in such number of counterparts as Lessor shall reasonably request), stating that all Uniform Commercial Code financing statements, this Lease or a memorandum thereof (if permitted by law), and other documents (including any other Operative Documents), if any, necessary to perfect or continue the perfection of Lessor's right, title and interest (including any security interest which may be created in this Lease) in and to the Facility, including any Parts incorporated or installed therein or attached thereto and becoming part of the Facility pursuant to Section 9, have been duly filed or recorded and stating the requirements of applicable law with respect to the rerecording or refiling of such documents in order to continue and preserve such right, title and interest.

(e) Lessee will keep copies of all contracts relating to the Facility and the Premises available for inspection by Lessor at the principal office of Lessee, and will promptly furnish a copy of any thereof to Lessor upon written request therefor.

(f) Lessee shall furnish to Lessor, within 30 days after receipt thereof, a copy of any notice or order of any governmental authority asserting that Lessee is not in compliance with any Legal Requirement if the enforcement of the

same would materially and adversely affect the value or operation of the Facility at any time or the useful life thereof as contemplated hereby and by the Operative Documents or materially and adversely affect Lessor's estate in the Premises.

17. Default; Remedies (a) If, during the continuance of the Lease Term, one or more of the following events (each such event being called an Event of Default) shall occur:

- (i) Lessee shall default in any payment of Basic Rent, Supplemental Rent, Additional Rent (including payments required to be made under Section 28) or any other sum payable hereunder to Lessor, or any assignee of Lessor or the Lender and payable hereunder or under any written agreement of Lessee consenting to Lessor's assignment of any of its rights hereunder, and such default shall continue for five Business Days after receipt of notice that such payment shall have become due;
- (ii) Lessee shall default in any material respect in carrying and maintaining insurance required hereunder;
- (iii) Lessee shall default in any respect in the observance or performance of any other covenant, condition, or agreement of Lessee contained herein (other than any covenant, condition or agreement contained in Section 28(b)) or in any consent to Lessor's assignment of any of its rights hereunder and such default shall continue for 30 days after written notice to Lessee specifying the default and demanding that the same be remedied, provided that if within such 30 day period Lessee has commenced action to remedy such failure and is diligently and in good faith pursuing such action, then no Event of Default shall exist solely by reason of such failure as long as Lessee is diligently and in good faith proceeding to remedy the same;
- (iv) any representation or warranty made by Lessee herein (other than in Section 28(b)) or in any certificate given pursuant to the terms hereof (including

the Certificate of Acceptance) shall prove to have been false, incorrect or misleading in any material respect as of the date on which it was made and the facts as to which such false, incorrect or misleading statement shall have been made shall not have been changed in such a way as to have the facts conform to the required representation or warranty, and any material adverse consequences to Lessor directly caused thereby shall not have been remedied, in each case within 30 days after written notice thereof shall have been given to Lessee;

- (v) there shall occur a default by Lessee, Rolls Inc, Rolls Ltd. or Thermo under the Contribution Agreement or the Guaranty or under any assignment thereof;
- (vi) the Space Lease or the Energy Purchase Contract shall terminate prior to the expiration thereof, or the Space Lease, the Energy Purchase Contract, the Contribution Agreement or the Guaranty shall become ineffective, unenforceable or void in whole or in part for any reason, including any decisions, judgment or decree of any court or other governmental authority;
- (vii) Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd. shall file a petition commencing a voluntary case under any Chapter of Title 11 of the United States Code (the Bankruptcy Code), or for liquidation or reorganization, or for an arrangement pursuant to any other federal or state bankruptcy law or any similar federal or state law, or shall be adjudicated a debtor or be declared bankrupt or insolvent under the Bankruptcy Code, or any other federal or state law as now or hereafter in effect relating to bankruptcy, insolvency, winding-up, or adjustment of debts (or in the case of Rolls Ltd. shall take comparable action under any statute of England having the equivalent purpose), or shall make an assignment for the benefit of creditors, or shall fail to pay its

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debts generally as they become due, or shall admit in writing its inability to pay its debts generally as they become due; or a petition commencing an involuntary case under the Bankruptcy Code or an answer proposing the adjudication of Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd. as a debtor or a bankrupt or proposing its liquidation or reorganization pursuant to the Bankruptcy Code, any other federal or state bankruptcy law or any similar federal or state law shall be filed in any court (or in the case of Rolls Ltd. shall take comparable action under any statute of England having the equivalent purpose) and Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd. shall consent to or acquiesce in the filing thereof or such petition or answer shall not be discharged or denied within 90 days after the filing thereof; or

(viii) a custodian, receiver, trustee or liquidator (or, in the case of Rolls Ltd. the equivalent under the law of England) of Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd., or of all or substantially all of the assets of Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd., or of the Facility or Lessee's interest therein, shall be appointed in any proceeding brought by Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd., or any such custodian, receiver, trustee, or liquidator (or in the case of Rolls Ltd. the equivalent under the law of England) shall be appointed in any proceeding brought against Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd., and shall not be discharged within 90 days after such appointment, or if Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd. shall consent to or acquiesce in such appointment;

then, in any such case, except in the case of a default in the payment of Supplemental Rent only, Lessor, at its option, may:

(I) by notice to Lessee terminate this Lease, whereupon all rights of Lessee to the use of the Facility and the Premises shall absolutely cease and

terminate as though the Lease Term had expired on the date of termination pursuant to the terms of this Lease, but Lessee shall remain liable as herein provided; or

(II) demand the return of the Facility and the Premises to Lessor, and enter upon the premises of Lessee or other premises where the Facility is located and take possession of the Facility, and enter upon the Premises and take possession of the Premises and thenceforth hold, possess, sell, operate and enjoy the same free from any right of Lessee or its successors or assigns to use the Facility or the Premises for any purpose whatever (but no such entry or taking of possession shall be construed as an election to terminate the Lease Term unless notice of termination is given as provided above or unless such termination is decreed by a court of competent jurisdiction), and without any duty to account to Lessee for such action or for its inaction or for any proceeds arising therefrom; or

(III) relet the Premises and the Facility or any part of either thereof for the account of Lessee, in the name of Lessee, Lessor or otherwise, without notice to Lessee, for such terms (which may extend beyond what would have been the remaining balance of the Lease Term without regard to any termination thereof) and on such conditions (including concessions and fee rent) and for such uses as Lessor, in its sole discretion, may determine, and collect and receive the rents therefore, and apply the same (after deducting all Lessor's expenses relating to such reletting, collection and receipt) against payment of any amounts payable by Lessee hereunder (but Lessor shall not be responsible or liable for any failure to relet the Facility or the Premises or any portion thereof or for any failure to collect the rent due during such reletting); or

(IV) sell the Facility and its estate in the Premises or any part thereof at public or private sale, as Lessor, in its sole discretion, may determine, all free and clear of any rights of Lessee without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereof, except that such proceeds shall be applied (after deducting all Lessor's expenses in connection with such sale) against amounts otherwise payable by Lessee hereunder, and Lessor agrees to give notice to Lessee after Lessor shall have determined that it is going to sell, or offer for sale, the Facility, whichever shall first occur; or

(V) whether or not Lessor shall have exercised, or shall exercise thereafter at any time, any of its rights under the preceding clauses (I) through (IV), upon written notice to Lessee specifying a date, which shall be a Basic Rent Payment Date, not earlier than ten days from the date of such notice, recover from Lessee, and Lessee shall pay to Lessor on such date, as liquidated damages for loss of a bargain and not as a penalty and in lieu of all payments of Basic Rent which would have been payable thereafter. (A) all unpaid Rent and other sums accrued for or during any periods prior to or ending on such Basic Rent Payment Date (including, if the liability for Supplemental Rent shall have commenced under this Lease, the Supplemental Rent that would be payable with regard to such period had such Basic Rent Payment Date been a date for the payment of Supplemental Rent) plus (B) an amount equal to the excess, if any, of the sum of the then present value of the Basic Rent and Additional Rent that would have been payable by Lessee for what would have been the then remaining portion of the Lease Term (without regard to the termination of the Lease Term) plus an amount equal to the then present value of the estimated amount of Supplemental Rent that would have been payable by Lessee for what would have been the then remaining portion of the Lease Term with respect to which Supplemental Rent would have become due (without regard to the termination of the Lease Term) over the then present value of the fair rental value of the Facility with respect to the same period of time; or

(VI) if Lessor shall have sold the Facility pursuant to clause (IV) above and this Lease, upon written notice to Lessee specifying a Basic Rent Payment Date not earlier than ten days from the date of such notice, recover from Lessee, and Lessee shall pay to Lessor on such date, as liquidated damages for loss of a bargain and not as a penalty and in lieu of all payments of Basic Rent which would have been payable thereafter. (A) all unpaid Rent and other sums accrued for or during any periods prior to or ending on such Basic Rent Payment Date (including the Supplemental Rent that would be payable with respect to such period had such Basic Rent Payment Date been a date for the payment of Supplemental Rent) plus (B) an amount equal to the excess, if any, of the sum of the Termination Value as of such Basic Rent Payment Date plus an amount equal to the then present value of the estimated amount of Supplemental Rent that would have been payable by Lessee for what would have been the then remaining portion of the Lease Term with respect to which Supplemental Rent would have been due (without regard to the termination of the Lease Term)

over the net proceeds of such sale (after the deduction of Lessor's expenses in connection therewith), together with interest at the Late Payment Rate from such Basic Rent Payment Date to the date of the payment thereof; or

(VII) by notice to Lessee specifying a payment date not earlier than ten days from the date of such notice, require Lessee to pay to Lessor, and Lessee hereby agrees that it will pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain, and not as a penalty, and in lieu of any further payments of Rent hereunder, an amount equal to the sum of (A) all unpaid Rent payable on each Basic Rent Payment Date occurring on or before the payment date specified in such notice, plus (B) an amount equal to the Termination Value calculated as of the Basic Rent Payment Date immediately preceding the payment date specified in such notice (or as of such payment date if such payment date is a Basic Rent Payment Date), together with interest thereon at the Late Payment Rate from such Basic Rent Payment Date to the specified payment date (plus interest on such amount at the Late Payment Rate from such specified payment date until the date of actual payment of such amount); and upon payment in full of all such amounts, including interest thereon, Lessor shall convey to Lessee the Facility and shall assign to Lessee all its right, title and interest in and to the Premises.

With respect to the foregoing clauses (I) through (VI), the present value of any Rent payment and any fair rental value shall be determined using a discount rate of 8% per annum (except that if the interest rate on the Initial Permanent Loan (as defined in Section 29) shall be 10% or less, the discount rate shall be 2% below such discount rate); and the amounts of Supplemental Rent payable with respect to any portion of the term of this Lease as originally specified herein occurring after the date for the determination of the present value thereof shall be estimated based on the average daily Supplemental Rent payable for the first full calendar year occurring prior to the date of the determination of such present value or, if no Supplemental Rent was payable during all or any part of such calendar year, on the amount which would have been the average daily Supplemental Rent payable if Supplemental Rent were due for the whole of such period; and the fair rental value shall be determined by the Appraisal Procedure considering the Facility to be free and clear of this Lease. Notwithstanding the other provisions of this Section 17, if during the continuance of an Event of Default Lessee shall have tendered performance hereunder with respect to the obligation or condition the noncompliance with which shall have been the subject or cause of such Event of Default, such tender

shall have occurred prior to the exercise by Lessor of its remedies hereunder and Lessor shall have accepted such tender. Lessor shall not be entitled thereafter to exercise its remedies hereunder by virtue of the prior existence of such Event of Default. In addition, Lessee shall be liable for all attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Default or Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of the Facility and the Premises and in connection with any suit to enforce Lessor's rights, including any suit for injunctive relief, declaratory relief or specific performance. Any default hereunder shall be presumed to be a material default and to constitute an Event of Default as provided herein, and the burden shall in all cases be upon Lessee to establish that any such default is not material.

In the event of a default by reason of the failure to pay Supplemental Rent only, Lessor shall not terminate this Lease or otherwise interfere with Lessee's use and enjoyment of the Facility and the Premises, and in lieu thereof Lessee agrees to pay interest on such unpaid Supplemental Rent at the rate of 18% per annum, compounded annually (or the maximum rate of interest permitted by law, whichever is less). If at any time during the last year of the Primary Term there is outstanding any due, but unpaid, Supplemental Rent or any due, but unpaid, interest on any past due Supplemental Rent, then Lessee shall have and may exercise all the rights and remedies described above in connection with defaults other than by reason of the non-payment of Supplemental Rent. Nothing contained herein shall in any way limit Lessor's right to seek money damages for past due Supplemental Rent, and interest thereon, at any time or from time to time during the term of this Lease.

(b) The remedies in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity, but Lessor shall not be entitled to recover its full damages hereunder more than once. Lessee hereby waives (i) any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, (ii) all existing or future claims to any offset against the rentals due hereunder, and (iii) all claims against Lessor and its agent or agents for damages of whatever nature in connection with any reentry or retaking of the Facility or the Premises in connection with the exercise of Lessor's remedies hereunder. No expiration or termination of this Lease pursuant to this Section or by operation of law or otherwise (except as expressly provided herein), and no repossession of or foreclosure upon the Facility or the Premises pursuant to this Section 17(b) shall release Lessee of its obligations and liabilities hereunder, all of which shall survive such expiration, termination or repossession.

(c) No failure by Lessor to exercise, and no delay by Lessor in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege by Lessor preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. An acceptance by Lessor of any Rent with knowledge of the existence of a Default or an Event of Default shall not constitute a waiver of such Default or Event of Default. No waiver of any provision of this Lease shall bind Lessor unless it shall have been given in writing and signed by Lessor.

(d) Notwithstanding the foregoing provisions of this Section 17, Lessor agrees that if an Event of Default of the nature described in clause (vii) or (viii) of Section 17(a) shall occur after the delivery of the Certificate of Acceptance by Lessee on the part of (i) Rolls Inc. or Rolls Ltd., or (ii) Thermo, or if Thermo or Rolls Inc. shall default in the payment of any amount due under the Contribution Agreement or any consent to an assignment thereof or in the performance of any other material covenant thereof or if Rolls Ltd. shall default in the payment of any amount due under the Guaranty or any consent to any assignment thereof or in the performance of any other material covenant thereof, Lessor shall not be entitled to terminate this Lease or to reenter and repossess the Facility or the Premises or seek to recover from Lessee the then remaining payments of Rent due and to become due hereunder until a period of two years shall have passed from the date of the occurrence of such Event of Default, provided that (A) an Event of Default of such nature has not occurred with respect to both Thermo and Rolls Inc. or Rolls Ltd., (B) no Event of Default other than such Event of Default has occurred and is continuing, (C) the Person as to which such an Event of Default has not occurred (either Thermo, or either Rolls Inc. or Rolls Ltd. as the case may be) shall have provided Lessor with a written agreement assuming all obligations of the other Person for such two year period, and (D) no Event of Default shall occur thereafter other than such Event of Default. No assumption of obligations made pursuant to the preceding sentence shall relieve Lessee or the Person as to which such Event of Default has occurred from its obligations hereunder or under the Contribution Agreement or the Guaranty; and performance by the other Person shall not constitute performance by the Person as to which such Event of Default has occurred. In all such cases, notwithstanding such performance, Lessor shall be entitled to assert, against the Person as to which such Event of Default shall have occurred, its rights to receive from such Person the performance of the obligation or condition as to which such Event of Default shall have occurred, except that Lessor shall not be entitled, as a consequence thereof, to terminate this Lease or pursue remedies other than remedies leading to the payment of money from such Person. In particular, if such Person shall have been the subject of an Event of Default of the nature described in

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clause (vii) or (viii) of Section 17(a), Lessor shall be entitled to claim, in any proceedings under Title 11 of the United States Code or any similar proceedings under the law of any state or other country, an amount equal to the remaining Basic Rent, Additional Rent and Supplemental Rent due hereunder or under the Contribution Agreement or the Guaranty as to which such Person would otherwise have been liable hereunder or under the Contribution Agreement or the Guaranty. In addition, and notwithstanding any other provision of this Section 17, Lessor shall not terminate this Lease on account of an Event of Default of the nature described in clause (vii) or (viii) of Section 17(a) occurring at any time if the Person as to which such Event of Default shall not have occurred shall obtain the consent of the Lender and of any permanent lender having a loan commitment outstanding to the assumption by such Person of the obligations of Lessee hereunder and the continuance of the Lease notwithstanding such Event of Default.

18. Surrender upon Default. If this Lease shall terminate by reason of an Event of Default, Lessee shall forthwith deliver possession of the Facility and the Premises to Lessor in the condition required by Section 38. Lessee shall maintain the insurance described in Section 11 during the period prior to the acceptance of possession of the Facility by Lessor. During any period prior to acceptance of possession, Lessee, at its expense, will maintain and keep the Facility in the condition required by Section 8, and will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of the Facility, to inspect the same.

19. Right to Perform for Lessee. If Lessee shall fail to make any payment of Basic Rent, Supplemental Rent, Additional Rent or any other sum to be paid by it hereunder or shall fail to perform or comply with any of its other agreements or obligations contained herein, Lessor may (but shall not have any duty to do so) make such payment or perform or comply with such agreement, with or without notice to Lessee, and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement or obligation, as the case may be, together with interest thereon at the Late Payment Rate from the date paid by Lessor until paid by Lessee, shall be deemed Additional Rent, payable by Lessee upon demand. No interest shall be payable with respect to such sums, however, unless, within 30 days after having made such payment or having commenced such compliance, Lessor shall have notified Lessee thereof. No such performance or compliance by Lessor shall be deemed a waiver of the rights and remedies of Lessor against Lessee hereunder or be deemed to cure a default by Lessee hereunder.

20. Purchase Option. (a) If no Event of Default shall have occurred and be continuing, Lessee shall have an

option to purchase the Facility and to acquire Lessor's interest in the Premises upon the expiration of the Primary Term. Lessee may exercise the option by giving to Lessor irrevocable written notice of its election to purchase at least 8 months (but not more than 12 months) before the expiration of the Primary Term. The purchase price of the Facility shall be payable in immediately available funds on the date of purchase and shall be the lesser of one-fourth of the Facility Cost as specified in Schedule C and the then Fair Market Value of the Facility. The then Fair Market Value of the Facility shall be determined through the use of the Appraisal Procedure as described in Schedule C. If Lessee shall so elect, it may request, by written notice to Lessor given prior to the exercise of the option provided for herein, that Lessor determine the then Fair Market Value for the Facility; and thereupon Lessor and Lessee shall follow the Appraisal Procedure to determine such value. The giving of such notice shall not constitute an irrevocable written notice of Lessee's election to purchase the Facility, and the determination of such value shall not constitute an election by Lessee to purchase the Facility or require Lessee thereafter to elect to purchase the Facility. The closing of such sale shall take place at 10:00 AM local time at the offices of Lessor on the date of expiration of the Primary Term.

(b) Upon payment by Lessee to Lessor of the purchase price for the Facility pursuant to Section 20(a), and upon payment by Lessee of all Basic Rent, Supplemental Rent, Additional Rent and any other amounts owing to Lessor under this Lease and provided that there shall be no Event of Default or Default, Lessor shall transfer to Lessee by bill of sale and other instrument of conveyance or transfer, without recourse or warranty, on an "as is, where is" basis, all Lessor's right, title and interest in and to the Facility and in and to any warranties of the Thermo in respect of the Facility; and shall assign to Lessee by an assignment of lease or other instrument of conveyance or transfer, without recourse or warranty, all Lessor's right, title and interest as lessee in and to the Space Lease. At the time of such conveyance or transfer, title to the Facility and to Lessor's interest in the Premises shall be free and clear of all Liens, except for Permitted Encumbrances, other than the Mortgage and any Facility Lease Assignment, and Liens created or imposed with the consent of Lessee.

21. Use. (a) During the Primary Term and any Extended Term, so long as Lessee shall choose to operate the Facility, Lessee shall supervise and direct the management and operation of the Facility in a manner comparable to other facilities of a similar nature and shall apply sound administrative and operational policies designed to produce the maximum Facility Operating Revenues consistent with the terms and provisions of this Lease and the relative long-term economic interests of Lessor and Lessee.

(b) Lessee shall use the Facility and the Premises only for the purposes contemplated in the applicable Operative Documents and for no other purpose.

22. Operative Documents. (a) Notwithstanding anything to the contrary contained herein, Lessor and Lessee acknowledge that this Lease is a sublease of the Premises and is subject and subordinate to (i) all of the terms, covenant conditions, agreements and provisions set forth in the Space Lease, as assigned to Lessor by the Assignment Documents, and to the matters to which the Space Lease is subject and subordinate, and (ii) to any future amendments, modifications and supplements to the Space Lease, hereafter made between the lessor under any such Space Lease and Lessor, provided that any such future amendment, modification or supplement to the Space Lease does not violate the provisions of this Lease and, if such amendment, modification or supplement materially affects Lessee's obligations under the Space Lease or this Lease, is consented to by Lessee.

(b) During the Lease Term, Lessee shall comply with, and cause the Facility and the Premises to comply with, all applicable covenants and provisions of the Space Lease, the other Operative Documents and any other instrument of record affecting the Facility, the Premises or any part thereof which imposes any obligation or responsibility on Lessor or Lessee (including the Mortgage) or encumbering the Facility, the Premises or any part of any thereof, or Lessee's interest in the Space Lease, including, without being limited to, the payment of rental under the Space Lease but excluding the payment of the installments of principal of and interest on any Mortgage, which payments shall be the obligation of Lessor. Lessee shall not be obligated to comply with the preceding sentence to the extent that any such instrument takes effect after the assignment of the lessee's interest in the Space Lease to Lessor, unless Lessee shall have consented thereto.

(c) Lessee will enforce against the County all of the County's obligations under the Space Lease and the Energy Purchase Contract which are material to the Facility being operated as contemplated hereby and by the Energy Purchase Contract. Anything in this Lease to the contrary notwithstanding, if there exists a breach by Lessor of any of its obligations under this Lease caused by a corresponding breach by the lessor under the Space Lease of its obligations thereunder, then Lessee's sole remedy against Lessor shall be the right to pursue a claim for damages and for specific performance at Lessee's sole cost and expense in the name of Lessor against any such lessor, and Lessor, at Lessee's expense, shall cooperate with Lessee in the pursuance thereof. Lessee will pursue such claim, and simultaneously therewith shall exercise its rights and Lessor's rights under the Space Lease to cure such breach on behalf of Lessor or it, but at Lessee's expense. In particular, without limitation, Lessee

shall insure that the building in which the Premises is located is maintained and repaired as necessary to protect and preserve the condition and security of the Facility and to permit the operation of the Facility as contemplated hereunder and under the Energy Purchase Contract.

(d) Lessee will obtain a supply of natural gas as fuel for the operation of the Facility, and shall enter into one or more contracts for the purchase of natural gas. Lessee will consult with Lessor prior to entering into any such contract, and shall include in any such contract a provision that the rights of Lessee thereunder (i) may be assigned to Lessor upon the expiration or earlier termination of this Lease or (ii) may be assigned to Lessor subject to the condition that an Event of Default occur hereunder.

23. Consents. Whenever this Lease provides that a required consent or approval of Lessor shall not be unreasonably withheld, it shall be reasonable for Lessor to withhold or delay such consent or approval if the consent or approval of any lessor under the Space Lease for the same act or thing is required under the Space Lease and the lessor under the Space Lease shall have refused to give or delayed in giving such consent or approval.

24. Transfer of Lessor's Interest. Lessor's covenants and obligations hereunder shall be binding upon the lessor hereunder from time to time, but shall not be binding upon Lessor with respect to matters occurring during any period subsequent to the transfer of its interest in the Facility and the Premises to a successor Lessor. In the event of such a transfer, such covenants and obligations shall be binding upon such transferee of the lessor's interest in this Lease, but only with respect to matters occurring during the period from the effective date of such transfer to the effective date of the subsequent transfer of such interest. Lessor agrees not to transfer its interest in this Lease, without Lessee's consent, to any Person either prior to the Primary Term Commencement Date or during the Primary Term, unless such Person shall have satisfied Lessee that the benefits to Lessee of this Lease shall not be impaired by the substitution of such Person for Lessor as lessor hereunder. Lessee shall not unreasonably withhold such consent.

25. Subordination. This Lease is and shall be subject and subordinate to the Space Lease, but shall be prior to any Mortgage which may now or hereafter affect the Premises or the Ancillary Systems, and to all renewals, modifications, replacements and extensions thereof. The provisions of this Section 25 shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Lessee shall promptly execute and deliver at its own cost and expense any instrument, in recordable form if required, that Lessor or the lessor of the Space Lease or any

of their respective successors in interest may request to evidence such subordination.

26. Further Assurances. (a) Lessee, at its expense, shall cause the Operative Documents and any amendments and supplements to any of them (together with any other instruments, financing statements, continuation statements, records or papers necessary in connection therewith) to be recorded or filed and rerecorded or refiled in each jurisdiction as and to the extent required by law in order to, and shall take such other actions as may from time to time be necessary to, establish, perfect and maintain (i) Lessor's right, title and interest in and to the Facility and the Premises, subject to no Liens other than Permitted Encumbrances, and (ii) each of the other rights and interests created by any applicable Operative Document in Lessor. Lessee will promptly and duly execute and deliver to Lessor such documents and assurances and take such further action as Lessor may from time to time reasonably request in order to carry out more effectively the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of Lessor, to establish and perfect and maintain Lessor's right, title and interest in and to the Facility and the Premises including, without limitation, at the request of Lessor and at the expense of Lessee, the recording or filing of counterparts or appropriate memoranda hereof, or of such financing statements or other documents with respect hereto as Lessor may from time to time reasonably request. Lessor agrees promptly to execute and deliver such of the foregoing financing statements or other documents as may require execution by Lessor.

(b) Lessor and Lessee each agree to execute and deliver any document, application or assurance and to take such further action as the other may from time to time reasonably request in writing in connection with any filing or proceeding before any Federal, state or local authority regulating public utilities or public utility holding companies in order to prevent or avoid Lessor or any partner of Lessor or owner of such partner from becoming subject to regulation as an electric, steam or other public utility or as a holding company under any law regulating public utilities and, in the absence of agreement between Lessor and Lessee as to what document, application or assurance is to be executed or delivered or what other or further action is to be taken, Lessee shall execute or deliver such documents, applications or assurances and take such other or further action or actions as Lessor shall direct in furtherance of the purposes of this Section 26(b).

27. Liabilities of Lessor. No limited partner of Lessor or any officer, director, shareholder, employee, agent, heir or representative of any general or limited partner of Lessor shall have any personal liability whatsoever to Lessee for any claim based hereon or otherwise in respect hereof or

based on or in respect of any of the applicable Operative Documents or the Ancillary Documents or any other agreement or instrument, it being expressly understood and agreed that all duties, obligations and liabilities of Lessor to Lessee are obligations that are without recourse to the assets of any limited partner thereof or any officer, director, shareholder, employee, agent, heir or representative of any general or limited partner of Lessor, and that all such personal liability of any limited partner thereof and any officer, director, shareholder, employee, agent, heir and representative of any general or limited partner of Lessor is expressly waived and released as a condition of, and as consideration for, the execution and delivery of this Lease. It is specifically agreed that no limited partner of Lessor nor any officer, director, shareholder, employee, agent, heir or representative of any general or limited partner of Lessor shall have any personal liability whatsoever to Lessee for any liability accruing under the provisions of this Lease, or for any damages resulting from any default on the part of Lessor under any of the terms of this Lease, or for any claim based hereon or otherwise in respect hereof and that neither Lessee, nor its successors or assigns, shall have any claim, remedy or right to proceed, at law or equity, against any limited partner of Lessor, or any officer, director, shareholder, employee, agent, heir or representative of any general or limited partner of Lessor for any deficiencies or any other sums owing on account of liabilities accrued under the terms of this Lease, or for the payment of any liability resulting from the breach of any representation, agreement or warranty thereunder, or the failure to perform any covenant under this Lease, or otherwise.

28. Special Tax Indemnity. (a) This Lease is being entered into on the assumptions that Lessor will be the Owner of the Facility (as defined in subparagraph (k)(i) hereof); that Lessor will be entitled to such deductions, credits and other benefits under the Code as are allowable to an owner of property, and by applicable state and local statutes imposing taxes on or measured by net income including, without limitation, (i) cost recovery deductions with respect to the Facility under Section 168 of the Code computed on the basis (A) that the Facility will have an unadjusted basis under Section 168(d) of the Code which is equal to the Facility Tax Credit Cost (as defined in subparagraph (k)(ii) hereof), (B) that the Facility will be recovery property and 5-year property as defined in Section 168(c) of the Code and (C) that the recovery percentage applicable to the Facility will be that set forth for 5-year property in Section 168(b) (1) of the Code (the ACRS Deductions), (ii) deductions for interest under Section 163 of the Code with respect to any loans (the Interest Deductions) and (iii) the investment credit pursuant to Section 38 of the Code equal to 10% of the Facility Tax Credit Cost (the Investment Credit); that the highest federal rate of tax imposed on the taxable income of corporations (to the extent such taxable income exceeds \$100,000) during the Lease Term

will be 46%; and that the composite rate of tax of all state and local taxing authorities imposed on or measured by the taxable income of Lessor during the Lease Term will be 2%.

(b) Lessee represents, warrants, covenants and agrees that:

- (i) at the time of the Primary Term Commencement Date, (A) the Facility will be 5-year property (as defined in Section 168(c)(2)(B) of the Code), (B) the Facility Tax Credit Cost will qualify for the Investment Credit, (C) the Facility will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) of the Code from commencing with Lessor, (D) Lessee will not be entitled to claim any of the Interest Deductions, (E) the basis of Lessor for the Facility for purposes of determining the ACRS Deductions will be at least equal to the Facility Tax Credit Cost reduced by the amount required under Section 48(q)(1) of the Code and (F) the Facility will require no improvement, modification or addition in order to be rendered complete for its intended use by Lessee;
- (ii) the Facility will be, when placed in service, "new section 38 property" (as defined in Section 48(b) of the Code);
- (iii) the appraisal to be delivered with respect to the Facility, on or before the Equity Closing (as defined in Section 2.2 of the Construction Contract), will state (A) that the Facility has a useful economic life of no less than 20 years, (B) that the Facility will have an appraised value (determined without regard to inflation or deflation) at the expiration of this Lease equal to or in excess of 20% of the Facility Tax Credit Cost, and (C) that the Facility will have a fair market value at the expiration of the Primary Term this Lease equal to or in excess of 25% of the Facility Tax Credit Cost;

- (iv) at all times during the Lease Term, unless otherwise agreed by Lessor in writing, Lessee will take no action and will not suffer any action to be taken by any person which would cause the Facility to cease to be "section 38 property" (as defined in Section 48(a) of the Code) or to cease to be a Qualifying Cogeneration Facility; and
 - (v) Lessee will promptly and duly execute and deliver to Lessor, or file with the appropriate governmental authorities, such further documents and assurances and take such further action as Lessor may from time to time reasonably request in order more effectively to carry out the intent and purpose of this subparagraph (b) and to establish and protect Lessor's right to the income tax benefits described in subparagraph (a) hereof.
- (c) Lessor shall promptly notify Lessee in writing if any of the following events (a Loss) shall occur:
- (i) Lessor shall lose the right to claim, shall not claim (because in the opinion of Lessor's tax counsel there is no reasonable basis for such claim), shall suffer a disallowance of, or shall be required to recapture, all or any portion of the Investment Credit, the ACRS Deductions or the Interest Deductions as a result of: (A) any act of commission or omission (including acts permitted or required by the Operative Documents or Ancillary Documents, any misrepresentation or any breach of any agreement, covenant or warranty contained in this Lease) on the part of Lessee or any corporation controlled by, in control of, or under common control with, Lessee, Thermo, Rolls Ltd., Rolls USA, or on the part of any person who acquires from Lessee, directly or indirectly, possession of or the right to use the Facility, or (B) the theft, disappearance, damage or destruction of the Facility (including any component thereof), or the disposition or replacement of the Facility (including any component thereof) upon the occurrence of any

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theft, disappearance, damage or destruction; or

- (ii) Lessor shall be required to include in its gross income for any taxable year prior to the taxable year in which the Lease Term expires any amount with respect to any improvement, modification or addition made to the Facility;

Such notice shall be accompanied by a written statement describing the Loss in reasonable detail, specifying the amount which, in the reasonable opinion of Lessor, will cause its Net Economic Return (as defined in subparagraph (k)(iii) hereof) to equal the Net Economic Return that would have been realized by Lessor if such Loss had not occurred, and setting forth the computation by which such amount was determined. Lessor agrees to furnish Lessee with such information as Lessee may reasonably require for the purpose of verifying Lessor's computation. If such Loss shall occur during the Lease Term, and if, prior to the next Basic Rent Payment Date, Lessee shall agree to pay the amount specified in such statement, Lessee shall pay to Lessor such amount or amounts on the next Basic Rent Payment Date, or, if appropriate, shall pay such amount in instalments on each Basic Rent Payment Date occurring during the remainder of the Lease Term.

(d) If Lessor shall suffer a Loss and Lessee shall not pay the indemnity required to restore Lessor's Net Economic Return, or if Lessor shall suffer a Loss after the expiration of the Lease Term, then Lessee shall pay to Lessor, in lieu of the amount provided for in subparagraph (c) hereof, such amount, or from time to time such amounts, as after subtraction of all Income Taxes (as defined in subparagraph (k)(iv) hereof) required to be paid by Lessor in respect of the receipt of such amounts, shall be equal to the aggregate additional Income Taxes payable by Lessor from time to time as a result of any such Loss; and Lessor shall pay to Lessee an amount which shall be equal to the aggregate reduction in Income Taxes realized by Lessor during any taxable year attributable to such Loss or realized by reason, directly or indirectly, of any action of the Internal Revenue Service (or other taxing agency) resulting in such Loss. Notwithstanding the foregoing sentence, Lessor shall not be obligated to make any payment pursuant thereto to the extent that the amount of such payment would exceed the excess of the amount of all prior payments by Lessee to Lessor pursuant to such sentence over the amount of all prior payments by Lessor to Lessee pursuant to such sentence. The amount payable to Lessor pursuant to this Section 28(d) shall be paid within 30 days after receipt of a written demand therefor from Lessor accompanied by a written statement describing such Loss in reasonable detail, specifying the amount so payable and setting forth the computation by which such amount was

determined. No such payment shall be payable prior to (i) the payment of such additional Income Taxes that have become due as a result of such Loss, or (ii) the filing of a return, or the acceptance of an audit report, in which such Loss is reflected if such Loss decreases the amount of a refund to which Lessor otherwise would be entitled, or (iii) in the case of amounts which are being contested in accordance with Section 28(f), not prior to the time provided therein. Any payment due to Lessee from Lessor pursuant hereto shall be paid within 30 days after Lessor shall realize any such savings in its Income Taxes or additional Income Tax benefits, as the case may be.

(e) Notwithstanding anything to the contrary in this Section 28, no amount shall be payable to Lessor as an indemnity under this Section 28 in respect of any Loss to the extent that such Loss or the amount of such indemnity is the result of:

- (i) the occurrence of an Event of Loss or a voluntary termination, if Lessee shall have paid the Casualty Value or the Termination Value, as the case may be;
- (ii) any amendment to, or change in, the Code, any regulation thereunder, the laws of any state or local taxing authority, or the administrative or judicial interpretation of the Code, such regulations or such laws, which amendment or change is enacted or adopted after the date of enactment of the so-called Deficit Reduction Act of 1984, other than any regulation promulgated in connection with any provision of such Act and any administrative or judicial interpretation of any such provision or regulation.
- (iii) any willful misconduct or gross negligence of Lessor;
- (iv) the failure of Lessor in a timely manner to pay, or to file a return with respect to, any Income Taxes;
- (v) the sale of the Facility to Lessee pursuant hereto;
- (vi) the failure of this Lease, as initially executed, to be characterized as a lease for Federal income tax purposes;

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- (vii) the failure of Lessor to be treated as a partnership under the Code;
 - (viii) the failure of Lessor to notify Lessee and to contest a proposed adjustment as required by subparagraph (f);
 - (ix) an election by Lessor under Section 108 of the Code to reduce the depreciable basis of the Facility.

(f) (i) If the Internal Revenue Service (or other taxing agency) shall propose an adjustment in any item of income, deduction or credit of Lessor which, if agreed to by Lessor would result in a Loss for which Lessee would be required to indemnify Lessor pursuant to Sections 28(c) and (d), Lessor shall promptly notify Lessee in writing of such proposed adjustment, describing it in reasonable detail.

(ii) If Lessee makes a written request promptly after the date of such notice, Lessor shall request an opinion from its tax counsel, who shall be reasonably acceptable to Lessee, whether there is a reasonable basis in law and in fact for contesting the proposed adjustment. If the opinion is to the effect that there is a reasonable basis in law and in fact for contesting the proposed adjustment and, if Lessee shall promptly request Lessor to do so, Lessor shall contest the proposed adjustment.

(iii) Tax counsel to Lessor shall determine in its sole and reasonable discretion the nature of any and all actions to be taken to contest such proposed adjustment including, but not limited to, (A) whether any such action shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof, and (C) if Lessor shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. Although Lessor agrees, if so requested by Lessee, to consult with Lessee on matters relating to the contest and to keep Lessee generally informed of the progress of the contest, Lessor shall have full control over any such contest.

(iv) Although Lessee may request Lessor to do so and although Lessor agrees to consider and to discuss with Lessee any such request, Lessor shall not be required to accept a settlement proposal received in the course of any administrative or judicial action or to appeal an adverse decision by any court.

(v) If at any time, whether before or after commencing to take any action required by this Section 28(f),

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Lessor declines or fails to take such action with respect to all or any portion of a proposed adjustment, Lessor shall so advise Lessee in writing, and Lessee shall be relieved of its obligation to indemnify Lessor with respect to all or such portion of the proposed adjustment as may be specified in such notice. If at any time after Lessor has commenced any action required by this Section 28(f), the Lessee decides to pay Lessor the amount of the Loss which would result from the proposed adjustment being contested, Lessee shall so advise Lessor in writing, and Lessee shall not be required to bear any expenses incurred by Lessor with respect to such action after Lessor has received Lessee's written notice to discontinue.

(vi) Lessor shall not be required to take any action pursuant to this Section 28(f) unless and until Lessee shall have agreed to pay to Lessor on demand all reasonable costs and expenses which Lessor may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of Lessor's tax counsel) and which, in the case of a contest also involving issues unrelated to this transaction, are attributable to contesting such proposed adjustment.

(vii) If Lessor shall determine to contest any adjustment by paying the additional Income Tax and seeking a refund, Lessee shall advance to Lessor on an interest-free basis, upon receipt of a written request therefor, the amount of additional Income Taxes. If Lessor subsequently receives a refund of any amounts so paid, or would have received a refund had any such amount not been applied to a liability for which Lessee is not required to indemnify Lessee hereunder, Lessor shall pay to Lessee the amount of such refund, plus any interest received by Lessor on such refund.

(viii) If after commencing a refund suit hereunder, Lessor shall cease to pursue such suit, Lessor shall pay to Lessee an amount which, after subtraction of the amount of any tax savings realized by Lessor as a result of such payment, equals the aggregate of all amounts paid by Lessee to Lessor with respect to the adjustment. In the case of actions or proceedings other than suits for refund, Lessee shall be obligated to pay to Lessor the amount specified in Section 28(c) promptly after Lessor has taken all the action that it has agreed to take herein and has notified Lessee of the final administrative or judicial determination with respect to the adjustment.

(g) Without limiting the effect of any other provision of this Section 28, if there shall be any amendment to, or change in, the Code, any regulation thereunder, the laws of any state or local taxing authority, or the administrative or judicial interpretation of the Code, such regulations or such laws, which amendment or change is enacted or adopted prior to the date one day after the enactment of the so-called

Tax Reform Act of 1984 (other than any regulation promulgated in connection with any provision thereof and any administrative or judicial interpretation of any such provision or regulation) which applies to the transactions contemplated hereby, and if such amendment or change affects the Investment Credit, the ACRS Deductions, the Interest Deductions or the treatment of Lessor as a partnership under the Code, or if such amendment or change affects the federal rate of tax or the rate of tax under the laws of any state or local taxing authority imposed on, measured by, or based upon net income, then the amounts of Basic Rent, the Casualty Values and the Termination Values will be appropriately adjusted upward or downward by such amount or amounts as shall, in the reasonable opinion of Lessor, equal to one-half of the amount or amounts necessary to cause the Net Economic Return to equal the Net Economic Return, after taking into account all of such amendments or changes, that would have been realized if such amendments or changes had not occurred. Before any such adjustment shall take effect, Lessor shall give Lessee written notice of such adjustment, describing the adjustment and the computation of the amount of the adjustment in reasonable detail and confirming that the assumptions and methods employed in the calculation of Basic Rent, Casualty Values and Termination Values set forth herein were used in determining such adjustment. Lessor agrees to furnish Lessee with such information as it may reasonably require for the purpose of verifying such computation.

(h) If any amount is paid by Lessee to Lessor pursuant to this Section 28, Lessor shall recompute the Casualty Values and the Termination Values, in accordance with the manner in which such values set forth herein were originally computed, to reflect such payment, and Lessor shall certify to Lessee either that such values as are set forth herein do not require change or, as the case may be, the new values necessary to reflect such payment, describing in reasonable detail the basis for computing such new values. Lessor agrees to furnish Lessee with such information as it may reasonably require for the purpose of verifying such computation. Upon such certification, any such new values shall be substituted for the Casualty Values and the Termination Values then appearing in Schedule D.

(i) No payment required to be made by Lessee pursuant to this Section shall be subject to any counterclaim, right of set-off, deduction, defense, abatement, suspension, deferment, diminution or reduction; and, except in accordance with the express terms hereof, Lessee shall have no right to terminate, or be released, relieved, or discharged from, any obligation or liability under this Section 28 for any reason whatsoever.

(j) The obligations and liabilities of Lessee arising under this Section 28 shall continue in full force and effect until all such obligations have been met and such liabilities have been paid in full, notwithstanding the expiration or the

termination of this Lease. The obligations and liabilities of Lessee arising under this Section 28 are expressly made for the benefit of, and shall be enforceable by, Lessor and its successors and assigns.

(k) For purposes of this Section 28, the term -

(i) "Owner" shall mean either Lessor, all or any of the general or limited partners of Lessor, or Lessor and all of such partners, as the context may require, having in mind that Lessor is a tax reporting entity, but that the partners thereof are the taxpayers and are allocated all items of income, gain, loss, deduction and credit reported by Lessor.

(ii) "Facility Tax Credit Cost" shall mean the amount equal to the sum of \$29,300,000 (the Contract Price), plus (i) any amounts paid as an early performance bonus pursuant to Section 9.2 of the Construction Contract, (ii) the cost of surveys, title reports and title insurance policies relating to the premises on which the Facility is located, if the same shall be deemed to be necessary or appropriate by the Lender under either the Construction Loan or the Permanent Loan or by Lessor, (iii) the cost of obtaining one or more appraisals with respect to the Facility, (iv) the fees and expenses of the Independent Engineer, and (v) any other costs related to the construction of the Facility which are required to be taken into account in properly determining its basis for purposes of the Code.

(iii) "Net Economic Return" shall mean Lessor's after-tax economic yield and cash flow, computed on the basis of the assumptions (including the assumptions set forth in paragraph (a)) used by Lessor in determining the Basic Rent, Casualty Values and Termination Values set forth herein.

(iv) "Income Taxes" shall mean all Federal, state, and local taxes based upon gross or net income, franchise or similar taxes, together with any interest, penalties, or additions to tax thereon.

29. Financing. (a) Lessor has obtained a commitment from a prospective Lender for two loans. Pursuant to such commitment, one of such loans will consist of funds to be used by Lessor to pay the costs of acquiring and constructing the Facility and to pay certain other costs incurred by Lessor in connection therewith and in connection with obtaining such commitment and the loan contemplated thereby and in connection with the permanent loan hereinafter referred to (such loan for the costs of acquiring and constructing the Facility and such other costs is hereinafter called the Construction Loan and such commitment insofar as it applies to such loan is called the Construction Loan Commitment). The other of such loans will consist of funds to be used by Lessor to refinance the Construction Loan and to pay the costs incurred by Lessor in

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connection therewith and in connection with obtaining a commitment therefor and the loan contemplated thereby (such loan is hereinafter called the Initial Permanent Loan and such commitment insofar as it applies to such loan is called the Initial Permanent Loan Commitment). The Initial Permanent Loan Commitment, the terms and conditions of which are set forth in Appendix I to Schedule C, provides that the Initial Permanent Loan shall be for a term of 15 years, shall bear interest at a floating rate (which may be based on the "prime rate" of the lender), shall be payable interest only for the first five years and shall amortize 100% of the principal thereof over the remaining 10 years. As an alternative to the Initial Permanent Loan, Lessor is seeking a commitment from a prospective lender (the Alternate Permanent Loan Commitment) for a loan (the Alternate Permanent Loan) the proceeds of which will be used to satisfy the Construction Loan and which will provide for payment upon substantially the same terms and conditions as the Initial Permanent Loan except that the Alternate Permanent Loan will bear interest at one or more fixed or floating rates. If an Alternate Permanent Loan Commitment is not obtained by Lessor upon terms and conditions also acceptable to Lessee and with a Lender acceptable to Lessee (Lessee agreeing not to unreasonably withhold its acceptance of either thereof), Lessor will enter into the Initial Permanent Loan. The Construction Loan Commitment binds the prospective Lender to advance funds to Lessor while the Facility is being constructed, but contemplates that, upon the Primary Term Commencement Date, either the funds advanced by the prospective Lender will be paid by Lessor from the proceeds of the Alternate Permanent Loan, or the prospective Lender will then be entitled to receive payment with interest over all or a portion of the Primary Term under the Initial Permanent Loan. In either event, the funds which would be applied to pay the loan would be funds paid by Lessee as Basic Rent. In the latter event, the Construction Loan will become the Initial Permanent Loan on the Primary Term Commencement Date. In connection with both the Construction Loan and either permanent loan, Lessor anticipates that it will be required to assign to the Lender the rights of Lessor as lessor hereunder as security for such loan payments. If Lessor shall be unable to obtain an Alternate Permanent Loan Commitment which is reasonably acceptable to Lessee (as to lender and terms) and if, under the Initial Permanent Loan Commitment, Lessor shall be unable to agree upon additional terms and conditions thereof as referred to in section I(6) of Appendix I to Schedule C hereto reasonably acceptable to Lessee, then Lessee shall provide to Lessor either cash, a letter of credit of an "AA" bank or other security, in each case acceptable in all respects to Lessor, in the amount of \$4,000,000, which shall be available to Lessor if an Event of Default shall occur, such cash, letter of credit or other security to be returned to Lessee if such additional terms and conditions shall be agreed to prior to the occurrence of such Event of Default.

(b) In connection with the closings for the Construction Loan and the Initial Permanent Loan, Lessee agrees to execute and deliver, or provide, at its expense and at the times and in the forms reasonably requested by Lessor or provided for in the commitment for such loan, such documents, instruments, certificates, opinions of counsel, opinions of appraisers, policies of insurance or title insurance, surveys, engineering reports and other items as Lessor may reasonably require, or, in the case of the Initial Permanent Loan, as are set forth in the Initial Permanent Loan Commitment. In particular, in connection with the Initial Permanent Loan, on the Primary Term Commencement Date, Lessee shall enter into an amendment to this Lease, substantially in the form attached hereto as Schedule G, to specify (i) the amount of the Basic Rent, (ii) the amounts to be paid hereunder as Casualty Values and Termination Values during the term of this Lease, and (iii) the Adjusted Facility Cost and (iv) if the interest rate for the Initial Permanent Loan shall be less than 10%, the discount rate applicable in Section 17(a). In connection with both the Construction Loan and the Initial Permanent Loan, Lessor intends to assign its right, title and interest as Lessor under this Lease to the Lender by an assignment of lease (the Facility Lease Assignment), which, in the case of such permanent loan, shall be substantially in the form attached hereto as Schedule H; Lessee agrees to enter into a consent to such Facility Lease Assignment from time to time in connection with the Construction Loan and the Initial Permanent Loan, which in the case of such permanent loan will be substantially as set forth in Exhibit H. Notwithstanding the provisions of the Construction Contract, Lessor and Lessee agree that a Default or Event of Default by Lessee under the foregoing provisions of Section 29(b) which occurs prior to or is in existence at the time of the delivery of the Certificate of Acceptance shall not constitute a Default or an Event of Default hereunder for the purposes of clause (1) of Section 7.4(a) of the Construction Contract, but shall constitute a Default or Event of Default for the purposes hereof, subject to the cure rights of Section 17(a)(iii), if the Certificate of Acceptance shall be delivered.

30. Prior to Lease Term; Rights and Liabilities for Pre-Commencement Termination. (a) Lessor and Lessee have executed and delivered this Lease on or about the date hereof with the intent that the terms and conditions of this Lease shall be binding upon and enforceable against Lessor and Lessee as of the date of such execution and delivery, but also with the intent and upon the agreement that the Lease Term shall not commence until the Primary Term Commencement Date and that Lessee shall not be obligated to perform any obligations hereunder, other than those set forth in the third sentence of Section 2(a), Section 2(b), Section 6(b), Section 22, Section 26, Section 29 and this Section, until the Primary Term Commencement Date shall have occurred. Prior to the Primary Term Commencement Date, Thermo has a license to use the

Premises and the Facility for the purpose of assembling, constructing, starting, testing and commencing the operation of the Facility. Lessee agrees that the term of this Lease shall commence on the Primary Term Commencement Date without regard to whether Thermo is in possession of the Premises or whether Thermo has satisfied all of its obligations under the Construction Contract.

(b) Notwithstanding any other provision of this Lease, if an event of the nature described in clause (vii) or (viii) of Section 17(a) shall occur with respect to Lessor prior to the delivery of the Certificate of Acceptance by Lessee, and if the obligations of Lessor hereunder and under the Operative Documents and the Mortgage shall not have been assumed by a Person which is satisfactory to Lender and which shall have satisfied Lessee that the benefits to Lessee of this Lease shall not be impaired by the substitution of such Person for Lessor as lessor hereunder, or the Initial Permanent Loan Commitment or the Alternative Permanent Loan Commitment to provide long-term financing to Lessor for the Facility shall not remain in full force and effect notwithstanding such event, then Lessee shall have the right, by written notice to Lessor and Lender, to terminate this Lease prior to the delivery of the Certificate of Acceptance by Lessee, but subsequent to the receipt of such notice by Lessor; and upon the date specified for the termination of this Lease the obligations of Lessor and Lessee hereunder shall expire and terminate, and Lessee shall have no liability with respect to the performance of the terms and conditions of this Lease thereafter.

(c) Notwithstanding any other provision of this Lease, if, prior to the delivery of the Certificate of Acceptance by Lessee, (i) an event of the nature described in clause (vii) or (viii) of Section 17(a) shall occur or (ii) a change in the business or condition, financial or otherwise, of Lessee, Thermo, TEC, RRD, Rolls Inc. or Rolls Ltd. shall occur such that under the terms of the commitment of a prospective Lender such prospective Lender shall have the right to (and shall) terminate, or shall have the right to (and shall) not perform its obligations under, such commitment, or shall give written notice of its intent to do so, or (iii) by virtue of either of the events described in clause (i) or (ii) above the Construction Loan shall be in default or a default or event of default shall exist thereunder or the Lender thereunder shall determine that a condition to a Construction Loan advance has not been met, then a Default shall be deemed to exist hereunder solely for the purposes of clause (1) of Section 7.4 of the Construction Contract, and this Lease and the obligations of Lessor and Lessee hereunder shall terminate. Upon such termination, Lessee shall have no further obligation or liability hereunder except that, if such termination is on account of or with respect to RRD, Rolls Inc. or Rolls Ltd., Lessee shall be liable to Lessor for all damages whatsoever that Lessor may suffer on account of such termination,

including, without limitation, incidental and consequential damages (including damages arising from a failure of any Lender to fund a payment to Lessor or from increased borrowing costs of Lessor), and such damages may include payment to Lessor of (i) the Casualty Value (as such term is defined in the Construction Contract) and (ii) all costs incurred by Lessor on account of or in connection with such termination, including fees and expenses of attorneys and agents of Lessor.

(d) If at any time prior to the delivery of the Certificate of Acceptance by Lessee there shall occur an Event of Loss under the provisions of subsection (a), (b) or (d) of the definition of "Event of Loss" as set forth in Section 2.2 of the Construction Contract, or if at any time prior to the delivery of the Certificate of Acceptance the Construction Contract shall terminate, then this Lease shall terminate, and Lessor shall promptly give notice thereof to Lessee. Upon such termination, Lessor and Lessee shall each be released from their respective obligations hereunder without recourse to either party on account of such termination.

(e) Notwithstanding any other provision of this Lease, if Substantial Completion shall not occur under and in accordance with the terms of Section 7.4 of the Construction Contract on or before the date which is forty-eight (48) months after the Effective Date (as defined in the Construction Contract) as such 48 month period may be extended pursuant to the Assignment of Facility Construction Contract, dated as of July 3, 1984, this Lease shall terminate, and Lessor and Lessee shall be released from their obligations hereunder without recourse to either party on account of such termination. If, at any time after the third anniversary of the Effective Date, Lessor, based upon its belief that Substantial Completion shall not occur within forty-eight (48) months of the Effective Date, shall so request, Lessee shall promptly undertake, in good faith, negotiations with Lessor concerning alternative arrangements for the lease of the Facility by Lessor to Lessee.

31. Permitted Contests. Lessee, at its cost and expense, may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition, Lien or Legal Requirement, provided that (i) in the case of any Imposition or Lien, such proceedings shall suspend the collection thereof from Lessor, (ii) neither the Facility nor the Premises nor this Lease nor any part of any thereof or interest therein or thereunder would be in any danger of being sold, forfeited, or lost as a result of such contest, (iii) neither Lessor nor any Person claiming by, through or under Lessor nor any of their respective partners, officers or employees is in any danger of suffering the application of any criminal penalty unless Lessor shall consent thereto, which consent shall not be unreasonably withheld, or any danger that is more than remote of a material civil penalty or liability

for failure to comply therewith or pay the same unless Lessor shall consent thereto, which consent shall not be unreasonably withheld, and (iv) Lessee shall have furnished such security, if any, as may be required in the proceedings or reasonably requested by Lessor. A civil penalty or liability shall be deemed material in any instance in which the amount of any such civil penalty or liability potentially assessable as a consequence on non-payment of an Imposition or non-compliance with a Legal Requirement, without regard to the value of the claim with respect to which penalty or liability has arisen, is greater than \$50,000. In addition, Lessee shall not do or permit any act or thing in connection with any contest which would impair the value or usefulness of the Facility or any part thereof or which would constitute abandonment or waste with respect to the Facility, the Premises or any part thereof. Lessee shall give prompt written notice to Lessor of the commencement of any contest referred to in this paragraph, other than those relating to Liens arising out of claims aggregating less than \$100,000.

32. Accountants. Lessee shall employ an independent accountant (the Independent Auditor) which initially shall be Coopers & Lybrand and from time to time shall be such other independent accountant of similar national standing as shall be selected by Lessee and approved by Lessor, and shall not remove such Independent Auditor unless and until a new Independent Auditor shall have been selected and approved as aforesaid. Lessee shall cause the Independent Auditor to timely make the calculations contemplated in Sections 4 and 12 to be made by the Independent Auditor, and to certify with respect thereto as may from time to time be reasonably requested by Lessor.

33. Ancillary Facilities. Notwithstanding anything to the contrary set forth in this Lease or any other Operative Document, or any applicable provision of law, Lessor and Lessee acknowledge and agree that the Ancillary Systems are and shall remain the personal property of the lessor under the Space Lease. Nothing in this Lease is intended, or shall be deemed, to create or vest in Lessor or Lessee any right, title or interest, absolute or contingent, direct or indirect, in the Ancillary Systems, or any portion thereof, either now or in the future, and notwithstanding whether any Event of Default shall have occurred or be continuing or this Lease shall have expired or been terminated, whether pursuant to Section 17 or otherwise.

34. Counterparts; Uniform Commercial Code. This Lease may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. To the extent, if any, that this Lease constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction), no security interest in this Lease may be created by the transfer or possession of any counterpart

hereof other than the counterpart containing the receipt therefor executed by the Lender on or immediately following the signature page thereof.

35. Notices, Demands and Other Instruments. All notices, demands, offers, consents and other instruments given pursuant to this Lease shall be in writing and shall be validly given when hand delivered or mailed by prepaid registered or certified mail return receipt requested, or delivered by messenger or courier service guaranteeing overnight delivery, delivery prepaid, to the party to be notified, (a) if to Lessor, addressed to Lessor at its address set forth above, and (b) if to Lessee, in duplicate counterparts, addressed to Thermo Electron Corporation, 101 First Avenue, P.O. Box 459, Waltham, Massachusetts 02254, Attention: President, Energy Systems Division, and to Rolls-Royce Inc., 375 Park Avenue, New York, New York 10152, Attention: Vice President - Commercial. Notices shall be effective upon receipt and shall be presumed received three Business Days after being deposited, postage prepaid, in the United States mail. Lessor and Lessee each may specify from time to time, by giving written notice to the other party, (i) any other address as its address for purposes of this Lease and (ii) any other person or entity that is to receive copies of notices, offers, consents and other instruments hereunder.

36. Estoppel Certificates. (a) Lessee, from time to time upon 20 days' prior request by Lessor and at reasonable times, will execute, acknowledge and deliver to Lessor a Directive stating that this Lease is unmodified and in full effect (or, if there have been modifications, that this Lease is in full effect as modified, and setting forth such modifications) and the dates to which Basic Rent, Supplemental Rent, Additional Rent and other sums payable hereunder have been paid, and either stating that to the knowledge of the signer of such certificate no default exists hereunder or specifying each such default of which the signer has knowledge and the steps Lessee is taking to cure any such default. Any such certificate may be relied upon by any actual or prospective mortgagee or purchaser of the Facility.

(b) Lessor, from time to time upon 20 day's prior request by Lessee, will execute, acknowledge and deliver to Lessee a certificate, signed by the President or any Vice President of a general partner of Lessor, stating that this Lease is not modified (or if it is, specifying such modification) and stating that no default exists hereunder to his knowledge.

37. No Merger. There shall be no merger of this Lease or of the leasehold estate hereby created with any other estate in the Facility or the Premises by reason of the fact that the same person may acquire or hold, directly or indirectly, this Lease or the leasehold estate hereby created

or any interest herein or in such leasehold estate as well as any other estate in the Facility or the Premises or any interest in either such estate.

38. Surrender. (a) If Lessee shall not have purchased the Facility pursuant hereto, upon the expiration or earlier termination of the Lease Term or upon demand made by Lessor pursuant to Section 17, Lessee shall surrender the Facility and the Premises to Lessor in the condition in which the Facility and the Premises were originally received from Lessor, except as repaired, rebuilt, restored, altered or added to as permitted or required hereby and except for ordinary wear and tear. The Facility and the Premises shall also be free and clear of all Liens created by Lessee, other than Permitted Encumbrances. The phrase "in the condition in which the Facility and the Premises were originally received from Lessor" means, among other things not specified herein, that the Facility shall be fully operational as intended by the Operating Manual; and presumes that the Facility is fully assembled, that the Facility shall have been maintained and operated in accordance with the terms of this Lease and that the full inventory of spare parts and tools specified in the Operating Manual and not owned by Lessor be made available with the Facility for purchase by Lessor. Lessee shall be liable for all costs and expenses incurred by Lessor, together with interest thereon at the Late Payment Rate, as a result of Lessee's failure to comply with the provisions of this Section. Lessee shall remove from the Facility and the Premises on or prior to such expiration or termination all property situated thereon which is not owned by Lessor, and shall repair any damage caused by such removal. Property not so removed shall become property of Lessor, and Lessor may cause such property to be removed from the Facility and the Premises and disposed of, but the cost of any such removal and disposition and of repairing any damage caused by such removal shall be borne by Lessee. In connection with any such surrender of the Facility and the Premises, Lessee shall deliver to Lessor all such design drawings, field change drawings, maintenance and operating manuals and instructions, wiring and other diagrams, maintenance and inspection records, performance and testing results and other printed or written materials in existence of whatever nature that may be used or useful in connection with the operation, performance, maintenance, assembly or disassembly, shipping of the Facility or otherwise; and shall transfer, by assignment or otherwise, all of Lessee's right, title and interest in and to any Operative Documents, including the Space Lease and any contracts for the purchase of natural gas, and all licenses, permits, consents, authorizations, approvals and agreements with or from any governmental authority or between Lessee and any other Persons that are involved in any way with, or useful in, the operation and maintenance of the Facility and the sale of the energy therefrom and the use of the Premises for the operation of the Facility.

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(b) If Lessee shall not exercise the Purchase Option or shall not exercise its right to extend the Lease Term for an Extended Term (whether or not such a right is available), Lessee, during the period commencing 12 months prior to the expiration of the Lease Term and continuing until the Facility has been sold or re-leased, shall permit potential purchasers or lessees to inspect the Facility and records relating thereto and to conduct any tests required to be performed by such prospective purchasers or lessees. The provisions of this Section shall survive the expiration or earlier termination of the Lease Term.

39. Rule Against Perpetuities. If and to the extent that any of the rights granted to Lessee under this Lease would, in the absence of the limitation imposed by this Section, be invalid or unenforceable as being in violation of the rule against perpetuities or any other rule of law relating to the vesting of interests in, or the suspension of the power of alienation of, property, then and only in such case, notwithstanding any other provision of this Lease, said rights (subject to the respective conditions set forth herein governing the exercise of such rights), shall be exercisable by Lessee only during the period which shall end 20 years and 6 months after the date of death of the last survivor of the now living descendants of Joseph P. and Rose Kennedy.

40. Miscellaneous. (a) Florida Energy Partners Limited Partnership covenants and agrees with Lessee that upon Lessee making timely payments of Basic Rent, Supplemental Rent, Additional Rent and all other sums payable hereunder and observing and performing all the terms, covenants and conditions on Lessee's part to be observed and performed hereunder, Lessee may peaceably and quietly enjoy the Facility and the Premises free from any disturbance or interference on the part of Florida Energy Partners Limited Partnership, subject, nevertheless, to the terms and conditions of this Lease.

(b) Any provision of this Lease which shall be prohibited or unenforceable in any jurisdiction shall be ineffective as to such jurisdiction to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Lessee waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(c) Neither this Lease nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by the party against which the enforcement of the termination, amendment, supplement, waiver or modification is sought.

(d) The Table of Contents and headings of the various Sections of this Lease are provided for convenience only, and shall not modify, define or limit any of the terms or provisions hereof.

(e) This Lease has been delivered in, and shall in all respects be governed by, and construed in accordance with, the laws of the State of Florida, without regard to the conflicts of laws rules thereof.

(f) All obligations and liabilities of the parties under this Lease which, by their nature, cannot be, or are not, performed during the Lease Term shall survive the expiration or earlier termination of the Lease Term.

(g) This Lease shall inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and assigns (including successors by acquisition, merger, consolidation or sale of all or substantially all of the assets of the party hereto).

(h) Lessor and Lessee agree to execute, deliver and record a Notice of Lease reflecting the terms hereof in accordance with the laws of the State of Florida.

1

IN WITNESS WHEREOF, Lessor and Lessee have each caused this Lease to be duly executed and delivered under seal as of the date first above written.

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP,
a limited partnership

By WINTHROP ENERGY
MANAGEMENT, INC.
a General Partner

By *[Signature]*
Its *[Signature]*

SOUTH FLORIDA COGENERATION
ASSOCIATES,
a general partnership

By RRD Corp.,
Partner

By *[Signature]*
Its *[Signature]*

By TEC Cogeneration Inc.,
Partner

By *[Signature]*
Its *[Signature]*

*Receipt of this original counterpart of the foregoing Lease is hereby acknowledged on this _____ day of 1984.

[_____]
By _____
Title _____

*This language in the original counterpart only.

SCHEDULE A

Description of Facility

[See Project Description attached as Appendix A to the Construction Contract, which Project Description is incorporated herein as this Schedule A by reference]

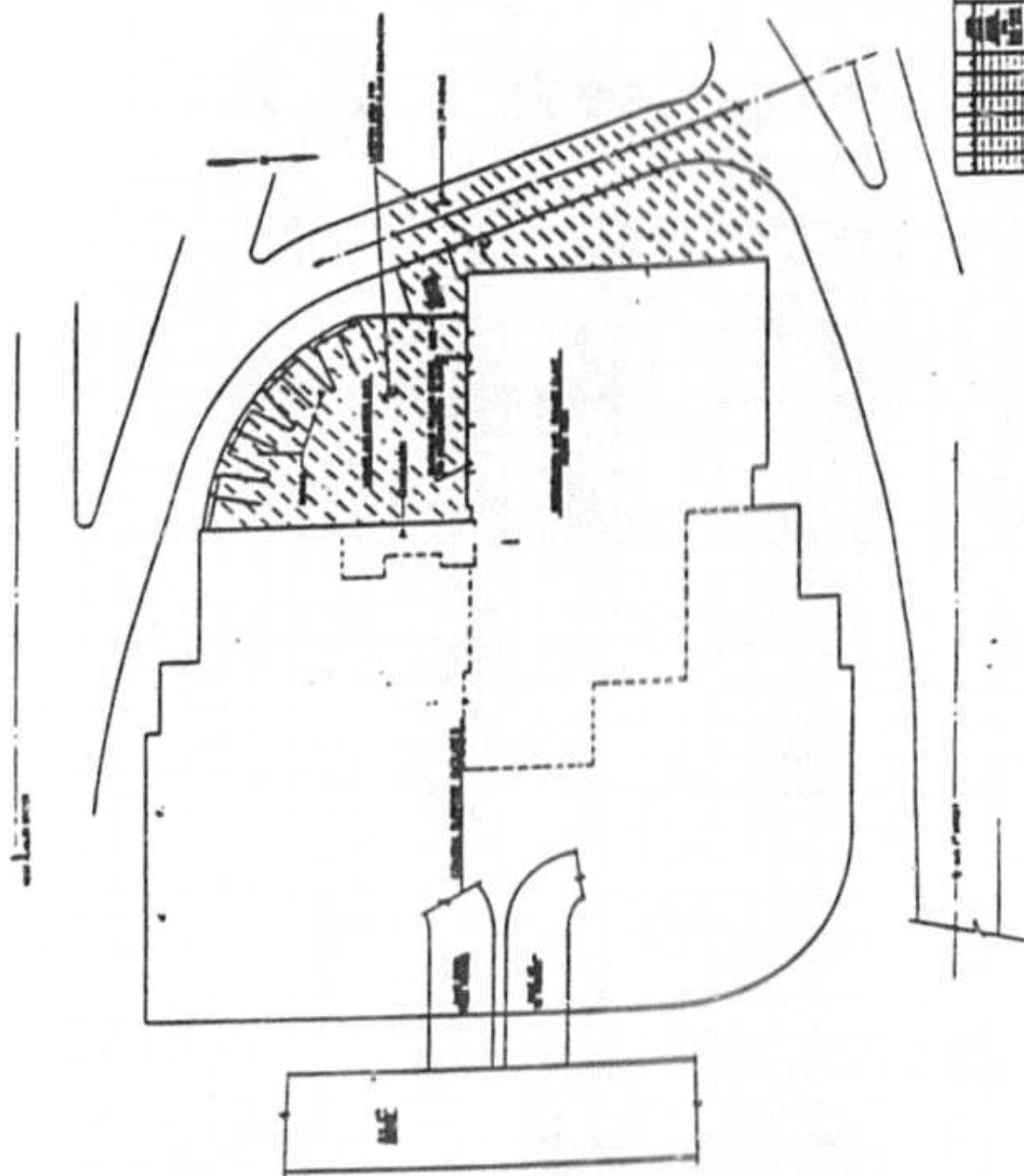
SCHEDULE B

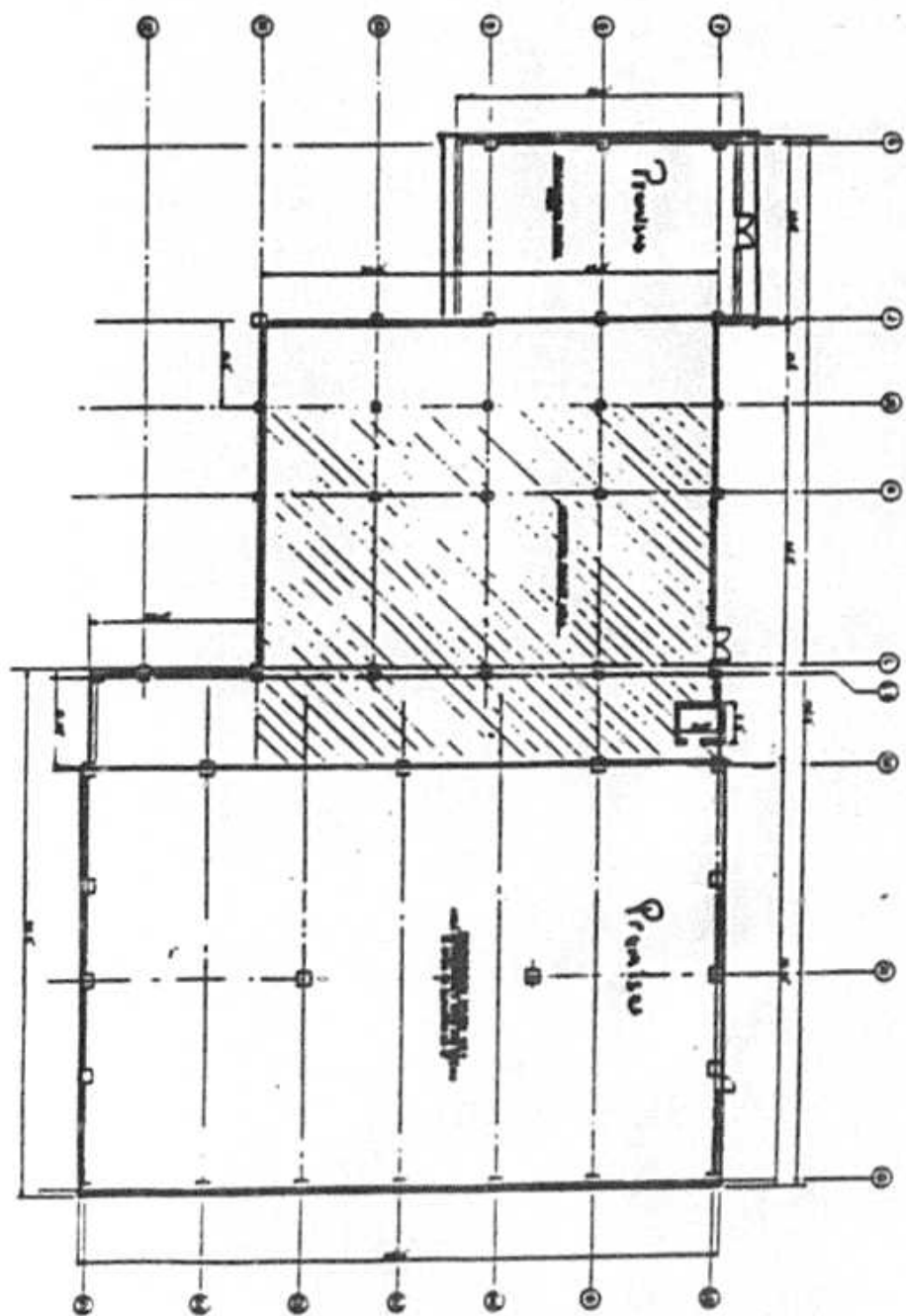
Description of Premises

[See the attached drawings number
5570-10500, 5570-10501, and 5570-10502]

DATE	10/10/2000
TIME	10:00 AM
LOCATION	1000 N. 10th St. S.W.
PROJECT	1000 N. 10th St. S.W.
DESCRIPTION	1000 N. 10th St. S.W.
REMARKS	1000 N. 10th St. S.W.
APPROVED	1000 N. 10th St. S.W.
DATE	10/10/2000
TIME	10:00 AM
LOCATION	1000 N. 10th St. S.W.
PROJECT	1000 N. 10th St. S.W.
DESCRIPTION	1000 N. 10th St. S.W.
REMARKS	1000 N. 10th St. S.W.
APPROVED	1000 N. 10th St. S.W.

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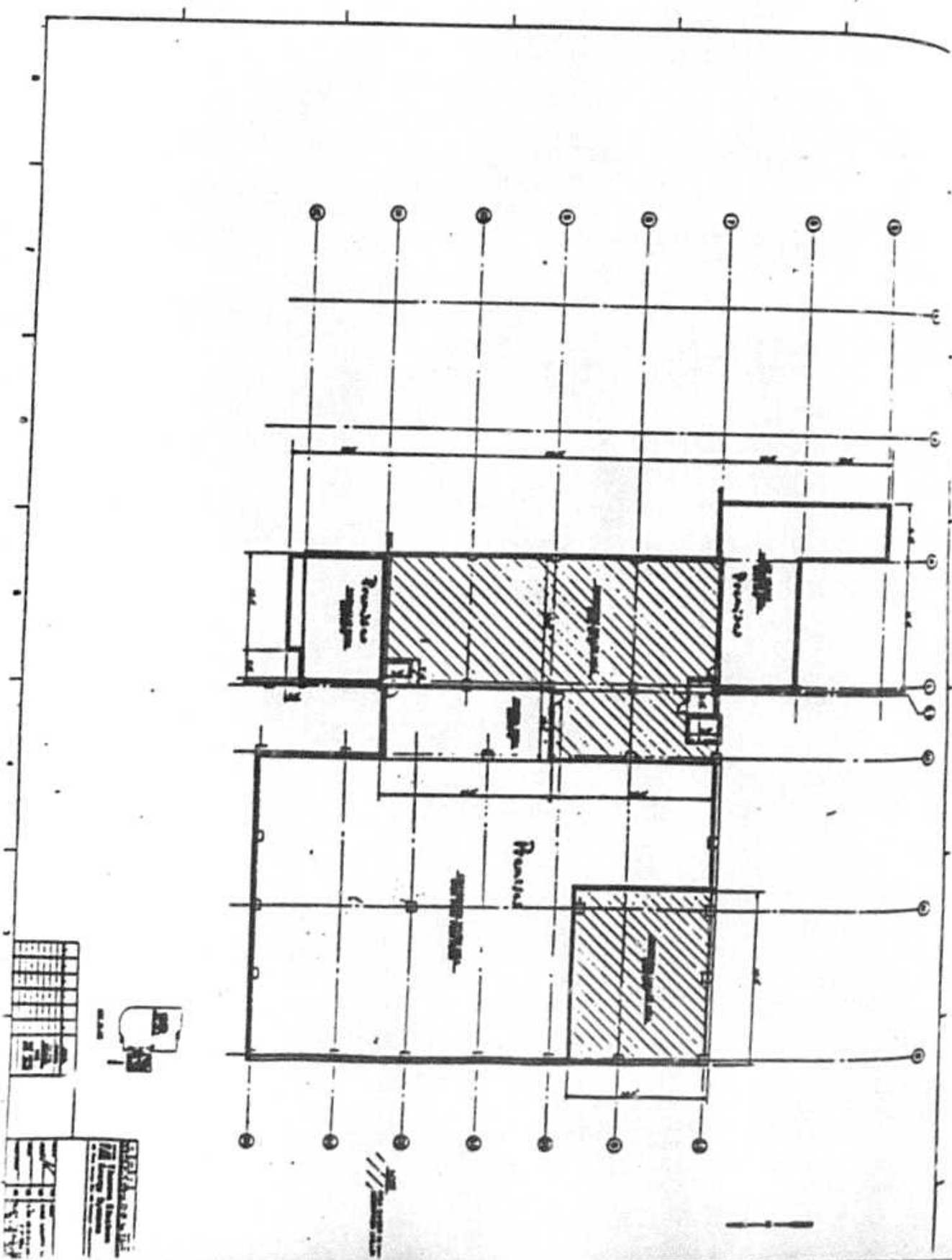
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SCHEDULE C

BASIC RENT

During the Lease Term, Basic Rent is payable with respect to the Facility semi-annually in arrears on the last day of the six month period which commences upon the Primary Term Commencement Date and on the last day of each six month period thereafter occurring, except that if the Lease Term shall end other than on the last day of a six month period such Basic Rent shall be payable on the last day of the Lease Term. Each of such dates upon which a payment of Basic Rent is due and payable is called a Basic Rent Payment Date.

1. During the Primary Term. (a) The payment of Basic Rent due on any Basic Rent Payment Date during the Primary Term shall be calculated by multiplying the Adjusted Facility Cost by the Semiannual Facility Lease Rate Factor applicable to such date.

(b) The Adjusted Facility Cost shall be equal to the sum of \$29,300,000 (the Facility Cost), plus, to the extent paid or payable by Lessor (i) any amounts paid as an early performance bonus pursuant to Section 9.2 of the Construction Contract, (ii) the interest accrued with respect to the Construction Loan and added to the principal thereof as of the Primary Term Commencement Date, (iii) the cost of surveys, title reports and title insurance policies relating to the premises on which the Facility is located, if the same shall be deemed to be necessary or appropriate by the Lender under the Construction Loan, the Initial Permanent Loan or the Alternate Permanent Loan or by Lessor, (iv) the cost of obtaining one or more appraisals with respect to the Facility, (v) the fees and expenses of the Independent Engineer, (vi) transfer, documentary, stamp and similar taxes and mortgage taxes, if any, payable under or with respect to either the Construction Loan, the Initial Permanent Loan or the Alternate Permanent Loan, and all recording and filing fees, expenses and taxes incurred in connection with the acquisition, construction and financing of the Facility, provided that the same are not paid or payable under the Construction Contract, (vii) the fees, expenses and disbursements of counsel (including any local or special counsel) for Lessor and for the Lender under the Construction Loan, the Initial Permanent Loan and the Alternate Permanent Loan (including all costs of preparing and producing documentation for the transactions contemplated by the Operative Documents and documentation for any financing of the Facility), and (viii) any commitment fee and any agency fee paid or payable in connection with financing the Facility, except for any fees paid or payable by Lessor to an investment banker or other third parties (not including the Lender) in connection with the placement of the Alternate Permanent Loan. The Adjusted Facility Cost shall not include any costs incurred

by Lessor in the formation of a limited partnership to act as lessor hereunder, in the admission of limited partners thereto or in the preparation and distribution of any confidential offering memorandum relating to the offering of limited partnership interests in Lessor. Lessor agrees that no increase in the component of the interest rate which exceeds the Base Rate or the Basic Eurodollar Rate (as defined in the Construction Loan Agreement) or the rate at which any agency fee or commitment fee payable under the Construction Loan Agreement with respect to the Construction Loan shall be calculated shall be reflected in the Adjusted Facility Cost unless such increase is consented to by Lessee.

(c) The Semiannual Facility Lease Rate Factors shall be the factors agreed upon by Lessor and Lessee and specified as such in an amendment to this Lease. Lessor and Lessee are entering into this Lease prior to the determination of such factors so that each may have assurance that the other intends, upon the substantial completion of the construction and the assembly of the Facility, to have this Lease be effective as a lease between them of the Facility, and are entering into this Lease in reliance each upon the execution and delivery hereof by the other. Although each and every element of the calculation that must be made at the Primary Term Commencement Date in order to determine the Semiannual Facility Lease Rate Factors is not now known by Lessor and Lessee with certainty, Appendix I hereto contains a description of the basis upon which such factors shall be determined should the Initial Permanent Loan be utilized (except for the portions of the interest payments during the first three years of the Lease Term which shall be funded directly by Lessor, if any), and Lessor has prepared a table of Semiannual Facility Lease Rate Factors based upon terms and conditions which Lessor believes may reasonably be applicable to the Alternate Permanent Loan for the purpose of illustrating the factors which are intended to be applicable. Such table is set forth in Appendix II. The Semiannual Facility Lease Rate Factors set forth in such table are calculated based upon: (i) the principal balance of the Alternate Permanent Loan being 87.5% of the sum of (A) the outstanding principal balance of the Construction Loan at the Primary Term Commencement Date, together with all interest accrued thereon, (B) all other payments made or required to be made to Contractor pursuant to the Construction Contract and not funded from the Construction Loan, including, without limitation, any reimbursement of any payments made to the Independent Engineer, (C) transfer, documentary stamp, mortgage and other taxes and charges payable in connection with the Construction Loan and the Alternate Permanent Loan and (D) any commitment or agency fees paid or payable in connection with the Construction Loan and the Alternate Permanent Loan, except for any fees paid or payable by Lessor to an investment banker or other third party (not including the Lender) in connection with the placement of the Alternate Permanent Loan; (ii) the Alternate Permanent Loan being due and payable on the day

appraiser within 5 Business Days thereafter and the two appraisers so appointed shall within 5 Business Days thereafter appoint a third independent appraiser. If no such third appraiser is appointed within such period, either party may apply to any court which would be entitled to exercise personal jurisdiction over Lessor or Lessee for the purposes of commencing a law suit to make such appointment, and both parties shall be bound by any appointment made by such court. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Facility as soon as possible before the end of 30 Business Days after the appointment of the last such appraisers to be appointed. If Lessor and Lessee shall have appointed a single appraiser, his or her determination of value shall be final. If three appraisers shall be appointed, the values determined by the three appraisers shall be averaged, and, unless such average shall equal the value determined by the middle appraisal (in which event such averages shall be final), the determination which differs most from such average shall be excluded, the remaining two determinations shall be averaged and such average shall be final. The cost of the Appraisal Procedure shall be borne equally by Lessor and Lessee.

permanent loan during the first 3 years of the Facility Lease Term, which payment shall be secured by letters of credit or other security acceptable in all respects to Lender. Lessor, in making any calculation of Semiannual Facility Lease Rate Factors, shall make such calculation in good faith upon consideration of all of the above, but in any event the Semiannual Facility Lease Rate Factors shall result in Basic Rent which shall, together with any payments to be made by Lessor as described in clause (iii)(D) of the preceding sentence (even if such payments shall not exceed zero), shall be sufficient to make all payments of principal and interest due with respect to the Initial Permanent Loan or the Alternate Permanent Loan, as the case may be; if Lessor and Lessee shall fail to agree as to the Semiannual Facility Lease Rate Factors, Lessee shall pay an amount in lieu of Basic Rent equal to the amount payable in any event pursuant to the preceding sentence, but payment of such amount shall not satisfy Lessee's obligation to pay Basic Rent hereunder.

2. During any Extended Term. (a) The Basic Rent payable on any Basic Rent Payment Date occurring during an Extended Term shall be one-fourth of the Fair Market Rental for the entire such Extended Term.

(b) The Fair Market Rental with respect to any Extended Term shall be determined by the mutual agreement of Lessor and Lessee 45 Business Days after Lessor shall have received Lessee's notice exercising its right to extend the Lease Term; if they shall fail to agree within 45 Business Days, the Fair Market Rental shall be determined by the Appraisal Procedure set forth below. The Fair Market Rental shall not include (A) the Fair Market Rental of any severable additions or improvements (except (i) necessary replacement Parts required to (1) maintain the Facility in the condition specified in this Lease, and (ii) additions and improvements required to comply with any applicable regulatory standards or laws) and (B) the increase, if any, in the Fair Market Rental of the Facility directly attributable to the additions or improvements covered by clause (A) above (excluding any such increase directly attributable to additions or improvements excepted in subclause (i) or (ii) thereof) but not included in the Fair Market Rental referred to in clause (A); provided that to such exclusion shall be applicable if its applicability would jeopardize the treatment of this Lease by the Internal Revenue Service as a "true lease."

The Appraisal Procedure is as follows: If no Event of Default shall be continuing hereunder, Lessor and Lessee shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 10 Business Days after the Appraisal Procedure shall become applicable, or if the Appraisal Procedure shall become applicable when an Event of Default shall be continuing hereunder, Lessor and Lessee each shall appoint an independent

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before the 15th anniversary of the Primary Term Commencement Date; and (iii) the Alternate Permanent Loan being payable in 30 semi-annual payments, in arrears, 10 of such payments being of interest only followed by 20 equal payments, including principal and interest, which will fully amortize the outstanding balance of the Alternate Permanent Loan.

After obtaining a commitment for the Alternate Permanent Loan, if such commitment is obtained, and in any event at the Primary Term Commencement Date, Lessor shall calculate the Semiannual Facility Lease Rate Factors to be applicable hereunder to the Alternate Permanent Loan or the Initial Permanent Loan, as the case may be, except that the calculation Lessor shall perform after obtaining the commitment for the Alternate Permanent Loan shall not be the final calculation but shall be only a recalculation of the factors originally set forth herein to illustrate the possible Semiannual Facility Lease Rate Factors that may be applicable hereunder. After making such calculations, Lessor and Lessee shall amend this Lease to cause (i) Appendix II and this Schedule C to reflect the revised illustrative Semiannual Facility Lease Rate Factors or (ii) this Schedule C to reflect the actual Semiannual Facility Lease Rate Factors, as the case may be. Any calculation of illustrative or actual Semiannual Facility Lease Rate Factors shall take into account all applicable elements thereof, including, without limitation (i) the terms and conditions of the Permanent Loan, (ii) the costs of the various components of Adjusted Facility Cost, (iii) the date of the Primary Term Commencement Date and (iv) the sources of funds for the payment, and the timing of payment, of the various elements of Adjusted Facility Cost. Lessor, in making such calculation, shall do so so as to (i) preserve and maintain the investment characteristics and after-tax cash flows that would be applicable to Lessor under the circumstances illustrated by the table of Semiannual Facility Lease Rate Factors originally set forth herein, or, if the Basic Rent, the Casualty Values and the Termination Values shall have been revised pursuant to Section 28(g), preserve and maintain the investment characteristics and after-tax cash flows that would be applicable to Lessor under the circumstances illustrated by the table of Semiannual Facility Lease Rate Factors originally set forth herein as modified to the extent necessary to reflect the revised Basic Rent, Casualty Values and Termination Values, (ii) pass through to Lessee the net increase or decrease in incremental costs and benefits that result from the variations, if any, of the circumstances illustrated herein and (iii) enable Lessor to apply its funds, in fulfilling its obligations under this Lease, the Construction Contract and its limited partnership agreement, to the payment of (A) fees and expenses related to the start-up and continuing operations of Lessor, (B) the excess of the Adjusted Facility Cost over the amount of the Permanent loan, (C) the payment of commitment and agency fees and (D) the payment of a portion of the debt service on the

As of July 3, 1984

Florida Energy Partners Limited Partnership
c/o Winthrop Energy Management, Inc.
225 Franklin Street
Boston, Massachusetts 02110

Gentlemen:

We refer to the Amended and Restated Construction Loan Agreement dated as of July 3, 1984, between Florida Energy Partners Limited Partnership (the "Partnership") and us (the "Construction Loan Agreement"). Terms defined in the Construction Loan Agreement are used herein and in the Term Sheet attached hereto with the meanings therein provided.

At the maturity of the Bank Obligations, an amount equal to 87.5% of the Completion Indebtedness will be refunded out of the proceeds of a loan (the "Permanent Loan") from us or other institutional lenders (the "Permanent Lender"). The remaining balance of the then outstanding Bank Obligations is to be refunded out of funds provided by the Partnership (the "equity commitment"). The Permanent Loan made by us is hereinafter referred to as the "Initial Permanent Loan".

In connection with the above, we have agreed in an engagement letter of even date herewith to use best efforts to arrange for the Permanent Loan to be made by institutional lenders other than us. If these efforts are unsuccessful, we will ourselves or as Agent for a group of financial institutions provide the Initial Permanent Loan, subject to the terms and conditions hereof and of the Term Sheet attached hereto.

The principal terms of the proposed Initial Permanent Loan are summarized on the Term Sheet attached hereto. This Term Sheet is intended only as an outline and does not purport to summarize all of the conditions, covenants, representations, warranties and other provisions which may be contained in the definitive documents for this transaction, all of which must be satisfactory in form and substance to the lenders and their special counsel and to you and your counsel prior to the making of the Initial Permanent Loan. In addition to appropriate closing conditions and the requirements that the lenders be provided with representations and warranties as to Thermo, Rolls-Royce Inc., the Partnership and the Joint Venture, the additional terms may include, but will not necessarily be limited to, covenants and defaults (including cross

defaults) and remedies of the nature set forth in the Construction Loan Agreement and the Bank Agreements.

Our commitment to provide the Initial Permanent Loan is conditioned upon the inability of the Partnership and ourselves, with the best efforts of each, to place this financing with one or more financial institutions on terms reasonably acceptable to the Partnership within the parameters set forth herein and in the Term Sheet. It is understood that if the Permanent Loan financing can be placed with financial institutions other than us within the parameters set forth herein and in the Term Sheet on terms reasonably acceptable to the Partnership, the Partnership will accept such Permanent Loan financing. The funding of such financing on such terms shall relieve us of any commitment ourselves to provide such financing.

In the event that an alternative institutional lender does not fund the Permanent Loan, you shall accept the Initial Permanent Loan with all of the terms and conditions set forth herein and in the attached Term Sheet. In the event that the Partnership and we do not agree on "other terms and conditions" under clause (i) of item I(6) of the attached Term Sheet, then the Partnership shall provide the reserve fund referred to in clause (ii) of said item I(6).

Whether or not the transactions contemplated hereby are consummated, you agree to bear all reasonable fees and disbursements of our special Massachusetts counsel, our special Florida counsel and any special United Kingdom counsel retained by us relating to the preparation or examination of this Commitment Letter, the Initial Permanent Loan and the documents and transactions contemplated hereby and thereby.

If the foregoing is in accordance with your understanding of our agreement and if the terms and conditions hereof are satisfactory to you, please indicate your acceptance by executing this letter in the appropriate space provided below and by returning it to The First National Bank of Boston. Unless this Commitment Letter is

so accepted prior to the close of business on October 1, 1984, it will expire on that date. This Commitment Letter supersedes the Commitment Letter dated February 13, 1984 addressed to First Winthrop Corporation and Winthrop Financial Co., Inc.

Very truly yours,

THE FIRST NATIONAL BANK OF BOSTON

By *James D. Kent J.*
First Vice President

The foregoing is hereby
accepted and agreed to:

FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP

By Winthrop Energy Management, Inc.,
its General Partner

By *John A. Kish*
First Vice President

Agreed to:

FIRST WINTHROP CORPORATION

By *[Signature]*
Managing Director

WINTHROP FINANCIAL CO., INC.

By *John A. Kish*
Vice President

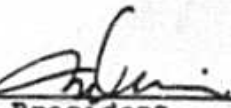
Acknowledged:

SOUTH FLORIDA COGENERATION
ASSOCIATES

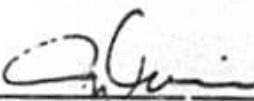
By RRD Corp., a Partner

By 
Vice President

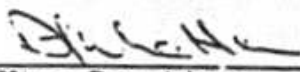
By TEC Cogeneration Inc., a Partner

By 
President

THERMO ELECTRON CORPORATION

By 
President, Energy
Systems Division

ROLLS-ROYCE INC.

By 
Vice President

TERM SHEET
FOR
INITIAL PERMANENT LOAN

- A. Borrower: Partnership.
- B. Amount: 87.5% of Completion Indebtedness.
- C. Purpose: Long term financing of the Facility referred to in the Facility Construction Contract.
- D. Term: 15 years from the Substantial Completion Date.
- E. Amortization: Interest only for the first five years, payable semi-annually in arrears. Then 20 equal (or, if interest is floating, approximately equal) installments of principal and interest payable semi-annually for the remainder of the term, fully amortizing the Facility on a direct-reduction basis or approximate direct-reduction basis.
- F. Interest Rate:
- (1) Floating at Bank's Base Rate plus 1/2% (or, at Partnership option, Basic Eurodollar Rate plus 1 1/8%) for years 1 through 5 1/2 and thereafter at Bank's Base Rate plus 3/4% (or, at Partnership option, Basic Eurodollar Rate plus 1 3/8%).
 - (2) Pursuant to engagement letter, Bank has agreed to use its best efforts to obtain long-term financing from alternative institutional lenders at:
 - (i) a fixed or floating rate determined at time of commitment; or
 - (ii) a fixed rate to be set at time of takedown, but with a specific spread over a set index determined at time of commitment.

G. Agent's Fee:

As long as Bank is providing or participating in Permanent Loan, \$10,000 per annum, payable quarterly in arrears in equal installments.

H. Prepayment:

Prepayment without penalty on ten days' notice.

I. Conditions to Takedown:

(1) Satisfactory evidence pursuant to Facility Construction Contract as to compliance with requirements for Substantial Completion, absence of defaults or events of default under Bank Agreements and Basic Agreements (excluding defaults under the Partnership Agreement or the Joint Venture Agreement that are not material).

(2) Representations and warranties true and correct on and as of takedown date, compliance with all environmental and zoning laws and exemption of Partnership and Joint Venture from regulation as a public utility.

(3) Favorable opinions of counsel.

(4) Substantial Completion Date (including acceptance of Facility by Joint Venture) no later than the fourth anniversary of the Initial Closing Date (as extended by any Forbearance Period pursuant to the Facility Construction Contract Assignment).

(5) No material adverse change in financial condition or business of Thermo, Rolls-Royce Inc. or Rolls-Royce Limited.

(6) Either (i) other terms and conditions (including financial covenants of Thermo and Rolls-Royce Inc.) satisfactory to

Bank or (ii) establishment of reserve fund of \$6,000,000 to secure the performance of the Joint Venture under the Facility Lease, to consist of letters of credit payable to the Bank and on terms satisfactory to the Bank of "AA" rated banks or other institutions satisfactory to the Bank or other security satisfactory to the Bank.

J. Security:

(1) Same as Bank Security, excluding the Facility Construction Contract Assignment.

(2) Assignment of gas supply contract and power supply contracts with utility companies to extent not included in J(1) above.

(3) Subordinated indebtedness of Thermo to be subordinated to obligations of Thermo under Contribution Agreement.

(4) Assignment of reserve fund (or letters of credit comprising the same), if any, established under alternative (ii) of I(6) above.

(5) Partnership to furnish letters of credit payable to the Bank and on terms satisfactory to the Bank from an "AA" rated bank or other institution satisfactory to the Bank, or other security satisfactory to the Bank, in amounts sufficient to fund rent abatement payments.

K. Principal Covenants:

Same covenants as in Construction Loan Agreement, except that cash distributions to partners may be made on terms to be negotiated.

L. Participants:

Partnership has the right to approve the identity of participants, the sizes of their percentage interests and their

rights of consent with respect to
amendments and waivers under the
Initial Permanent Loan agreement.

APPENDIX II

Table of Semi-Annual Lease Rate
Factors Assuming Primary
Term Commencement Date Occurring in
December, 1986

Interest Rate on Alternate Permanent Loan				
Interest Rate on Construction Loan	12X	13X	14X	15X
11X	EC = 8.57027X PV = 77.47416X Semi-Annual Facility Lease Rate Factors: 12/86 2.199075X 12/89 5.540705X 12/91 7.900995X	EC = 9.38356X PV = 77.23331X Semi-Annual Facility Lease Rate Factors: 12/86 2.63320X 12/89 5.97483X 12/91 8.21112X	EC = 10.19668X PV = 77.03211X Semi-Annual Facility Lease Rate Factors: 12/86 3.067325X 12/89 6.408955X 12/91 8.526860X	EC = 11.00964X PV = 76.86614X Semi-Annual Facility Lease Rate Factors: 12/86 3.501445X 12/89 6.843075X 12/91 8.848050X
13X	EC = 8.67086X PV = 78.22791X Semi-Annual Facility Lease Rate Factors: 12/86 2.367390X 12/89 5.532250X 12/91 7.893075X	EC = 9.48742X PV = 77.98074X Semi-Annual Facility Lease Rate Factors: 12/86 2.801615X 12/89 5.966475X 12/91 8.203270X	EC = 10.30381X PV = 77.77295X Semi-Annual Facility Lease Rate Factors: 12/86 3.235835X 12/89 6.400695X 12/91 8.519080X	EC = 11.12004X PV = 77.60016X Semi-Annual Facility Lease Rate Factors: 12/86 3.670055X 12/89 6.834915X 12/91 8.840340X
15X	EC = 8.76940X PV = 78.96000X Semi-Annual Facility Lease Rate Factors: 12/86 2.530870X 12/89 5.524040X 12/91 7.885385X	EC = 9.58915X PV = 78.70669X Semi-Annual Facility Lease Rate Factors: 12/86 2.965185X 12/89 5.958355X 12/91 8.195645X	EC = 10.40874X PV = 78.49249X Semi-Annual Facility Lease Rate Factors: 12/86 3.399505X 12/89 6.392675X 12/91 8.511525X	EC = 11.22816X PV = 78.31309X Semi-Annual Facility Lease Rate Factors: 12/86 3.833820X 12/89 6.826990X 12/91 8.832855X

EC = Effective Cost of Basic Rent Payments

PV = Present Value of Basic Rent Payments

Semi-Annual Basic Rent Payments = Semi-Annual Lease Rate Factor x Adjusted Facility Cost

APPENDIX II

Calculation of
Adjusted Facility Cost

The Adjusted Facility Cost is composed of the following costs:

Facility Cost	\$29,300,000
Independent engineer's fee	150,000
Mortgage filling fees and taxes	150,000
Lender's counsel fees	170,000
Agency fees	95,833
Commitment fees	81,000
Appraisal fee	10,000
Sub-Total	<u>\$29,956,833</u>

Plus adjusted interest accrued during construction:

<u>Rate</u>	<u>Interest</u>	<u>Adjusted Facility Cost</u>
11%	\$5,264,000	\$35,220,833
13%	6,319,000	36,275,833
15%	7,406,000	37,362,833

APPENDIX II

Semi-Annual Facility Lease Rate Factors Assuming
Primary Term Commencement Date Occurring in January, 1987

Interest Rate on Construction Loan:	13%
Interest Rate on Alternate Permanent Loan:	14%
Adjusted Facility Cost:	\$36,275,833

EC = 10.92904%

PV = 81.90213%

Semi-Annual Facility Lease Rate Factors:

1/87	4.102120%
1/90	6.400695%
1/92	8.519080%

SCHEDULE D

Casualty and Termination Values

The Casualty Value or the Termination Value applicable to any six-month period ending on a Basic Rent Payment Date shall be the product of the Adjusted Facility Cost and the percentage set forth below opposite the applicable date, and if such value is to be paid on such Basic Rent Payment Date, the Basic Rent due and payable on such date shall also be paid:

<u>Basic Rent Payment Date</u>	<u>Percentage*</u>
1st	121.60%
2nd	136.51%
3rd	126.91%
4th	141.20%
5th	129.80%
6th	142.86%
7th	147.22%
8th	154.66%
9th	152.18%
10th	152.45%
11th	146.75%
12th	144.21%
13th	138.75%
14th	134.73%
15th	127.52%
16th	124.67%
17th	118.13%
18th	112.25%
19th	105.58%
20th	98.37%
21st	90.90%
22nd	82.86%
23rd	74.23%
24th	64.71%
25th	54.56%
26th	49.54%
27th	44.67%
28th	40.18%
29th	34.95%
30th	30.05%
31st	25.36%
32nd	20.19%

These values were calculated using an Adjusted Facility Cost of \$36,275,833 (derived from a 13% Construction Loan) and a 14% Permanent Debt Rate. This percentage will be calculated to return to Lessor at any time an amount sufficient to result in the net after-tax yield contemplated by Schedule C, as revised. This Lease shall be amended by Lessor and Lessee on the Primary Term Commencement Date to specify the applicable Basic Rent Payment Dates and the applicable percentages.

SCHEDULE E

Form of Certificate of Acceptance

CERTIFICATE OF ACCEPTANCE, dated _____, 19____, of SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Florida Uniform Partnership Act (Lessee), is delivered pursuant to the Agreement and Lease of Cogeneration Facility, dated as of July 3, 1984 (the Lease), between FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP (Lessor), and Lessee, pursuant to which Lessor has leased to Lessee and Lessee has leased from Lessor a cogeneration facility as described in the Lease (capitalized terms used herein without definition have the meanings set forth in the Lease), and which provides for the execution and delivery by Lessee of a Certificate of Acceptance in the form hereof with respect to the Facility upon the acceptance thereof under the Lease and prior to its being placed into commercial use.

NOW, THEREFORE, in consideration of the foregoing and of the entering into by Lessor of the Lease and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessee hereby represents, warrants, certifies and agrees with Lessor as follows:

1. Acceptance. Lessee has duly accepted delivery of the Facility from Contractor on behalf of Lessor and has duly accepted the Facility on its own behalf under the Lease. Lessee hereby confirms that the Facility referred to herein is the Facility for all purposes of the Lease and of each Operative Document.

2. Assignment. Lessee consents to the assignment of this Certificate of Acceptance by Lessor.

3. Cost. The Facility Cost is \$ _____* and the Adjusted Facility Cost is \$ _____*.

4. Representations and Warranties. Lessee represents and warrants as of the date of the execution and delivery hereof as follows:

(A) Lessee is a partnership duly organized and validly existing under the Uniform Partnership Act as enacted by the State of Florida, and has the legal right and power to enter into the amendment to the Lease and the other Operative Documents being entered into by it concurrently herewith and to perform and observe its agreements and obligations thereunder.

* To be completed by Lessee

(B) The execution and delivery of the amendment to the Lease and such Operative Documents by Lessee, and the performance and observance by Lessee of its agreements and obligations hereunder, have been duly and validly authorized by all necessary action on the part of Lessee, and the same constitute valid and legally binding obligations of Lessee which are enforceable against Lessee.

(C) Neither the execution and delivery of the amendment to the Lease and such Operative Documents by Lessee nor the performance and observance by Lessee of any of its agreements or obligations thereunder does or will conflict with or result in a violation or breach of or default under the partnership agreement of Lessee, any law, any order, rule, regulation or decree of any court or other governmental authority, or any term, condition or provision of any note, bond, mortgage, indenture, license or other agreement or instrument to which Lessee is a party or to which Lessee, the Facility or the Premises is subject.

(D) The Facility is substantially complete under and in accordance with the terms of Section 7.4 of the Construction Contract.

5. Operating Manual. Lessee acknowledges that it has received the copies of the documents referred to in Section 3.6 of the Construction Contract.

6. Defects. Lessee confirms that Lessor shall have no liability to Lessee for any defect of any kind in the title, condition, design, operation, or fitness for use with respect to the Facility, whether or not discoverable by Lessee, and that Lessee's obligations to Lessor under the Lease shall not be affected by any such defect which may be discovered by Lessee after the date hereof.

7. Miscellaneous. This Certificate of Acceptance may be executed in multiple counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. This Certificate of Acceptance is delivered in and governed by the laws of the Commonwealth of Massachusetts except as contemplated with respect to the laws of other jurisdictions in the Lease.

IN WITNESS WHEREOF, Lessee has caused this Certificate of Acceptance to be duly executed as of the date first above written.

SOUTH FLORIDA
COGENERATION ASSOCIATES

a general partnership

By RRD Corp.,
Partner

By _____
Its _____

By TEC Cogeneration Inc.,
Partner

By _____
Its _____

CONSENTED TO:

[Lender]

By _____
Its _____

*Receipt of this original counterpart of the foregoing Certificate of Acceptance is hereby acknowledged on this _____ day of 198().

[]

By _____
Title

*This language in the original counterpart only.

SCHEDULE F

Operating Manual Documents

1. Final Design Specifications for the Facility and the Ancillary Systems.
2. Final Plans and Drawings for the Facility and the Ancillary Systems.
3. All shop drawings, field specifications and test reports on material and equipment for the Facility and the Ancillary Systems.
4. "As built" plans and drawings for the Facility and the Ancillary Systems.
5. The Operation and Maintenance Manuals (as defined in the Construction Contract) for the Facility and the Ancillary Systems.

SCHEDULE G

FORM OF AMENDMENT

AMENDMENT TO LEASE, dated as of () (this Amendment), between FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership (Lessor), as lessor, and SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Florida Uniform Partnership Act (Lessee), as lessee.

Lessor and Lessee have entered into the Amendment and Lease of Cogeneration Facility, dated as of July 3, 1984 (together with each amendment or supplement thereto and each short form or memorandum thereof entered into for the purpose of recording called the Lease), relating to the Premises more particularly described in Schedule A hereto and to the Facility (as defined and described in the Lease). A notice of the Lease is recorded in the Official Records of Dade County, Florida, in Book (), at Page ().

The defined terms used in this Amendment, unless otherwise defined, shall have the meanings set forth in the Lease.

Lessor and Lessee hereby agree as follows:

1. Schedules C and D to the Lease are hereby amended by substituting therefor Schedules C and D attached hereto.

2. Except as herein expressly changed, amended or supplemented, the terms and conditions of the Lease shall be unaffected, shall continue in full force and effect and are hereby ratified and confirmed. If there shall appear a conflict between the terms and conditions of the Lease and this Amendment, the terms and conditions of this Amendment shall control.

*Schedule C shall provide for sufficient Basic Rent during the first fifteen years of the term of the Lease following the Primary Term Commencement Date such that, together with any payments to be made by Lessor to the Lender, the Basic Rent shall be equal to or in excess of the payments to be made to pay principal and interest on the indebtedness incurred by Lessor in acquiring the Facility and satisfying related obligations. Schedule D shall be such that at any time during the term of the Lease it shall be at least sufficient to pay all indebtedness incurred by Lessor in connection with its acquisition of the Facility, all tax obligations of Lessor and an after tax rate of return comparable to that resulting from Schedule D prior to such amendment.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed and sealed as of the date first above written.

(Seal)

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By Winthrop Energy
Management, Inc.,
Partnership

By _____
Its _____

SOUTH FLORIDA COGENERATION
ASSOCIATES
a general partnership

BY RRD Corp.,
Partner

By _____
Its _____

By TEC Cogeneration Inc.,
Partner

By _____
Its _____

*Receipt of this original counterpart of the foregoing Certificate of Acceptance is hereby acknowledged on this _____ day of 198().

[]

By _____
Title _____

*This language in the original counterpart only.

SCHEDULE H

FORMS OF
ASSIGNMENT OF FACILITY LEASE
AND A CONSENT THERETO

[these forms shall be substantially in the form of the Assignment of Facility Lease, dated as of July 3, 1984, from Lessor to the First National Bank of Boston, and the Consent thereto by Lessee, copies of which are attached]

ASSIGNMENT OF FACILITY LEASE

ASSIGNMENT OF FACILITY LEASE dated as of July 3, 1984 (this Agreement), from FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership (Assignor), having an address c/o Winthrop Financial Co., Inc., 225 Franklin Street, Boston, Massachusetts 02109, to THE FIRST NATIONAL BANK OF BOSTON (Assignee), having an address at 100 Federal Street, Boston, Massachusetts 02110.

PRELIMINARY STATEMENT

At or about the date of the delivery hereof, Assignor is borrowing from Assignee certain sums of money pursuant to an Amended and Restated Construction Loan Agreement dated as of July 3, 1984 (as amended and supplemented from time to time called the Loan Agreement). Such borrowings and future borrowings under the Loan Agreement are included within the definition of Bank Obligations (as that term is defined in the Loan Agreement). The Bank Obligations are secured, inter alia, by a security agreement dated as of July 3, 1984 (together with all amendments and supplements thereto called the Security Agreement), from Assignor, as debtor, to Assignee, as secured party, which creates a first lien on and prior security interest with respect to the Facility (as that term is defined in the Loan Agreement). Pursuant to that certain Agreement and Lease of Cogeneration Facility dated as of July 3, 1984 (as amended and supplemented from time to time called the Facility Lease) between Assignor, as lessor, and SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Uniform Partnership Act of the State of Florida (Lessee), as lessee, Assignor has committed to lease to Lessee the Facility and the Premises (as defined in the Facility Lease). Pursuant to a leasehold mortgage dated as of July 3, 1984, (the "Leasehold Mortgage"), Assignor has mortgaged its interest in the Premises to Assignee. The proceeds of the borrowings under the Loan Agreement are to be applied by Assignor to finance the cost of acquiring and constructing the Facility pursuant to the Construction Contract (as defined in the Facility Lease) and to finance other costs relating thereto.

NOW, THEREFORE, Assignor, in consideration of the sum of One Dollar (\$1) and other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to induce Assignee to make advances under the Loan Agreement on

AGREEMENT AND AMENDMENT TO LEASE

AGREEMENT AND AMENDMENT TO LEASE, dated as of December 2, 1986 (this Agreement), between FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership (Lessor), SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Florida Uniform Partnership Act (Lessee), THERMO ELECTRON CORPORATION, a Delaware corporation (Contractor), and THE FIRST NATIONAL BANK OF BOSTON, a national bank (Lender).

Lessor and Lessee have entered into the Agreement and Lease of Cogeneration Facility, dated as of July 3, 1984 (together with each amendment or supplement thereto and each short form of memorandum thereof entered into for the purpose of recording called the Lease), relating to the Premises and to the Facility (as defined and described in the Lease). A notice of the Lease is recorded in the Official Records of Dade County, Florida, in Book _____, at Page _____. Lessor has financed the cost of acquiring and constructing the Facility by a construction loan from Lender pursuant to the Amended and Restated Construction Loan Agreement, dated as of July 3, 1984 (the Construction Loan Agreement), between Lessor and Lender. As security for the performance of its obligations under the Construction Loan Agreement, Lessor has assigned to Lender Lessor's right, title and interest as lessor under the Lease.

The defined terms used in this Amendment, unless otherwise defined, shall have the meanings set forth in the Lease or the Construction Loan Agreement, as the case may be.

Concurrently with the execution and delivery of this Agreement, Lessee is executing and delivering a Certificate of Acceptance pursuant to Section 2(b) of the Lease, on behalf of Lessor and as Lessor's agent and on its own behalf as lessee under the Lease, as the case may be, to accept delivery of the Facility under the Lease and under the Construction Contract as being substantially complete under and in accordance with Section 7.4 of the Construction Contract (except for Section 7.4(q) thereof). As evidenced by the delivery of such certificate, the conditions precedent to the occurrence of Substantial Completion under the Construction Contract have been or, upon such delivery, will be, or will be deemed to be, satisfied.

The Lease contemplates that the Primary Term Commencement Date shall occur on the date of the delivery of the Certificate of Acceptance. The Lease also contemplates that, on the Primary Term Commencement Date, the construction loan, which is being provided by Lender pursuant to the Construction Loan Agreement (the Construction Loan), will either be paid in full in connection with a permanent financing

of the cost of the Facility (the Alternate Permanent Loan) or be converted into a permanent loan (the Initial Permanent Loan) upon terms and conditions set forth in a commitment letter among Lessor, Lessee and Lender (the Initial Permanent Loan Commitment).

Lender, as placement agent, has entered into negotiations with John Hancock Mutual Life Insurance Company (John Hancock) to provide the Alternate Permanent Loan, but such arrangements have not yet been concluded. The Lease contemplated that the acceptance of the Facility would occur simultaneously with the closing for the Alternate Permanent Loan. Lessor, Lessee and Contractor prefer that the acceptance of the Facility occur promptly, since all conditions to acceptance appear to have been satisfied and since a delay past December 31, 1986, will result in a penalty for Contractor and increased costs to Lessee. On the other hand, Lessor, Lessee and Contractor do not seek to request Lender to perform on its commitment to provide the Initial Permanent Loan when a John Hancock commitment and its funding of the Alternate Permanent Loan appear imminent.

As a consequence of the foregoing, Lessor, Lessee, Contractor and Lender have agreed, subject to the provisions of paragraph 12, that Substantial Completion has occurred under the Construction Contract and to permit the Primary Term of the Lease to commence, but to not proceed with the advances to be made under the Construction Loan Agreement in connection with Substantial Completion except as set forth below.

NOW, THEREFORE, in consideration of their mutual covenants set forth below, Lessor, Lessee, Contractor and Lender agree as follows:

1. Substantial Completion is occurring pursuant to the Construction Contract and the Lease upon the satisfaction of the terms and conditions set forth therein, with Contractor's rights and obligations being established as of such date in accordance with the Construction Contract.

2. The Primary Term Commencement Date is occurring pursuant to the Lease, on the same date as Substantial Completion, with the Lease being amended to specify the date of the commencement of the Primary Term of the Lease as being the date of Substantial Completion.

3. The Construction Loan shall continue in full force and effect, but the advance intended to be made in connection with Substantial Completion (as to Contractor's bonus, Contractor's 5% holdback and the fees, costs and expenses relating to the closing of the Permanent Loan and other fees, costs and expenses payable by Lessor) shall not be made until the first to occur of (i) the closing for the Alternate Permanent Loan, and (ii) the closing for the Initial Permanent

Loan. Lender shall make the final advance relating to the Construction Contract (such that the advances relating to the Construction Contract shall equal the Facility Cost less the 5% holdback) on or after the date of the execution and delivery hereof if the conditions relating to such advance are satisfied, and such advance shall be deemed to have occurred on the date of Substantial Completion, and there shall be no further advances, except as provided in the last sentence of this paragraph, until the advance occurring in conjunction with the closing for the Permanent Loan. Contractor's bonus will be determined based upon a Substantial completion date of December 2, 1986. In connection with Substantial Completion, Lessor shall be entitled to receive from Lender advances in amounts sufficient to pay construction loan interest through December 1, 1986, fees and expenses of counsel accrued through December 1, 1986, the facility fee for the last quarter of calendar 1986 pursuant to the Construction Loan Agreement and the commitment fee payable pursuant to the Construction Loan Agreement with respect to unused availability thereunder, all of which shall be added to the principal balance of the Construction Loan as of December 2, 1986.

4. Lender shall be entitled to receive from Lessor, on the date of the execution and delivery hereof, \$150,000 in partial payment of its commitment fee that is payable on the Substantial Completion Date pursuant to paragraph 2 of the Bank Engagement Letter, dated as of July 3, 1984, from Lessor to Lender. The remainder of such fee shall be paid on the date of the closing of the permanent loan for the Facility.

5. Interest accruing on the Construction Loan after the Primary Term Commencement Date shall not be capitalized as part of the Adjusted Facility Cost but shall be treated in the same manner as interest that would have accrued on the Initial Permanent Loan had the Initial Permanent Loan been consummated on the date for Substantial Completion. Such interest shall not be payable monthly, but shall accrue and be payable on or about June 30, 1987.

6. If the Alternate Permanent Loan from John Hancock shall not be entered into by Lessor on or before January 30, 1987, Lender shall convert the Construction Loan to the Initial Permanent Loan pursuant to the Initial Permanent Loan Commitment on January 30, 1987, provided that the conditions of the Initial Permanent Loan Commitment have been satisfied.

7. Lessor shall not be required to make any payment of principal or interest on the Construction Loan on the date of Substantial Completion, except for the additions to principal as described in paragraph 3 above, or in connection with Substantial Completion, but shall be required to make a payment of 12.5% of the Adjusted Facility Cost on the date of the closing for the Initial Permanent Loan or the Alternate Permanent Loan as contemplated by the Initial Permanent Loan

Commitment. Notwithstanding the foregoing, if the Initial Permanent Loan or the Alternate Permanent Loan shall not be consummated before January 31, 1987, Lessor shall not be relieved of its obligations under the Construction Loan Agreement or the Construction Contract to make the payments required to be made under either of such agreements in connection with Substantial Completion.

8. The permanent loan for the Facility (whether the Initial Permanent Loan or the Alternate Permanent Loan) shall mature no later than December 31, 2001.

9. Lessee will comply with Section 29(b) of the Lease with respect to the Primary Term Commencement Date, to the extent applicable, and will also comply with Section 29(b) of the Lease in connection with the consummation of the Initial Permanent Loan or the Alternate Permanent Loan. Lessee, by reason of the occurrence of Substantial Completion or the Primary Term Commencement Date, shall not be relieved of any of its obligations under the Lease which relate to the Initial Permanent Loan or the Alternate Permanent Loan.

10. Until the Initial Permanent Loan or the Alternate Permanent Loan shall be consummated: (i) for the purpose of calculating Basic Rent, the Adjusted Facility Cost shall equal the amount deemed advanced under the Construction Loan as of the Primary Term Commencement Date (which shall include the final Construction Contract advance referred to in paragraph 3 above); (ii) for the purpose of calculating Basic Rent, the Semi-Annual Facility Lease Rate Factor from time to time shall equal one-half the interest rate on the Construction Loan from time to time; and (iii) the Casualty Value and the Termination Value shall equal the product of the Adjusted Facility Cost and 121.6%. Notwithstanding the foregoing, the Basic Rent payable on or about June 30, 1987, shall equal the sum of the Basic Rent calculated using the foregoing Semi-Annual Facility Lease Rate Factor for the portion of the Primary Term preceding the date for the closing of the Initial Permanent Financing or the Alternate Permanent Financing, as the case may be, and the Basic Rent calculated commencing on such closing date using the lease rate factor specified in the amendment to the Lease entered into in connection with such closing, less the rent abatement payment to be made by Lessor on such closing date with respect to the portion of the Primary Term ending on June 30, 1987. For the purpose of calculating Casualty Value or Termination Value, the Adjusted Facility Cost shall include all elements thereof that have accrued, whether or not incurred, and shall be approximately \$34,725,305, less the amounts required to be applied to the payment of the Construction Loan by Lessor pursuant to the Construction Loan Agreement.

11. The Primary Term Commencement Date is December 2, 1986.

12. The certificates and other documentation delivered in connection with Substantial Completion, including without limitation the statement of the Independent Engineer pursuant to Section 7.4(b) of the Construction Contract and Permit Number AC 13-68249 issued by the Department of Environmental Regulation of the State of Florida, are acceptable to Lessor, Lessee and Lender for all purposes relating to Substantial Completion under the Construction Contract, the Lease and the Initial Permanent Loan, it being understood that the foregoing acceptance shall apply only to issues concerning Substantial Completion. The acceptance of such certificates and other documentation as contemplated above, and the acceptance of certificates of Lessor and Lessee stating that Substantial Completion has occurred, shall not estop Lessor, Lessee or Lender from later contesting the accuracy of the statements contained therein as of the time the same were made, any other statement to the contrary contained therein notwithstanding. Lender reserves the right to require legal opinions in connection with the Permanent Loan as and to the extent contemplated by the Initial Permanent Loan Commitment.

13. Lessor, Lessee, Contractor and Lender hereby waive:

- (a) The fifteen (15) day notice requirement pursuant to §7.1 of the Construction Contract with respect to the commencement of performance testing of the Facility.
- (b) The ten (10) day notice requirement pursuant to §9.1(d) of the Construction Contract, as to the delivery of certain documents thereunder and acceptance of Contractor's delivery of releases and a payment bond with respect to the satisfaction of the requirements of §9.1(d)(iii) of the Construction Contract, as set forth in Contractor's letter dated December 2, 1986.

14. Lessor, Lessee, Contractor or Lender represents and warrants as follows:

- (a) Lessor represents and warrants that:
 - (i) The Lease is in full force and effect, Lessor is not in default thereunder and, to the best of Lessor's knowledge, Lessee is not in default thereunder.
 - (ii) The execution and delivery of and the performance by Lessor of its

obligations under this Agreement have been duly authorized by Lessor; this Agreement has been duly and validly executed and delivered by Lessor; and this Agreement is a legal, valid and binding obligation which is enforceable against Lessor in accordance with its terms.

(b) Lessee represents and warrants that:

(i) The Lease is in full force and effect, Lessee is not in default thereunder and, to the best of Lessee's knowledge, Lessor is not in default thereunder.

(ii) The execution and delivery of and the performance by Lessee of its obligations under this Agreement have been duly authorized by Lessee; this Agreement has been duly and validly executed and delivered by Lessee; and this Agreement is a legal, valid and binding obligation which is enforceable against Lessee in accordance with its terms.

(c) Contractor represents and warrants that:

(i) The execution and delivery of and the performance by Contractor of its obligations under this Agreement have been duly authorized by Contractor; this Agreement has been duly and validly executed and delivered by Contractor; and this Agreement is a legal, valid and binding obligation which is enforceable against Contractor in accordance with its terms.

(d) Lender represents and warrants that:

(i) The execution and delivery of and the performance by Lender of its obligations under this Agreement have been duly authorized by Lender; this Agreement has been duly and validly executed and delivered by Lender; and this Agreement is a legal, valid and binding obligation which is enforceable against Lender in accordance with its terms.

15. This Agreement may be executed in several counterparts or in separate counterparts, all of which together, shall constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have caused
this Amendment to be signed and sealed as of the date first
above written.

(Seal)

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By Winthrop Energy
Management, Inc.,
General Partner

By *Jack Thibault*
Its Vice President

SOUTH FLORIDA COGENERATION
ASSOCIATES
a general partnership

BY RRD Corp.,
Partner

By _____
Its _____

By TEC Cogeneration Inc.,
Partner

By _____
Its _____

THE FIRST NATIONAL BANK OF
BOSTON

By _____
Title _____

THERMO ELECTRON CORPORATION

By _____
Title _____

IN WITNESS WHEREOF, the parties hereto have caused
this Amendment to be signed and sealed as of the date first
above written.

(Seal)

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By Winthrop Energy
Management, Inc.,
General Partner

By _____
Its _____

SOUTH FLORIDA COGENERATION
ASSOCIATES
a general partnership

BY RRD Corp.,
Partner

By Ronald Kelley
Its VP - Finance

By TEC Cogeneration Inc.,
Partner

By [Signature]
Its President

THE FIRST NATIONAL BANK OF
BOSTON

By _____
Title _____

THERMO ELECTRON CORPORATION

By [Signature]
Title Vice President

IN WITNESS WHEREOF, the parties hereto have caused
this Amendment to be signed and sealed as of the date first
above written.

(Seal)

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By Winthrop Energy
Management, Inc.,
General Partner

By _____
Its _____

SOUTH FLORIDA COGENERATION
ASSOCIATES
a general partnership

BY RRD Corp.,
Partner

By _____
Its _____

By TEC Cogeneration Inc.,
Partner

By _____
Its _____

THE FIRST NATIONAL BANK OF
BOSTON

By E. J. [Signature]
Title Vice President

THERMO ELECTRON CORPORATION

By _____
Title _____

AMENDMENT TO AGREEMENT AND AMENDMENT TO LEASE

AMENDMENT TO AGREEMENT AND AMENDMENT TO LEASE, dated as of January 30, 1987 (this Amendment), between FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership (Lessor), SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Florida Uniform Partnership Act (Lessee), THERMO ELECTRON CORPORATION, a Delaware corporation (Contractor), and THE FIRST NATIONAL BANK OF BOSTON, a national bank (Lender).

PRELIMINARY STATEMENT

The defined terms used in this Amendment, unless otherwise defined, shall have the meaning set forth in the Agreement.

Lessor, Lessee, Contractor and Lender have entered into the Agreement and Amendment to Lease, dated as of December 2, 1986 (the Agreement), relating to the Premises and to the Facility. The parties hereto desire to make certain amendments to the Agreement.

The parties have entered into negotiations with John Hancock Mutual Life Insurance Company (John Hancock) to provide the Alternate Permanent Loan, but such arrangements have not yet been completed.

NOW THEREFORE, in consideration of their mutual covenants set forth below, Lessor, Lessee, Contractor and Lender agree as follows:

1. Paragraph 6 of the Agreement is amended by striking out the date January 30, 1987, throughout paragraph 6, and inserting in lieu thereof February 28, 1987.
2. Paragraph 7 of the Agreement is amended by striking out the date January 31, 1987 and inserting in lieu thereof March 1, 1987.
3. This Amendment may be executed in several counterparts or in separate counterparts, all of which together shall constitute one instrument.

EXHIBIT B

MUTUAL RELEASE OF ALL CLAIMS

FOR AND IN CONSIDERATION of the execution of that certain Agreement dated as of February 12th, 1996 (the "Agreement") by and among FLORIDA POWER & LIGHT COMPANY, a Florida corporation ("FPL"), CYPRESS ENERGY COMPANY, a California corporation ("Cypress Energy"), CYPRESS COGENERATION COMPANY, a California corporation ("Cypress Cogen"), SOUTH FLORIDA COGENERATION ASSOCIATES, a Florida general partnership ("SFCA") whose partners are TEC Cogeneration Inc., a Florida corporation ("TEC"), and RRD Corp., a Delaware corporation ("RRD"), THERMO ELECTRON CORPORATION, a Delaware corporation ("Thermo"), and ROLLS-ROYCE INC., a Delaware corporation ("Rolls"); (each of FPL, Cypress Energy, Cypress Cogen, SFCA, Thermo, and Rolls shall also be referred to herein as a "Party" and, collectively, as the "Parties"), from and after the Effective Date, (as defined in the Agreement), each of the Parties, and each of the Parties on behalf of their respective parents, shareholders, directors, officers, subsidiaries, affiliates, employees, agents, advisors, attorneys, representatives, successors, assigns, heirs, executors and administrators, as the case may be, including, without limitation, (x) with respect to SFCA, TEC and RRD and (y) with respect to FPL, FPL Group, Inc. ("FPL Group") and ESI Energy, Inc. ("ESI") (collectively, the "Releasers"), hereby releases, remises, acquits and forever discharges each of the other Parties, and each of their respective past, present, future officers, directors, parents, stockholders, attorneys, insurers, agents, servants, suppliers, dealers, customers, representatives, employees, affiliates, subsidiaries, partners, predecessors and successors in interest, and assigns, including, without limitation, TEC, RRD, FPL Group and ESI, respectively, from and against any and all manner of liability, obligations, causes of action, in law or equity, complaints, actions, demands, suits, debts, dues, judgments, executions, costs, expenses and other claims of any and every kind arising under any theory of contract, tort, fraud, breach of duty, strict liability or any other theory of liability, based on any federal, state or local law, code, statute, rule or regulation or the common or civil law of any jurisdiction, arising out of or in connection with any fact or circumstance involving the SOC (as defined in the Agreement and identified in (i) below) or the Existing Facility (as defined in the Agreement) existing or occurring on or prior to the date hereof whether known or unknown, fixed or contingent, suspected or unsuspected, or latent, concealed or hidden, including without limitation any such claim of a Party under or in connection with (i) that certain Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated June 18, 1990 signed by Cypress Energy and delivered to FPL, (ii) any matters arising out of or related to the November, 1994 Dade County Referendum, and (iii) any of the following proceedings (A) that certain litigation captioned TEC Cogeneration, Inc. and RRD Corp., as they are partners in South Florida Cogeneration Associates; Thermo Electron Corporation; and Rolls-Royce, Inc. Plaintiffs-Appellees v. Florida Power & Light Company, FPL Group, Inc. and FPL Energy Services, Inc., Defendants-Appellants, proceeding No. 94-4323 (11th Cir.), (B) that certain litigation captioned TEC Cogeneration v. Florida Power & Light Company, FPL Group, Inc. and FPL Energy Services, Inc., No. 88-2145-Civ-Atkins (S.D. Fla.), and (C) that certain proceeding before the Florida Public Service Commission captioned In re: Petition of Florida Power & Light Company to Resolve a Territorial Dispute with South Florida Cogeneration Associates,

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed and sealed as of the date first above written.

(Seal)

FLORIDA ENERGY PARTNERS LIMITED
PARTNERSHIP

By: Winthrop Energy
Management, Inc.,
General Partner

By: [Signature]
Its: Vice President

SOUTH FLORIDA COGENERATION
ASSOCIATES
a general partnership

BY: RRD Corp.,
Partner

By: [Signature]
Its: Vice President

By: TEC Cogeneration Inc.,
Partner

By: [Signature]
Its: Pres

20. Lessor and Lessee agree that any Mortgage, including the Indenture, shall be subject and subordinate to this Lease and the terms and conditions thereof, and that, so long as no Event of Default under the Lease shall have occurred and be continuing, any purchase by Lessee of the Facility pursuant to Section 20 of the Lease shall be free and clear of the lien of such Mortgage.

21. This Amendment is expressly made supplement to and part of the Lease. Except as hereby expressly amended and supplemented, the Lease is in all respects republished, ratified and confirmed and all the terms, conditions and provisions thereof shall be and remain in full force and effect as of the date of execution and delivery hereof. To the extent any provisions of the Original Lease conflict with the provisions of this Amendment, this Amendment shall control.

22. This Agreement may be executed in several counterparts or in separate counterparts, all of which together shall constitute one instrument.

and in each of the above cases having a stated Maturity not later than the next Basic Rent Payment Date.

16. Lessee represents and warrants that this Lease is a valid and subsisting lease of the Premises for the term herein set forth, that there are no defaults hereunder, and that the copy of this Lease filed with the Trustee is a true, correct and complete copy thereof. Lessee further represents and warrants that it conveyed to Lessor good and valid title to its interest under the Space Lease and does hereby, and at its expense will forever, warrant and defend such title and interest. Lessor represents and warrants that the restrictions, exceptions, reservations, limitations, interests and other matters existing on the date of execution and delivery of this Amendment with respect to the parcel of land encumbered by the Space Lease do not in the aggregate materially lessen the value of the Facility or Premises or materially impair the use thereof for the uses to which the Facility and Premises are being put.

Further, with respect to the Space Lease and the Space Lease Assignment, Lessee covenants and agrees as follows: (i) to promptly and faithfully observe, perform and comply with all the terms, covenants and provisions thereof, if any, on its part to be observed, performed and complied with; (ii) not to do, permit, suffer or refrain from doing anything, as a result of which, there could be a default under or breach of any of the terms thereof; (iii) not to cancel, surrender, modify, amend or in any way alter or permit the alteration of any of the terms thereof; and (iv) to give Lessor notice of any default by anyone thereunder immediately upon obtaining knowledge thereof, and to immediately deliver to Lessor each notice of default and all other notices, communications, plans, specifications and other similar instruments received or delivered by Lessor in connection therewith.

17. Lessee hereby consents to the terms and conditions of the Indenture and the liens, rights and security interests created thereby and acknowledges that the Indenture constitutes a Mortgage, as such term is used in the Lease.

18. Notwithstanding any provision in this Lease to the contrary, Lessor shall not be required to give its consent or approval to any action so long as the Trustee shall not have been instructed to act upon such direction as shall be provided by the holders of a majority in aggregate principal amount of Notes at the time outstanding.

19. Lessee will pay or cause to be paid, as Additional Rent all of the Trustee's fees, expenses and costs set forth in the Indenture, including without limitation, the fees, expenses and costs referred to in Sections 3.23 and 8.01(a)-(d).

Fund shall be for the account of Lessee and shall be held in the Escrow Fund and applied as provided in paragraph (d) above.

(f) (i) The terms "Project Operating Revenues" and "Operating and Maintenance Expenses" are used herein with the meanings assigned to them in the Space Lease; (ii) the term "Pre-Tax Income" shall mean, with respect to any calendar year, the amount determined by subtracting from the Project Operating Revenues for such year the sum of the Operating and Maintenance Expenses and the Basic Rent payable during such year; and (iii) the term "Investment Obligations" means:

(i) investments in direct obligations of the United States of America and obligations guaranteed by the United States of America;

(ii) investments in certificates of deposit, so-called money market funds, banker's acceptances or similar obligations issued by a bank or a bank holding company having assets of not less than One Billion Dollars (\$1,000,000,000) and maturing in not more than 180 days;

(iii) investments in commercial paper issued by a United States corporation which at the time of purchase has been rated in one of the two highest categories by Standard & Poor's Corporation or Moody's Investors Service, Inc.;

(iv) investments in short-term bonds or obligations of any State, the District of Columbia, any territory of the United States of America or any political subdivision or instrumentality of any of the foregoing which are rated in one of the three highest categories by Standard & Poor's Corporation or Moody's Investors Services, Inc. or secured by a letter of credit of a bank which has a long-term rating for its debt securities or the debt securities of its parent holding company in one of such categories;

(v) investments in repurchase agreements secured by any of the Investments described in the foregoing clauses (i) through (iv); and

(vi) investments in shares of any so-called "money market fund" that has at least 85% of its assets invested in Investments described in the foregoing clauses (i) through (v) or in preferred stock or options to acquire preferred stock of United States corporations rated in one of the three highest categories by Standard & Poor's Corporation or Moody's Investors Service, Inc.;

irrevocable standby letter of credit issued by a financial institution and in a form reasonably acceptable to Lessor, or other assets reasonably acceptable to Lessor (such cash, Investment Obligations, letters of credit or other assets being collectively referred to herein as Permitted Assets). Such Permitted Assets shall be in an amount or shall have a market value on the date of deposit equal to the lesser of such Operating Loss or the total amount of Basic Rent payable during the then current calendar year (all Permitted Assets deposited with or held by Lessor pursuant to this paragraph 15 are referred to as the "Escrow Fund").

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(c) If ~~Lessee~~ shall incur an Operating Loss in any year while Permitted Assets are in the Escrow Fund, Lessee need not deposit any additional assets into the Escrow Fund unless the amount of the Operating Loss exceeds the then current balance of the Escrow Fund. If Lessee shall incur an Operating Loss in any calendar year in excess of the amount of the Escrow Fund, ~~the following year~~, Lessee shall immediately deposit into the Escrow Fund Permitted Assets in an amount or having a market value on the date of deposit equal to the lesser of (i) the difference between such Operating Loss and the current value of the Escrow Fund on such February 28, or (ii) the amount of Basic Rent payable by the Joint Venture during the then current calendar year.

(d) The Escrow Fund shall be applied by Lessor as follows:

(i) If any payment of Basic Rent is not received in full when due, Lessor shall draw upon the Escrow Fund to the extent necessary to make such payment;

(ii) If Lessee shall not incur an Operating Loss during the preceding calendar year, the Escrow Fund shall be reduced by 50%, and such amount shall be immediately delivered to Lessee;

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(iii) If Lessee shall not incur an Operating Loss for two consecutive calendar years, the balance of the assets held in the Escrow Fund shall be immediately delivered to Lessee; and

(iv) On or before December 5, 2001, the remaining balance of the Escrow Fund shall be returned to Lessee.

(e) All cash at any time deposited in or otherwise held in the Escrow Fund shall be invested and reinvested by Lessor in Investment Obligations. All interest, dividends or other earnings received by Lessor with respect to the Escrow

(c) Within 60 days after the end of each fiscal year of Lessee, Lessee will deliver to Lessor a certificate of Designated Officers with respect to each disposition of properties during such year pursuant to Section 9(a) of the Lease, other than properties which shall have been replaced during such year with properties of equal or greater value, which Certificate shall certify as to the following:

(i) that such disposition was in compliance with the provisions of Sections 9(a), (b), (d) or (e);

(ii) a general description of the properties disposed of; and

(iii) a statement as to the fair value of the properties disposed of at the date of disposition and a statement describing the properties which have been acquired in replacement of or substitution for the properties disposed of and setting forth the fair value of the properties so acquired (such statements need contain a particularized enumeration of properties only in those instances where an item disposed of or acquired had a fair value in excess of \$50,000).

14. Schedule C of the Original Lease is amended (1) by deleting the first sentence thereof; (2) by deleting "(1)" in line ten of paragraph (b); and (3) by deleting the word "to" in line nineteen of paragraph (b) and inserting "no" in lieu thereof.

15. (a) On or before February 28, 1988 and on or before the last day of February in each year thereafter, so long as the Consent Agreement shall be in effect, Lessee shall deliver to Lessor a cash flow statement for the operation of the Facility by Lessee for the preceding calendar year (a Cash Flow Statement) showing, at a minimum, the Project Operating Revenues, the Operating and Maintenance Expenses and the Pre-Tax Income (as hereinafter defined) and the Basic Rent for such year. Such statement shall be certified by the principal accounting officers of each of TEC and RRD.

(b) Subject to the provisions of paragraph (c) below, if the Pre-Tax Income for any calendar year as shown in the Cash Flow Statement for such year shall reflect an operating loss (an Operating Loss), Lessee shall, at the time of delivery of such Cash Flow Statement, immediately deliver to Lessor cash, Investment Obligations (as hereinafter defined), an

(xv) if any representation or warranty made by Thermo, Rolls USA, TEC, RRD, Lessee or Rolls Ltd. in any certificate, agreement or other instrument or other instrument delivered under or pursuant to any provision of the Indenture or the Note Agreements shall prove to have been false or incorrect in any material and adverse respect on the date as of which made, or shall have been breached, as the case may be, and any material adverse consequences to Lessor directly caused thereby shall not have been remedied; ~~in each case within 30 days after written notice thereof shall have been given to the maker thereof.~~

(4) by deleting the period at the end of paragraph (VII); (5) by replacing such period with a semicolon; (6) by adding after such semicolon the following language:

(VIII) in addition, if a default has occurred under the Lease, Lessor may recover from Lessee, and Lessee shall pay to Lessor any amount which must be paid by Lessor as a premium (as defined in Section 4.03(a) of the Indenture) under the Indenture;

and (7) by deleting the references in paragraph (d) to "clause (vii) or (viii)" and inserting in lieu thereof reference to "clause (x), (xi) or (xiii)."

11. Section 28 of the Original Lease, relating to the Special Tax Indemnity, shall be deleted in its entirety effective upon receipt by Lessor of a fully executed counterpart of the Tax Indemnity Agreement, dated as of March 13, 1987, between Lessor and Lessee.

12. The first sentence of Section 31 of the Original Lease, relating to Permitted Contests, is amended (1) by striking out the word "and" immediately preceding clause (iv); (2) by inserting a comma in lieu of the period at the end thereof; and (3) by adding after such comma the following additional language:

and (v) in the case of any Insurance Requirement, the failure to comply therewith would not affect the validity or the enforceability of any insurance required to be maintained under Section 11.

13. Section 36 of the Original Lease, relating to Estoppel Certificates, is amended by adding as a final paragraph the following language:

TEC, Rolls Inc., Rolls Ltd. or of the whole or any substantial part of its property, or approving a petition filed against it seeking reorganization or arrangement of Thermo, Lessee, RRD, TEC, Rolls Inc. or Rolls Ltd. under the Federal bankruptcy laws or any other applicable law, and such order, judgment or decree shall not be vacated or set aside or stayed within 60 days from the date of entry thereof;

(xii) Lessee fails to make any payment when due or within any applicable grace period on any monetary obligation in excess of \$250,000, or shall fail to perform or observe any provision contained in any evidence of or agreement securing or relating to any monetary obligation, and the effect of such failure is (i) to cause or permit the holder thereof or a trustee to cause, the same to become due prior to its stated maturity, or (ii) to permit the holder thereof or a trustee for such holder to assume operating control of Lessee;

(xiii) if, under the provisions of any other law for the relief or aid of debtors, any court or governmental agency of competent jurisdiction shall assume custody or control of Thermo, Lessee, RRD, TEC, Rolls Inc., Rolls Ltd. or of the whole or any substantial part of its property and such custody or control shall not be terminated or stayed within 60 days from the date of assumption of such custody or control;

(xiv) if a final judgment for the payment of money which, together with all other outstanding final judgments for the payment of money against Lessee, exceeds an aggregate of \$250,000 shall be rendered by a court of record against Lessee and Lessee shall not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof within 60 days from the date of entry thereof and within such period of 60 days, or such longer period during which execution of such judgment shall have been stayed, move to vacate such judgment or appeal therefrom and cause the execution thereof to be stayed pending determination of such motion or during such appeal; or

cured solely by the payment of money if and so long as Lessee, Rolls USA, Rolls Ltd. or Thermo, as the case may be, is proceeding with due diligence to cure such default such period shall be extended for an additional period as required to permit Lessee, Rolls USA, Rolls Ltd. or Thermo, as the case may be, proceeding with due diligence to cure such default, but in no event shall such additional period exceed 30 days;

(ix) the Space Lease or the Energy Purchase Contract shall terminate prior to the expiration thereof, or the Space Lease, the Energy Purchase Contract, the Contribution Agreement, the Consent Agreement, the Contribution Agreement Assignment or the Guaranty shall become ineffective, unenforceable or void in whole or in part for any reason, including any decision, judgment or decree of any court or other governmental authority;

(x) Lessee, Thermo, TEC, RRD, Rolls USA or Rolls Ltd. shall

(i) admit in writing its inability to pay its debts generally as they become due,

(ii) file or consent to the filing of petition in bankruptcy or a petition to take advantage of any insolvency act,

(iii) make an assignment for the benefit of its creditors,

(iv) consent to the appointment of a custodian or receiver of itself or of the whole or any substantial part of its property,

(v) be adjudicated bankrupt or insolvent,

(vi) file a petition or answer seeking reorganization or arrangement under the Federal Bankruptcy Laws or any other applicable law;

(xi) if a court or governmental agency of competent jurisdiction shall enter an order, judgment or decree appointing a custodian, receiver or trustee of Thermo, Lessee, RRD,

(v) the expiration of thirty (30) days after the giving by County of the notice required by Section 7.2(a)(ii) of the Space Lease or the notice required by Section 7.3(ii) of the Energy Purchase Contract without the application of any further grace periods or requirements for notices; provided that if such notice refers to a default under Section 7.1(b) or 7.1(e) of the Space Lease or Section 7.1(b) of the Energy Purchase Contract, if in the reasonable judgment of Lessor (i) Lessee has made and is continuing to make diligent efforts to cure such default and (ii) such efforts of Lessee will succeed in curing such default prior to the expiration of the 90-day period specified in Section 7.2(a)(ii) of the Space Lease or Section 7.3(ii) of the Energy Purchase Contract, as the case may be, then so long as such diligent efforts are continuing, no default shall occur until the expiration of such 90-day period;

(vi) Lessee, TEC, RRD, Thermo, Rolls USA or Rolls Ltd. shall default in any respect in the due performance of or compliance with any other covenant, condition, or agreement of Lessee, TEC, RRD, Thermo, Rolls USA or Rolls Ltd., as the case may be, contained herein or in the Consent Agreement, the Contribution Agreement Assignment or the Acknowledgment (other than those referred to in clause (i), (ii), (iii) or (iv) above) and such default shall continue for more than 30 days, provided, that if and so long as Lessee, TEC, RRD, Thermo, Rolls USA or Rolls Ltd., as the case may be, is proceeding with due diligence to cure the default such period shall be extended for such additional period as is required to permit Lessee, TEC, RRD, Thermo, Rolls USA or Rolls Ltd., as the case may be, proceeding with due diligence, to cure such default, but in no event shall such additional period exceed 90 days;

(vii) [left blank]

(viii) there shall occur a default by Lessee, Rolls USA, Rolls Ltd. or Thermo under the Contribution Agreement or the Guaranty, provided, that, in the case of any default other than a default that can be

after the execution and delivery thereof. Lessee will, at Lessor's written request and at Lessee's expense, assign each such contract to Lessor. Lessee will keep copies of all contracts relating to the Facility and the Premises available for inspection by Lessor or the Lender at the Facility or at the address for notice of TEC and RRD, and will furnish a copy of any thereof to Lessor and the Lender within 30 days of written request therefor.

10. Section 17 of the Original Lease, relating to Defaults and Remedies, is amended (1) by deleting the first sentence of paragraph (a) and inserting in lieu thereof the following language:

(a) If, during the continuance of the Lease Term, one or more of the following events (each such event called Event of Default) shall occur (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body);

(2) by deleting paragraphs (i)-(viii); (3) by inserting in lieu thereof the following:

(i) Lessee shall default in any payment of Basic Rent;

(ii) Lessee shall default in any payment of Supplemental Rent, Additional Rent or any other sum payable hereunder, and such default shall continue for five business days after receipt of notice that such payment shall be due;

(iii) Lessee shall default in any material respect in the observance or performance of any covenant condition or agreement set forth in Section 11 hereof;

(iv) if default shall be made in the performance or observance of any covenant, agreement or condition contained in section 6.5, 6.6, 6.8, 7.5, 7.6 or 7.8 of the Contribution Agreement Assignment or Section 8.5, 8.6, 8.8 or 9 of the Consent Agreement;

such policy, evidence satisfactory to Lessor as to the renewal thereof and the payment of all premiums thereon, and (iii) promptly after the renewal of any such policy, a certificate, signed by Designated Officers certifying, in such detail as is reasonably satisfactory to Lessor, that such insurance policy complies with the requirements of this Section, that such policy is in full force and effect and that the premiums due thereon have been paid.

8. Section 13 of the Original Lease, relating to an Event of Loss, is amended by adding as a final paragraph the following:

(e) Lessee will, in good faith and with due diligence, file or prosecute any claim of Lessor or Lessee for any such award or payment and cause the same to be collected and paid over to Lessor; and Lessor irrevocably authorizes and empowers Lessee, in the name of Lessor or otherwise, and appoints Lessee as agent and attorney in fact of Lessor, to collect and receipt for (subject to the provisions of this Section) any such award or payment and, if Lessee shall fail to act or is otherwise in default hereunder, Lessor shall have the right, but shall not be obligated, to file and prosecute such claim. Lessor may, but shall be under no obligation to, participate in any such proceedings, and Lessee from time to time will deliver or cause to be delivered to Lessor or such other Persons as designated all instruments requested by them to permit or facilitate such participation. Lessee will pay all costs, fees and expenses incurred by Lessor or such designated Person in connection with any such taking and seeking and obtaining any award or payment on account thereof.

9. Section 16(e) of the Original Lease, relating to Inspections and Reports, is amended to read:

(e) Lessee will furnish the Lender and Lessor a certified copy of any material maintenance, power purchase, fuel supply interconnection or transmission contract relating to the Facility or the Ancillary Systems and any other material contract relating to the Facility or the Ancillary Systems to which Lessee is a party promptly

(vi) to the extent commercially available at reasonable rates and terms, pollution liability insurance applicable to the ownership and operation of the Facility, in such amounts and with such coverages as are usually carried by substantial corporations owning or operating similar properties but in any event with a combined single limit of not less than \$1,000,000 per occurrence; and;

- (3) by deleting the sentence immediately after subparagraph (a)(vii) and inserting in lieu thereof the following:

All the foregoing insurance policies shall be subject to such deductible amounts and retentions as are usual and customary for companies similarly situated; provided, however, that, to the extent commercially available at reasonable rates and terms, such deductible amounts and retentions shall not exceed the following amounts specified with respect to such policies;

- (4) by adding as an additional subparagraph to paragraph (c) the following:

(v) notwithstanding any other provision contained in this section, provide that the Net Proceeds of any loss insured against by policy described in clause (i), (iii), (iv) or (vii) of Section 11(a) shall be payable to the Lender by means of a standard mortgagee loss payable clause or endorsement or otherwise, without contribution;

- (5) by renumbering subparagraphs (v) and (vi) to read (vi) and (vii); (6) by striking out the final sentence of paragraph (d); and (7) by inserting in lieu thereof the following:

Lessee will deliver to Lessor, (i) on or before the date of the execution and delivery by Lessor of any Mortgage, and promptly thereafter with respect to any renewal or replacement policies, the originals (or certificates of insurance evidencing the existence of such policies) of all insurance policies with respect to the Facility and the Premises which Lessee is required to maintain pursuant to this Section, accompanied by evidence satisfactory to Lessor as to its compliance with this Section and as to the payment of all premiums then due thereon, (ii) on or before the date of the expiration of any

(ii) any portion of the Facility or Equipment if title thereto shall have passed to Lessee as provided in Section 13 or 20 or;

and (3) by adding as an additional paragraph the following language:

(e) Notwithstanding any other provision of this Lease, no repair, replacement, alteration, removal or exchange shall be permitted if such repair, replacement, alteration, removal or exchange would result in a lien, including any purchase money lien, on any part or other portion of the Facility or Premises without the prior written consent of Lessor, which consent may be given or withheld by Lessor at its sole discretion for any reason, other than a lien which is expressly subordinated to the lien of the Indenture and any Permitted Encumbrances of the nature described in clause (iii) of the definition of Permitted Encumbrances.

7. Section 11 of the Original Lease, relating to Insurance, is amended (1) by deleting subparagraph (a)(ii) and inserting in lieu thereof the following:

(ii) comprehensive general liability (including blanket contractual and personal injury liability and property damage) insurance applicable to the Facility in such amounts as are usually carried by substantial corporations owning or operating similar properties but in any event with a combined single limit of not less than \$5,000,000 per occurrence, and excess comprehensive general public liability (including blanket contractual and personal injury liability and property damage) insurance applicable to the Facility and the Premises over the insurance required by the preceding provisions of this clause (ii) with a combined minimum coverage of not less than \$25,000,000 per occurrence or, to the extent such combined minimum coverage is not commercially available, then at such combined minimum coverage as shall then be commercially available at reasonable rates and terms, but in any event not less than \$15,000,000 per occurrence;

(2) by deleting subparagraph (a)(vi) and inserting in lieu thereof the following:

respectively, as the case may be, to the sum of such loss and such increase. Commencing on the first Basic Rent Payment Date to occur more than 90 days after such apportionment shall have been made as provided below, the Basic Rent shall be reduced by an amount equal to the Basic Rent due on such date under the terms of this Lease as of March 13, 1987, multiplied by a fraction, the numerator of which is the portion of such remainder allocable to Lessee and the denominator of which is the Adjusted Facility Cost. If Lessor and Lessee shall be unable to agree upon an apportionment within 30 business days, such apportionment shall be made by appraisers selected under and operating in accordance with the procedure for the determination of Fair Market Rental set forth in Schedule C.

5. Section 8 of the Original Lease, relating to Maintenance, is amended by adding as a final paragraph the following:

(g) Lessee will pay all charges which it is obligated to pay for all public and private utility services at any time rendered to or in connection with the Facility, the Premises or any part thereof, and will do all other things it is legally obligated to do to maintain and continue such utility services as shall be necessary for the operation of the Facility.

6. Section 9 of the Original Lease, relating to the Replacement of Parts; Alternation and Addition of Parts; Removal of Parts; Exchange, is amended (1) by inserting after the first sentence of paragraph (b) the following:

Lessor may not withhold such consent if the alteration at issue constitutes nothing more than a return of the Facility to its condition, value and utility prior to a previous alteration then being removed from the Facility, so long as upon the completion of such alteration, the Facility complies with the requirements of this Lease and the Operating Manual and has the same value, utility and condition as it had prior to both of such alterations having been made;

(2) by deleting subparagraph (c)(ii) and inserting in lieu thereof the following:

judgment, penalty, claim, action, suit, cost, expense or disbursement that would otherwise have given rise to the obligation to make such payment;

and (7) by adding as an additional paragraph the following:

(i) Lessee shall pay, cause to be paid or reimburse Lessor for, all costs, charges and expenses, reasonable attorney's fees including attorney's fees incurred in any appellate proceedings, disbursements and costs incurred or paid by Lessor, in any threatened, pending or completed action, proceeding or dispute in which any assignee of Lessor is, or might be made a party, or appears as a party plaintiff or party defendant and which affects the Lease, the Collateral Assignment, the Contribution Agreement Assignment, the Space Lease, the Space Lease Assignment, the Consent, the Energy Purchase Contract, the Energy Purchase Assignment, any other Operative Document to which it is a party or the Facility or any part thereof, or the interest of such assignee therein. All costs, charges and expenses so incurred or paid or to be paid by Lessor shall become due and payable 30 days after demand, except that during any period when Lessor's interest in this Lease shall not be assigned by a Facility Lease Assignment or as to any payment to be made to Lessor which shall not be made to the Lender, such costs, charges and expenses shall be payable as otherwise provided in this Lease and shall be subject otherwise to ~~the terms~~ of this Section 5.

4. Section 6(d) of the Original Lease, relating to Enforcement of Claims Against Contractors, is amended by deleting subparagraph (iii) and inserting in lieu thereof the following:

(iii) the Facility could not be restored by Lessee to a value or condition in which the Facility would have been had such warranty not been breached, the portion of the payment remaining after Lessee shall have been reimbursed for its immediate costs in restoring the Facility, if any, shall be paid to Lessor. Such portion shall be apportioned between Lessor and Lessee in proportion to the loss of the value of the Facility or the increase in operating expenses of the Facility over the remainder of the Lease Term,

however described, shall be imposed upon Lessor or the Lender on account of the existence, filing, recordation or enforcement of the Indenture or any financing statement executed and delivered in connection therewith, then Lessee shall cause the same to be paid, together with any interest or penalties imposed in connection with such determination. If any such sum shall be advanced by Lessor, they shall bear interest at the Late Payment Rate;

(5) by adding as final paragraphs the following language:

(g) Lessee shall be obligated to furnish any Indemnified Party, upon request, official receipts or other proof, reasonably satisfactory to such Indemnified Party, evidencing payment of its obligations to or on behalf of such Indemnified Party under this Section 5.

(h) Lessee shall pay, and shall protect, indemnify and hold Lessor harmless from and against all costs, expenses, fees, commissions, disbursements and other liabilities described in paragraph 12(a) of the Note Agreements, other than for such of the foregoing as relates to fees or commissions of brokers or finders engaged by Lessor, or described in paragraph 18 of the Note Agreements;

(6) by deleting the final sentence of Section 5(f) and inserting in lieu thereof the following:

In addition, if Lessor or any other Indemnified Party shall cause or permit the Facility to be "owned by a person primarily engaged in the generation or sale of electrical power (other than electric power solely from cogeneration facilities or small power production facilities)," as provided in Section 796(18)(B)(ii) of Title 16 of the United States Code (16 U.S.C. §796(18)(B)(ii)) or any amendment thereof or any statute enacted in place thereof and intended to accomplish substantially the same objectives, and solely as a consequence thereof any Indemnified Party would have been entitled to a payment pursuant to clause (iv) or (v) of Section 5(a), then the indemnity of this Section 5 shall not extend to the liability, obligation, loss, damage,

"Trustee" means The First National Bank of Boston and First Florida Bank, N.A., as co-trustees and any and all successors to the Trustee under the Indenture which shall become such in the manner prescribed in Section 8.04 of the Indenture, as trustees under the Indenture.

2. Section 3(b) of the Original Lease, relating to the Lease Term, is amended to delete the first two sentences thereof.

3. Section 5 of the Lease, relating to Indemnities, is amended (1) by striking out, in paragraph (a), the word "and" immediately proceeding clause (v); (2) by inserting a semicolon in lieu of the period at the end of clause (v); (3) by adding after such semicolon the following additional language:

(vi) the Indenture and the existence of or the exercise of any other security rights with respect to the Facility arising by reason of an Event of Default;

(vii) any sums advanced or paid by Lessor or any assignee of Lessor's interest in the Facility Lease to satisfy or perform obligations of Lessee under this Lease, the Facility Lease Assignment, or the Consent Agreement; and

(viii) any sums advanced or paid by Lessor in fulfilling the requirements described in Section 3.02 of the Indenture insofar as the same relate to this Lease, the Facility Lease Assignment, the Consent Agreement, the Contribution Agreement, the Contribution Agreement Assignment, the Guaranty or the Acknowledgement;

(4) by adding after the first sentence in paragraph (b) the following language:

If at any time the State of Florida shall determine that any intangible tax paid or payable in connection with the Indenture or the Construction Loan Agreement or any instrument securing or evidencing the payment of indebtedness incurred pursuant to the Construction Loan Agreement is insufficient or that the documentary stamps affixed thereto are insufficient, and that additional intangible tax should be paid or that additional documentary stamps should be affixed or that any other tax or charge,

assignment of this Lease permitted by the terms hereof;

(viii) any Liens for taxes which are not due or are being contested at the time by appropriate legal proceedings so long as such proceedings are being contested in accordance with this Lease;

(ix) any Liens arising out of judgments or awards against Lessee with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and with respect to which there shall have been secured a stay of execution pending such appeal or proceeding for review;

(x) any encumbrance permitted by Section 9 of this Lease;

(xi) any liens of mechanics, laborers or materialmen, with respect to work performed under the Construction Contract, as to which bonds (satisfactory in form and amount to the Trustee) shall have been furnished by Contractor pursuant to the Construction Contract; and

(xii) easements, exceptions or reservations granted or reserved to any public utility or to any electric or telephone company or association, or to any governmental authority, municipality or other governmental subdivision, or granted or reserved for power lines, roads or streets, or for the joint or common use of real property and facilities, none of which materially impairs the use of the Premises for the purposes of operating and maintaining the Facility.

"Primary Term Commencement Date" means December 2, 1986.

"Primary Term" means the primary term of this Lease, which shall commence on the Primary Term Commencement Date and expire on November 30, 2002.

"Rolls Inc." means Rolls USA.

"Rolls Ltd." means Rolls-Royce plc (formerly known as Rolls-Royce Limited), a corporation organized under the laws of England.

(i) all easements, rights-of-way, servitudes, zoning laws, use regulations, other similar reservations, rights and restrictions and other minor defects and irregularities in the title to the Premises, none of which materially lessens the value of the Premises or materially impairs the use thereof for the purposes of operating and maintaining the Facility;

(ii) the right reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law to terminate such right, power, franchise, grant, license or permit (provided that the exercise of such right would not materially lessen the value of the Premises or materially impair its use for the purposes of operating and maintaining the Facility) or to purchase or to condemn, appropriate, recapture or designate the purchaser of the Premises or the Facility;

(iii) any liens of mechanics, materialmen, laborers, carriers or suppliers for work or services performed or materials furnished in connection with the Premises, the Facility or any part thereof which are not due; or as to which bonds (satisfactory in form and amount to the Lender) shall have been furnished by the Contractor pursuant to the Facility Construction Contract; or are being contested at the time by appropriate legal proceedings, which proceedings shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Premises, the Facility or any interest therein to satisfy the same, and in the case of a contested lien provided that Lessee shall comply with provisions hereof dealing with such contest;

(iv) the terms and conditions of the Space Lease and the Assignment Documents;

(v) any encumbrances permitted by the Space Lease with respect to the Facility or the Premises;

(vi) any Mortgage;

(vii) the Facility Lease Assignment and, after the termination thereof, any

participant of such assignee) shall be an Indemnified Party, and Lessor and its successors and assigns and their agents, employees and partners shall continue to be Indemnified Parties hereunder notwithstanding such assignment) and for limited purposes set forth in clauses (iv) and (v) of Section 5(a), an owner of a partner of Lessor.

"Indenture" means that certain Indenture of Mortgage, Deed of Trust and Security Agreement, dated as of March 13, 1987, between Lessor and the Trustee.

"Late Payment Rate" means, in relation to any period for which a late payment charge may be incurred under this Lease, an annual rate equal to 11.95%, computed on the basis of a 360-day year of twelve 30-day months.

"Lease" or "this Lease" means the Original Lease as amended by this Amendment and any further amendments entered into in accordance with this Lease or the applicable Mortgage and the Facility Lease Assignment.

"Legal Requirement" shall mean all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility, the Premises, or any part thereof, or any of the adjoining sidewalks, streets or ways, to the extent that the lessee under the Space Lease has any responsibilities with respect thereto, or any use or condition of the Facility, the Premises, or any part thereof (including any requirement of any permit, license or other authorization issued with respect thereto).

"Lender" includes the Trustee.

"Net Proceeds" means the amount of any insurance proceeds or condemnation award with respect to the Facility or the Premises or the amount of any payment made pursuant to an agreement with any governmental authority in lieu of a condemnation award, in each case remaining after payment of all expenses incurred in the collection of such insurance proceeds or condemnation award or payment made in lieu of condemnation award and in each case to which Lessor or Lessee is entitled.

"Mortgage" includes the Indenture.

"Noteholder" means any holder of a note issued pursuant to the Indenture.

"Permitted Encumbrances" means, as of any particular time during the Lease Term:

"Basic Rent" means as to the following periods the following amounts: (i) \$366,400 for each semiannual period ending on each May 31 and November 30 commencing with the semiannual period starting on the Primary Term Commencement Date and ending on May 31, 1987, to and including the semiannual period ending on November 30, 1989; (ii) \$1,683,785.50 for each semiannual period ending on each May 31 and November 30 from the semiannual period commencing on December 1, 1989, to and including the semiannual period ending November 30, 1991; and (iii) \$2,638,946.79 for each semiannual period ending on each May 31 and November 30 from the semiannual period commencing on December 1, 1991, to and including the semiannual period ending November 30, 2002.

"Basic Rent Payment Date" means any of May 31, 1987, and each November 30 and May 31 thereafter to and including November 30, 2002.

"Closing" means the sale and purchase of the Notes (as defined in the Note Purchase Agreements), pursuant to the Note Purchase Agreements, held on or about March 13, 1987.

"Consent Agreement" means the Consent Agreement of Lessee, TEC and RRD relating to the Facility Lease Assignment.

"Construction Loan Agreement" means the Amended and Restated Construction Loan Agreement, dated as of July 3, 1984, between Lessor and The First National Bank of Boston.

"Contribution Agreement" means that Contribution Agreement, dated as of July 3, 1984, among Lessor, Lessee, Thermo and Rolls Inc., as amended by the Contribution Agreement Assignment.

"Contribution Agreement Assignment" means the Assignment of Contribution Agreement (and Amendment Thereof), dated as of March 13, 1987, among Lessor, Rolls Inc., Thermo and the Trustee and the consent of Lessee attached thereto.

"Designated Officers" means the President or a Vice President of each of TEC or RRD or one or more specified persons acting as agent for any successor Lessee or any partner of any successor Lessee.

"Facility Lease Assignment" means the Assignment of Facility Lease, dated as of March 13, 1987, among Lessor and the Trustee.

"Indemnified Party" means Lessor, the successors and assigns of Lessor (including any assignee of Lessor's interest in this Lease for security), the agents, employees and partners thereof and the Noteholders and their directors, officers and employees and each Person, if any, who controls or is controlled by them (if Lessor's interest in this Lease shall be assigned for security, the assignee thereof (including any

AMENDMENT TO LEASE

AMENDMENT TO LEASE, dated as of March 13, 1987 (this Amendment), between FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership (Lessor), and SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Florida Uniform Partnership Act (Lessee).

PRELIMINARY STATEMENT

Lessor and Lessee have entered into the Agreement and Lease of Cogeneration Facility, dated as of July 3, 1984, as amended by the Agreement and Amendment to Lease, dated as of December 2, 1986 and amendments thereto dated January 30, 1987 and February 27, 1987 (collectively called the Original Lease), relating to the Premises and to the Facility (as defined and described in the Original Lease). A short form of the Agreement and Lease of Cogeneration Facility was recorded pursuant to such Lease and Agreement in the Public Records of Dade County, Florida, in Official Records Book 12261, at Page 2366.

The defined terms used in this Amendment, unless otherwise defined, shall have the meanings set forth in the Original Lease.

As contemplated by Section 29 of the Original Lease, Lessor has obtained a commitment for the Alternate Permanent Loan, in the form of the Note Purchase Agreements, dated as of March 13, 1987 (the Note Agreements), between Lessor and certain institutional investors. Lessor and Lessee desire to enter into this Amendment to make certain changes to the Original Lease to accommodate the terms of the Note Agreements.

NOW, THEREFORE, in consideration of the foregoing, their mutual covenants herein set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee agree as follows:

1. The following capitalized terms used herein or in the Original Lease as amended by this Amendment shall have the meanings set forth below:

"Acknowledgement" means the Acknowledgment of Notice of Rolls Ltd. attached to the Assignment of Guaranty Agreement, dated as of March 13, 1987 between Lessor and the Trustee.

"Adjusted Facility Cost" means \$36,000,000.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed and sealed as of the date first above written.

[Seal]

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By: Winthrop Energy
Management, Inc.,
General Partner

By: _____
Its: _____

SOUTH FLORIDA COGENERATION
ASSOCIATES, a general
partnership

By: RRD Corp.,
Partner

By: _____
Its: _____

By: TEC Cogeneration Inc.,
Partner

By: _____
Its: _____

THE FIRST NATIONAL BANK
OF BOSTON

By: *Edward D. [Signature]*
Its: *Vice President*

THERMO ELECTRON CORPORATION

By: _____
Its: _____

SECOND AMENDMENT TO AGREEMENT AND AMENDMENT TO LEASE

AMENDMENT TO AGREEMENT AND AMENDMENT TO LEASE, dated as of February 27, 1987 (this Amendment), between FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership (Lessor), SOUTH FLORIDA COGENERATION ASSOCIATES, a partnership formed under the Florida Uniform Partnership Act (Lessee), THERMO ELECTRON CORPORATION, a Delaware corporation (Contractor), and THE FIRST NATIONAL BANK OF BOSTON, a national bank (Lender).

PRELIMINARY STATEMENT

The defined terms used in this Amendment, unless otherwise defined, shall have the meaning set forth in the Agreement.

Lessor, Lessee, Contractor and Lender have entered into the Agreement and Amendment to Lease, dated as of December 2, 1986, as amended by the Amendment to Agreement and Amendment to Lease dated as of January 30, 1987 (as so amended, the Agreement), relating to the Premises and to the Facility. The parties hereto desire to make certain further amendments to the Agreement.

The parties have entered into negotiations with John Hancock Mutual Life Insurance Company (John Hancock) to provide the Alternate Permanent Loan, but such arrangements have not yet been completed.

NOW THEREFORE, in consideration of their mutual covenants set forth below, Lessor, Lessee, Contractor and Lender agree as follows:

1. Paragraph 6 of the Agreement is amended by striking out the date February 28, 1987, throughout paragraph 6, and inserting in lieu thereof March 13, 1987.
2. Paragraph 7 of the Agreement is amended by striking out the date March 1, 1987 and inserting in lieu thereof March 14, 1987.
3. This Amendment may be executed in several counterparts or in separate counterparts, all of which together shall constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed and sealed as of the date first above written.

[Seal]

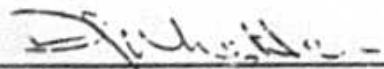
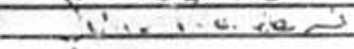
FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By: Winthrop Energy
Management, Inc.,
General Partner

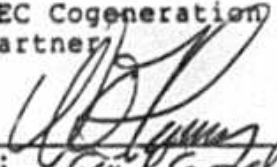
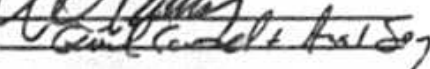
By: _____
Its: _____

SOUTH FLORIDA COGENERATION
ASSOCIATES, a general
partnership

By: RRD Corp.,
Partner

By: 
Its: 



By: TEC Cogeneration Inc.,
Partner

By: 
Its: 

THE FIRST NATIONAL BANK
OF BOSTON

By: _____
Its: _____

THERMO ELECTRON CORPORATION

By: 
Its: 

IN WITNESS WHEREOF, the parties hereto have caused
this Amendment to be signed and sealed as of the date first
above written.

[Seal]

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By: Winthrop Energy
Management, Inc.,
General Partner

By: *Jack H. Burkman*
Its: VICE PRESIDENT + CLERK

SOUTH FLORIDA COGENERATION
ASSOCIATES, a general
partnership

By: RRD Corp.,
Partner

By: _____
Its: _____

By: TEC Cogeneration Inc.,
Partner

By: _____
Its: _____

THE FIRST NATIONAL BANK
OF BOSTON

By: *Edgar M. Mann*
Its: _____

THERMO ELECTRON CORPORATION

By: _____
Its: _____

EXHIBIT C

LISTING OF AGREEMENTS AND DOCUMENTS

- 1 • The Lease Agreement
- 2 • That certain Agreement and Lease of Space and Ancillary Systems between
- 3 Metropolitan Dade County and South Florida Cogeneration Associates, dated as
- 4 of November 15, 1983, as amended (the "Space Lease")
- 5 • That certain Settlement Agreement, dated as of March 29, 1994, among
- 6 Metropolitan Dade County, South Florida Cogeneration Associates, Thermo
- 7 Electron Corporation, and Rolls-Royce Inc., as amended (the "Settlement
- 8 Agreement")
- 9 • That certain Contract for the Purchase and Sale of Electrical and Thermal
- 10 Energy, dated as of November 15, 1983, among Metropolitan Dade County and
- 11 South Florida Cogeneration Associates, as amended (the "Purchase and Sale
- 12 Agreement").

THERMO ELECTRON CORPORATION

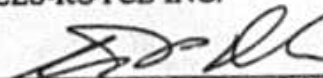
By: _____

Name:

Title:

Address:

ROLLS-ROYCE INC.

By:  _____

Name: Thomas P. Doherty

Title: VP & General Counsel

Address:

TEC COGENERATION, INC.

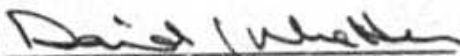
By: _____

Name:

Title:

Address:

RRD Corp.

By:  _____

Name: DAVID J. WHETTON

Title: PRESIDENT

Address:

THERMO ELECTRON CORPORATION

By: George N. Hatzopoulos
Name: George N. Hatzopoulos
Title: President & Chairman
Address:

ROLLS-ROYCE INC.

By: _____
Name:
Title:
Address:

TEC COGENERATION, INC.

By: Dean D. Holt
Name: Dean D. Holt
Title: President
Address:

RRD Corp.

By: _____
Name:
Title:
Address:

CYPRESS ENERGY COMPANY

By: _____

Name:

Title:

Address:

CYPRESS COGENERATION COMPANY

By: _____

Name:

Title:

Address:

SOUTH FLORIDA COGENERATION ASSOCIATES

By: TEC COGENERATION, INC.,
its general partner

By: _____

Name:

Title:

Address:

By: RRD Corp., its general partner

By: David J. Whetton

Name: DAVID J. WHETTON

Title: PRESIDENT

Address:

CYPRESS ENERGY COMPANY

By: _____

Name:

Title:

Address:

CYPRESS COGENERATION COMPANY

By: _____

Name:

Title:

Address:

SOUTH FLORIDA COGENERATION ASSOCIATES

By: TEC COGENERATION, INC.,
its general partner

By: *Don D. Holt*

Name: *Don D. Holt*

Title: *President*

Address:

By: RRD Corp., its general partner


By: _____

Name:


Title:

Address:

CYPRESS ENERGY COMPANY

By: 
Name: Richard R. Stewart
Title: President
Address: 2707 North Loop
Houston, Texas 77008

CYPRESS COGENERATION COMPANY

By: 
Name: Richard R. Stewart
Title: President
Address: 2707 North Loop
Houston, Texas 77008

SOUTH FLORIDA COGENERATION ASSOCIATES

By: TEC COGENERATION, INC.,
its general partner

By: _____
Name:
Title:
Address:

By: RRD Corp., its general partner

By: _____
Name:
Title:
Address:

1 by injunction against the Releasor, without waiving any claim for damages caused by any
2 breach of this covenant.

3 This Mutual Release of All Claims and the Agreement contain the entire agreement
4 between the Parties hereto with respect to the matters covered therein and the terms of this
5 Mutual Release of All Claims and the Agreement are contractual and not mere recitals.

6 DATED THIS 12th DAY OF FEBRUARY, 1996

FLORIDA POWER & LIGHT COMPANY

By: 

Name: Dennis P. Coyle

Title: General Counsel

Address: 700 Universe Boulevard
Juno Beach, FL 33408

FPL GROUP, INC.

By: 

Name: Dennis P. Coyle

Title: General Counsel

Address: 700 Universe Boulevard
Juno Beach, FL 33408

EST ENERGY, INC.

By: 

Name: Dennis P. Coyle

Title: Secretary

Address: 700 Universe Boulevard
Juno Beach, FL 33408

1 No. 940546-EU; and (D) the Federal Energy Regulatory Commission in Docket Nos.
2 EL93-45-000, QF83-248002 and ER94-783 ___, regarding the certification of the Existing
3 Facility, as a Qualifying Facility under the Public Utility Regulatory Policies Act of 1978, as
4 amended, including the filing of all documents necessary in support of the motion to vacate
5 the FERC order (collectively, the "Civil and Administrative Proceedings") (items (i), (ii), and
6 (iii) above collectively, the "Claims").

7 Each Party agrees that with respect to those agreements between or among any of the
8 Parties which are not terminated by the terms of the Agreement, the lawful obligations and
9 duties of such agreements shall be in full force and effect as of the Effective Date and
10 henceforth.

11 The Parties agree that as soon as possible after the Effective Date but in any event no
12 later than 30 days after the Effective Date, the appropriate Parties shall enter stipulations of
13 dismissal with prejudice and other related stipulations in each of the Civil and Administrative
14 Proceedings and each Party further agrees, for the benefit of each other Party and at its own
15 expense, that it will execute and deliver to such other Party any releases of judgment, liens,
16 bonds or encumbrances (whether statutory, common law or otherwise) in favor of such Party
17 arising out of or with respect to the Civil and Administrative Proceedings or the subject
18 matters thereof, and any release of mortgage, termination statements or other similar
19 instruments that are necessary or advisable to release and discharge of record all liens,
20 security interests and other encumbrances in favor of such Party or with respect to the Civil
21 and Administrative Proceedings. And that it will pay all taxes (other than taxes imposed on
22 or measured by the income of any other such Party), costs or expenses, if any, upon docu-
23 ments or transactions.

24 The undersigned representatives of the Parties represent and covenant that (i) they have
25 read this Mutual Release of All Claims; (ii) they are fully authorized and empowered on
26 behalf of their respective Party to execute this Mutual Release of All Claims on behalf of said
27 entities; (iii) they fully understand the legal consequences of the execution and delivery of this
28 Mutual Release of All Claims and (iv) they are executing this Mutual Release of All Claims
29 voluntarily and with full knowledge of the contents and consequences of the said execution.
30 In addition, the consequences of the execution have been fully explained to the undersigned
31 by their attorneys. Each of the Parties warrant and represent that none of them have before
32 the execution of this Mutual Release of All Claims, voluntarily, by operation of law or
33 otherwise, been a party to, assigned, or transferred to any person, individual, entity or partner-
34 ship whatsoever any Claim or portion of any Claim that they may have.

35 Each of the Releasors covenants and agrees not to commence or maintain any suit,
36 action or proceeding in respect of any claim released hereby including but not limited to, any
37 adversary action in any bankruptcy. Each of the Releasors acknowledges and agrees that the
38 Parties will suffer irreparable harm in the event the Releasor breaches this covenant and
39 agreement not to sue, and that monetary damages would be inadequate to remedy the breach
40 and, accordingly, that this covenant not to sue shall be specifically enforceable by the Parties

ATTACHMENT C

FPL TEN YEAR POWER PLANT

SITE PLAN 1995-2004 EXCERPT

the terms and conditions therein stated, hereby agrees as follows:

1. Assignor, as security for the payment of the principal of and premium, if any, interest and all other sums payable in respect of the Bank Obligations and for the performance and observance of the provisions thereof, has assigned, transferred, conveyed and set over and by these presents does hereby assign, transfer, convey and set over to Assignee all of the estate, right, title and interest of Assignor in, to and under the Facility Lease, together with all rights, powers, privileges and other benefits of Assignor as the lessor under the Facility Lease, including without limitation: (i) the immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, insurance proceeds, awards from confiscation, requisition or other governmental taking, moneys and security payable or receivable under the Facility Lease or pursuant to any of the provisions thereof, whether as rents or as a payment of the Casualty Value or Termination Value (as defined in the Facility Lease) or otherwise (provided, however, that so long as no Event of Default exists under the Loan Agreement all such payments other than those specified in Section 3 hereof shall be collected and received by Assignor); (ii) the right to make all waivers and agreements; (iii) the right to give all notices, demands, consents and releases; (iv) the right to exercise all elections and options (including without limitation the options set forth in clauses I through VII in Section 17(a) of the Facility Lease); (v) the right to take such action upon the happening of a default under the Facility Lease (including the commencement, conduct and consummation of proceedings at law or in equity) as shall be permitted under any provision thereof or at law or in equity; and (vi) all rights with respect to any reserve fund established or letters of credit provided for the benefit of Assignor under Section 29 of the Facility Lease. None of the rights described in clauses (i) through (vi) above may be exercised by Assignor without the prior written consent of Assignee (except as provided in clause (i) above and except for the right to give notice of a Default of Lessee in respect of the obligation to enter into an amendment of the Facility Lease under paragraph 1(c) of Schedule C thereof and, in the event that such Default shall become an Event of Default under the Facility Lease, to enforce the remedy under such of Section 17(a)(V), (VI) or (VII) thereof as Assignee shall direct). Notwithstanding any other provision of this Agreement, any insurance proceeds or awards from confiscation, requisition or other government taking relating to the Facility or the Premises that are received by Assignee shall be made available to Lessee as and to the extent required by the terms of the Facility Lease.

Written notice by Assignee to Lessee and Assignor that an Event of Default under the Loan Agreement exists shall constitute conclusive evidence for Lessee for the purposes of the foregoing clause (1) and Section 3 hereof of such existence, and Lessee shall be entitled and required to rely thereon for such purposes. A written waiver signed by Assignee as to any such Event of Default shall be conclusive evidence for Lessee of the termination of such Event of Default. Assignee shall not be required to enforce any right under the Facility Lease assigned to Assignee hereunder.

2. The assignment made hereby is collateral security, and the execution and delivery hereof shall not in any way impair or diminish the obligations of Assignor or its successors and assigns under the Facility Lease nor shall any of the obligations contained in the Facility Lease be imposed upon Assignee. Upon the payment in full of the Bank Obligations (and provided Assignee shall no longer have any obligation to advance any sums under the Loan Agreement), said assignment and all rights herein assigned to Assignee shall cease and terminate and Assignee's estate, right, title and interest in and to the above-described assigned property shall revert to Assignor. Thereupon Assignee, at the request of Assignor, shall deliver to Assignor an instrument cancelling this Agreement and reassigning to Assignor without recourse against Assignee the above-described assigned property; provided, however, that at the option of Assignee and the Permanent Lender (as defined in the Loan Agreement), the assignment made hereby shall remain in effect and be assigned by Assignee subject to the provisions of Section 4.11.3 of the Loan Agreement, without recourse, to the Permanent Lender or its designee as security for the obligations of Assignor to the Permanent Lender. Any instruments required to be executed by Assignee under this paragraph shall be in form and substance reasonably acceptable to Assignee.

In the event of an assignment by Assignee to the Permanent Lender pursuant to the preceding paragraph, the terms "Assignee", "Participant", "Bank Obligations" and "Loan Agreement" as used herein shall thereafter be deemed to refer, respectively, to the Permanent Lender, to each participant in the loan made by the Permanent Lender to the Assignor, to the obligations of Assignor in respect of such loan and to the credit agreement governing the terms of such obligations.

3. Assignor hereby designates Assignee to receive all payments of Basic Rent (as defined in the Facility Lease), sums due to Assignee or any Participant (as defined in the Loan Agreement) as an Indemnified Party (as defined in the

Facility Lease), payments due under Section 4(d) of the Facility Lease in respect of Basic Rent and payments due under Section 17(a)(V), (VI) or (VII) of the Facility Lease (and upon the occurrence of an Event of Default under the Loan Agreement, all other payments owing by Lessee under the Facility Lease) and duplicate original copies of all notices, undertakings, offers, demands, statements, documents and other communications and information which Lessee is required or permitted to pay, give, make or deliver to or serve upon the Lessor under the Facility Lease. Assignor hereby directs Lessee to deliver to Assignee at its notice address set forth in Section 13 hereof all such payments and all such duplicate original copies.

4. Assignor represents to Assignee that the Facility Lease is in full force and effect to the extent provided in Section 3(a) thereof, has not been modified and is not in default, that no Basic Rent has been prepaid thereunder and that there is no other assignment in effect with respect to the subject matter of the assignment hereby made to Assignee other than pursuant to and as permitted by the Security Agreement and the Leasehold Mortgage.

5. Assignor agrees that this assignment and the designation and direction to Lessee are irrevocable. Assignor, while this assignment shall be in effect or thereafter until Lessee shall have received from Assignee notice of the termination thereof, agrees not to take any action as lessor under the Facility Lease or otherwise which is inconsistent with this assignment, or make any other designation or direction inconsistent herewith, and that any designation or direction inconsistent herewith shall be void. Assignor, from time to time upon the request of Assignee, will execute all instruments of further assurance and all such supplemental instruments as Assignee reasonably may specify.

6. Assignor agrees that, so long as this Agreement shall be in effect, Assignor will not enter into any agreement subordinating, amending, modifying, assigning, subleasing or terminating the Facility Lease, except for an assignment to the Permanent Lender, without the consent thereto in writing of Assignee and that any attempted subordination, amendment, modification, assignment, sublease or termination of the Facility Lease without such consent shall be void. If the Facility Lease shall be amended as herein permitted, the Facility Lease as so amended shall continue to be subject to the provisions of this Agreement without the necessity of any further act by any of the parties hereto.

7. Anything in the Facility Lease to the contrary notwithstanding:

(a) The Facility Lease shall be junior to and subject and subordinate to the Security Agreement and the Leasehold Mortgage, subject to the terms of Section 8 hereof.

(b) The Space Lease (as that term is defined in the Facility Lease, provided that such term shall not include the Ancillary Systems Construction Agreement defined in the Space Lease) may not be amended or supplemented without the prior written consent of Assignee.

8. By its consent hereto Lessee attorns to Assignee and agrees that, in the event of the exercise by Assignee of its rights hereunder and the taking of possession of or the acquisition of title to the Facility or the Premises by Assignee or by any other purchaser of the Facility, whether through foreclosure proceedings or otherwise, Lessee shall recognize Assignee or such other purchaser as the lessor under the Facility Lease and the Facility Lease shall continue in full force and effect in accordance with its terms. Lessee agrees that any person to which Lessee shall attorn hereunder shall not be liable for any action or omission of the prior lessor under the Facility Lease including Assignor nor shall such person be subject to any offsets or defenses which Lessee may have against any prior landlord, including Assignor. Although the foregoing attornment shall be self-operative, Lessee shall, and hereby irrevocably appoints Assignee its attorney-in-fact to, execute, acknowledge and deliver such evidence thereof as may from time to time be required.

Assignee hereby agrees that for so long as no Event of Default exists under the Facility Lease (other than for a default in the payment of Supplemental Rent only), Assignee will not, in taking possession of or acquiring title to the Facility or the Premises or otherwise exercising its rights hereunder, whether through foreclosure proceedings or otherwise, disturb the possession and other rights of Lessee under the Facility Lease, so long as there shall exist no default by Lessee under the Facility Lease, and will accept Lessee as lessee under and subject to the terms and conditions and for the entire duration of the term of the Facility Lease including any extensions thereof. The provisions of the preceding sentence shall not be amended without the prior written consent of Lessee and any amendment in violation of this provision shall be null and void. Assignee shall not, however, be bound by any payment of rent or additional rent (excluding overpayments of

Supplemental Rent specified as being in dispute under Section 4(b) of the Facility Lease) made by Lessee to Assignor more than one month in advance unless such payment was received by Assignee and applied to the Bank Obligations, by any amendment to, modification of or waiver with respect to the Facility Lease made without the written consent of Assignee, or by any obligations of the "Owner" arising under the Facility Lease prior to the date Assignee gives notice to Lessee of Assignee's exercise of its rights hereunder.

9. In the event that the Bank Obligations are refunded by borrowings from one or more other persons, Assignor agrees promptly after being requested to do so by Assignee to enter into an agreement of like tenor with this agreement with such person(s) as Assignee(s), whether in connection with or in substitution for an assignment of this Agreement to the Permanent Lender pursuant to Section 2 hereof.

10. In the event of any conflict between this Agreement and the Facility Lease, the provisions of this Agreement shall be controlling.

11. The laws of the State of Florida shall govern the validity, interpretation, construction and performance of this Agreement.

12. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. If any representation, warranty or covenant contained in this Agreement is breached by any party and thereafter waived by the other, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.

13. Any notice or other communication in connection with this Agreement shall be deemed to be delivered if in writing (or in the form of a tested telex), addressed as provided below and if either (a) actually delivered at said address or (b) in the case of a letter, five business days shall have elapsed after the same shall have been deposited in the United States mails, postage prepaid and registered or certified:

If to the Partnership, to it at the following address:

Florida Energy Partners Limited Partnership

c/o Winthrop Energy Management, Inc.
225 Franklin Street
Boston, Massachusetts 02110
Attention: Jack Kadis, Vice President

with a copy to

Frederick Goldstein, Esq.
Csaplar & Bok
One Winthrop Square
Boston, Massachusetts 02110

or at such other address as the Partnership shall have specified by notice actually received by the addressor.

If to the Joint Venture, to it in care of the following parties at the following addresses:

TEC Cogeneration Inc.
c/o Thermo Electron Corporation
101 First Avenue
Post Office Box 459
Waltham, Massachusetts 02254
Attention: President, Energy Systems Division

and

RRD Corp.
c/o Rolls-Royce Inc.
375 Park Avenue
New York, New York 10152
Attention: David J. Whetton, Vice President

or at such other address or addresses as the Joint Venture shall have specified by notice actually received by the addressor.

If to the Bank, to it at the following address:

The First National Bank of Boston
100 Federal Street
Boston, Massachusetts 02110
Attention: Corporate Finance

or at such other address as the Bank shall have specified by notice actually received by the addressor.

14. This Agreement shall be binding upon, and inure to the benefit of, Assignor, Assignee and their successors and assigns. Without limiting the generality of the foregoing, the provisions of the first two sentences of the second paragraph of Section 8 hereof shall be binding upon any

assignee of the rights of Assignee with respect to the Facility and the Premises. Upon any foreclosure, auction or other sale of such rights by Assignee, so long as no Event of Default under the Facility Lease shall exist, it shall be a condition to such sale that the purchaser of such rights consent and agree to such provisions and to the provisions of this sentence, and any such sale or subsequent sale of such rights to any person that does not agree to such provisions shall be void. The parties hereto acknowledge that the provisions of the first two sentences of the second paragraph of Section 8 hereof and the foregoing three sentences of this Section 14 are for the benefit and protection of the Joint Venture and may be enforced by the Joint Venture as if it were a party to this Agreement.

15. Except as provided in the second paragraph of Section 2 hereof, this Agreement shall be amended only by written agreement executed by both parties hereto, and no such amendment shall affect the rights of the Joint Venture unless the Joint Venture shall have consented thereto in writing.

IN WITNESS WHEREOF, Assignor has caused this Agreement to be duly executed and delivered as of the day and year first above written.

FLORIDA ENERGY PARTNERS
LIMITED PARTNERSHIP

By Winthrop Energy Management, Inc.,
its General Partner

By: _____
Vice President

Accepted:

THE FIRST NATIONAL BANK OF BOSTON

By _____
First Vice President

Commonwealth of Massachusetts
County of Suffolk

The foregoing instrument was acknowledged before me this 7th day of September, 1984, by Jack Kadis as Vice President of WINTHROP ENERGY MANAGEMENT, INC., a Massachusetts corporation, which is a general partner of FLORIDA ENERGY PARTNERS LIMITED PARTNERSHIP, a Massachusetts limited partnership, on behalf of that corporation and the limited partnership.

Notary Public

My Commission Expires:

CONSENT AGREEMENT

South Florida Cogeneration Associates, a partnership formed under the Uniform Partnership Act of the State of Florida (Lessee), hereby assents to the foregoing Assignment of Facility Lease dated as of July 3, 1984 from Florida Energy Partners Limited Partnership to The First National Bank of Boston and, as additional inducement to Assignee to make advances under the Loan Agreement on the terms and conditions therein set forth agrees with Assignee as follows:

1. Lessee consents to the foregoing Assignment and the provisions thereof.

2. Lessee agrees to be bound by the provisions of Sections 1, 2, 3, 7, 8, 12 and 13 of the foregoing Assignment and that in the event of any conflict between any of such provisions and the Facility Lease such provisions shall be controlling. Lessee further agrees that it will pay directly to, and to the order of, Assignee all payments referred to in said Section 3 and, upon notice of an Event of Default as provided in the second paragraph of said Section 1, all other payments under the Facility Lease, in each case without any offset, holdback, counterclaim, deduction, defense, abatement, deferment, diminution or the like. Lessee agrees that it will not seek to recover from Assignee, for any reason whatsoever, any moneys paid to Assignee by virtue of the foregoing Assignment, except amounts referred to in the last sentence of the first paragraph of Section 1 thereof; provided that this sentence shall not be construed to affect any right of Lessee to recover from Assignor any amount owing to Lessee by Assignor.

3. Lessee acknowledges and agrees (a) that this Consent Agreement is a "written agreement of Lessee" within the meaning of Section 17(a)(i) of the Facility Lease, (b) that each of the Contribution Agreement Assignment and the Guaranty Assignment (each as defined in the Loan Agreement) is an assignment referred to in Section 17(a)(v) of the Facility Lease; (c) that the taking of any action by Metropolitan Dade County under Section 7.2(a)(i) of the Space Lease or under Section 7.3(a) or 7.3(b) of the Energy Purchase Contract (as defined in the Facility Lease) shall constitute a termination thereof for the purposes of Section 17(a)(vi) of the Facility Lease; and (d) that any representation or warranty by Thermo Electron Corporation, Rolls-Royce Inc. or Rolls-Royce Limited made under or in connection with the Contribution Agreement (as defined in the Facility Lease), the Contribution Agreement Assignment,

the Guaranty (as defined in the Facility Lease) or the Guaranty Assignment shall constitute a representation or warranty of Lessee for the purposes of Section 17(a)(iv) of the Facility Lease.

4. Lessee hereby covenants and agrees to remain obligated under the Facility Lease and this Agreement in accordance with their terms, and to take no action to terminate, rescind or avoid the Facility Lease or this Agreement, notwithstanding the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding-up or other proceeding affecting Assignor or any successor or assignee thereof.

5. Lessee represents to Assignee that the Facility Lease is in full force and effect to the extent provided in Section 3(a) thereof, has not been modified and is not in default, and that no Basic Rent thereunder has been prepaid. Lessee agrees that it will not enter into any agreement subordinating, amending, modifying, assigning, subleasing or terminating the Facility Lease, the Space Lease or this Agreement without the consent thereto in writing of Assignee and that any attempted subordination, amendment, modification, assignment, sublease or termination without such consent shall be void.

6. In the event that the Bank Obligations are refunded by borrowings from one or more other persons, Lessee agrees, promptly after being requested to do so by Assignee, to enter into a Consent Agreement of like tenor with this Consent Agreement with such person(s), whether in connection with or in substitution for an assignment of this Agreement to the Permanent Lender pursuant to Section 2 of the foregoing Assignment.

7. Terms defined in the foregoing Assignment are used herein with the meanings therein provided.

8. This Consent Agreement shall be binding upon and inure to the benefit of Lessee and Assignee and their respective successors and assigns.

IN WITNESS WHEREOF, Lessee has caused this Consent to be executed as of the 3rd day of July, 1984.

SOUTH FLORIDA COGENERATION
ASSOCIATES

By TEC Cogeneration Inc.,
a Partner

By _____
President

By RRD Corp.,
a Partner

By _____
Vice President

Accepted:

THE FIRST NATIONAL BANK OF BOSTON

By _____
First Vice President

Agreed to:

FLORIDA ENERGY PARTNERS LIMITED
PARTNERSHIP

By Winthrop Energy Management, Inc.

By _____
Vice President

ATTACHMENT B

CYPRESS ENERGY COMPANY

STANDARD OFFER CONTRACT

STANDARD OFFER CONTRACT FOR THE PURCHASE OF
FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY

THIS AGREEMENT is made and entered into this 19 day of June, 1990 by and between
CYPRESS ENERGY COMPANY _____, hereinafter referred to as "QP" and Florida Power & Light

Company, hereinafter referred to as "FPL" or the "Company", a private utility corporation organized under the laws of the State of Florida. The QP and FPL shall collectively be referred to herein as the "Parties".

WITNESSETH:

WHEREAS, QP desires to sell, and FPL desires to purchase electricity to be generated by the QF consistent with Florida Public Service Commission (FPSC) Rules 25-17.080 through 25-17.087 of Order No. _____, Docket No. 900004-EU; and

WHEREAS, QP has signed an Interconnection Agreement with the utility in whose service territory the QF's generating facility is located, attached hereto as Appendix A; and

WHEREAS, the FPSC has approved this following Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility;

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

1. Facility
QF contemplates installing and operating a 230 KVA _____ generator located at
Medley, Dade County, Florida. The generator is designed
to produce a maximum of 180,000 kilowatts (KW) of electric power at an 85% power factor, such equipment being hereinafter referred to as "Facility".

2. Term of the Agreement
This Agreement shall begin immediately upon its execution by the parties and shall end at 12:01 a.m., December 31,

2026.

Notwithstanding the foregoing if construction and commercial operation of the Facility are not accomplished by QF before January 1, 1996, this Agreement shall be rendered of no force and effect.

3. Sale of Electricity by QF
FPL agrees to purchase all of the electric power generated at the Facility and transmitted to FPL by QF. The purchase and sale of electricity pursuant to this Agreement shall be construed as a () net billing arrangement or () simultaneous purchase and

(Continued on Sheet No. 9.251)

(Continued from Sheet No. 9.850)

sale arrangement. The billing methodology may be changed at the option of the QF, subject to the following provisions:

- (a) not more frequently than once every twelve months;
- (b) to coincide with the next Fuel and Purchased Power Cost Recovery Factor billing period;
- (c) upon at least thirty days advance written notice to the Company;
- (d) upon the installation of any additional metering equipment reasonably required to effect the change in billing and upon payment by the QF for such metering equipment and its installation;
- (e) upon completion and approval of any alterations to the interconnection reasonably required to effect the change in billing and upon payment by the QF for such alterations; and
- (f) where the election to change billing methods will not contravene the provisions of the tariff under which the Facility receives electrical service, or any previously agreed upon contractual provision between the QF and the Company.

4. Payment for Electricity Produced by QF

4.1 Electricity

FPL agrees to pay the QF for energy produced by the Facility and delivered to the Company in accordance with the rates and procedures contained in Rate Schedule COG-2 attached hereto as Appendix B, and as may be amended from time to time. Prior to January 1, 1996 QF will receive energy payments based on FPL's actual avoided energy costs. After January 1, 1996 QF's energy payments will be based on the lesser of FPL's actual avoided fuel costs or the fuel cost of the Statewide Avoided Unit as defined in COG-2, such comparison to be made hourly.

4.2 Capacity

4.2.1 Capacity Payment: FPL agrees to pay QF for the capacity described in Paragraph 4.2.2 in accordance with the rates and procedures contained in Rate Schedule COG-2, as it may be amended and approved from time to time by the FPC, and pursuant to the election of Option A of Rate Schedule COG-2.

4.2.2 Committed Capacity: It is the intent of QF to sell 180,000 KW of committed capacity, beginning on January 1, 1996. QF shall have the one time option of finalizing its committed capacity after initial Facility testing and specify when capacity payments are to begin. Such option shall be exercised by providing formal written notice, in accordance with Paragraph 9.7, informing FPL of any change in the committed capacity and beginning date above. In the event such notice is not received by FPL prior to the commercial in-service date of the Facility or January 1, 1994, whichever occurs first, the committed capacity specified in this Paragraph shall be considered as the QF's committed capacity.

(Continued on Sheet No. 9.852)

(Continued from Sheet No. 9.851)

5. Electricity Production Schedule

During the term of this Agreement, QF agrees to:

- (a) Provide FPL prior to October 1 of each calendar year an estimate of the amount of electricity to be generated by the Facility and delivered to the Company for each month of the following calendar year, including the time, duration and magnitude of any planned outages or reductions in capacity;
- (b) Promptly update the yearly generation schedule and maintenance schedule as and when any changes may be determined necessary;
- (c) Coordinate its scheduled Facility outages with FPL; and
- (d) Comply with reasonable requirements of FPL regarding day-to-day or hour-by-hour communications between the parties relative to the performance of this Agreement.

6. QF's Obligation if QF Receives Early Capacity Payments

The QF's payment option choice pursuant to paragraph 4.2.1 may result in payment by FPL for capacity delivered prior to January 1, 1996. The Parties recognize that capacity payments paid through December 31, 1995, are in the nature of "early payment" for a future capacity benefit to FPL. To ensure that FPL will receive a capacity benefit for which early capacity payments have been made, or alternatively, that the QF will repay the amount of early payments received to the extent the capacity benefit has not been conferred the following provisions will apply:

FPL shall establish a Capacity Account. Amounts shall be credited to the Capacity Account each month through December, 1992, in the amount of FPL's capacity payments made to the QF pursuant to QF's chosen payment option from Rate Schedule COG-2. The monthly balance in the Capacity Account shall accrue interest at an annual rate of 10.5%. Commencing on January 1, 1996, there shall be debited from the Capacity Account an Early Payment Offset Amount to reduce the balance in the Capacity Account. Such Early Payment Offset Amount shall be equal to that amount which FPL would have paid for capacity in that month, if capacity payment had been calculated pursuant to Option A in Rate Schedule COG-2 and the QF had elected to begin receiving payment on January 1, 1996, minus the monthly capacity payment FPL makes to QF pursuant to the capacity payment option chosen by QF in paragraph 4.2.1.

The QF shall owe FPL and be liable for the credit balance in the Capacity Account. FPL agrees to notify QF monthly as to the current Capacity Account balance. Prior to receipt of advance capacity payments the QF shall execute a promise to repay any credit balance in the Capacity Account in the event the QF defaults pursuant to this Agreement. Such promise shall be secured by means

(Continued on Sheet No. 9.853)

(Continued from Sheet No. 9.852)

mutually acceptable to the Parties and in accordance with the provision of Rate Schedule COG-2. The specific repayment assurance selected for purposes of this Agreement is:

N/A

The total Capacity Account shall immediately become due and payable in the event of default by the QF. The QF's obligation to pay the credit balance in the Capacity Account shall survive termination of this Agreement.

7. Non-Performance Provisions

QF shall not receive a capacity payment during any month in which the twelve months rolling average of the QF's capacity factor does not equal or exceed 70% as defined in Rate Schedule COG-2. In addition, if for any month after January 1, 1996, the QF fails to achieve a 70% capacity factor on a 12 month rolling average basis and the QF has received capacity payments prior to January 1, 1996, the QF shall be liable for and shall pay FPL an amount equal to the Early Payment Offset Amount for the month; provided, however, that such calculation shall assume that the QF achieved a 70% capacity factor. Any payments thus required of QF shall be separately invoiced by FPL to QF after each month for which such repayment is due and shall be paid by QF within 20 days after receipt of such invoice by QF. Such repayment shall be debited from the Capacity Amount as an Early Payment Offset Amount.

In no event shall the QF repay to FPL for non-performance any amounts which exceed the current credit balance in the Capacity Account.

8. Default

Should any one of the following conditions exist, FPL shall have the right to declare the QF in default under this Agreement.

- (a) The QF ceases all electric generation for 12 consecutive months.
- (b) After January 1, 1996, the QF fails to maintain a 70% capacity factor on a twelve month rolling average basis for 24 consecutive months.
- (c) The QF ceases the conduct of active business; or if proceedings under the Federal Bankruptcy Act or insolvency laws shall be instituted by or for or against QF; or if a receiver shall be appointed for the QF or any of its assets or properties; or if any part of the QF shall be attached, levied upon, encumbered, pledged, seized, or taken under any judicial process and such proceedings shall not be vacated or fully stayed within 30 days thereof; or if the QF shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due.

(Continued on Sheet No. 9.854)

(Continued from Sheet No. 9.853)

(d) The QF fails to give proper assurance of adequate performance as specified under this Agreement within 30 days after FPL, with reasonable grounds for insecurity, has requested in writing such assurance.

(e) The QF materially fails to perform as specified under this Agreement.

Once this contract is declared to be in default, upon written notice to the QF the then current balance in the Capacity Account shall be paid to FPL.

9. General Provisions

9.1 Permits. QF hereby agrees to seek to obtain any and all governmental permits, certifications, or other authority QF is required to obtain as a prerequisite to engaging in the activities provided for in this Agreement. FPL hereby agrees to seek to obtain any and all governmental permits, certifications or other authority FPL is required to obtain as a prerequisite to engaging in the activities provided for in this Agreement.

9.2 Indemnification. QF agrees to indemnify and save harmless FPL, its subsidiaries, and their respective employees, officers, and directors against any and all liability, loss, damage, costs or expense which FPL, its subsidiaries, and their respective employees, officers and directors may hereafter incur, suffer or be required to pay by reason of negligence on the part of QF in performing its obligations pursuant to this Agreement or QF's failure to abide by the provision of this Agreement. FPL agrees to indemnify and save harmless QF against any and all liability, loss, damage, cost or expense which QF may hereafter incur, suffer, or be required to pay by reason of negligence on the part of FPL in performing its obligations pursuant to this Agreement or FPL's failure to abide by the provisions of this Agreement. QF agrees to include FPL as an additional insured in any liability insurance policy or policies QF obtains to protect QF's interests with respect to QF's indemnity and hold harmless assurances to FPL contained in this Section.

9.3 Renegotiations Due to Regulatory Changes. Anything in this Agreement to the contrary notwithstanding, should FPL at any time during the term of this Agreement fail to obtain or be denied the FPSC's authorization, or the authorization of any other regulatory body which now has or in the future may have jurisdiction over FPL's rates and charges, to recover from its customers all of the payments required to be made to QF under the terms of this Agreement or any subsequent amendment to this Agreement, the parties agree that, at FPL's option, they shall renegotiate this Agreement or any applicable amendment. If FPL exercises such option to renegotiate, FPL shall not thereafter be required to make such payments to the extent FPL's authorization to recover them from its customers is not obtained or is denied. FPL's exercise of its option to renegotiate shall not relieve the QF of its obligation to repay the balance in the Capacity Account. It is the intent of the parties that FPL's payment obligations under this Agreement or any amendment hereto are conditioned upon FPL being fully reimbursed for such payments through the Fuel and Purchased Power Cost Recovery Clause or other authorized rates or charges. Any amounts initially recovered by FPL from its ratepayers but for which recovery is subsequently disallowed by the FPSC and charged back to FPL may be set off or credited against subsequent payments made

(Continued on Sheet No. 9.855)

(Continued from Sheet No. 9.854)

by FPL for purchases from the QF, or alternatively, shall be repaid by the QF.

9.4 Force Majeure. If either Party shall be unable, by reason of force majeure, to carry out its obligations under this Agreement, either wholly or in part, the Party so failing shall give written notice and full particulars of such cause or causes to the other Party as soon as possible after the occurrence of any such cause; and such obligations shall be suspended during the continuance of such hindrance, which, however, shall be remedied with all possible dispatch; and the obligations, terms and conditions of this Agreement shall be extended for such period as may be necessary for the purpose of making good any suspension so caused. The term force majeure shall be taken to mean causes not within the reasonable control of the Party affected, including but not limited to acts of God, strikes, lockouts or other industrial disturbances, wars, blockades, insurrections, riots, arrests and restraints of rules and people, environmental constraints lawfully imposed by Federal, state or local government bodies, explosions, fires, floods, lightning, wind, perils of the sea, accidents to equipment or machinery or similar occurrences; provided, however, that no occurrences may be claimed to be a force majeure occurrence if it is caused by the negligence or lack of due diligence on the part of the Party attempting to make such claim. QF agrees to pay the costs necessary to reactivate the Facility and/or the interconnection with FPL's system if the same are rendered inoperable due to actions of QF, its agents, or force majeure events affecting the Facility or the interconnection with FPL. FPL agrees to reactivate at its own cost the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by FPL or its agents.

9.5 Assignment. The QF shall have the right to assign its benefits under this Agreement, but the QF shall not have the right to assign its obligations and duties without FPL's prior written approval.

9.6 Disclaimer. In executing this Agreement, FPL does not, nor should it be construed, to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with QF or any assignee of this Agreement.

9.7 Notification. All formal notices affecting the provisions of this Agreement shall be delivered in person or sent by registered or certified mail to the parties designated below. The parties designate the following to be notified or to whom payment shall be sent until such time as either party furnished the other party written instructions to contact another individual.

(Continued on Sheet No. 9.856)

(Continued from Sheet No. 9.855)

For QF:

Mr. David R. Wiechel
Cypress Energy Company
c/o FHN Energy, Inc.
One Prestige Place, Suite 260
Dayton, Ohio 45342-5342

For FPL:

Mr. Gus Cepero
Director of Fuel Resources
Florida Power & Light
9250 West Flagler Street
Miami, Florida 33102

9.8 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

9.9 Severability. If any part of this Agreement, for any reason, be declared invalid, or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Agreement, which remainder shall remain in force and effect as if this Agreement had been executed without the invalid or unenforceable portion.

9.10 Complete Agreement and Amendments. All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Agreement are hereby abrogated. No amendment or modification to this Agreement shall be binding unless it shall be set forth in writing and duly executed by both Parties to this Agreement.

9.11 Incorporation of Rate Schedule. The Parties agree that this Agreement shall be subject to all of the provisions contained in FPL's published Rate Schedule COG-2 as approved and on file with the FPSC. The Rate Schedule is incorporated herein by reference.

9.12 Survival of Agreement. This Agreement as may be amended from time to time, shall be binding and inure to the benefit of the Parties' respective successors-in-interest and legal representatives.

(Continued on Sheet No. 9.857)

(Continued from Sheet No. 9.856)

IN WITNESS WHEREOF, QF, and FPL executed this Agreement this 19th day of June, 1990.

WITNESS:

FLORIDA POWER & LIGHT COMPANY (FPL)

Date: _____

WITNESS:

CYPRESS ENERGY COMPANY

(QF)

By: David R. Wiechel, PresidentDate: June 19, 1990

STANDARD RATE FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM QUALIFYING COGENERATION AND
SMALL POWER PRODUCTION FACILITIES
(QUALIFYING FACILITIES)SCHEDULE

COG-2, Firm Capacity and Energy

AVAILABLE

The Company will purchase Firm Capacity and Energy offered by any Qualifying Facility, irrespective of its location, which is either directly or indirectly interconnected with the Company under the provisions of this schedule. The Company will negotiate and may contract with any Qualifying Facility, irrespective of its location, which is either directly or indirectly interconnected with the Company for the purchase of Firm Capacity and Energy pursuant to terms and conditions which deviate from this schedule where such negotiated contracts are in the best interest of the Company's ratepayers. The Company's obligation to contract to purchase firm capacity from Qualifying Facilities (by negotiated or "Standard Offer" contracts) will continue only as long as, and to the extent, the 500 MW subscription limit as identified in the Florida Public Service Commission (FPSC) Order No. _____ is not exceeded.

APPLICABLE

To any cogeneration or small power production Qualifying Facility, irrespective of its location, producing capacity and energy for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract" or a separately negotiated contract. Firm Capacity and Energy are described by the FPSC Rule 25-17.083, F.A.C., and are capacity and energy produced and sold by a Qualifying Facility pursuant to a negotiated or standard Company contract offer and subject to certain contractual provisions as to quality, time, and reliability of delivery. Criteria for achieving Qualifying Facility status shall be those set out in FPSC Rule 25-17.080, F.A.C.

CHARACTER OF SERVICE

Purchases within the territory served by the Company shall be, at the option of the Company, single or three phase, 60 hertz, alternating current at any available standard Company voltage. Purchases from outside the territory served by the Company shall be three phase, 60 hertz, alternating current at the voltage level available at the interchange point between the Company and the entity delivering the Firm Energy and Capacity from the Qualifying Facility.

LIMITATION:

Purchases under this schedule are subject to the Company's "General Standards for Safety and Interconnection of Cogeneration and Small Power Production Facilities to the Electric Utility System" and to FPSC Rules 25-17.080 through 25-17.087, F.A.C., and are limited to those Qualifying Facilities which:

- A. Execute a Company "Standard Offer Contract" prior to January 1, 1994, for the Company's purchase of Firm Capacity and Energy; and
- B. Commit to commence deliveries of Firm Capacity and Energy no later than January 1, 1996 and to continue such deliveries through at least December 31, 2003.
- C. Provide capacity which would not result in exceeding the subscription limit for the State (i.e., a 1996 statewide capacity deficit of 500 MW) as identified in the FPSC Order No. _____.

RATE FOR PURCHASES BY THE COMPANY:

Firm Capacity and Energy are purchased at a unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively, based on the value of deferring additional generating capacity in Florida. For the purpose of this schedule, a Statewide Avoided Unit has been designated by the FPSC. The next Statewide Avoided Unit has been identified as a single 500 MW coal-fired generating unit with an in-service date of January 1, 1996, as identified in FPSC Order No. _____. Appendix A to this schedule describes the methodology used to calculate payment schedules, general terms, and conditions applicable to the Company's "Standard Offer Contract" pursuant to FPSC Rules 25-17.080 through 25-17.087, F.A.C.

A. Firm Capacity Rates

Three options, A through C, as set forth below, are available for payment of Firm Capacity which is produced by a Qualifying Facility and delivered to the Company. Once selected, an option shall remain in effect for the term of the contract with the Company. Exemplary payment schedules, shown below, contain the monthly rate per kilowatt of Firm Capacity which the Qualifying Facility has

(Continued on Sheet No. 10-201)

(Continued from Sheet No. 10.200)

contractually committed to deliver to the Company and are based on a minimum contract term which extends ten (10) years beyond the anticipated in-service date of the Statewide Avoided Unit (i.e., through December 31, 2005). Payment schedules for longer contract terms will be made available to any Qualifying Facility upon request and may be calculated based on the methodologies described in Appendix A.

Solid Waste Facilities, as defined in FPSC Rule 25-17.091 F.A.C., may qualify for an incentive schedule of monthly capacity payments developed using the methodology described in Option D contained in Appendix C to this rate schedule.

Option A - Fixed Value of Deferral

Payment schedules under this option are based on the value of a year-by-year deferral of the Statewide Avoided Unit with an in-service date of January 1, 1996, calculated in accordance with FPSC Rule 25-17.083 F.A.C., as described in Appendix A. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the "Standard Offer Contract".

The Qualifying Facility shall select the month and year in which the deliveries of Firm Capacity and Energy to the Company are to commence and capacity payments are to start. The Company will provide the Qualifying Facility with a schedule of capacity payment rates based on the month and year in which the deliveries Firm Capacity and Energy are to commence and the term of the contract. The following exemplary payment schedule is based on the minimum required contract term which must extend at least ten (10) years beyond the anticipated in-service date of the Statewide Avoided Unit. The currently approved parameters used to calculate the following schedule of payments are found in Appendix B to this schedule.

**MONTHLY CAPACITY PAYMENT IN \$/KW/MONTH
1996 STATEWIDE AVOIDED COAL UNIT (500 MW)
STANDARD OFFER - 0.8 RISK FACTOR
AVOIDED CAPACITY PAYMENTS (\$/KW/MONTH)**

Contract Year	Normal Payment Starting 01/01/96	Early Payment Starting				
		01/01/95	01/01/94	01/01/93	01/01/92	01/01/91
1990						\$ 5.50
1991						5.81
1992					\$ 6.21	6.14
1993				\$ 7.01	6.56	6.48
1994			\$ 7.93	7.40	6.92	6.85
1995		\$ 8.99	8.38	7.82	7.31	11.88
1996	\$ 14.87	14.15	13.50	12.91	12.37	12.54
1997	15.69	14.93	14.25	13.62	13.06	13.23
1998	16.56	15.76	15.04	14.38	13.78	13.96
1999	17.48	16.63	15.87	15.17	14.54	14.73
2000	18.45	17.55	16.74	16.01	15.34	15.55
2001	19.47	18.53	17.67	16.90	16.19	16.41
2002	20.55	19.55	18.65	17.83	17.09	17.31
2003	21.69	20.63	19.68	18.82	18.03	18.27
2004	22.89	21.77	20.77	19.86	19.03	19.28
2005	24.16	22.98	21.92	20.95	20.08	20.34
2006	25.49	24.25	23.13	22.11	21.19	21.46
2007	26.90	25.59	24.41	23.34	22.36	22.65
2008	28.39	27.01	25.76	24.63	23.59	23.90
2009	29.97	28.51	27.19	25.99	24.90	25.22
2010	31.63	30.08	28.69	27.42	26.27	26.61
2011	33.38	31.75	30.28	28.94	27.72	28.08
2012	35.23	33.51	31.95	30.54	29.26	29.63
2013	37.18	35.36	33.72	32.23	30.87	31.27
2014	39.24	37.32	35.58	34.01	32.58	33.00
2015	41.41	39.38	37.55	35.89	34.38	

(Continued on Sheet No. 10.202)

technology and seismic information will reduce the cost of finding, developing, and producing natural gas fields. The rate of increase in domestic natural gas production is assumed to be slower than that of demand, with the balance being supplied by increased Canadian and LNG imports. As demand for natural gas in Florida grows, it is anticipated that based on natural gas users' commitments, the Florida Gas Transmission pipeline system will be expanded and/or a new pipeline will be constructed to meet the growth in demand.

The price differential between the delivered price of natural gas and coal is projected to widen over time. Although advances in technology continue to increase the supply of natural gas at lower costs, the long-term supply of natural gas is still limited by the level of exploration expenditures and the degree to which projected advances in technology enables producers to find new domestic reserves. Coal is, and is projected to continue to be, an abundant domestic resource with proven reserves sufficient to meet projected demand for many years into the future. In addition, natural gas demand is projected to increase at a much greater rate than coal demand throughout the planning horizon. Together, these assumptions result in the widening of the price differential between natural gas and coal over time. This conclusion is consistent with many long-term energy industry forecasts.

III.H. Summary of Incremental Resource Additions

FPL's projected incremental resource additions which resulted from its 1994 planning analyses are depicted in Table III.H.1 and Figure III.H.1. Table III.H.1 lists the projections for incremental capacity for 1995-2000 which is to be supplied by upgrades to existing units (which are achieved as a result of plant component replacements during major overhauls), final ownership portions of the Scherer No. 4 unit, firm purchase contracts, and new units.

Figure III.H.1 presents this same information, plus information about incremental DSM additions, in a graphic format. This figure also details which projected resource additions are committed to (such as through finalized contracts, etc.) and which are currently proposed to be added.

Finally, Forms 3A,3B,6,7A,7B and Graphs 2A and 2B, provide additional information regarding planned/proposed generating facility additions and changes, fuel mix, etc.

Table III.H.1

<i>FPL</i>		
<i>Projections For Incremental Capacity⁽¹⁾</i>		
<i>Year</i>		
1995	Scherer Unit No. 4 ⁽²⁾	90 MW
	Existing Unit Upgrades ⁽³⁾	47 MW
	Firm Purchases ⁽⁴⁾	(70 MW)
1996	Existing Unit Upgrades ⁽³⁾	102 MW
	Firm Purchases ⁽⁴⁾	453 MW
1997	Existing Unit Upgrades ⁽³⁾	24 MW
	Firm Purchases ⁽⁴⁾	9 MW
1998	-----	---
1999	-----	---
2000	-----	---
2001	-----	---
2002	-----	---
2003	-----	---
2004	Martin Combined Cycle No. 5	459 MW
	Total	1114 MW

Notes:

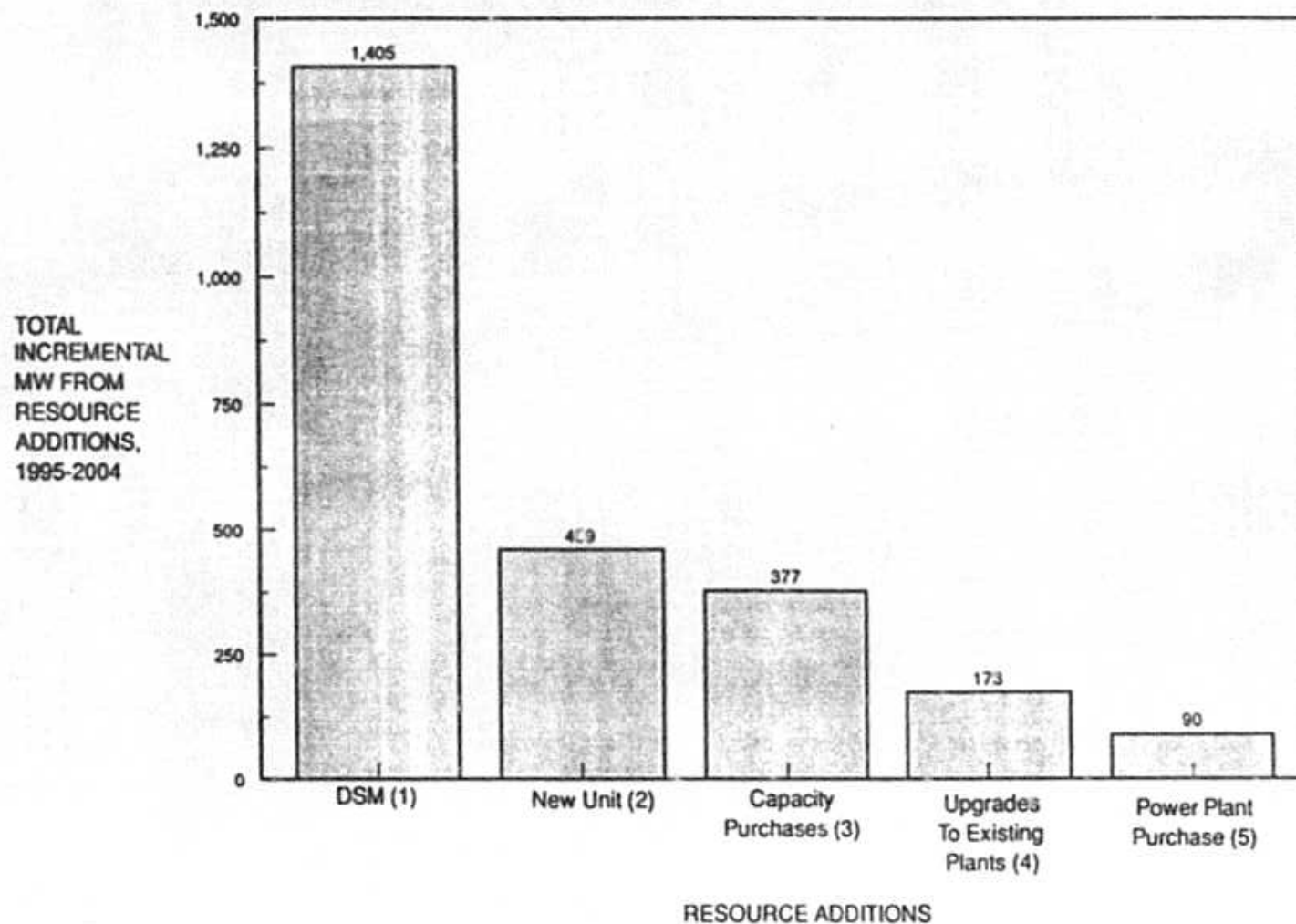
⁽¹⁾ The new capacity represents MW added after June.

⁽²⁾ FPL acquired 646 MW of coal-fired generation from Scherer Unit No. 4 located in Georgia. The capacity consists of an ownership portion from Southern Companies and a portion via power purchase agreement with the Jacksonville Electric Authority (JEA) from the Southern Companies. The cumulative ownership portion is as follows: 150 MW (1991), 150 MW (1992), 416 MW (1993), 556 MW (1994) and 646 MW thereafter. The purchase power portion, which is not shown in the table above, is as follows: 155 MW (1991), 155 MW (1992), 77 MW (1993), 38 MW (1994) and zero thereafter.

⁽³⁾ Additional capability to be achieved as a result of plant component replacements during major overhauls.

⁽⁴⁾ Net of Southern Purchase Contract changes, QF Purchases and changes to those purchases.

INCREMENTAL RESOURCE ADDITIONS: 1995 - 2004



- 1) Projected DSM additions for 1995 - 2003 (summer MW reduction capability from DSM Goals order).
- 2) Projected 2004 CC unit.
- 3) Committed purchases from non-utility generators minus short-term purchase from Southern associated with Scherer 4 purchase.
- 4) Committed upgrades to plants during major overhauls.
- 5) Committed 1995 ownership transfer of final portion of Scherer 4 purchase agreement.

Figure III.H.1

		Energy Sources														
		Historical 1/			Forecasted											
	Energy Sources	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004			
(1)	Annual Energy Interchange 2/	GWH	12,122	9,553	9,852	9,870	10,225	9,162	9,538	9,529	10,168	10,530	10,810			
(2)	Nuclear	GWH	19,843	20,742	21,799	21,892	21,801	20,180	21,880	21,357	21,151	21,883	21,415			
(3)	Coal	GWH	3,815	4,771	6,018	5,972	6,604	6,089	6,234	6,684	6,448	6,312	6,894			
(4)	Residual(FOB) - Total	GWH	24,758	25,247	17,557	13,407	14,125	9,284	8,951	12,853	14,008	14,678	16,319			
(5)	Steam	GWH	24,758	25,247	17,557	13,407	14,125	9,284	8,951	12,853	14,008	14,678	16,319			
(6)	Distillate(FOB) - Total	GWH	38	0	120	46	55	141	134	132	169	172	216			
(7)	CC	GWH	15	0	0	0	0	0	0	0	0	0	0			
(8)	CT	GWH	21	0	120	46	55	141	134	132	169	172	216			
(9)	Natural Gas - Total	GWH	12,892	16,045	21,607	24,539	24,394	24,926	24,101	23,642	23,127	22,897	22,952			
(10)	Steam	GWH	5,797	1,747	4,910	7,483	7,650	8,191	8,939	7,264	8,432	8,668	8,305			
(11)	CC	GWH	6,831	14,248	16,529	16,951	16,522	16,548	14,953	15,187	16,464	15,982	16,269			
(12)	CT	GWH	264	80	168	95	112	187	199	211	231	247	288			
(13)	Other 3/	GWH	2,308	4,077	4,727	8,098	8,705	8,793	9,107	9,596	9,834	10,200	10,459			
(14)	Orimulsion 4/	GWH	0	0	0	0	0	9,917	11,051	9,693	11,055	11,176	10,735			
	Net Energy For Load	GWH	75,774	80,447	81,480	83,622	85,009	88,522	91,014	93,296	95,448	97,506	99,510			

1/ Source: IE411 Filings

2/ The projected figures are based on estimated energy purchases from the Southern Companies and include economy energy transactions.

3/ Represents a forecast of energy expected to be purchased from Qualifying Facilities, Independent Power Producers, etc.

4/ Represents a forecast of energy expected to be produced upon completion of permitting process, and conversion of Marietta Power Plant.

Fuel Requirements ^{1/}

	Fuel Requirements	Historical 2/		Forecasted										
		1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	
(1) Nuclear	Trillion BTU	218	230	240	239	240	222	241	235	233	241	235	233	
(2) Coal	1,000 TON	1,463	2,454	3,197	3,151	3,525	3,248	3,295	3,588	3,447	3,348	3,884	3,547	
(3) Residual(FOB)- TOTAL	1,000 BBL	37,895	39,287	27,293	20,552	21,573	14,221	13,704	19,174	21,354	22,230	24,727	27,213	
(4) Steam	1,000 BBL	37,895	39,287	27,293	20,552	21,573	14,221	13,704	19,174	21,354	22,230	24,727	27,213	
(5) Distillate(FOB)- TOTAL	1,000 BBL	101	36	200	85	86	248	222	238	300	302	375	574	
(6) CC	1,000 BBL	26	0	0	0	0	0	0	0	0	0	0	0	
(7) CT	1,000 BBL	58	36	200	85	86	248	222	238	300	302	375	574	
(8) Steam	1,000 BBL	17	0	0	0	0	0	0	0	0	0	0	0	
(9) Natural Gas -TOTAL	1,000 MCF	120,886	130,634	180,080	208,765	207,700	213,020	208,048	201,843	196,988	184,978	195,198	198,808	
(10) Steam	1,000 MCF	62,097	19,828	67,168	76,361	77,118	81,850	89,803	73,321	64,978	67,347	64,784	58,842	
(11) CC	1,000 MCF	57,089	110,134	110,447	132,185	129,136	128,758	116,738	125,851	128,045	124,467	128,707	133,400	
(12) CT	1,000 MCF	1,800	882	2,458	1,219	1,446	2,406	2,507	2,671	2,945	3,164	3,707	4,564	
(13) Crudeoil 3/	1,000 TON	0	0	0	0	0	22,950	25,801	22,432	25,807	25,863	24,843	24,920	

1/ Reflects fuel requirements for FPL only.

2/ Source: IE411 Filings.

3/ Represents a forecast of energy expected to be produced upon completion of permitting process, and conversion of Manatee Plant.

Planned And Proposed Generating Facility Additions And Changes

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Plant Name	Unit No.	Location	Unit Type	Fuel		Const. Start Mo/Yr	Commercial In-Service Mo/Yr	Gen. Max. Nameplate KW	Net Capability		Fuel Transport		
				Phl	Alt				Summer MW	Winter MW	Phl	Alt	Status
ADDITIONS													
Scherer 1/													
		Monroe County											
	4	Georgia	BIT	BIT	---	-----	-----	-----	646.0	646.0	1/	RR	
Martin Combined Cycle Units													
	5	Martin County	CC	NG	FO2	1996	2004	-----	459.0	488.0	RR	Unk	P

1/ FPL has signed a contract to purchase 646MW of Scherer Unit 4 near Macon, Georgia. This is an existing pulverized coal plant and represents 76% of net rating of the unit.

Planned And Proposed Generating Facility Additions And Changes (Cont.)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Plant Name	Unit No.	Location	Unit Type	Fuel		Proposed Upgrade Start Mo./Yr.	Gen. Max. Nameplate KW	Net Capability		Fuel Transport		
				Phil.	Alt.			Summer MW	Winter MW	Phil.	Alt.	Status
CHANGES/UPGRADES 1/												
Port Everglades		City of Hollywood 23/05/42E					804,000	620.0	816.0			
	3		ST	FO6	NG	4/96	402,000	410.0	411.0	WA	PL	--
	4		ST	FO6	NG	5/97	402,000	410.0	405.0	WA	PL	--
Sanford		Volusia County 16/18/520E					852,000	794.0	802.0			
	4		ST	NG	NG	6/95	426,000	397.0	401.0	WA	No	--
	5		ST	NG	No	1/96	426,000	397.0	401.0	WA	No	--
Martin		Martin County 29/29/520E					2,954,000	2,588.0	2,644.0			
	1		ST	NG	FO6	5/95	862,000	835.0	842.0	PL	PL	--
	2		ST	NG	FO6	5/96	862,000	835.0	826.0	PL	PL	--
	3		CC	NG	FO2	1/96	615,000	459.0	488.0	PL	PL	--
4	CC	NG	FO2	1/96	615,000	459.0	488.0	PL	PL	--		

1/ The rating shown for all units represent the total capacity after upgrading

Planned And Proposed Generating Facility Additions And Changes (Cont.)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Plant Name	Unit No.	Location	Unit Type	Fuel	Proposed Up-grade Start Mo./Yr.	Gen. Max. Nameplate KW	Net Capacity Summer MW	Winter MW	Fuel Transport	PL	Alt	Status
CHANGES/UPGRADES 1/												
Fl Myers	2	Lee County 35/43S/25E	ST	FO6	No	1/97	402,000	410.0	411.0	WA	No	---
							402,000	410.0	411.0			
Turkey Point	1	Dade County 27/57S/40E	ST	NG	FO6	1/95	402,000	410.0	411.0	PL	N/A	---
							402,000	410.0	411.0			
Manatee 2/	1	Manatee County 19/33S/20E	ST	ORI	FO6	03/98	1,726,000	1440.0	1452.0			
							863,000	720.0	726.0			
							863,000	720.0	726.0			
							863,000	720.0	726.0			

1/ The rating shown for all units represent the total capacity after upgrading.

2/ Represents the rating of the units upon completion of negotiations, permitting process, approval by the FPSC and conversion of the Manatee Power Plant.

Florida Power & Light Company
Forecast of Capability, Demand and Scheduled
Maintenance At Time Of Summer Peak

(1)	(2)	(3)	(4)	(5)	(6)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
-----Additional Resources 4/-----												
Year	Total Installed 1/ Capability MW	Total Peak 2/ Demand MW	DSM 3/ MW	Firm Summer Peak MW	Firm Import MW	QF MW	Total Additional Resources MW	Margin Before Maintenance 5/		Scheduled Maintenance MW	Margin After Maintenance 6/	
								MW	% of Peak		MW	% of Peak
1995	16,367	15,912	877	15,035	1,290	551	1,841	3,173	21	0	3,173	21
1996	16,469	16,196	1041	15,155	1,290	1,003	2,293	3,607	24	0	3,607	24
1997	16,493	16,541	1,202	15,339	1,290	1,012	2,302	3,456	23	0	3,456	23
1998	16,493	17,029	1,369	15,660	1,290	1,012	2,302	3,135	20	0	3,135	20
1999	16,493	17,035	1,540	15,495	1,290	1,012	2,302	3,300	21	0	3,300	21
2000	16,493	17,382	1,707	15,675	1,290	1,012	2,302	3,120	20	0	3,120	20
2001	16,493	17,731	1,871	15,860	1,290	1,012	2,302	2,935	19	0	2,935	19
2002	16,493	18,055	2,036	16,019	1,290	1,003	2,293	2,767	17	0	2,767	17
2003	16,493	18,384	2,200	16,184	1,290	1,003	2,293	2,602	16	0	2,602	16
2004	16,952	18,699	2,258	16,441	1,290	1,003	2,293	2,804	17	0	2,804	17

1/ Capability additions and changes (unit upgrades) projected to be in-service by June 1st are considered to be available to meet Summer peak loads which are forecast to occur during August of the year indicated. All values are Summer net MW.

2/ These forecasted values reflect the Most Likely forecast without DSM.

3/ The MW shown represent cumulative load management capability plus incremental conservation. They are not included in total additional resources but reduce the peak load upon which Reserve Margin calculations are based.

4/ Additional Resources include Independent Power Producers (IPP) and Qualifying Facilities (QF).

5/ Margin Before Maintenance = Col 2 + Col 9 - Col 5. % = Col 10/Col 5 * 100.

6/ Margin After Maintenance = Col 2 + Col 9 - Col 12 - Col 5. % = Col 13/Col 5 * 100.

Florida Power & Light Company

Forecast of Capability, Demand and Scheduled
Maintenance At Time of Winter Peak

(1)	(2)	(3)	(4)	(5)	(6)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Year	Total Installed 1/ Capacity MW	Total Peak 2/ Demand MW	DSM 3/ MW	Firm Winter Peak MW	Firm Import MW	OF MW	Total Additional Resources 4/ MW	Margin Before Maintenance 5/ MW	% of Peak	Scheduled Maintenance MW	Margin After Maintenance 6/ MW	% of Peak
1995/96	16,922	15,772	756	15,016	1,290	551	1,841	3,747	25	1,946	1,801	12
1996/97	17,010	16,136	875	15,261	1,290	1,003	2,293	4,042	26	1,274	2,768	18
1997/98	17,047	16,688	967	15,701	1,290	1,012	2,302	3,648	23	3,042	606	4
1998/99	17,071	16,810	1,096	15,714	1,290	1,012	2,302	3,659	23	1,568	2,091	13
1999/00	17,071	17,268	1,207	16,061	1,290	1,012	2,302	3,312	21	2,422	890	6
2000/01	17,071	17,683	1,311	16,372	1,290	1,012	2,302	3,001	18	1,925	1,076	7
2001/02	17,071	18,089	1,411	16,678	1,290	1,012	2,302	2,695	16	0	2,695	16
2002/03	17,071	18,504	1,510	16,994	1,290	1,003	2,293	2,370	14	0	2,370	14
2003/04	17,071	18,917	1,611	17,306	1,290	1,003	2,293	2,058	12	0	2,058	12
2004/05	17,559	19,340	1,705	17,635	1,290	1,003	2,293	2,217	13	0	2,217	13

1/ Capability additions and changes projected to be in-service by January 1st are considered to be available to meet Winter peak loads which are forecast to occur during January of the second year indicated. All values are Winter net MW.

2/ These forecasted values reflect the Most Likely forecast without DSM.

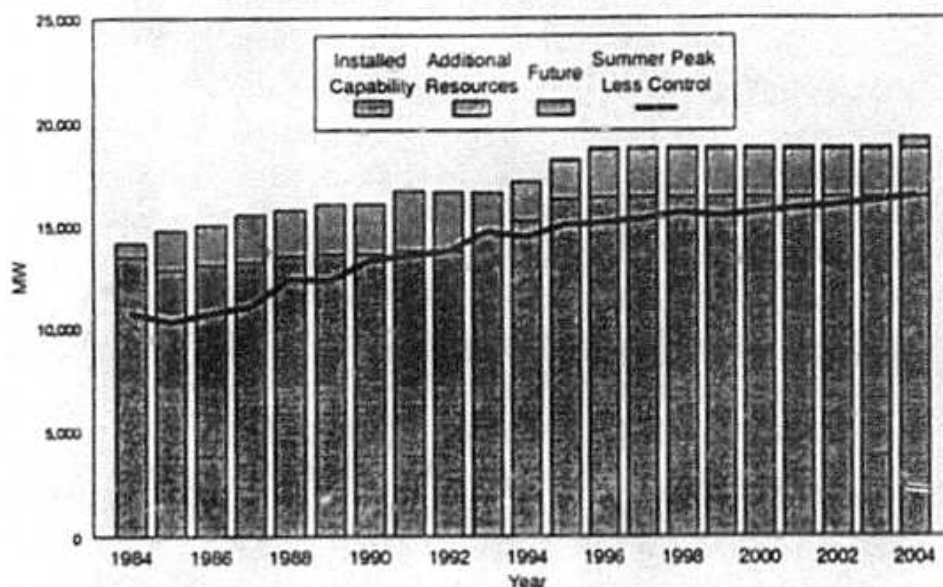
3/ The MW shown represent cumulative load management capability plus incremental conservation. They are not included in total additional resources but reduce the peak load upon which Reserve Margin calculations are based.

4/ Additional Resources include Independent Power Producers (IPP) and Qualifying Facilities (QF).

5/ Margin Before Maintenance = Col 2 + Col 9 - Col 8 % = Col 10/Col 5 * 100

6/ Margin After Maintenance = Col 2 + Col 9 - Col 12 - Col 5 % = Col 13/Col 5 * 100

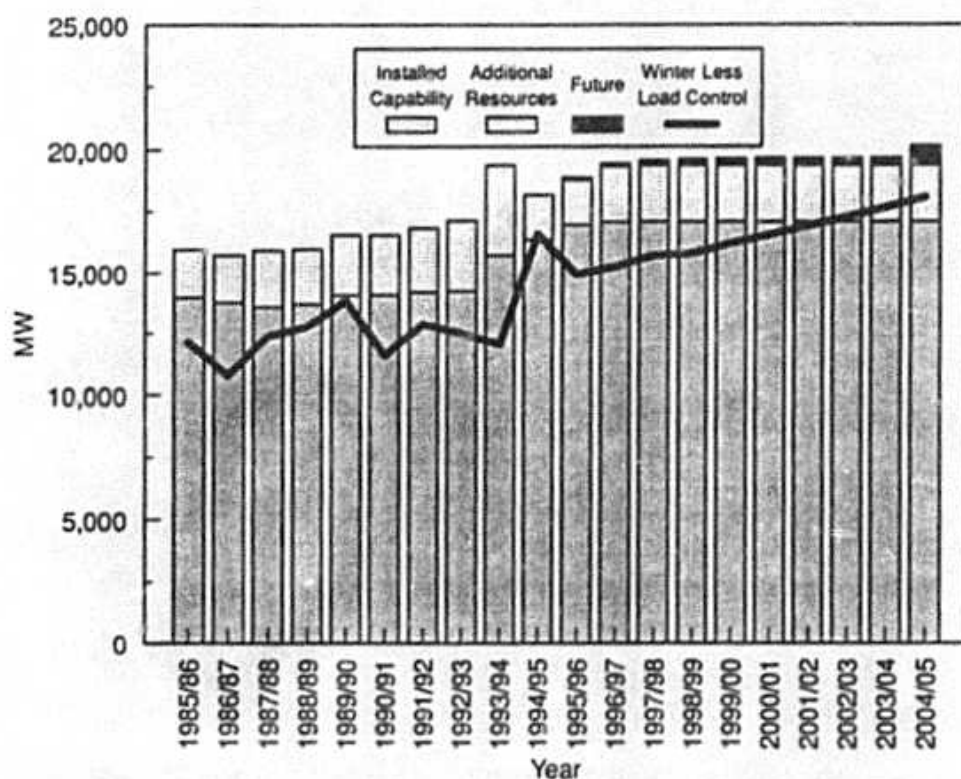
TOTAL CAPABILITY AND SUMMER PEAK LOAD SUMMER OF 1984 - 2004



		Installed Capability MW 1995 - 2004 Projected	Additional Resources MW 1995 - 2004 Projected	Total Capability MW 1995 - 2004 Projected	Summer Peak Load MW 1995 - 2004 Projected	Load Control MW 1995 - 2004 Projected	Firm Summer Peak MW 1995 - 2004 Projected
Historical	1984	13,470	660	14,130	10,270	0	10,270
	1985	12,528	1,947	14,475	10,654	0	10,654
	1986	13,088	1,939	15,027	11,022	0	11,022
	1987	13,213	2,327	15,540	12,394	0	12,394
	1988	13,586	2,235	15,821	12,382	65	12,317
	1989	13,629	2,441	16,070	13,425	110	13,315
	1990	13,622	2,442	16,064	13,754	218	13,536
	1991	13,757	2,598	16,355	14,123	369	13,754
	1992	13,772	2,855	16,627	14,661	504	14,157
	1993	14,629	1,979	16,608	15,266	610	14,257
1994	16,230	1,916	18,146	15,142	698	14,423	
Projected	1995	16,367	1,841	18,208	15,912	877	15,035
	1996	16,469	2,293	18,762	16,196	1,041	15,155
	1997	16,493	2,302	18,795	16,541	1,202	15,339
	1998	16,493	2,302	18,795	17,029	1,369	15,660
	1999	16,493	2,302	18,795	17,035	1,540	15,495
	2000	16,493	2,302	18,795	17,382	1,707	15,675
	2001	16,493	2,302	18,795	17,731	1,871	15,860
	2002	16,493	2,293	18,786	18,055	2,036	16,019
	2003	16,493	2,293	18,786	18,384	2,200	16,184
	2004	16,952	2,293	19,245	18,699	2,258	16,441

Graph 2a

TOTAL CAPABILITY AND WINTER PEAK LOAD WINTER OF 1984 - 2004



	Installed Capacity MW 1995 - 2004 Projected	Additional Resources MW 1995 - 2004 Projected	Total Capacity MW 1995 - 2004 Projected	Summer Peak Load MW 1995 - 2004 Projected	Load Control MW 1995 - 2004 Projected	Firm Summer Peak MW 1995 - 2004 Projected
Historical	1983/84	12,633	353	12,986		10,384
	1984/85	13,238	660	13,898		12,533
	1985/86	14,017	1,947	15,964		12,139
	1986/87	13,789	1,939	15,728		10,799
	1987/88	13,603	2,327	15,930	0	12,372
	1988/89	13,728	2,235	15,963	65	12,906
	1989/90	14,105	2,441	16,546	110	13,677
	1990/91	14,098	2,442	16,540	218	13,914
	1991/92	14,234	2,596	16,832	369	12,950
	1992/93	14,266	2,858	17,124	594	14,548
Projected	1993/94	15,716	3,662	19,378	697	14,794
	1994/95	16,364	1,786	18,150	697	15,087
	1995/96	16,922	1,841	18,763	756	15,016
	1996/97	17,010	2,293	19,303	875	15,261
	1997/98	17,047	2,302	19,349	987	15,701
	1998/99	17,071	2,302	19,373	1096	15,714
	1999/00	17,071	2,302	19,373	1207	16,061
	2000/01	17,071	2,302	19,373	1311	16,372
	2001/02	17,071	2,302	19,373	1411	16,678
	2002/03	17,071	2,293	19,373	1510	16,994
	2003/04	17,071	2,293	19,373	1611	17,306
	2004/05	17,559	2,293	19,852	1705	17,635

Graph 2B

(Continued from Sheet No. 10.201)

Option B - Variable Value of Deferral

The payment schedule under this option is based on the value of deferral of a statewide avoided unit with an in-service date of January 1, 1996. Once this option is selected, the unit designation and its in-service date shall remain fixed for the term of the contract. The value of deferral shall be recalculated annually and the payment schedule shall be adjusted, upon approval by the FPSC, to reflect the most recent factors affecting the cost of constructing the Statewide Avoided Unit. The Qualifying Facility shall select the month and year in which the delivery of Firm Capacity and Energy to the Company is to commence and capacity payments are to start pursuant to this option.

The methodology used to determine the level of payment each year is the same as that used in Option A of this schedule and is described in Appendix A. For informational purposes only, the current projections of payments are those contained in Option A above.

Option C - Average Embedded Book Cost of Fossil Steam Production Plant

Monthly payments made under this option shall be based on the Company's current average embedded book cost of fossil steam production plant approved by the FPSC and in effect in the year payment is made.

The following monthly payment schedule is provided for informational purposes only. It reflects the Company's current projection of payments.

PROJECTED MONTHLY CAPACITY PAYMENT RATE - \$/KW/MONTH

<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
4.35	4.43	4.51	4.61	4.70	4.71	5.86
<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
5.91	6.21	6.22	6.49	8.09	8.14	8.20
						8.79

(Continued on Sheet No. 10.203)

(Continued from Sheet No. 10.202)

B. Energy Rates**(1) Payments Prior to January 1, 1996:**

The energy rate, in cents per kilowatt-hour (¢/kWh), shall be based on the Company's actual hourly avoided energy costs which are calculated by the Company in accordance with FPSC Rule 25-17.0625, F.A.C. Avoided energy costs include incremental fuel, identifiable operation and maintenance expenses, and an adjustment for line losses reflecting delivery voltage. The calculation of the Company's avoided energy costs reflects the delivery of energy to the region of the Company in which the Qualifying Facility is located. Energy payments to Qualifying Facilities located outside the Company's service territory reflect the region in which the interchange point for the delivery of energy is located. When economy transactions take place, the incremental costs are calculated after the purchase or before the sale of the economy energy.

The calculation of payments to the Qualifying Facility shall be based on the sum, over all hours of the billing period, of the product of each hour's avoided energy cost times the purchases by the Company for that hour. All purchases shall be adjusted for losses from the point of metering to the point of interconnection.

(2) Payments Starting on January 1, 1996:

The firm energy rate, in cents per kilowatt-hour (¢/kWh), shall be the lesser of an hour-by-hour comparison of: (a) the fuel component of the Company's avoided energy costs calculated in accordance with Rule 25-17.0625 F.A.C.; and (b) the Statewide Avoided Unit Fuel Cost. The Statewide Avoided Unit Fuel Cost, in cents per kilowatt-hour (¢/kWh) shall be defined as the product of: (a) the average monthly inventory charge-out price of coal burned at the St. Johns River Power Park, (as can be calculated from the Company's Fuel Cost Recovery A-3 Schedule) in cents per million Btu; and (b) an average annual heat rate of 9.79 million Btu per megawatt-hour based on the 1996 500 MW Statewide Avoided Coal Unit.

Calculations of payments to the Qualifying Facility shall be based on the sum, over all hours of the billing period, of the product of each hour's avoided energy cost times the purchases by the Company for that hour. All purchases shall be adjusted for losses from the point of metering to the point of interconnection.

ESTIMATED FIRM ENERGY COST

For informational purposes only, the estimated incremental avoided energy costs for the next four semi-annual periods are as follows. In addition, avoided energy cost payments will include .006¢/kWh for variable operation and maintenance expenses.

Applicable Period	On-Peak ¢/kWh	Off-Peak ¢/kWh	Average ¢/kWh
April 1, 1990 - September 30, 1990	2.86	2.42	2.54
October 1, 1990 - March 31, 1991	3.13	2.42	2.59
April 1, 1991 - September 30, 1991	3.05	2.49	2.64
October 1, 1991 - March 31, 1992	3.35	2.49	2.70

A MW block size ranging from 249 MW to 392 MW has been used to calculate the estimated avoided energy cost.

The estimated avoided fuel costs associated with the Statewide Avoided Unit are as follows:

	¢/kWh				
	1996	1997	1998	1999	2000
2.10	2.21	2.34	2.47	2.62	2.74
				2.84	3.02
					3.19
					3.38

*Based on current estimates of the delivered price of coal to the St. Johns River Power Park coal-fired units.

(Continued on Sheet No. 10.204)

(Continued from Sheet No. 10.203)

PERFORMANCE CRITERIA

Payments for Firm Capacity are conditioned on the Qualifying Facility's ability to maintain the following performance criteria:

A. Commercial In-Service Date

Capacity payments shall not commence until the Qualifying Facility has attained and demonstrated commercial in-service status. The commercial in-service date of a Qualifying Facility shall be defined as the first day of the month following the successful completion of the Qualifying Facility's maintaining an hourly kilowatt (kW) output, as metered at the point of interconnection with the Company, equal to or greater than the Qualifying Facility's "Standard Offer Contract" committed capacity for a 24-hour period. A Qualifying Facility shall coordinate the selection of and operation of its facility during this test period with the Company to ensure that the performance of its facility during this 24-hour period is reflective of the anticipated day to day operation of the Qualifying Facility.

B. Capacity Factor

Upon achieving commercial in-service status, payments for Firm Capacity shall be made monthly in accordance with the capacity payment rate option selected by the Qualifying Facility and providing that the Qualifying Facility maintains a 70% capacity factor on a 12-month rolling average basis as defined in Appendix A. Failure to achieve this capacity factor shall result in the Qualifying Facility's forfeiture of payments for Firm Capacity during the month in which such failure occurs. Where early capacity payments have been elected and starting with the month of January 1996, failure of a Qualifying Facility to maintain a 70% capacity factor on a 12-month rolling average basis shall also result in payments by the Qualifying Facility to the Company. The amount of such payments shall be equal to the difference between: (1) what the Qualifying Facility would have been paid had it elected the normal payment option starting January 1996; and (2) what it would have been paid pursuant to the early payment option had it maintained the capacity factor performance criterion.

All capacity payments made by the Company prior to January 1, 1996, are considered "early payments". The owner or operator of the Qualifying Facility, as designated by the Company, shall secure its obligation to repay, with interest, the cumulative amount of early capacity payments in the event the Qualifying Facility defaults under the terms of its "Standard Offer Contract" with the Company. The Company will provide monthly summaries of the total outstanding balance of such security obligations. A summary of the types of security instruments which are generally acceptable to the Company is set forth in Appendix A.

C. Additional Criteria

- The Qualifying Facility shall
- (1) provide monthly generation estimates by April 1 for the next calendar year; and
 - (2) promptly update its yearly generation schedule when any changes are determined necessary; and
 - (3) agree to reduce generation or take other appropriate action as requested by the Company for safety reasons or to preserve system integrity; and
 - (4) coordinate scheduled outages with the Company; and
 - (5) comply with the reasonable requests of the Company regarding daily or hourly communications.

DELIVERY VOLTAGE ADJUSTMENT

Energy payments to Qualifying Facilities within the Company's service territory shall be adjusted according to the delivery voltage by the following multipliers:

<u>Delivery Voltage</u>	<u>Adjustment Factor</u>
Transmission Voltage Delivery	1.0000
Primary Voltage Delivery	1.0126
Secondary Voltage Delivery	1.0233

METERING REQUIREMENTS

Qualifying Facilities within the territory served by the Company shall be required to purchase from the Company hourly recording meters to measure their energy deliveries to the Company. Energy purchases from Qualifying Facilities outside the territory of the Company shall be measured as the quantities scheduled for interchange to the Company by the entity delivering Firm Capacity and Energy to the Company.

(Continued on Sheet No. 10.205)

(Continued from Sheet No. 10.204)

For the purpose of this schedule, the on-peak hours occur Monday through Friday except holidays, April 1 - October 31 from 12 noon to 9:00 P.M. and November 1 - March 31 from 6:00 A.M. to 10:00 A.M. and 6:00 P.M. to 10:00 P.M. All hours not mentioned above and all hours of the holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day are off-peak hours.

BILLING OPTIONS

The Qualifying Facility may elect to make either simultaneous purchases and sales or net sales. The decision to change billing methods can be made once every twelve (12) months coinciding with the next Fuel and Purchased Power Cost Recovery Factor billing period providing the Company is given at least thirty days written notice before the change is to take place. In addition, allowance must be made for the installation or alteration of needed metering or interconnection equipment for which the Qualifying Facility must pay; and such purchases and/or sales must not abrogate any provisions of the tariff or a contract with the Company.

A statement covering the charges and payments due the Qualifying Facility is rendered monthly, and payment normally is made by the twentieth business day following the end of the billing period.

CHARGES TO QUALIFYING FACILITY:**A. Customer Charges:**

<u>Rate Schedule</u>	<u>Customer Charge(\$)</u>	<u>Rate Schedule</u>	<u>Customer Charge(\$)</u>
GS-1	9.00	CST-1	110.00
GST-1	12.30	GSLD-2	170.00
GSD-1	35.00	GSLDT-2	170.00
GSDT-1	41.50	CS-2	170.00
RS-1	5.65	CST-2	170.00
RST-1	8.95	GSLD-3	400.00
GSLD-1	41.00	CS-3	400.00
GSLDT-1	41.00	CST-3	400.00
CS-1	110.00	GSLDT-3	400.00

B. Interconnection Charges for Non-Variable Utility Expenses

The Qualifying Facility shall bear the cost required for interconnection including the metering. The Qualifying Facility shall have the option of payment in full for interconnection or making equal monthly installment payments over a thirty-six (36) month period together with interest charged at the rate then prevailing for thirty (30) day highest grade commercial paper; such rate to be determined by the Company thirty (30) days prior to the date of each payment.

C. Interconnection Charge for Variable Utility Expenses

The Qualifying Facility shall be billed monthly for the variable utility expenses associated with the operation and maintenance of the interconnection. These include (a) the Company's inspections of the interconnection and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the Qualifying Facility if no sales to the Company were involved.

In lieu of payment for actual charges, the Qualifying Facility may pay a monthly charge equal to a percentage of the installed cost of the interconnection facilities. The applicable percentages are as follows:

<u>Equipment Type</u>	<u>Charge</u>
Metering Equipment	0.395%
Distribution Equipment	0.572%
Transmission Equipment	0.229%

D. Taxes and Assessments

The Qualifying Facility shall be billed monthly an amount equal to the taxes, assessments, or other impositions, if any, for which the Company is liable as a result of its purchases of Firm Capacity and Energy produced by the Qualifying Facility.

(Continued on Sheet No. 10.206)

(Continued from Sheet No. 10.205)

TERMS OF SERVICE

- (1) It shall be the Qualifying Facility's responsibility to inform the Company of any change in its electric generation capability.
- (2) Any electric service delivered by the Company to the Qualifying Facility shall be metered separately and billed under the applicable retail rate schedule and the terms and conditions of the applicable retail rate schedule shall pertain.
- (3) A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C. and the following:
 - A. In the first year of operation, the security deposit should be based upon the singular month in which the Qualifying Facility's projected purchases from the Company exceed, by the greatest amount, the Company's estimated purchases from the Qualifying Facility. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit is required upon interconnection.
 - B. For each year thereafter, a review of the actual sales and purchases between the Qualifying Facility and the Company will be conducted to determine the actual month of maximum difference. The security deposit should be adjusted to equal twice the greatest amount by which the actual monthly purchases by the Qualifying Facility exceed the actual sales to the Company in that month.
- (4) The Company shall specify the point of interconnection and voltage level.
- (5) The Qualifying Facility must enter into an interconnection agreement with the Company which will, among other things, specify safety and reliability standards for the interconnection to the Company's system. In most instances, the Company's filed Interconnection Agreement for Qualifying Facilities will be used; however, special features of the Qualifying Facility or its interconnection to the Company's facilities may require modifications to this agreement or the safety and reliability standards contained therein.
- (6) Service under this rate schedule is subject to the rules and regulations of the Company and the Florida Public Service Commission.

PROVISIONS

1. Special contracts deviating from the above standard rate schedule are allowable provided they are agreeable to by the Company and approved by the Florida Public Service Commission.
2. For a Qualifying Facility in the Company's service territory that wishes to contract with another electric utility which is directly or indirectly interconnected with the Company, the Company will, upon request, provide information on the availability and the terms and conditions of the specified desired transmission service.
 - (a) For transmission service arrangements subject to the jurisdiction of Federal Energy Regulatory Commission ("FERC"), the Company will provide the Qualifying Facility, for informational purposes, copies of Transmission Service Agreements which have been previously accepted or approved by the FERC and which govern arrangements similar to the service being requested by the Qualifying Facility.
 - (b) For transmission service arrangements on an if, when and as-available (nonfirm) basis which are determined by the FERC to be not subject to its jurisdiction, an experimental or transitional nonfirm rate of 0.1 ¢/kWh shall be applicable pursuant to FPSC Order No. 14339; however any such arrangement shall be by individualized contract and shall not otherwise interfere with the Company's ability to provide firm retail, firm wholesale and firm transmission service.

It is the Company's opinion that, by nature of its interconnections with other electric utilities, any and all transmission service provided, or to be provided, by the Company will be subject to the jurisdiction of the FERC.

(Continued on Sheet No. 10.207)

(Continued from Sheet No. 10.206)

APPENDIX A
FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM QUALIFYING COGENERATION AND
SMALL POWER PRODUCTION FACILITIES
SCHEDULE COG-1

APPLICABILITY

Appendix A provides a detailed description of the methodology used by the Company to calculate the monthly values of deferring the Statewide Avoided Unit referred to in Schedule COG-2. When used in conjunction with the current FPSC-approved cost parameters associated with the Statewide Avoided Unit contained in Appendix B, a Qualifying Facility may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the Qualifying Facility enter into a "Standard Offer Contract" with the Company.

Also contained in Appendix A is the methodology used by the Company to calculate the 12-month rolling average capacity factor of a Qualifying Facility and discussion of the types and forms of surety bond requirements or equivalent assurance of repayment of early capacity payments acceptable to the Company in the event of contractual default by a Qualifying Facility.

CALCULATION OF VALUE OF DEFERRAL

FPSC Rule 25-17.063(7) specifies that avoided capacity costs, in dollars per kilowatt per month, associated with capacity sold to a utility by a Qualifying Facility pursuant to the utility's standard offer shall be defined as the value of a year-by-year deferral of the Statewide Avoided Unit and shall be calculated as follows:

$$VAC_n = \frac{C}{12} \left[K_n \left(\frac{1 - \left(\frac{1 + \frac{1}{r}}{1 + \frac{1}{r}} \right)^L}{1 - \left(\frac{1 + \frac{1}{r}}{1 + \frac{1}{r}} \right)^L} \right) + O_n \left(\frac{1 + \frac{1}{r}}{1 + \frac{1}{r}} \right) \right]$$

Where, for a one year deferral:

- VAC_n = utility's value of avoided capacity, in dollars per kilowatt per month, during month n;
- C = a constant risk multiplier equal to 0.8 for the purpose of the utility's standard offer agreement.
- K = present value of carrying charge for one dollar of investment over L years with carrying charges assumed to be paid at the end of each year;
- L = total direct and indirect cost, in dollars per kilowatt including AFUDC but excluding CWIP, of the statewide avoided unit with no in-service date of year n.

(Continued on Sheet No. 10.208)

(Continued from Sheet No. 10.208)

- r = annual discount rate, defined as the utility's incremental after tax cost of capital; and
- t = the term, in years, of the contract for the purchase of firm capacity commencing prior to the in-service date of the statewide avoided unit, and commencing with the year in which the Qualifying Facility elects to receive early capacity payments.

The currently approved parameters applicable to the formulae above are found in Appendix B.

CALCULATION OF 12 MONTH ROLLING AVERAGE CAPACITY FACTOR

Pursuant to FPSC Rule 25-17.083(3) (a) (ii), F.A.C., and Order 13247, Docket No. 830377-EU, a Qualifying Facility must maintain a 70 percent capacity factor in order to receive capacity payments. For the purposes of this schedule, the capacity factor of the Qualifying Facility shall be defined as: the total kilowatt-hours of energy delivered to the utility during the preceding 12 months, divided by the product of: (1) the maximum kilowatt capacity contractually committed for delivery to the Company by the Qualifying Facility during the preceding 12 months, and (2) the sum of the total hours during the preceding 12 months less those hours during which the Company was unable to accept energy and capacity deliveries from the Qualifying Facility. The Company shall be relieved of its obligation under FPSC Rule 25-17.082 F.A.C., to purchase electricity from a Qualifying Facility when purchases result in higher costs to the Company than such purchases, and where service to the Company's other customers may be impaired by such purchases. The Company shall notify the Qualifying Facility(ies) as soon as possible or practical, and the FPSC of the problems leading to the need for such relief.

During the twelve months in which the 70 percent capacity factor performance criterion is imposed, the Qualifying Facility's capacity factor shall be calculated by dividing the sum of the kilowatt-hours delivered to the Company by the Qualifying Facility for the number of months since the performance criteria became applicable by the product of: (1) the number of hours in the months which have transpired and in which deliveries were accepted by the Company; and (2) the maximum kilowatt capacity contractually committed by the Qualifying Facility. This calculation shall be performed each month until enough months have transpired to calculate a true 12 month rolling average capacity factor.

SURETY BOND REQUIREMENTS

FPSC Rule 25-17.083(3) (c), F.A.C., requires that, when early capacity payments are elected, the Qualifying Facility must provide a surety bond or other assurance of repayment of early capacity payments in the event the Qualifying Facility is unable to meet the terms of its contract. Depending on the nature of the Qualifying Facility's operation, financial health and solvency, and its ability to meet the terms and conditions of the Company's "Standard Offer Contract", one of the following may constitute an equivalent assurance of repayment:

- (1) Surety bond;
- (2) Escrow;
- (3) Irrevocable letter of credit;
- (4) Unsecured promise by a municipal, county or state government to repay early capacity payments in the event of default in conjunction with a legally binding commitment from such government allowing the utility to levy a surcharge on either the electric bills of the government's electricity consuming facilities or the constituent electric customers of such government to assure that early capacity payments are repaid;
- (5) Unsecured promise by a privately owned Qualifying Facility to repay early capacity payments in the event of default in conjunction with a legally binding commitment from the owner(s) of the Qualifying Facility, parent company, and/or subsidiary companies allowing the utility to levy a surcharge on the electric bills of the owner(s), parent company, and/or subsidiary companies located in Florida to assure that early capacity payments are repaid; or
- (6) Other guarantee acceptable to the Company.

The Company will cooperate with each Qualifying Facility applying for early capacity payments to determine the exact form of an "equivalent assurance of repayment" to be required based on the particular aspects of the Qualifying Facility. The Company will endeavor to accommodate an equivalent assurance of repayment which is in the best interests of both the Qualifying Facility and the Company's ratepayers.

(Continued on Sheet No. 10.210)

(Continued from Sheet No. 10.207)

O_n	=	total first year's fixed and variable operating and maintenance expense, less fuel and in dollars per kilowatt per year, of the statewide avoided unit deferred to the beginning of year n by L_n
I_n	=	annual escalation rate associated with the plant cost of the statewide avoided unit;
L_n	=	annual escalation rate associated with the operation and maintenance expense of the statewide avoided unit;
r	=	annual discount rate, defined as the utility's incremental after tax cost of capital;
L	=	expected life of the statewide avoided unit; and
n	=	year for which the statewide avoided unit is deferred starting with its original anticipated in-service date and ending with the termination of the contract for the purchase of firm energy and capacity.

Normally, payments for firm capacity shall not commence until the in-service date of the statewide avoided unit. At the option of the Qualifying Facility, however, the utility may begin making early capacity payments consisting of the capital cost component of the value of a year-by-year deferral of the statewide avoided unit starting as early as five years prior to the anticipated in-service date of the statewide avoided unit. When such early capacity payments are elected the avoided capital cost component of capacity payments shall be paid monthly commencing no earlier than the commercial in-service date of the Qualifying Facility, and shall be calculated as follows:

$$A_m = \frac{A(1 + I_0)^n}{12} \quad \text{For } n = 0, n$$

Where:

A_m	=	monthly avoided capital cost component of capacity payments to be made to the Qualifying Facility starting as early as seven years prior to the anticipated in-service date of the statewide avoided unit, in dollars per kilowatt per month;
I_0	=	annual escalation rate associated with the plant cost of the statewide avoided unit;
n	=	year for which early capacity payments to a Qualifying Facility are made; and

$$A = F \left[\frac{1 - \left(\frac{1 + I_0}{1 + r} \right)^L}{1 - \left(\frac{1 + I_0}{1 + r} \right)^n} \right]$$

Where:

F	=	the cumulative present value of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the statewide avoided unit;
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(Continued on Sheet No. 10.209)

(Continued from Sheet No. 10.209)

APPENDIX B
FOR PURCHASE OF FIRM ENERGY AND CAPACITY
FROM QUALIFYING COGENERATION AND
SMALL POWER PRODUCTION FACILITIES
SCHEDULE COG-2

NORMAL PAYMENT OPTION PARAMETERS

Where, for a one year deferral:		Value
VAC_m	= utility's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	14.87
C	= a constant risk multiplier for the purpose of the utility's standard offer contract;	0.8
K	= present value of carrying charge for one dollar of investment over L years with carrying charges assumed to be paid at the end of each year;	1.572
I_0	= total direct and indirect cost, in dollars per kilowatt including AFUDC but excluding CWP, of the statewide avoided unit with an in-service date of year n ;	1689
O_0	= total first year's fixed and variable operating and maintenance expense, less fuel and in dollars per kilowatt per year, of the statewide avoided unit deflated to the beginning of the year n by i_0 ;	72.99
i_1	= annual escalation rate associated with the plant cost of the statewide avoided unit;	5.6%
i_0	= annual escalation rate associated with the operation and maintenance expense of the statewide avoided unit;	5.4%
r	= annual discount rate, defined as the utility's incremental after tax cost of capital;	10.18%
L	= expected life of the statewide avoided unit;	30
n	= year for which the statewide avoided unit is deferred starting with its original anticipated in-service date and ending with the termination of the contract for the purchase of firm energy and capacity;	1996

EARLY PAYMENT OPTION PARAMETERS

A_m	= monthly avoided capital cost component of capacity payments to be made to the Qualifying Facility starting as early as five years prior to the anticipated in-service date of statewide avoided unit, in dollars per kilowatt per month;	5.50
i_1	= annual escalation rate associated with the plant cost of the statewide avoided unit;	5.6%
n	= year for which early capacity payments to a Qualifying Facility are made;	1991
F	= the cumulative present value of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the statewide avoided unit and continued for a period of 30 years;	1687.62
r	= Annual discount rate, defined as the utility's incremental after tax cost capital;	10.18%
t	= the term, in years, of the contract for the purchase of firm capacity commencing prior to the in-service date of the statewide avoided unit.	25

**APPENDIX C
STANDARD OFFER CONTRACT RATE
FOR PURCHASE OF FIRM CAPACITY AND
ENERGY FROM SOLID WASTE FACILITIES
SCHEDULE COG-2**

APPLICABILITY

This Appendix C contains special provisions for the purchase of Firm Capacity and Energy from Solid Waste Facilities as defined by FPSC Rule 25-17.091, F.A.C.

OPTION D - ADDITIONAL CAPACITY INCENTIVES

Except as provided in subsections (3) - (6) of Rule 25-17.091, F.A.C., the provisions of Rules 25-17.080 - 25-17.089, F.A.C. apply to contracts for the purchase of energy and capacity from a Solid Waste Facility as defined by Rule 25-17.091, F.A.C. The additional provisions of subsections (3) - (6) of Rule 25-17.091, F.A.C. provide for:

- a) Use of a constant risk multiplier of 1.0;
- b) At the election of the Solid Waste Facility, early payment of the operating and maintenance components of the capacity payments, up to a Commission-designated number of years before the in-service date of the Statewide Avoided Unit(s), calculated in accordance with Rule 25-17.083(3), F.A.C.; and
- c) At the election of the Solid Waste Facility, either:
 1. Levelized capital payments computed in accordance with the Levelized Payment Calculation, or
 2. Early levelized capital payments up to a Commission-designated number of years before the in-service date of the Statewide Avoided Unit(s), computed in accordance with the Levelized Payment Calculation.

Located in the Advance Capacity Payment Section is an example calculation of the monthly capacity payments to the minimum contract term using a constant risk factor of 1.0, levelized and early levelized capital, and early O&M.

RATE FOR PURCHASES BY THE COMPANY:

Option D is available for payment of Firm Capacity which is produced by the Solid Waste Facility and delivered to the Company. Once selected, an option shall remain in effect for the term of the contract with the Company. While the minimum contract term is ten (10) years beyond the anticipated in-service date of the Statewide Avoided Unit(s), payment schedules for longer contract terms will be made available to a Solid Waste Facility upon request.

Levelized Payment Calculation

Levelized payments shall be calculated as follows:

$$P_L = \frac{F}{12} \times \frac{r}{1-(1+r)^{-t}}$$

Where:

- P_L = the monthly levelized capital portion of the capacity payment, starting no earlier than a Commission-designated number of years before the in-service date of the Statewide Avoided Unit(s);
- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of capacity payments which would have been made had the capacity payments not been levelized;
- r = the annual discount rate, defined as the utility's incremental after tax cost of capital; and
- t = the term, in years, of the contract for the purchase of capacity from the Solid Waste Facility.

Payment schedules under this option are based on the value of a year-by-year deferral of the Statewide Avoided Unit(s) with an in-service date of January 1, 1996, calculated in accordance with FPSC Rule 25-17.091, F.A.C., as described above. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the contract with the Company.

(Continued on Sheet No. 10.212)

(Continued from Sheet No. 10.211)

The Solid Waste Facility shall select the month and year in which the deliveries of Firm Capacity and Energy to the Company are to commence and capacity payments are to start. The Company will provide the Solid Waste Facility with a schedule of capacity payment rates based on the month and year in which the deliveries of Firm Capacity and Energy are to commence and the term of the contract. At the request of the Solid Waste Facility, the Company will provide a payment schedule based on the minimum required contract term which must extend at least ten (10) years beyond the anticipated in-service date of the Statewide Avoided Unit(s). The currently approved parameters used to calculate the following schedule of payments are found in Appendix B of this schedule, except as superseded by those parameters found in Appendix C of this schedule.

Early O&M Payment Calculation

Early O&M payments are calculated consistent with the formula for early capacity payments contained in Appendix A.

Advance Capacity Payments Calculation

Payment schedules under this option are based on the value of a year-by-year deferral of the Statewide Avoided Unit(s) with an in-service date of January 1, 1996, calculated in accordance with FPSC Rules 25-17.083(3) and 25-17.091(7), F.A.C., as described in Appendices A and C. Once this option is selected, the schedule of payments shall remain fixed and in effect throughout the term of the contract with the Company.

The Solid Waste Facility shall select the month and year in which the deliveries of Firm Capacity and Energy to the Company are to commence and capacity payments are to start. The Company will provide the Solid Waste Facility with a schedule of capacity payment rates based on the month and year in which the deliveries of Firm Capacity and Energy are to commence and the term of the contract. The following exemplary payment schedule is based on the minimum required contract term which must extend at least ten (10) years beyond the anticipated in-service date of the Statewide Avoided Unit(s). The currently approved parameters used to calculate the following schedule of payments are found in Appendix B to this schedule, except as superseded by those parameters found in Appendix C to this schedule.

A Solid Waste Facility may elect either advance capacity payments or normal capacity payments pursuant to FPSC Rules 25-17.083(3) and 25-17.091(7), F.A.C.

(Continued on Sheet No. 10.213)

(Continued from Sheet No. 10.212)

SAMPLE CALCULATION OF
MONTHLY CAPACITY PAYMENTS IN \$/W/MONTH
FOR PURCHASE OF FIRM CAPACITY FROM SOLID WASTE FACILITIES
ELECTING THE STANDARD OFFER CONTRACT (SCHEDULE COG-2), OPTION
UNIT TYPE: 300 MW STATEWIDE AVOIDED
COAL UNIT (IN-SERVICE 1996)
NO RISK FACTOR; EARLY O&M

Contract Year	Normal Payment Starting 01/01/96	Early Payment Starting				
		01/01/95	01/01/94	01/01/93	01/01/92	01/01/91
1990						\$ 10.03
1991					\$ 11.30	10.58
1992				\$ 12.76	11.93	11.17
1993			\$ 14.44	13.47	12.59	11.79
1994		\$ 16.37	15.24	14.22	13.29	12.44
1995	\$ 18.59	17.27	16.08	15.01	14.02	13.13
1996	19.62	18.23	16.97	15.84	14.80	13.85
1997	20.70	19.24	17.91	16.71	15.62	14.62
1998	21.85	20.30	18.91	17.64	16.48	15.43
1999	23.06	21.43	19.95	18.62	17.40	16.29
2000	24.34	22.61	21.06	19.65	18.36	17.19
2001	25.69	23.87	22.22	20.73	19.38	18.14
2002	27.11	25.19	23.45	21.88	20.45	19.14
2003	28.61	26.58	24.75	23.09	21.58	20.20
2004	30.19	28.06	26.12	24.37	22.78	21.32
2005	31.87	29.61	27.57	25.72	24.04	22.50
2006	33.63	31.25	29.10	27.15	25.37	23.75
2007	35.49	32.98	30.71	28.65	26.78	25.07
2008	37.46	34.81	32.41	30.24	28.26	26.45
2009	39.53	36.73	34.21	31.91	29.83	27.92
2010	41.72	38.77	36.10	33.68	31.48	29.47
2011	44.03	40.92	38.10	35.55	33.22	31.10
2012	46.47	43.18	40.21	37.51	35.06	32.82
2013	49.05	45.57	42.44	39.59	37.00	34.64
2014	51.76	48.10	44.79	41.79	39.05	36.56

(Continued on Sheet No. 10.214)

(Continued from Sheet No. 10.213)

1996 STATEWIDE AVOIDED COAL UNIT (500 MW)
NO RISK FACTOR - LEVELIZED CAPITAL - EARLY O&M
AVOIDED CAPACITY PAYMENTS (\$/W/MONTH)

Contract Year	Normal Payment		Early Payment Starting			
	Starting 01/01/96	01/01/95	01/01/94	01/01/93	01/01/92	01/01/91
1990						\$ 14.12
1991					\$ 15.76	14.29
1992				\$ 17.61	15.95	14.47
1993			\$ 19.70	17.82	16.15	14.66
1994		\$ 22.08	19.95	18.05	16.36	14.86
1995	\$ 24.79	22.36	20.20	18.29	16.59	15.07
1996	25.10	22.65	20.48	18.54	16.82	15.29
1997	25.44	22.96	20.76	18.81	17.07	15.52
1998	25.78	23.28	21.06	19.09	17.34	15.77
1999	26.15	23.62	21.38	19.39	17.61	16.02
2000	26.54	23.98	21.72	19.70	17.90	16.30
2001	26.95	24.36	22.07	20.03	18.21	16.58
2002	27.38	24.76	22.44	20.38	18.53	16.89
2003	27.83	25.18	22.83	20.74	18.88	17.21
2004	28.31	25.63	23.25	21.13	19.24	17.54
2005	28.82	26.10	23.68	21.53	19.62	17.90
2006	29.35	26.59	24.14	21.96	20.01	18.27
2007	29.91	27.11	24.62	22.41	20.44	18.67
2008	30.50	27.66	25.14	22.89	20.88	19.06
2009	31.12	28.24	25.67	23.39	21.35	19.52
2010	31.78	28.84	26.24	23.92	21.84	19.98
2011	32.47	29.49	26.84	24.47	22.36	20.47
2012	33.20	30.16	27.47	25.06	22.91	20.98
2013	33.97	30.88	28.13	25.68	23.49	21.52
2014	34.78	31.63	28.83	26.33	24.10	22.09

SURETY BOND OR EQUIVALENT ASSURANCE REQUIREMENT

Section 377.709(4), Florida Statutes (1985), requires the local government(s) to refund early capacity payments should a Solid Waste Facility be abandoned, closed down or rendered illegal. Although the Company may not now require a surety bond or equivalent assurance of repayment as specified in Rule 25-17.083(3), F.A.C., a Solid Waste Facility may elect to provide such surety bond or equivalent assurance of repayment pursuant to Rule 25-17.091(6), F.A.C.

ATTACHMENT D

**COST-EFFECTIVENESS ANALYSIS
OF CYPRESS ENERGY STANDARD
OFFER CONTRACT TERMINATION**

Year	IRP 94 - Base Case (Nominal\$,Millions)				IRP 94 - W/Mission (Nominal\$,Millions)				IRP 94 - Difference (Nominal\$,Millions)			
	(1) Fixed	(2) Fuel	(3) Variable	(4) Total	(5) Fixed	(6) Fuel	(7) Variable	(8) Total	(1-5) Fixed	(2-6) Fuel	(3-7) Variable	(4-8) Total
1996	0	1,382	0	1,382	12	1,378	0	1,390	-12	4	0	-8
1997	0	1,464	0	1,464	12	1,459	0	1,471	-12	5	0	-7
1998	31	1,456	10	1,497	44	1,451	10	1,505	-13	5	0	-8
1999	32	1,561	10	1,603	45	1,555	10	1,610	-13	6	0	-7
2000	31	1,672	11	1,714	46	1,666	11	1,723	-15	6	0	-9
2001	32	1,859	10	1,901	48	1,851	10	1,909	-16	8	0	-8
2002	32	2,024	10	2,066	48	2,015	10	2,073	-16	9	0	-7
2003	33	2,242	10	2,285	50	2,232	10	2,292	-17	10	0	-7
2004	108	2,429	11	2,548	115	2,424	11	2,550	-7	5	0	-2
2005	168	2,659	12	2,839	176	2,646	12	2,834	-8	13	0	5
2006	429	2,762	21	3,212	439	2,755	21	3,215	-10	7	0	-3
2007	719	2,863	32	3,614	729	2,857	32	3,618	-10	6	0	-4
2008	701	3,158	33	3,892	713	3,152	33	3,898	-12	6	0	-6
2009	683	3,439	34	4,156	697	3,422	34	4,153	-14	17	0	3
2010	1,330	3,514	55	4,899	1,345	3,507	55	4,907	-15	7	0	-8
2011	1,642	3,865	68	5,575	1,658	3,859	68	5,585	-16	6	0	-10
2012	1,599	4,194	70	5,863	1,618	4,186	70	5,874	-19	8	0	-11
2013	1,926	4,164	83	6,173	1,946	4,158	83	6,187	-20	6	0	-14
2014	1,877	4,347	86	6,310	1,898	4,341	86	6,325	-21	6	0	-15
2015	1,828	4,510	89	6,427	1,851	4,503	89	6,443	-23	7	0	-16
2016	1,781	4,680	92	6,553	1,807	4,672	92	6,571	-26	8	0	-18
2017	1,737	4,849	95	6,681	1,764	4,840	95	6,699	-27	9	0	-18
2018	1,694	5,038	99	6,831	1,724	5,029	99	6,852	-30	9	0	-21
2019	1,653	5,285	102	7,040	1,685	5,275	102	7,062	-32	10	0	-22
2020	1,613	5,476	106	7,195	1,648	5,466	106	7,220	-35	10	0	-25
2021	1,574	5,673	110	7,357	1,611	5,662	110	7,383	-37	11	0	-26
2022	1,536	5,875	114	7,525	1,576	5,864	114	7,554	-40	11	0	-29
2023	1,499	6,102	118	7,719	1,541	6,091	117	7,749	-42	11	1	-30
NPV(1996\$, Millions)	5,256	27,954	306	33,516	5,423	27,876	306	33,605	-167	78	0	-89

Fixed = Incremental capital, capacity payments, fixed O&M

Fuel = Fuel

Variable = Variable O&M

Mission Settlement

Section		1996	1997	1998	1999	2000	2001	2002
S 3.3(a)	Initial Payment (1)	6,000,000	0	0	0	0	0	0
S 3.3(b)	Progress Payment (2)	5,379,000	5,379,000	5,379,000	5,379,000	5,379,000	5,379,000	5,379,000
S 3.3(c)	Maint., Taxes, Ins. (3)	700,000	700,000	700,000	700,000	700,000	700,000	700,000
S 3.7	Facility Purchase Opt.	0	0	0	0	0	0	0*
Total		12,079,000	6,079,000	6,079,000	6,079,000	6,079,000	6,079,000	6,079,000
<hr/>								
1996 \$								
	NPV (@ 9.2%) (1)	6,000,000						
	NPV (@ 9.2%) (2)	29,365,547						
	NPV (@ 9.2%) (3)	3,821,506						
	Total	39,187,054						

* If FPL requests SFCA to exercise the Capital Facility Option, FPL will be obligated to pay no more than the then Fair Market Value of the existing facility. In turn, FPL will receive assets equal to the then Fair Market Value. Since FPL's payments will equal the benefits received, this value has been reflected as zero.

**SAVINGS TO FPL CUTOMERS OF
CYPRESS ENERGY CONTRACT BUYOUT**
(\$ net present value)

1. Increased System Costs of Cypress Energy Contract (Page 1 of 3)	\$ 89,000,000
2. Costs Associated With the Buyout of the Cypress Energy Contract (Page 2 of 3)	<u>\$ 39,000,000</u>
3. Savings to FPL Customers if Increased System Costs of the Cypress Energy Contract Are Avoided Through Buyout (1-2)	\$ 50,000,000 ¹

¹These savings are understated in that the analysis covers only the years 1996 through 2023. The Cypress Energy Contract extends through 2026. Therefore, this analysis, while including all the costs of the buyout, does not include the last three years of savings. Because of this understatement of savings, FPL has represented to savings to be "at least approximately \$ 50,000,000" to customers.

ATTACHMENT E

SUPPORTING AFFIDAVIT

AFFIDAVIT

State of Florida)

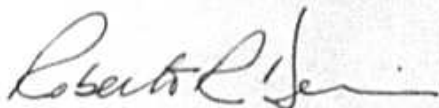
County of Dade)

Before me, the undersigned authority, personally appeared Roberto R. Denis, who first being duly sworn, deposes and states:

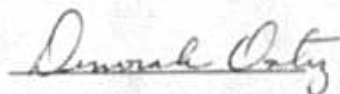
My name is Roberto R. Denis. I am employed by Florida Power & Light Company (FPL) as Director, System Planning. The analyses of the cost-effectiveness of the Agreement to terminate the standard offer contract between Cypress Energy Company and FPL appended as Attachment D to the Petition of Florida Power & Light Company for Approval of Agreement to Buy Out the Cypress Energy Standard Offer Contract were prepared under my supervision and control and are true and correct to the best of my knowledge and belief. I have reviewed the factual allegations in paragraphs 8 through 11 of the Petition of Florida Power & Light Company for Approval of Agreement to Buy Out the Cypress Energy Standard Offer Contract, and they are true and correct to the best of my knowledge and belief.

At the present time FPL does not need the capacity and energy to be supplied under the Cypress Energy Standard Offer Contract. It is not cost effective for FPL to purchase pursuant to the Standard Offer Contract. In addition, I do not believe that any utility in the state would find the purchase of energy and capacity under the terms of the Cypress Energy Standard Offer Contract to be cost-effective; consequently, FPL does not have a realistic chance of marketing the power to another utility.

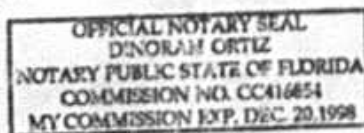
To determine the cost effectiveness of the Agreement, we ran two alternative system simulations using the planning assumptions underlying FPL's most recently filed Ten Year Site Plan, with and without the Cypress Standard Offer Contract. Those runs, which are summarized on page 1 of Attachment D to the petition, show that it would cost FPL customers, on a net present value basis, approximately \$ 89,000,000 more to make the Cypress standard offer purchase than adding an equivalent amount of capacity from FPL's next planned generating unit. We then calculated the net present value of the payments under the Agreement to terminate the Cypress standard offer contract - approximately \$ 39,000,000 on a net present value basis. By terminating the Cypress standard offer contract under the terms of the Agreement before the Commission (paying approximately \$ 39,000,000), FPL can save FPL customers approximately \$ 89,000,000; simply stated, on a net present value basis Commission approval of the Agreement will save FPL customers approximately \$ 50,000,000.



Sworn to and subscribed before me this 12th day of February, 1996, by Roberto R. Denis, who is personally known to me.



Notary Public
State of Florida
Commission or Serial No.
My Commission Expires:



AFFIDAVIT

Commonwealth of Massachusetts)
)
County of Middlesex) ss


Before me, the undersigned authority, personally appeared Brian D. Holt, who, being duly sworn, stated:

My name is Brian D. Holt. I am employed by TEC Cogeneration Inc. in the position of Chief Executive Officer. My responsibilities include being the Chief Executive Officer of TEC Cogeneration Inc. As a result of my position and responsibilities, I am familiar with Cypress Energy Company's plan to perform under its Standard Offer Contract with Florida Power & Light Company ("FPL") and the representations made by Cypress Energy Company (now owned by Cypress Acquisition, Inc., a subsidiary of Stewart & Stevenson Services, Inc.) and South Florida Cogeneration Associates ("SFCA") to FPL regarding their intent and ability to perform the obligations under the Cypress Energy Standard Offer Contract.

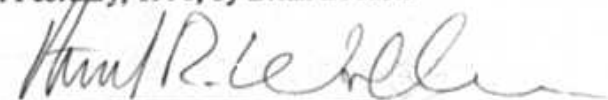
Cypress Cogeneration Company and SFCA have entered into development agreements to develop a facility necessary to fulfill the Cypress Energy Standard Offer Contract utilizing, in part, the existing generating facility located at the Downtown Government Center and leased by the SFCA. Cypress Cogeneration Company and SFCA have represented to FPL their intent and ability to perform under Cypress Energy's Standard Offer Contract. Cypress Cogeneration and SFCA have submitted to FPL analyses demonstrating that their plan to use the existing facility at the Dade County Downtown Government Center in conjunction with phased additions and modifications is a viable plan to discharge the obligations under the Cypress Energy Standard Offer Contract. The analyses address the equipment to be installed, the timing of the

installations, compliance with QF requirements under PURPA, air pollution permits, waste water discharge permitting, noise requirements, zoning requirements, interconnection, fuel availability, operation and maintenance, and financial feasibility. This generally conservative analysis shows that the Cypress Cogeneration/SFCA proposals are feasible from an engineering and economic perspective.

STATE OF MASSACHUSETTS
COUNTY OF MIDDLESEX


Brian D. Holt

Sworn to and subscribed before me this 10th day of February, 1996, by Brian D. Holt


Notary Public
State of Massachusetts
My Commission Expires: 10/14/99

Commonwealth of Massachusetts
Notary Public

Personally known ☒ OR Produced Identification _____
Type of Identification Produced _____

AFFIDAVIT

State of FLORIDA)
County of DADE)

Before me, the undersigned authority, personally appeared Leonard Shapiro, who, being duly sworn, stated:

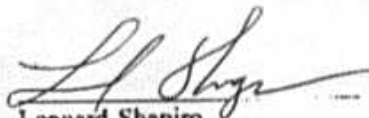
My name is Leonard Shapiro. I am employed by Stewart & Stevenson Services, Inc. in the position of Manager of Business Development. My responsibilities include being the project manager for implementation of the Project described in the Feasibility Study. As a result of my position and responsibilities, I am familiar with Cypress Energy Company's plans to perform under its Standard Offer Contract with Florida Power & Light Company ("FPL") and the representations made by Cypress Energy Company (now owned by Cypress Acquisition, Inc., a subsidiary of Stewart & Stevenson Services, Inc.) and South Florida Cogeneration Associates ("SFCA") to FPL regarding their intent and ability to perform the obligations under the Cypress Energy Standard Offer Contract.

Cypress Cogeneration Company and SFCA have entered into development agreements to develop a facility necessary to fulfill the Cypress Energy Standard Offer Contract utilizing, in part, the existing generating facility located at the Downtown Government Center and leased by the SFCA. Cypress Cogeneration Company and SFCA have represented to FPL their intent and ability to perform under Cypress Energy's

Standard Offer Contract. Cypress Cogeneration and SFCA have submitted to FPL analyses demonstrating that their plan to use the existing facility at the Dade County Downtown Government Center in conjunction with phased additions and modifications is a viable plan to discharge the obligations under the Cypress Energy Standard Offer Contract. The analyses address the equipment to be installed, the timing of the installations, compliance with QF requirements under PURPA, air pollution permits, waste water discharge permitting, noise requirements, zoning requirements, interconnection, fuel availability, operation and maintenance, and financial feasibility. This generally conservative analysis shows that the Cypress Cogeneration/SFCA proposals are feasible from an engineering and economic perspective.

STATE OF FLORIDA
COUNTY OF Dade

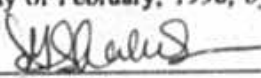
Print, type or stamp name of Notary Public
Personally known ☒ OR Produced I.D. ☒
Type and number of I.D. produced:
FDL#S160-520-44-388-0/96


Leonard Shapiro

Sworn to and subscribed before me this 12 day of February, 1996, by Leonard Shapiro.

ISABEL M SHABAN
My Commission OC402534
Expires Aug. 23, 1998
Bonded by ANB
800-852-5678




Notary Public
State of Florida
Commission or Seal No.
My Commission Expires:

Personally known _____ OR Produced Identification X.
Type of Identification Produced FDL#160-520-44-388-0/96.



ISABEL M SHABAN
My Commission OC402534
Expires Aug. 23, 1998
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800-852-5678