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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF LOS ANGELES**

9 JOHN GARAMENDI, Insurance
10 Commissioner of the State of California,

11 Applicant,

12 vs.

13 MISSION INSURANCE COMPANY, a
14 California corporation,

15 Respondent.

16 Consolidated with Case Numbers

17 C 576 324; C 576 416;
18 C 576 323; C 576 325; C 629 709

) Case No. C 572 724

) Honorable John Shepard Wiley Jr.

) **NOTICE OF MOTION AND MOTION**
) **TO APPROVE VALUATION OF**
) **DEFICIENCY CLAIMS PURSUANT TO**
) **REHABILITATION PLAN**
) **IMPLEMENTATION AGREEMENT;**
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES**

) Hon. John Shepard Wiley Jr.
) Action Filed: October 31, 1985
) Department: 50
) Hearing Date: April 28, 2006
) Hearing Time: 8:30 a.m.

1 PLEASE TAKE NOTICE THAT ON THE 28th day of April, 2006, at the hour of 8:30 a.m.,
2 or as soon thereafter as the matter may be heard, John Garamendi, Insurance Commissioner of the
3 State of California, in his capacity as Trustee of the Mission Insurance Company Trust, the Mission
4 National Insurance Company Trust and the Enterprise Insurance Company Trust, (the "Trusts") shall
5 present to the Los Angeles Superior Court, Department 50, for determination a Motion to Approve
6 Valuation of Deficiency Claims Pursuant to the Rehabilitation Plan Implementation Agreement.
7 The Rehabilitation Plan Implementation Agreement provides for the Court to make a finding of the
8 minimum ultimate aggregate valuation of "Latent Deficiency Claims" (which are described in
9 paragraph 30 of the Rehabilitation Plan Implementation Agreement), which amount is one
10 component in the distribution of shares in Covanta Holding Corporation pursuant to that agreement.
11 The Insurance Commissioner will present evidence to determine that valuation, and to seek the
12 Court's approval for the valuation of \$712,160,927, and this Court's finding that this valuation
13 reflects an indebtedness owed by the Mission Insurance Company, Mission National Insurance
14 Company and Enterprise Insurance Company as consistent with the Rehabilitation Plan and with the
15 Rehabilitation Plan Implementation Agreement. The Insurance Commissioner will request that the
16 Court find that the Latent Deficiency Claims so determined constitute indebtedness which is finally
17 determined and ascertained and for which there is an obligation to issue Covanta Holding
18 Corporation shares with respect to such claimants in the mode and to the extent set forth in the
19 Rehabilitation Plan Implementation Agreement.

20 This motion and the valuation requested therein will be supported by the Declaration of
21 Vincent R. Burke and the Declaration of Mohsen Sultan, as well as the pleadings and papers on file.

22 Wherefore, premises considered, the Court is requested to find that:

- 23 a. the valuation of Latent Deficiency Claims shall be \$ 712,160, 927.
- 24 b. the valuation represents the minimum ultimate aggregate liability for Latent
25 Deficiency Claims arising from insurance and reinsurance contracts of the Mission Insurance
26 Company, Mission National Insurance Company and Enterprise Insurance Company, which is
27 consistent and complies with Paragraph 52 of the Rehabilitation Plan Implementation Agreement;

1 c. said ultimate aggregate liability will be allocated among the three Trusts consistent
2 with the allocation methodology historically used to apportion such liability among the Trusts for
3 income tax purposes;

4 d. the relief requested is as set forth above; and

5 e. and all other just and equitable relief.
6

7 Respectfully submitted,
8 WISENER★NUNNALLY★GOLD, LLP

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1 allocate some of the shares to be distributed to Latent Deficiency Claims holders. The parties set
2 forth in Exhibit "A" a required finding of the minimum ultimate aggregate liability amount which
3 might be entitled to such a distribution. Mr. Burke sets forth his opinion as to the valuation of this
4 liability. This declaration permits the Insurance Commissioner and Covanta Holding Corporation to
5 comply with the Plan and the conditions precedent of this agreement, which has already been
6 approved by this Court.

7
8 The Insurance Commissioner and Covanta now comply with the Plan by presenting the
9 required motion to the Court. This Court is respectfully requested to approve this valuation.

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11 Respectfully submitted,
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Rehabilitation Plan Implementation Agreement

This agreement is entered into as of the date set forth below between John Garamendi, Insurance Commissioner of the State of California, in his capacity as Trustee of the Mission Insurance Company Trust, the Mission National Insurance Company Trust and the Enterprise Insurance Company Trust, on the one hand, and Covanta Holding Corporation, formerly known as Danielson Holding Corporation, and as Mission Insurance Group, Inc. on the other hand.

Definitions

1. "Allocated Shares" shall have the meaning ascribed to such term in Paragraph 25 below.
2. "Agreement" shall mean this Rehabilitation Plan Implementation Agreement, including the Exhibits attached hereto.
3. "Amendment Agreement" shall mean the Amendment to Agreement Regarding Closing, attached hereto as Exhibit A and incorporated by reference into this document and made a part hereof.
4. "Closing Agreement" shall mean the Agreement Regarding Closing dated as of August 9, 1990, by and among the Insurance Commissioner as conservator of Mission American Insurance Company and Compac Insurance Company; as liquidator of Mission Insurance Company, Enterprise Insurance Company and Mission National Insurance Company; and as ancillary liquidator of

Holland-America Insurance Company and Mission Reinsurance Corporation, and the Director of the Division of Insurance of the State of Missouri.

5. "Covanta" shall mean Covanta Holding Corporation.

6. "Danielson" shall mean Danielson Holding Corporation.

7. "EICT" shall mean Enterprise Insurance Company Trust.

8. "Exchange Act" shall have the meaning ascribed to such term in Paragraph 42 below.

9. "Implementation Payment" shall have the meaning ascribed to such term in Paragraph 27 below.

10. "Insurance Commissioner" shall mean John Garamendi, Insurance Commissioner of the State of California, or his predecessor(s) and successor(s) in office, as the case may be.

11. "Latent Allocated Shares" shall have the meaning ascribed to such term in Paragraph 31 below.

12. "Latent Deficiency Claims" shall have the meaning ascribed to such term in Paragraph 29 and specifically identified in Paragraph 30 below.

13. "Latent Deficiency Claims Administration Procedures Agreement" shall mean that certain agreement by and among the Insurance Commissioner, in his capacity as Trustee of MICT, MNICT, and EICT, on the one hand, and Covanta on

the other hand, attached hereto as Exhibit B and incorporated by reference into this document and made a part hereof.

14. "Liquidation Court" shall have the meaning ascribed to such term in Paragraph 22 below.

15. "MICT" shall mean Mission Insurance Company Trust.

16. "MNICT" shall mean Mission National Insurance Company Trust.

17. "RRR Agreement" shall mean the Agreement of Reorganization, Rehabilitation, and Restructuring entered into by the Insurance Commissioner as conservator of Mission American Insurance Company and Compac Insurance Company; as liquidator of Mission Insurance Company, Enterprise Insurance Company, and Mission National Insurance Company; and as ancillary liquidator of Holland-America Insurance Company and Mission Reinsurance Corporation with the Missouri Insurance Director, as Receiver of Holland-America Insurance Company and Mission Reinsurance Corporation, and with the Mission Insurance Group, Inc.

18. "Rehabilitation Agreement" shall mean collectively, the RRR Agreement, the Closing Agreement and the trust agreements for each of MICT, MNICT and EICT.

19. "Trustee" shall mean the Insurance Commissioner, in his capacity as Trustee.

Initial Recitals

20. Mission Insurance Company, Mission National Insurance Company, and Enterprise Insurance Company are or were California-domiciled property and casualty insurance companies.

21. On October 31, 1985, on the application of the Insurance Commissioner, the Superior Court for the County of Los Angeles issued an order which placed Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company into conservation proceedings, in case number C 572 724.

22. On February 24, 1987, the Superior Court for the County of Los Angeles, (the "Liquidation Court") entered those orders which placed Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company in liquidation proceedings in the case captioned Insurance Commissioner of the State of California v. Mission Insurance Company, *et al.*, case number C 572 724.

23. As of December 13, 1989, the Insurance Commissioner, as Liquidator of Mission Insurance Company, Mission National Insurance Company, Enterprise Insurance Company, and as Conservator of Mission American Insurance Company and Compac Insurance Company, entered into the RRR Agreement with Missouri

Insurance Director as Receiver of Holland-America Insurance Company and Mission Reinsurance Corporation, and with Mission Insurance Group, Inc.

24. On April 25, 1990, the Final Order of Rehabilitation was issued by the Liquidation Court which had the effect, *inter alia*, of entering a rehabilitation order as to Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company and, upon closing of the transactions described in the RRR Agreement, resulted in the creation of MICT, MNICT and EICT, pursuant to the agreement of MICT, the agreement of MNICT and the agreement of EICT.

25. Pursuant to the Rehabilitation Agreement, as of August 15, 1990, an aggregate of 1,648,488 shares of Covanta common stock were issued to the Insurance Commissioner to be held for and on behalf of holders of Deficiency Claims (as defined in the RRR Agreement) (the "Allocated Shares"), which Allocated Shares have been allocated to MICT (1,172,874 shares), MNICT (399,751 shares) and EICT (75,863 shares).

26. The parties to this Agreement now seek to enter into a further agreement to implement the RRR agreement.

Implementation Payment

27. Upon satisfaction of the conditions precedent set forth in Paragraph 54(i) through (vii) below of this Agreement and in consideration of the settlement

of disputes regarding the interpretation of the Rehabilitation Agreement, Covanta agrees to make the following cash contributions to MICT, MNICT and EICT (collectively, the "Implementation Payment") within ten days following satisfaction of such conditions precedents set forth in Paragraphs 53 and 54 of this Agreement, in order to facilitate the effectuation of the terms of the Rehabilitation Agreement and the winding up of such trusts:

- a. MICT: six million five hundred four thousand, two hundred seventy seven dollars (\$6,504,277).
- b. MNICT: two million two hundred sixteen thousand, eight hundred fifty five dollars (\$2,216,855).
- c. EICT: four hundred twenty thousand seven hundred five dollars (\$420,705).

Distribution of Shares Pursuant to the Rehabilitation Agreement

28. Pursuant to the Rehabilitation Agreement, the Insurance Commissioner now holds, as agent for and on behalf of claimants against the Mission National Insurance Company and Mission Insurance Company, the Allocated Shares to be distributed as provided in Section 2.1 of the RRR Agreement to holders of "Deficiency Claims," as defined in Section 1.8 of the RRR Agreement.

29. In order to effectuate the terms of the RRR Agreement, the parties enter into this Agreement to set forth a method of distributing the Allocated Shares to

holders of Deficiency Claims. The parties recognize that numerous claimants filed proofs of claims which were approved by the Trustee. The parties reaffirm that the unpaid portion of such claims shall be treated as Deficiency Claims. This Agreement recognizes, however, that additional Deficiency Claims (as defined in the RRR Agreement) are held by additional claimants, which additional claims shall be referred to as "Latent Deficiency Claims," as specifically identified in Paragraph 30 below. Although holders of Latent Deficiency Claims cannot qualify for cash distributions pursuant to California Insurance Code Sections 1011 *et seq.*, this Agreement confirms and recognizes that such Latent Deficiency Claims do qualify to share in distributions of the Allocated Shares pursuant to the RRR Agreement.

30. In order to qualify for treatment as Latent Deficiency Claims, a claimant's claim must be a claim that is a Deficiency Claim, as defined in Section 1.8 of the RRR Agreement, pursuant to applicable law, that would qualify the claimant as a creditor pursuant to California Insurance Code Sections 1021 to 1024 and 1032, except that one or more of the following factors applies:

a. the claimant(s) did not meet the August 18, 1995 deadline for filing amendments to proofs of claims, pursuant to the amended final liquidation dividend plan;

b. the claimant(s)' claims were otherwise valid policyholder priority claims within the meaning of Section 1033 of the California Insurance Code, but did not become liquidated (in whole or in part) and certain within the meaning of California Insurance Code Section 1025 by the court-ordered deadline of December 31, 2003 (for purposes of clarity and the definition of Latent Deficiency Claims, but not for the purpose of any revaluation of proofs of claims for the purposes of distributions under Section 1033 of the California Insurance Code, and without limiting the generality of the foregoing, this category includes claims of claimants under direct insurance contracts issued by Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company that were settled for less than the stated amount of such claims); or

c. the claimant(s)' claims were otherwise valid non-policyholder priority claims within the meaning of Section 1033 of the California Insurance Code, but did not become liquidated (in whole or in part) and certain within the meaning of California Insurance Code Section 1025 by the court-ordered deadline of August 2, 2004 (for purposes of clarity and the definition of Latent Deficiency Claims, but not for the purpose of any revaluation of proofs of claims for the purpose of distributions under Section 1033 of the California Insurance Code, and without limiting the generality of the foregoing, this category includes claims of claimants under reinsurance contracts issued by Mission Insurance Company,

Mission National Insurance Company and Enterprise Insurance Company that were settled for less than the stated amount of such claims).

31. Pursuant to the Rehabilitation Agreement and this Agreement, the Insurance Commissioner shall agree to distribute to holders of Latent Deficiency Claims, a portion of the Allocated Shares equal in total amount to the Implementation Payment divided by the average closing price for the ten (10) trading days for shares of Covanta common stock immediately preceding the Court approval of this Agreement ("the Latent Allocated Shares") to holders of Latent Deficiency Claims as follows:

a. The Trustee shall make a preliminary allocation of the Allocated Shares in accordance with the RRR Agreement to holders of approved yet unpaid Deficiency Claims that do not qualify as Latent Deficiency Claims;

b. The Trustee shall make a preliminary allocation of the Latent Allocated Shares in accordance with the RRR Agreement and this Agreement to holders of approved yet unpaid claims that qualify as Latent Deficiency Claims;

c. As to EICT, the Insurance Commissioner may distribute cash in lieu of shares if such a distribution is required to ensure equality of distribution to the Latent Deficiency Claims.

d. Consistent with the proportionality requirements of former section 108(e)(8)(B) of the Internal Revenue Code, following the issuance of the order of

the Liquidation Court establishing the amount of the Latent Deficiency Claims and a determination by Covanta of all holders of Latent Deficiency Claims, Covanta shall review the preliminary allocations of Latent Allocated Shares and advise the Trustee of Covanta's final determination of the number of Latent Allocated Shares to be distributed to holders of Latent Deficiency Claims and shall coordinate with the Trustee to effect such distributions.

e. Consistent with the proportionality requirements of former section 108(e)(8)(B) of the Internal Revenue Code, following the issuance of the order of the Liquidation Court establishing the amount of the Latent Deficiency Claims, the Trustee may distribute to holders of Deficiency Claims that portion of the Allocated Shares that have not been designated as Latent Allocated Shares; *provided, however*, that the parties will meet and confer, as necessary, to ensure and agree that any proposed distribution complies with the tax proportionality requirements of former Section 108(e)(8)(B) of the Internal Revenue Code.

32. Covanta shall be responsible, at its own expense, to administer the Latent Deficiency Claims administration procedures, as set forth below.

Latent Deficiency Claims Administration

33. Covanta shall administer the responsibilities regarding the identification, processing and evaluation of the Latent Deficiency Claims, as set forth herein. Covanta will reimburse the Insurance Commissioner's Conservation

and Liquidation Office staff in assisting Covanta in performing its duties and providing assistance under this Agreement, subject to an aggregate limitation of \$200,000; *provided, however*, that such limitation shall not apply to and Covanta shall reimburse the Insurance Commissioner's Conservation and Liquidation Office for (i) the actual costs charged by the storage facilities for the retrieval of information requested by Covanta and (ii) the costs and expenses for actuarial, accounting and attorneys fees incurred by the Insurance Commissioner, including the costs and fees of the Insurance Commissioner's Conservation and Liquidation Office staff and attorneys, which amount is estimated to be approximately \$175,000, in connection with the negotiation of this Agreement.

34. Covanta shall bear the sole responsibility for ensuring that Latent Deficiency Claims are identified and evaluated under this Agreement and the RRR Agreement. The Trustee and the Insurance Commissioner's Conservation and Liquidation Office staff shall have no liability arising from a failure of Covanta to identify and evaluate Latent Deficiency Claims.

35. The Insurance Commissioner's Conservation and Liquidation Office staff shall provide Covanta with a complete listing of substantially all proofs of claims which were timely filed in compliance with the September 12, 1987 claims filing requirements from the records of EICT, MICT and MNICT.

36. The parties shall request a court order which provides, to the extent permissible at law, that Covanta shall be immune from suit or liability to any individual claimant in its performance of its duties. Covanta shall continue to owe such duties to the Trustee, including, without limitation, a duty of good faith and fair dealing, and the Trustee shall have the right to enforce Covanta's duties on behalf of the claimants.

37. Covanta may utilize third party administrators or similar third party claims services to assist Covanta with its discharge of its obligations hereunder. Any such third party administrator or other claims processor shall be subject to the Trustee's written approval, which shall not be unreasonably withheld, and shall be utilized at Covanta's sole expense and under Covanta's control. Each such third party company shall be insured by a liability insurance policy with a limit of no less than one million dollars (\$1,000,000) per occurrence in each policy year and two million dollars (\$2,000,000) per policy year in the aggregate. The Trustee shall be named as an additional insured in each such policy. The Trustee may waive this requirement in his sole discretion as to a particular third party claims processor.

38. The Insurance Commissioner retains the right to oversee the claims procedures adopted by Covanta to ensure that the implementation of these procedures is consistent with this Agreement.

39. Covanta shall have the duty to advise the Trustee of the identity and amount of each claim of a claimant with a Latent Deficiency Claim. The Trustee shall have the right to review all claims files, correspondence, arbitration materials, and other documents submitted by claimants or otherwise pertinent to the evaluation of the Latent Deficiency Claims, excepting only the privileged attorney-client correspondence and attorney work product of Covanta. For purposes of this paragraph, claims files materials, and other claims evaluation materials or documents submitted by claimants in seeking evaluation of Latent Deficiency Claims shall be deemed not privileged from review by the Insurance Commissioner.

40. Nothing in this Agreement shall create a right of any claimant to share in cash distributions from EICT, MNICT, or MICT. The claims procedure in this Agreement shall be limited to the determination of "Latent Deficiency Claims" for purposes of implementing the Rehabilitation Agreement, and shall not be binding for or determinative of any other issue.

41. Covanta shall utilize commercially reasonable best efforts to ensure that the Latent Deficiency Claims administration procedures are completed on or prior to December 31, 2006. Representatives of Covanta and the Insurance Commissioner's Conservation and Liquidation Office shall confer not less frequently than on a quarterly basis to discuss the status of the administration of

Latent Deficiency Claims and such other related matters in connection with the performance of this Agreement.

Further Assurances and Disclosure Covenants

42. Covanta acknowledges and agrees that: (a) this Agreement, upon execution and satisfaction of the conditions precedent set forth in Paragraphs 53 and 54 hereof, shall be a “material definitive agreement not made in the ordinary course of business” to Covanta as defined under Item 601(b)(10) under Regulation S-K, as promulgated by the U.S. Securities and Exchange Commission; (b) Covanta is obligated to file all reports required to be filed by Section 13 or Section 15(d) of the Securities Exchange Act of 1934 (“Exchange Act”); (c) pursuant to Rule 13a-11 of the Exchange Act, Covanta is required to file Current Reports on Form 8-K; (d) a material definitive agreement is required to be disclosed under Item 1.01 of a Current Report on Form 8-K within the time periods set forth therein; and (e) pursuant to its obligations under, and in accordance with, applicable federal securities laws, including Rule 13a-11, Covanta shall file a Current Report on Form 8-K to disclose its entering into a material definitive agreement.

43. As set forth in more detail in the Amendment Agreement attached hereto as Exhibit A, Covanta agrees to make appropriate, accurate and timely disclosure of this Agreement or its terms in its required filings with applicable

regulatory authorities, including the Securities and Exchange Commission and the Internal Revenue Service.

44. Covanta agrees to indemnify and hold harmless the Insurance Commissioner and the Trustee from any claims, demands, losses, liabilities, attorneys' fees, costs, incidental damages, actual damages, or consequential damages imposed upon the Trustee or the Insurance Commissioner arising from, or relating to, Covanta's performance or failure to perform under this Agreement. The Insurance Commissioner and the Trustee may retain counsel of their choosing and Covanta shall reimburse the Trustee for the reasonable fees and expenses incurred by the Trustee in accordance herewith. If the Insurance Commissioner or the Trustee selects the California Attorney General's office as his counsel, then Covanta shall reimburse the fees and costs associated with that office at the rate that office charges or attributes to the Insurance Commissioner or the Trustee.

45. BY THIS PARAGRAPH BUT SUBJECT TO PARAGRAPHS 48 AND 49, THE TRUSTEE DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES THAT THIS AGREEMENT SHALL ACHIEVE THE PURPOSES FOR WHICH COVANTA MAY INTEND IT, ANY WARRANTY OR REPRESENTATION AS TO THE FINANCIAL CONDITION OF THE TRUSTS FOR WHICH THE TRUSTEE ACTS, AND ANY WARRANTY OR

REPRESENTATION OF ANY REPRESENTATIVE OF THE TRUSTEE, INCLUDING ITS COUNSEL. COVANTA ENTERS INTO THIS TRANSACTION AT ITS OWN RISK AND EXPENSE, AFTER DOING ITS OWN DUE DILIGENCE, WITHOUT ANY RIGHT TO RELY UPON ANY REPRESENTATION OR WARRANTY NOT EXPRESSLY CONTAINED IN THIS AGREEMENT. The parties reaffirm and incorporate the provisions of the RRR Agreement, including in particular Article 6.

46. COVANTA MAY NOT RECOVER ANY SPECIAL OR CONSEQUENTIAL DAMAGES FOR BREACH OF THIS AGREEMENT. TO THE GREATEST EXTENT PERMITTED BY LAW, COVANTA WAIVES AND RELEASES THE INSURANCE COMMISSIONER AND THE TRUSTEE FROM ANY CLAIM THAT THEY HAVE MADE ANY REPRESENTATION, OMISSION OR WARRANTY TO INDUCE EXECUTION OF THIS AGREEMENT.

RELEASE AND REAFFIRMATION

47. To the greatest extent permitted by law but subject to Paragraphs 48 and 49, Covanta releases and holds harmless the Insurance Commissioner, MICT, MNICT, and EICT, their agents, employees, deputies, attorneys, and representatives, from any and all claims, demands, indemnities, requirements, liabilities of any kind or nature, except as limited in the following paragraph. This

release includes a release of any claims in contract, in tort, in statutory violation, at law, in equity, for indemnity, for damages, for consequential expenses, or otherwise, including claims under the RRR Agreement expressly covered by the terms of this Agreement. This release extends to claims known and unknown, to contingent claims, to liquidated claims, to unliquidated claims, to claims not yet perfected or accrued, and to claims of any affiliate of Covanta of any kind or nature.

48. Subject to Paragraph 49, the release set forth in this Agreement shall be limited in this single and isolated respect: While Covanta releases the Insurance Commissioner from all claims for breach of contract prior to the date of this Agreement, including claims for breach of the RRR Agreement, of any kind or nature, both parties hereby reaffirm and effectuate the RRR Agreement, and nothing in this release is to disavow or disaffirm future obligations to perform under the RRR Agreement. For avoidance of doubt, the parties' intention is that EICT, MNICT and MICT are fully released as to any claim, including a claim under the RRR Agreement, other than claims for future breaches of the RRR Agreement.

49. The parties recite, acknowledge and waive the benefit of California Civil Code Section 1542, which provides:

Covanta's initials	<p>"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which, if known by him or her, must have materially affected his or her settlement with the debtor".</p>
The Trustee's initials	

50. The parties recognize that Covanta's release is intended to be as broad as possible except as to the performance of obligations or as otherwise provided in this Agreement (including all Exhibits and other attachments hereto or agreements entered into or delivered in connection with this Agreement).

Amendment Agreement

51. The parties agree that the tax-related provisions of the Rehabilitation Agreement shall be modified in the form set forth in the Amendment Agreement, which is attached to this Agreement as Exhibit A.

Determination of Latent Deficiency Claims Amount

52. The parties shall jointly request a court order that provides, among other things, a determination of the amount of the minimum ultimate aggregate liability to holders of Latent Deficiency Claims. Covanta shall engage an independent accounting or actuarial expert, reasonably acceptable to all parties, to provide and submit to the Liquidation Court in support of such request, a

declaration(s) of the amount of Latent Deficiency Claims.

Conditions Precedent

53. The obligations of the Insurance Commissioner to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions, any or all of which may be waived in whole or in part only by a writing by the Insurance Commissioner:

- (i) the Liquidation Court shall have approved this Agreement.
- (ii) the Liquidation Court shall have entered orders which, among those orders, contain the following provisions:
 - a. an order which closes the liquidation cases;
 - b. an order which provides that MICT, MNICT and EICT shall stay in existence through at least December 31, 2010, to complete the tasks remaining in their wind-up, subject to earlier termination;
 - c. an order which authorizes entry into this Agreement; and
 - d. an order which establishes the minimum amount of the Latent Deficiency Claims to be covered under this Agreement, which amount shall be consistent with the amount requested by the parties as described in Paragraph 52 above;
- (iii) The parties shall have executed the Amendment Agreement in substantially the form attached hereto as Exhibit A;

(iv) The parties shall have executed the Latent Deficiency Claims Administration Procedures Agreement in substantially the form attached hereto as Exhibit B;

(v) The Insurance Commissioner shall have been satisfied, in his sole discretion, with the results of his legal, accounting, actuarial, tax and other due diligence investigations;

(vi) Covanta shall have received all required approvals, including without limitation, the approval of the Insurance Commissioner, as regulator;

(vii) The Insurance Commissioner shall have received, and be entitled to rely upon, an opinion issued to Covanta by Covanta's tax counsel reasonably acceptable to the Insurance Commissioner; and

(viii) The Insurance Commissioner shall have received a secretary's certificate evidencing the authority of Covanta to enter into this Agreement.

54. The obligations of Covanta to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions, any or all of which may be waived in whole or in part only by a writing by Covanta:

(i) the Liquidation Court shall have approved this Agreement.

(ii) the Liquidation Court shall have entered orders which, among those orders, contain the following provisions:

- a. an order which closes the liquidation cases;
- b. an order which provides that MICT, MNICT and EICT shall stay in existence through at least December 31, 2010, to complete the tasks remaining in their wind-up, subject to earlier termination;
- c. an order which authorizes entry into this Agreement by the Insurance Commissioner;
- d. an order which establishes the minimum amount of the Latent Deficiency Claims to be covered under this Agreement, which amount shall be consistent with the amount requested by the parties as described in Paragraph 52 above; and
- e. an order which confirms that Covanta shall have no personal duty or liability to the claimants for its work as Latent Deficiency Claims administrator under this Agreement; and
- f. an order enjoining all claimants against the EICT, MICT and MNICT from pursuing any claim or legal process of any kind against Covanta, its officers, directors, employees, agents, personnel and attorneys, as to any claim arriving from or related to this Agreement;

(iii) The parties shall have executed the Amendment Agreement in substantially the form attached hereto as Exhibit A;

(iv) The parties shall have executed the Latent Deficiency Claims Administration Procedures Agreement in substantially the form attached hereto as Exhibit B;

(v) Covanta shall have been satisfied, in its sole discretion, with the results of its legal, accounting, actuarial, tax and other due diligence investigations; and

(vi) Covanta shall have received all required approvals, including without limitation the approval of the Insurance Commissioner, as regulator.

Document Access

55. The Trustee hereby grants to Covanta, its officers, employees, agents, contractors, attorneys, experts, consultants and representatives access to the proof of claim files and claims files as to the potential Latent Deficiency Claims. Covanta agrees that such materials shall be kept in the strictest confidence, and that Covanta shall not, and shall cause its officers, employees, agents, contractors, attorneys, experts, consultants and representatives not to, disclose the materials in those files, in whole or in part, to any third person or entity, or otherwise make any use of the files or any of their materials except as set forth in Paragraph 56 below, without the express written permission of the Trustee.

56. The confidentiality provisions set forth in Paragraph 55 above shall be qualified in each, and only in each, of the following ways:

- a. documents publicly available shall not be within the confidentiality provisions of Paragraph 55;
- b. documents may be used to correspond with claimants;
- c. documents may be used in the evaluation of Latent Deficiency Claims and in any appeals from such evaluations; and
- d. documents may be used by Covanta for the purposes of performing its obligations or responding to actions under this Agreement, the Latent Deficiency Claims Administration Procedures Agreement and Amendment Agreement.

57. Covanta shall notify each person authorized by Covanta to work with the documents covered by the confidentiality provisions set forth in paragraph 55 of Covanta's and their obligations of confidentiality and shall cause (a) its officers, employees, agents, attorneys and accountants to comply with these confidentiality provisions and (b) its contractors, experts, consultants and other third party representatives to execute a confidentiality agreement in substantially the form attached hereto as Exhibit C.

58. The Trustee may set commercially reasonable terms of document access, including the location of the access, whether Covanta will be provided with

the original documents or instead will be required to make copies. Upon the request of Covanta, the Trustee shall provide reasonable assistance to Covanta in accessing the information contained in such documents. Any actual expenses incurred in connection with this access shall be borne exclusively by Covanta.

Covanta's Annual Administrative Commitment

59. Covanta agrees to bear the costs to administer this Agreement and the RRR Agreement. All expenses of the Trustee's staff in administering this Agreement shall qualify as "expenses" to be charged at the rate(s) customarily charged at their then-current rate sheet and shall be applied against the reimbursement cap set forth in Paragraph 33 hereof. Covanta shall pay any such charges within thirty days of receiving an invoice, with reasonable documentation, to make such a payment. In no event shall the Trustee or the Insurance Commissioner have any liability for the cost of administering Latent Deficiency Claims.

60. In addition to the cost of administering this Agreement, Covanta shall pay the pro rata cost of distribution of the Latent Allocated Shares under the RRR Agreement, using the same mechanism as that used by EICT, MICT and MNICT.

Additional Covenants

61. If any regulatory approvals are required, including but not limited to, the approval of the Insurance Commissioner as regulator, then Covanta shall be responsible for obtaining those approvals.

62. Nothing in this Agreement is intended to alter the liquidation priorities set forth in California Insurance Code Section 1033. The Allocated Shares (including the Latent Allocated Shares) are distributed solely through the rehabilitation plan set forth in the RRR Agreement, and do not constitute any variation from the RRR Agreement. Nothing in this Agreement or transactions contemplated by this Agreement alters Section 1025 of the California Insurance Code, or any other requirements of the California Insurance Code.

63. Based upon the fact that the aggregate amount of Allocated Shares held by the Insurance Commissioner as agent for and on behalf of MICT, MNICT and the other former Mission Insurance Group, Inc. trusts is less than 5% of the issued and outstanding shares of Covanta common stock and that such shares are no longer subject to the escrow obligations of Article Fifth of Covanta's certificate of incorporation, Covanta shall cause new stock certificates, representing the Allocated Shares (including the Latent Allocated Shares), to be issued in the name of the Insurance Commissioner to be delivered to a third party escrow agent

selected by the Insurance Commissioner for purposes of the distribution of such shares in accordance with Paragraph 31 hereof.

Miscellaneous Provisions

64. The Trustee shall be entitled to issue any press release or releases regarding this Agreement or setting forth the facts about this Agreement. Covanta will consult with the Trustee prior to issuing a press release specifically relating to this Agreement; *provided, however*, that nothing herein shall restrict Covanta's ability to comply with its disclosure obligations under applicable laws, including without limitation, the federal securities and tax laws, rules and regulations, or any applicable listing agreement, manual, by-laws, rules or regulations of any national securities exchange.

65. Covanta shall bear its own expenses of negotiation and effectuation of this Agreement, including all expenses of performance, including, without limitation, all expenses for agents, brokers, attorneys, and its own personnel.

66. Upon notice from the Trustee that he no longer intends to maintain records or data that relate to the income tax of the trusts, Covanta, shall have the right, at its sole cost and expense, to take possession of and to maintain such records.

67. The Trustee is a party to this Agreement and the other agreements contemplated in this Agreement, only in his representative capacity as Trustee and

as agent for and on behalf of holders of Latent Deficiency Claims, and not individually. The State of California is not a party to this Agreement. Neither the Trustee nor the Insurance Commissioner, nor their agents, employees, attorneys, deputies or representatives, shall have personal liability in connection with this transaction.

68. This Agreement, together with the Rehabilitation Agreement, the Amendment Agreement, the Latent Deficiency Claims Administration Procedures Agreement and any other agreements or documents entered into or issued in connection with this Agreement, are intended to be an integrated and comprehensive expression of the parties' agreement. This Agreement shall be construed such that it implements and effectuates the terms set forth herein, and such that it imposes upon the Trustee no duties other than those expressly set forth in this Agreement or such other agreements entered into in connection with this Agreement.

69. This Agreement is governed by California law, without regard to principles of conflicts of law.

70. The headings and captions in this Agreement are set forth for convenience only, and shall not be deemed a part of this Agreement.

71. The recitals herein are introductory only and are not binding agreements.

72. There are no representations, warranties, conditions or covenants not set forth in this Agreement (including all Exhibits and attachments hereto or certificates or other documents issued in writing by the Insurance Commissioner or Trustee in connection with this Agreement) and the Rehabilitation Agreement. The Insurance Commissioner and the Trustee assume no additional duties through entry of this Agreement which are not expressly set forth herein.

73. Any failure of a party to comply with any obligation, covenant, agreement or condition herein may be waived in writing, but such waiver or failure to insist upon a duty, obligation or condition shall not waive or estop the right of a party to require performance of a subsequent duty, condition or obligation. Any waiver of a term of this Agreement must be written and signed by a duly authorized representative of the party on whose behalf the waiver is being made.

74. Each party shall execute and deliver to the other party such documents as may reasonably be required to effectuate this document, but nothing in this Agreement shall impose the duty on the Trustee or Covanta to enter into additional agreements not set forth in this Agreement.

75. In the event that the conditions precedent set forth in Paragraphs 53 and 54 above are not satisfied or waived in writing, in all respects, on or before March 31, 2006, then this Agreement shall be deemed to be terminated and of no force or effect.

76. This Agreement may be executed in counterparts, which, when combined, shall constitute a single Agreement.

77. Any disputes arising from or relating to this Agreement shall be submitted to the Liquidation Court for resolution; *provided, however*, that if the liquidation of MICT, MNICT and EICT is closed, then the party initiating the dispute shall petition to re-open the case. If the case is not open or re-opened, then the Superior Court of Los Angeles County, California shall have jurisdiction over any such dispute, and, to the extent permitted by law, such jurisdiction shall be exclusive as to all matters other than enforcement of judgments.

78. The addresses for notice and for counsel are set forth below the signatures. Each party may change its address for notice by written notice. Notices may be given by mail, by facsimile or by federal express; provided, however, that if facsimile notice is given, then a letter shall also be sent by mail.

So agreed:

John Garamendi, Insurance Commissioner of the State of California, in his capacity as Trustee of the MICT, the MNICT and the EICT



David E. Wilson, Special Deputy Insurance Commissioner

Additional notice to:

Mohsen Sultan
Conservation and Liquidation Office
425 Market Street, 23rd Floor
San Francisco, CA 94105-2406

Jack Hom
State of California Insurance Department
45 Fremont Street, 19th Floor
San Francisco, CA 94105-2204

Robert H. Nunnally, Jr.
Wisener*Nunnally*Gold, LLP
625 W. Centerville Road, Suite 110
Garland, Texas 75041

Covanta Holding Corporation

By: 

Craig D. Abbott

Title: Senior Vice President and Chief Financial Officer

With additional notice to:

Timothy J. Simpson
Senior Vice President and General Counsel
Covanta Holding Corporation
40 Lane Road
Fairfield, NJ 07004

David S. Stone
Neal, Gerber & Eisenberg LLP
2 North LaSalle Street
Suite 2200
Chicago, IL 60602

C. Guerry Collins
Lord Bissell & Brook LLP
300 South Grand Avenue
8th Floor
Los Angeles, California 90071

EXHIBIT A

AMENDMENT TO AGREEMENT REGARDING CLOSING

This agreement ("Agreement") is entered into as of the date set forth below between John Garamendi, Insurance Commissioner of the State of California ("Insurance Commissioner"), in his capacity as Trustee of the Mission Insurance Company Trust ("MIC Trust"), the Mission National Insurance Company Trust ("MNIC Trust"), and the Enterprise Insurance Company Trust ("EIC Trust") (the Insurance Commissioner as Trustee shall be referred to herein as the "Trustee"), on the one hand, and Covanta Holding Corporation ("Covanta"), formerly known as Danielson Holding Corporation ("Danielson") and as Mission Insurance Group, Inc., on the other hand (collectively the "Parties").

Definitions

1. "Affiliated Group" shall mean the affiliated group of corporations of which Covanta or its successor is the common parent in respect of any tax period, as defined in section 1504 of the Internal Revenue Code of 1986, as amended (the "Code").
2. "Consolidated Return(s)" shall mean the Income Tax returns, statements, schedules, forms, and reports filed with the Internal Revenue Service by, or on behalf of or with respect to, the Affiliated Group.
3. "Effective Date" is defined in paragraph 9.
4. "Income Taxes" shall mean state, local, and U.S. federal income taxes, interest, and penalties thereon.
5. "IRS" shall mean the Internal Revenue Service.

6. "Latent Deficiency Claims" shall have the same meaning as described in paragraphs 29 and 30 of the Rehabilitation Plan Implementation Agreement.

Recitals

WHEREAS, on October 31, 1985, on the application of the Insurance Commissioner, the Superior Court for the County of Los Angeles ("Liquidation Court") issued an order that placed Mission Insurance Company, Mission National Insurance Company, and Enterprise Insurance Company into conservation proceedings in the case captioned, Insurance Commissioner of the State of California v. Mission Insurance Company, et al., case number C572 724. As of December 13, 1989, the Insurance Commissioner, as Liquidator of Mission Insurance Company, Mission National Insurance Company, and Enterprise Insurance Company, and as Conservator of Mission American Insurance Company and Compac Insurance Company, entered into that agreement with the Missouri Insurance Director as receiver of Holland America Insurance Company and Mission Reinsurance Corporation, and with Mission Insurance Group, Inc., entitled the Agreement of Reorganization, Rehabilitation, and Restructuring (the "RRR Agreement"). On April 25, 1990, the Final Order of Rehabilitation was issued by the Liquidation Court, which had the effect, *inter alia*, of entering a rehabilitation order as to Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company, and, upon closing of the transactions described in the RRR Agreement, resulted in the creation of the MIC Trust, the MNIC Trust, and the EIC Trust (collectively the "Trusts"), pursuant to the agreement of each of the Trusts.

WHEREAS, on August 9, 1990, the Parties entered into the Agreement Regarding Closing ("Closing Agreement") to implement and amend the RRR Agreement, pursuant to which

the Parties agreed, *inter alia*, (1) that in the event the Affiliated Group is required to pay any federal, state, or local income taxes for any reason on any income of the grantor derived from the activities of the EIC Trust, the MIC Trust, or the MNIC Trust, the respective Trust shall be obligated to remit such taxes to the Trust's respective grantor ("Grantor"), such amounts to constitute an administrative cost of the Trust; (2) that in the event of any administrative procedure or litigation with the IRS (or other taxing authority) concerning the federal, state, or local income taxation of the Trust or of any Grantor or other "designated person" with respect to Trust income, all reasonable costs, including attorneys' fees, with respect to such administrative procedure or litigation, shall be paid by the trustee of the Trust from Principal or Income (as defined in Section 2.7 of each Trust) of the Trust; and (3) that in the event that a determination is made by the IRS or a court of appropriate jurisdiction that a Grantor is not the "grantor" of the respective Trust, the Trustee (on behalf of the Trust) and the Grantor shall file all returns, pay taxes, and report all distributions from the Trust in accordance with that determination.

WHEREAS, the Parties entered into the Rehabilitation Plan Implementation Agreement ("Implementation Agreement") on even date herewith.

WHEREAS, Covanta or its successor corporation ("Parent") is the common parent corporation of the Affiliated Group.

WHEREAS, such Affiliated Group has filed a Consolidated Return in past years and will be required to file a Consolidated Return in future years, and the Affiliated Group is required to report the income, gains, deductions, credits and losses (collectively the "Tax Items") attributable to the activities of the Trusts in the Consolidated Return for the Affiliated Group so long as the Trusts are subject to the grantor trust rules of section 671 through 678 of the Code.

WHEREAS, it is the Parties' expectation that the case of the Trusts pending before the Liquidation Court (case C572 724) will close by December 31, 2005, but it is expected that the Trusts will continue in existence for Income Tax purposes for some period of time thereafter, subject to the oversight of the Trustee. During such time, Parent will provide administrative services as provided in the Latent Deficiency Claims Administration Procedures Agreement with respect to Latent Deficiency Claims.

WHEREAS, pursuant to paragraph 51 of the Implementation Agreement, the Parties have agreed to enter into this Agreement, which is attached as Exhibit A to the Implementation Agreement and which amends the Closing Agreement and the RRR Agreement in certain respects.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties, intending to be legally bound, hereto agree as follows:

(1) Filing of Consolidated Return and Payment of Taxes. Except as specifically provided herein, Parent shall have sole responsibility for and control over the preparation and filing of all Consolidated Returns with respect to the Affiliated Group. Parent shall timely and accurately file such Consolidated Returns and pay to the IRS any amounts shown as due thereon. So long as the Trusts are grantor trusts, Parent shall include all Tax Items attributable to the Trusts in the filing of such Consolidated Returns as required by the grantor trust rules of sections 671 through 678 of the Code.

(2) Audits of Consolidated Return. Parent shall have the sole responsibility for and control over the conduct and disposition of (A) any audit, conference, or other proceeding with the IRS, and (B) any judicial proceedings concerning the determination of the federal Income

Tax liabilities (including the Tax Items of the Trusts) of any member or members of the Affiliated Group (including any successor members thereof). The Trustee agrees to provide all requested documentation and assistance requested by Parent in connection with its conduct of the foregoing activities, provided such request is reasonable in scope as well as reasonable in time and expense. Parent agrees not to take a position in connection with any proceeding described in this paragraph that (i) results, directly or indirectly, in an increase in taxable income of the Grantor derived from the Trust's activities in any taxable year preceding the taxable year ending December 31, 2004 except to the extent that Parent agrees to pay any increase in tax liability for such taxable years, or (ii) jeopardizes the grantor trust status of the Trusts in any taxable year. From and after the date this Agreement is entered into, the Trustee also agrees not to propose to Parent any changes that increase the tax liability for a respective Trust, for taxable years before the taxable year ending December 31, 2004.

(3) Copy of Consolidated Return. Parent shall provide the Trustee a complete copy of the Consolidated Return (as filed) and any amended Consolidated Return for periods beginning with the Effective Date within fifteen (15) days after the Consolidated Return or amended Consolidated Return is filed with the IRS. Parent shall keep the Trustee reasonably informed as to any developments concerning the filed Consolidated Returns, including but not limited to, the receipt of any notices of deficiency, notices of audit, revenue agent's reports, and information document requests, and the receipt or sending of any correspondence with the IRS regarding the Trusts' Tax Items but exclusive of any material subject to an existing attorney-client privilege. The Trustee shall take reasonable steps to insure that all such Income Tax

information provided by Parent will be kept confidential and shall not be disclosed, except as required by law.

(4) No Obligation to Reimburse Parent for Income Taxes. The obligation of each of the Trusts to reimburse its respective Grantor (or its successor) for any Income Taxes of Parent or any other member of the Affiliated Group for Income Taxes attributable, directly or indirectly, to the Tax Items of the Trust that the Grantor is required to include on its returns pursuant to sections 671 through 678 of the Code set forth in Section 8.3 of the Closing Agreement shall be terminated beginning with the Income Taxes due for the taxable year ending on December 31, 2004, so that the Trustee shall have no obligation to Parent or any other member of the Affiliated Group for Income Taxes due for the taxable year ending on December 31, 2004 and subsequent tax periods.

(5) Maintenance of Trusts. Notwithstanding anything to the contrary in this Agreement, the RRR Agreement and the Final Order of Rehabilitation (and all related documents), other than as described in the Closing Agreement, Parent shall take no action that will terminate the grantor trust status of any of the Trusts, unless (i) Parent notifies the Trustee in writing at least 60 days before taking any such action; and (ii) the Trustee, in his sole discretion, consents thereto in writing. Furthermore, unless the Trustee waives the required action, Parent shall timely take or cause other members of the Affiliated Group to take all action necessary to terminate grantor trust status of the Trusts in the event Parent is determined to be insolvent within the meaning of section 108(d)(3) of the Code. Should Parent be determined to be insolvent, the Trustee shall be notified in writing within 10 days of such determination and will

have 10 days from the date of notification to determine whether to waive the required actions herein.

(6) Indemnification. Parent shall indemnify and hold harmless the Trusts and the Trustee from any claims, demands, losses, liabilities, attorneys' fees, costs, incidental damages, actual damages, or consequential damages imposed on the Trustee or the Trusts for Income Taxes the Trusts may be required to pay that are attributable to income reportable in the Consolidated Return for taxable years beginning with the taxable year ending on December 31, 2004. This indemnification specifically includes the amount, if any, assessed against the Trustee on the basis of personal liability under 31 U.S.C. section 3713. The Trustee shall keep Parent reasonably informed as to any developments concerning any potential demand for Income Taxes, including all penalties, additional taxes, and interest thereon, reimbursable under this paragraph, including but not limited to, the receipt of any notices of audit, information document requests, revenue agent's reports, notices of deficiency, or other correspondence or communication with the IRS or comparable state or local tax authority and shall permit Parent to exercise its rights under paragraph 2, above. The Insurance Commissioner and the Trustee may retain counsel of their own choosing the costs of which will be reimbursed under this paragraph. If the Insurance Commissioner or the Trustee selects the California Attorney General's office as his counsel, then Covanta shall reimburse the fees and costs associated with that office at the rate that office charges (or attributes to) the Insurance Commissioner or the Trustee.

(7) Disclosure on Consolidated Return. Parent shall include with the Consolidated Returns filed for the appropriate taxable years a disclosure statement, which disclosure shall include at a minimum a statement substantially similar, in all material respects, to the disclosure

described below. In addition, Parent shall not make any disclosure in the Consolidated Return which is contrary to the statements set forth below.

(a) For the taxable year ending December 31, 2005 (and for any amended return for the taxable year ending December 31, 2004), and for each other succeeding taxable year ending prior to the taxable year described in paragraph (b) below:

"Pursuant to the order of the Superior Court for the County of Los Angeles in case C572 724, "Insurance Commissioner of the State of California v. Mission Insurance Company, et al., dated _____, the Enterprise Insurance Company Trust, the Mission Insurance Company Trust and the Mission National Insurance Company Trust (which are grantor trusts whose income, deductions, gains and losses are included in the Consolidated Group) have an obligation, *inter alia*, with respect to certain claims (in amounts and as defined in the Order), and the reserves of the insurance operations of these grantor trusts include an estimate of the liabilities related to such claims."

(b) For the taxable year(s) in which Parent stock is allocated and the stock-for-debt exception is applied to the Latent Deficiency Claims:

"The taxable income of the Affiliated Group as reported reflects the fact that stock eligible for the stock-for-debt exception to the discharge of indebtedness income rules of former section 108(e)(10)(B) was distributed to holders of certain claims (in amounts and as defined in the Order dated _____, which was issued by the Superior Court for the County of Los Angeles in case C572 724), the liabilities for which had been reflected in the reserves of the insurance operations. The stock-for-debt exception (including its requirements that applied prior

to its repeal), as in effect prior to the amendments to section 108 by P.L. 103-66, is applicable to the payment of these liabilities with such stock."

(8) Amendment of Closing Agreement. The provisions set forth in Section 8.3 of the Closing Agreement with respect to the Trustee's obligation to reimburse the Grantor for Income Taxes shall be deemed modified as set forth by this Agreement beginning with the taxable year in which this Agreement is first effective.

(9) Effective Dates. If the conditions precedent set forth in paragraphs 53 and 54 (other than paragraphs 53(iii) and 54(iii)) of the Implementation Agreement are fully satisfied or waived, this Agreement shall be effective beginning with the taxable year ending on December 31, 2004, and will terminate beginning on the first day in which all of the Trusts are no longer in existence for Income Tax purposes or no longer qualify as grantor trusts under the Internal Revenue Code (under the conditions set forth in paragraph (5)). However, notwithstanding such termination, the obligations of the Trustee pursuant to paragraph (2) of this Agreement shall continue to be in effect for so long as any taxable period in which the Tax Items attributable to the activities of the Trust were included in the Consolidated Return remains open for assessment and collection under the Code. Any amounts owed with respect to the periods before the taxable year ending on December 31, 2004, shall be allocated pursuant to Section 8.3 of the Closing Agreement without modification by this Agreement.

(10) Preparation of Consolidated Returns. The Trustee shall provide to Parent detailed and accurate information as reasonably required or appropriate to enable Parent to prepare the Consolidated Return no later than 5 ½ months after the close of the taxable year. Such information shall be provided to Parent in the form and manner prescribed by Parent or

otherwise in the form and manner as mutually agreed. Parent shall provide the Trustee with a copy of the draft Consolidated Return and a schedule that identifies the Tax Items attributable to the activities of the Trusts 30 days before the Consolidated Return is due to be filed (with authorized extensions.) Should the Trustee have any objection to the Trusts' Tax Items as reported on the Consolidated Return, the Trustee shall notify Parent in writing as soon as possible but not later than 10 days prior to the due date (with extensions) of filing the Consolidated Return.

(11) General Cooperation. The Parties agree to cooperate in the implementation of this Agreement and to provide such assistance as may reasonably be requested by each other in connection with the preparation of any Consolidated Return, audit, or judicial or administrative proceeding or determination relating to a liability for taxes, including reasonable access to and assistance in identifying and interpreting the books and records, financial statements and work papers, as well as the execution of documents and the performance of other acts reasonably necessary to accomplish the purposes of this Agreement.

(12) Validity of Provisions. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

(13) Disputes. The Parties shall make good faith efforts to resolve any dispute or difference between the Parties with respect to the operation or interpretation of this Agreement pursuant to the decision of a person mutually approved by Parent and the Trustee.

So agreed as of 1/10, 200⁶~~5~~.

John Garamendi, Insurance Commissioner of the State of California, in his capacity as Trustee of
the MIC Trust, the MNIC Trust, and the EIC Trust.

David E. Wilson

David E. Wilson, Special Deputy Insurance Commissioner

1/10/06

Date

Covanta Holding Corporation

By: Craig _{TJS}

Title: _____

Its: _____

Date

EXHIBIT B

LATENT DEFICIENCY CLAIMS

ADMINISTRATION PROCEDURES AGREEMENT

This Latent Deficiency Claims Administration Procedures Agreement is entered into as of the date set forth below between John Garamendi, Insurance Commissioner of the State of California, in his capacity as Trustee of the Mission Insurance Company Trust, the Mission National Insurance Company Trust and the Enterprise Insurance Company Trust, on the one hand, and Covanta Holding Corporation, formerly known as Danielson Holding Corporation on the other hand. Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Rehabilitation Plan Implementation Agreement entered into as of even date herewith by and among the parties hereto.

Definitions

1. "Agreement" shall mean this Latent Deficiency Claims Administration Procedures Agreement between the parties set forth above.
2. "Deficiency Claims" shall have the meaning ascribed to such term in Section 1.8 of the RRR Agreement.
3. "Latent Deficiency Claim" shall mean a claim that is a "Deficiency Claim" except that the claimant did not qualify as a creditor against EICT, MICT or MNICT under California Insurance Code Sections 1021 to 1024 and 1032 for one or more of the reasons listed below
 - a. The claimant did not meet the August 18, 1995 deadline for filing amendments to proofs of claim, pursuant to the Amended Final Liquidation Dividend plan for the EICT, MICT and MNICT;

b. The claimant's claim was an otherwise valid policyholder priority claim within the meaning of Section 1033 of the California Insurance Code, but did not become liquidated (in whole or in part) and certain within the meaning of California Insurance Code Section 1025 by the court-ordered deadline of December 31, 2003 (for purposes of clarity and the definition of Latent Deficiency Claims, but not for the purpose of any revaluation of proof of claims for purposes of distributions under Section 1033 of the California Insurance Code, and without limiting the generality of the foregoing, this category includes claims of claimants under direct insurance contracts issued by Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company that were settled for less than the stated amount of such claims); or

c. The claimant's claim was an otherwise valid non-policyholder priority claim within the meaning of Section 1033 of the California Insurance Code, but did not become liquidated (in whole or in part) and certain within that meaning of California Insurance Code Section 1025 by the court-ordered deadline of August 2, 2004 (for purposes of clarity and the definition of Latent Deficiency Claims, but not for the purpose of any revaluation of proof of claims for purposes of distributions under Section 1033 of the California Insurance Code, and without limiting the generality of the foregoing, this category include claims of claimants under reinsurance contracts issued by Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company that were settled for less than the stated amount of such claims).

4. "Implementation Agreement" shall mean the Rehabilitation Plan Implementation Agreement below between John Garamendi, Insurance Commissioner of the State of California, in his capacity as Trustee of the Mission Insurance Company Trust, the Mission National

Insurance Company Trust and the Enterprise Insurance Company Trust, on the one hand, and Covanta Holding Corporation, formerly known as Danielson Holding Corporation and Mission Insurance Group, Inc. on the other hand.

Initial Recitals

5. Mission Insurance Company, Mission National Insurance Company, and Enterprise Insurance Company are or were California-domiciled property and casualty insurance companies.

6. On October 31, 1985, on the application of the Insurance Commissioner, the Superior Court for the County of Los Angeles issued an order which placed Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company into conservation proceedings, in case number C 572 724.

7. On February 24, 1987, the Superior Court for the County of Los Angeles entered those orders which placed Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company in liquidation proceedings in the case captioned Insurance Commissioner of the State of California v. Mission Insurance Company, et al. case number C 572 724.

8. As of December 13, 1989, the Insurance Commissioner, as Liquidator of Mission Insurance Company, Mission National Insurance Company, Enterprise Insurance Company, and as Conservator of Mission American Insurance Company and Compac Insurance Company, entered into the RRR Agreement with the Missouri Insurance Director as Receiver of Holland-America Insurance Company and Mission Reinsurance Corporation, and with Mission Insurance Group, Inc.

9. On April 25, 1990, the Final Order of Rehabilitation was issued by the Liquidation Court which had the effect, inter alia, of entering a rehabilitation order as to Mission Insurance Company, Mission National Insurance Company and Enterprise Insurance Company, and, upon closing of the transactions described in the RRR Agreement, resulted in the creation of the MICT, the MNICT and the EICT, pursuant to the agreement of MICT, the agreement of MNICT and the agreement of the EICT.

10. The parties to this Agreement recognize that numerous claimants filed proofs of claim against EICT, MICT and MNICT which were approved by the Trustee. The unsatisfied portions of such claims shall be treated as Deficiency Claims under the RRR Agreement. This Agreement recognizes that among the Deficiency Claims are the Latent Deficiency Claims that either in part or in whole do not qualify for or are not entitled to receive cash distributions from the EICT, MICT or MNICT pursuant to California Insurance Code sections 1011, *et seq.*, but which claims nonetheless, qualify and are entitled to share in the distribution of shares of Covanta common stock pursuant to the RRR Agreement.

11. Pursuant to the RRR Agreement, the Commissioner now holds as agent for and on behalf of claimants against the MICT and MNICT, shares of Covanta common stock to be distributed to holders of Deficiency Claims (as defined in the RRR Agreement).

12. In order to effectuate the RRR Agreement, the parties enter into this Agreement to set forth a method to evaluate the Deficiency Claims (including Latent Deficiency Claims) for the purpose of distributing the shares of Covanta common stock in accordance with the RRR Agreement.

13. Under the terms of the Implementation Agreement concurrently entered into between the parties, Covanta has agreed to administer a Latent Deficiency Claims administration

process, the purpose of which is to evaluate Latent Deficiency Claims in order to ensure that any distribution of shares of Covanta common stock to the Latent Deficiency Claims complies with the stock for debt provision of former section 108(e)(8)(B) of the Internal Revenue Code and implements the intents and purposes of Sections 2.1(a)(i), 2.1(b)(i) and 2.1(d)(i) of the RRR Agreement.

14. The Agreement contemplates that the court will issue an order establishing the aggregate amount of the Latent Deficiency Claims. The Latent Deficiency Claims administration procedures will be used to apportion individual Latent Deficiency Claims to the total amount of Latent Deficiency Claims (set by court order) in order to determine the proportionate amount of shares of Covanta common stock each Latent Deficiency Claimant shall receive as required under the RRR Agreement.

Latent Deficiency Claims Administration

15. The Commissioner's Conservation and Liquidation Office personnel shall provide Covanta with a listing of substantially all claimants who timely filed proofs of claim in the EICT, MICT and MNICT liquidation proceedings; shall provide access to the claims files and other supporting documentation submitted in support of those claims; and shall provide access to the documents and other data reflecting the determination and adjudication of the claims in the liquidation proceedings.

16. Covanta shall send notice by first class mail to all claimants who timely filed proofs of claim in the EICT, MICT and MNICT liquidation proceedings advising them of the Latent Deficiency Claims administration evaluation process and procedures. Covanta and the Commissioner will agree upon the form and content of the notification to be sent to claimants,

and such notice will provide, at a minimum, the following information and instructions:

- the purpose of the Latent Deficiency Claims administration evaluation process;
- an advisory that the claims evaluation process will rely upon the supporting documentation the claimants have previously provided in the EICT, MICT and MNICT liquidation proceedings, unless supplemented as provided in the notice;
- a date after which claimants can no longer submit supplemental claims information;
- a claims supplemental information form and directions for completing and filing such form; and
- a telephone call-in number for those who have questions about the process.

17. Covanta shall establish the proper procedures to evaluate the Latent Deficiency Claims; to exclude defective claims; and to provide the appropriate level of scrutiny and review based upon the stated value and complexity of the claims and taking into account the ultimate value of the recovery to respective claimants for their claims and the amount in controversy. The Commissioner and Covanta have balanced the cost of review procedures against the benefits of (i) recognizing and maximizing the value of payments to be made to claimants as a whole and (ii) reaching more refined levels of evaluation of the Latent Deficiency Claims in the aggregate. Covanta and the Insurance Commissioner's Conservation and Liquidation Office personnel shall meet and confer as necessary regarding the fulfillment by Covanta of its obligations under this provision, including without limitation, to review forms to be utilized and processes to be adopted in connection herewith.

18. Covanta shall provide written notice of the evaluation of any Latent Deficiency Claim to any claimant requesting such in writing. Any claimant receiving written notice of a

claims evaluation may then file with Covanta within thirty (30) days of the mailing date of the notice of evaluation, an intent to appeal. The appeal shall be determined by a retired Superior Court judge, sitting as claims arbitrator. Covanta and the claimant shall equally share the cost of the claims arbitrator. The claims arbitrator shall issue a determination, which shall be final and binding upon the claimant and Covanta. The appeal to the claims arbitrator shall be conducted on the written record, as contained in the claims file, and the formal rules of evidence will not apply. The claims arbitrator will advise the claimant who appeals that the claimant may submit an appeal brief within thirty (30) days of a date set by the claims arbitrator. Covanta shall then have thirty (30) days to submit a response, after which the claimant shall have thirty (30) days to submit a reply. The claims arbitrator shall rule based on the written record.

19. Parties to an arbitration shall have the right to apply to the Liquidation Court, or if the Liquidation Court no longer has jurisdiction over any disputes hereunder to a court of competent jurisdiction in the County of Los Angeles for an order to enforce the findings of a claims arbitrator as to the amount of the Latent Deficiency Claim to which a holder may be entitled to claim; *provided, however*, that any such orders shall be limited solely to the entitlement of such claimant to the amount of the Latent Deficiency Claim so claimed.

20. Determinations by Covanta which are not appealed as to a Latent Deficiency Claim's evaluation shall be final.

21. Nothing in this Agreement shall create a right in any claimant to share in cash distributions from the EICT, MICT or the MNICT. The claims procedures in this Agreement are solely for the purposes of evaluating the Latent Deficiency Claims in order to comply with the stock for debt provisions in former section 108(e)(8)(B) of the Internal Revenue Code and shall not be binding for or determinative of any other issue.

22. The Insurance Commissioner and Covanta shall cooperate to ensure that the claims process reaches a timely conclusion. Covanta shall use commercially reasonable best efforts to ensure that all initial claims evaluations are completed on or prior to December 31, 2006.

23. Nothing in this Agreement is intended to alter the liquidation priorities set forth in California Insurance Code Section 1033. The shares of Covanta common stock herein are distributed solely through the rehabilitation plan set forth in the RRR Agreement, and do not constitute any variation from the RRR Agreement. Nothing in this plan alters Section 1025 of the California Insurance Code, or any other requirements of the California Insurance Code.

Miscellaneous Provisions

24. The Trustee (but not the State of California) is a party to this Agreement, only in his representative capacity as Trustee and as agent for and on behalf of holders of Latent Deficiency Claims, and not individually. Neither the Trustee nor the Insurance Commissioner, nor their agents, employees, attorneys, deputies or representatives, shall have personal liability on this transaction.

25. This agreement is governed by California law, without regard to principles of conflicts of law.

26. The headings and captions in this Agreement are set forth for convenience only, and shall not be deemed a part of this Agreement.

27. The recitals herein are introductory only and not binding agreements or admissions.

28. Any failure of a party to comply with any obligation, covenant, agreement or condition herein may be waived in writing, but such waiver or failure to insist upon a duty, obligation or condition shall not waive or estop the right of a party to require performance of a subsequent duty, condition or obligation. Any waiver of a term of this Agreement must be

written and signed by a duly authorized representative of the party on whose behalf the waiver is being made.

29. Each party shall execute and deliver to the other party such documents as may reasonably be required to effectuate this document, but nothing in this Agreement shall impose the duty on the Trustee to enter into additional agreements not set forth in this Agreement.


30. This Agreement may be executed in counterparts, which, when combined, shall constitute a single Agreement.

31. Any disputes arising from or relating to this Agreement shall be submitted to the Mission Liquidation Court for resolution; provided, however, that if the liquidation of MICT, MNICT and EICT is closed, then the party initiating the dispute shall petition to re-open the case. If the case is not open or re-opened, then the Superior Court of Los Angeles County, California shall have jurisdiction over any such dispute, and, to the extent permitted by law, such jurisdiction shall be exclusive as to all matters other than enforcement of judgments.

32. The addresses for notice and for counsel are set forth below the signatures. Each party may change its address for notice by written notice. Notices may be given by mail, by facsimile or by federal express; provided, however, that if facsimile notice is given, then a letter shall also be sent by mail.

So agreed:

John Garamendi, Insurance Commissioner of the State of California, in his capacity as Trustee of the MICT, the MNICT and the EICT



David E. Wilson
Special Deputy Insurance Commissioner

Additional notice to:

Mohsen Sultan
Conservation and Liquidation Office
425 Market Street, 23rd Floor
San Francisco, CA 94105-2406

Jack Hom
State of California Insurance Department
45 Fremont Street, 19th Floor
San Francisco, CA 94105-2204

Robert H. Nunnally, Jr.
Wisener*Nunnally*Gold, LLP
625 W. Centerville Road, Suite 110
Garland, Texas 75041

Covanta Holding Corporation

By: 

Craig D. Abbott

Title: Senior Vice President and Chief Financial Officer

With additional notice to:

Timothy J. Simpson
Senior Vice President and General Counsel
Covanta Holding Corporation
40 Lane Road
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Los Angeles, California 90071

PROOF OF SERVICE: By Federal Express
(Code Civ. Proc., §§ 1013, 2015.5)

STATE OF TEXAS, COUNTY OF DALLAS.

I am employed in the County of Dallas, State of Texas. I am over the age of 18 and not a party to the within action; my business address is 625 West Centerville Road, Suite 110, Street, Garland, Texas 75041.

On this date, I served the foregoing documents described NOTICE OF MOTION AND MOTION TO APPROVE VALUATION OF DEFICIENCY CLAIMS PURSUANT TO REHABILITATION PLAN IMPLEMENTATION AGREEMENT; MEMORANDUM OF POINTS AND AUTHORITIES by placing a copy thereof enclosed in sealed envelopes addressed as follows:

Sent via Federal Express to:

See Attached Exhibit "A"

I am readily familiar with my employer's practices of collection and processing correspondence for mailing with Federal Express and the above-referenced correspondence will be deposited with Federal Express on the same date as stated below, following ordinary course of business.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

___ (Federal) I declare that I am employed by the office of a member of the bar of this court at whose direction the service was made.

Executed on March 31, 2006 at Garland, Texas


Komashri Govender

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