

DRAFT

LANDFILL GAS RIGHTS AND SITE LICENSE AGREEMENT

between

COUNTY OF YOLO, CALIFORNIA

and

[COMPANY]

Dated

[ , 2025]

**IN ADDITION, IF THE PROJECT WILL BE PROJECT FINANCED, THIRD-PARTY LENDER PROVISIONS WILL BE INCLUDED IN THE AGREEMENT.**

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## LANDFILL GAS RIGHTS AND SITE LICENSE AGREEMENT

THIS LANDFILL GAS RIGHTS AND SITE LICENSE AGREEMENT is made and effective this [ ] day of [ ], 2025 (the “Contract Date”) by and between the County of Yolo, a political subdivision of the State of California (“County”), and [\_\_\_\_\_], a [corporation], organized and existing under the laws of the State of [\_\_\_\_\_] and authorized to do business in the State of California (the “Company”).

### RECITALS

(A) The County owns the Yolo County Central Landfill (“Landfill”) which produces quantities of landfill gas as a byproduct of the decomposition of organic materials in the Landfill.

(B) The County desires to sell the landfill gas produced at the Landfill and delivered to a physical location assigned as the ‘Landfill Gas Delivery Point’ for beneficial use.

(C) On May 1, 2025 the County issued a request for proposals for a Design-Build-Operate-Finance Landfill Gas Beneficial Use Project (the “RFP”).

(D) Following review, clarification and evaluation of the proposals received by the County on [\_\_\_\_\_], 2025] the County determined that the Company’s proposal was the most advantageous to the County.

(E) The Company wishes, under the terms of this Agreement, to purchase and to utilize landfill gas and to have access to and use of a portion of the Landfill to design, construct, start-up, permit, own and operate and maintain a landfill gas beneficial use project.

(F) The County wishes to receive compensation as described herein in return for the sale to the Company of the landfill gas and the license to utilize a portion of the Landfill property to locate a landfill gas beneficial use project.

(G) A resolution authorizing the execution and delivery of this Agreement has been duly adopted by the County’s Board of Supervisors on [\_\_\_\_\_], 2025].

(H) The execution and delivery of this Agreement by the Company has been duly authorized by all necessary Company action.

NOW, therefore, in consideration of the mutual promises herein, the parties hereto agree as follows:

ARTICLE I  
DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS. As used in this Agreement the following terms shall have the meanings set forth below:

“Acceptable Condensate” means the liquid(s) or solid(s) that condense or precipitate out of the Landfill Gas after the Point of Delivery, except for hazardous condensate or other condensate, liquids or solids that contain material or chemicals added to the Landfill Gas, collection system or leachate system which makes such liquids or solids more difficult or expensive to dispose of.

“Affiliate” means any person, corporation or other entity directly or indirectly controlling or controlled by another person, corporation or other entity or under direct or indirect common control with such person, corporation or other entity.

“Agreement” means this Landfill Gas Rights and Site License Agreement, dated and effective as of the Contract Date, by and between the County and the Company, as the same may be amended or modified from time to time in accordance therewith.

“Annual Landfill Gas Beneficial Use Project Operating Plan” means the annual operating plan for the Landfill Gas Beneficial Use Project prepared by the Company in accordance with the provisions set forth in Section 8.6.

“Annual Site Payment” has the meaning set forth in subsection 9.2(B).

“Appendix” means an appendix to this Agreement, as the same may be amended or modified from time to time in accordance with the terms thereof.

“Applicable Law” means any (and all) federal, state, or local statute, law, regulation, ordinance, rule, mandate, judgment, order, decree, permit, code, license requirement, or other governmental requirement or restriction, or any interpretation or administration of any of the foregoing by any Governmental Body that applies to the parties, to the Landfill, to the Site, to the subject matter of this Agreement, or any other transaction or matter contemplated by this Agreement (including any of the foregoing which concern health, safety, fire, environmental protection, gas processing, quality and use, labor relations, mitigation monitoring plans, building codes, nondiscrimination, and the payment of minimum or prevailing wages).

“Anticipated Landfill Gas Quality Standards” means the anticipated Landfill Gas quality standards set forth in Appendix I herein.

“Argus” means Argus Media which provides price indexes, business intelligence and market data for the global energy and commodities markets and produces price assessments and analysis of international energy and other commodity markets.

“Bankruptcy Code” means the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., as amended from time to time, and any successor statute thereto. “Bankruptcy Code” shall also include any similar state law relating to bankruptcy, insolvency, the rights and remedies of creditors, the appointment of receivers or the liquidation of companies and estates that are unable to pay their debts when due.

“Biogas” means the mixture of various different gases which is the natural by-product of the decomposition of organic materials from an anaerobic digester or from a landfill.

“CalEPA” means the California Environmental Protection Agency.

“CEQA” means the California Environmental Quality Act.

“Commercial Operation” means that the Landfill Gas Beneficial Use Project is fully constructed and operational as demonstrated by satisfying the Commercial Operation Date Conditions.

“Commercial Operation Date” means the date on which the Company notifies the County in writing that Commercial Operation has occurred or is deemed to have occurred under Article VII.

“Commercial Operation Date Conditions” has the meaning set forth in Section 7.2.

“Company” means [\_\_\_\_\_], a [limited liability company] organized and existing under the laws of [Delaware] and its successors and assigns permitted under this Agreement.

“Company Fault” means any breach (including the untruth or breach of any Company representation or warranty herein set forth), failure, nonperformance or noncompliance by the Company with respect to its obligations under this Agreement to the extent not directly attributable to any Uncontrollable Circumstance or County Fault, and which materially and adversely affects the County’s rights, obligations or ability to perform under this Agreement.

“Company’s Title V Permit” means the air permit for the Landfill Gas Beneficial Use Project issued to the Company by the YSAQMD, and federally enforceable by the U.S. EPA, as amended, revised or modified from time to time.

“Contract Date” means [\_\_\_\_\_, \_\_, 2025].

“Contract Services” means everything required to be furnished and done for the Landfill Gas Beneficial Use Project pursuant to this Agreement, including the Landfill Gas Beneficial Use Project Work.

“Contract Standards” means the standards, terms, conditions, methods, techniques and practices imposed or required by: (1) Applicable Law; (2) Good Engineering and Construction Practice; (3) Good Industry Practice; (4) the Landfill Gas Beneficial Use Project Operation and Maintenance Manual; (5) applicable equipment manufacturers’ design requirements and recommendations; (6) applicable Insurance Requirements; and (7) any other standard, term, condition or requirement specifically provided in this Agreement to be observed by the Company. **[NTD: Discuss whether there are any additional County standards that must be met.]**

“Contract Year” means the County’s fiscal year commencing on July 1 in any year and ending on June 30; provided, however, that the first Contract Year shall commence on the earlier of the Scheduled Commercial Operation Date and the actual Commercial Operation Date and shall end on the following June 30, and the last Contract Year shall commence on July 1 prior to the date this Agreement expires or is terminated, whichever is applicable, and shall end on the last day of the Term. Any computation made on the basis of a Contract Year shall be adjusted on a pro rata basis to consider any Contract Year of less than 365/366 days. **[NTD: Confirm County’s fiscal year.]**

“County” means the County of Yolo, California.

“County Fault” means any breach (including the untruth or breach of any County representation or warranty herein set forth), failure, nonperformance or noncompliance by the County with respect to its obligations under this Agreement to the extent not directly attributable to any Uncontrollable Circumstance or Company Fault, and which materially and adversely affects the Company’s rights, obligations or ability or costs to perform under this Agreement.

“County Indemnitee” means the County and its board, elected officials, appointed officers, employees, representatives, agents and contractors.

“County’s Title V Permit” means the air permit for the Landfill issued to the County by the YSAQMD, and federally enforceable by the U.S. EPA, as amended, revised or modified from time to time.

“County Project Manager” means the representative employed or contracted by the County and designated by the County as “County Project Manager” to the Company in writing.

“Digester Gas” means the mixture of various different gases which is the natural by-product of the decomposition of organic materials from an anaerobic digester.

“Encumbrances” means any Lien, lease, mortgage, security interest, charge, judgment, judicial award, attachment or encumbrance of any kind with respect to the Landfill Gas Beneficial Use Project Work, other than Permitted Encumbrances.

“Environmental Attributes” means any emissions, air quality or other aspect, characteristic, claim, credit, benefit, reduction, offset or allowance, howsoever entitled or designated, resulting from, attributable to or associated with the generation, transportation, refinement, processing and/or use of Landfill Gas as a “renewable fuel” (as defined at 40 C.F.R. Part 80.1401), whether existing as of the Contract Date or in the future, and whether as a result of any present or future local, state or federal laws or regulations or local, state, national or international voluntary program, as well as any and all generation attributes under any and all international, federal, regional, state or other law, rule, regulation, bylaw or treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now or in the future, including without limitation (a) any such credits, certificates, benefits, offsets and allowances computed on the basis of the Landfill Gas Beneficial Use Project’s generation using renewable technology or displacement of fossil-fuel derived or other conventional energy generation, including but not limited to low carbon or renewable fuel standard credits and/or RINs; (b) any certificates issued in connection with energy generated by the Landfill Gas Beneficial Use Project or any RECs; (c) all Certified Emission Reductions (CERs); or (d) similar program benefits to any of the foregoing; and (e) all tradable emission allowances or other entitlements or credits to produce emissions issued by a governmental or quasi-governmental authority, together with all recording or registration rights for the same, in each case, solely to the extent associated with Landfill Gas Beneficial Use products processed by the Landfill Gas Beneficial Use Project following the Commercial Operation Date.

“Event of Default” means, those items identified in Article XI which may constitute grounds for termination.

“Extension Period” means the period commencing on the day after the Scheduled Commercial Operation Date and ending 365 days following the Scheduled Commercial Operation Date, or if one or more delays caused by an Uncontrollable Circumstance occur during such period, the date which is the next business day following the date calculated by adding to the Extension Period the aggregate number of days of such delay.

“Fair Market Value” means the fair market value of the Project as determined in accordance with Appendix H of this Agreement.

“Fees-and-Costs” means reasonable fees and expenses of employees, attorneys, architects, engineers, expert witnesses, contractors, consultants and other persons, and costs of transcripts, printing of briefs and records on appeal, copying and other reimbursed expenses, and expenses reasonably incurred in connection with investigating, preparing for, defending or otherwise appropriately responding to any Legal Proceeding.

“Good Engineering and Construction Practice” means those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good design, engineering, equipping, installation, construction and commissioning practices for the design, construction and improvement of capital assets in the landfill gas beneficial use industry as followed in California.

“Good Industry Practice” means the methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good operation, maintenance, repair, replacement and management practices in the landfill gas beneficial use industry as observed in California.

“Governmental Approvals” means all orders of approval, permits, licenses, authorizations, consents, compliance, certifications, exemptions, rulings, certificates, notifications, entitlements and approvals issued or required by a Governmental Body of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Landfill Gas Beneficial Use Project Work or the Landfill Gas Beneficial Use Project.

“Governmental Body” means any federal, state, regional or local legislative, executive, administrative, judicial or other governmental board, agency, authority, commission (including public utility commission), administration, court or other body, or any official thereof having jurisdiction or authority.

“Guarantor” means [\_\_\_\_\_], a [corporation] organized and existing under the laws of the State of [\_\_\_\_\_], and its permitted successors and assigns.] **[NTD: Term will be deleted if not applicable.]**

“Guaranty Agreement” or “Guaranty” means the Guaranty Agreement entered into concurrently with this Agreement from the Guarantor to the County in the form set forth in the Transaction Forms, as the same may be amended from time to time in accordance therewith.] **[NTD: Term will be deleted if not applicable.]**

“Hazardous Material” means any material which is defined or regulated as a hazardous waste, toxic substance, hazardous substance, hazardous chemical substance or mixture, or asbestos under Applicable Law, as amended from time to time, including, but not limited to: (1) the Resource Conservation and Recovery Act and the regulations contained in 40 CFR Parts 260-281; (2) the Toxic Substances Control Act (15 U.S.C. Sections 2601 et seq.) and the regulations contained in 40 CFR Parts 761-766; and (3) California Health & Safety Code, Division 20, Chapter 6/5 (Hazardous Waste Control Law) and the related regulations in the California Code of Regulations (CCR), Division 4.4, Title 22, including 22 C.C.R. § 66261.3.

“Independent Appraiser” means a natural person who has not less than ten (10) years of experience in valuing facilities similar to the Project, including experience in California.

“Initial Term” has the meaning set forth in Section 3.1.

“Insurance Requirement” means any rule, regulation, code, or requirement issued by any fire insurance rating bureau or any body having similar functions or by any insurance company which has issued a policy of Required Insurance under this Agreement, as in effect during the Term, compliance with which is a condition to the effectiveness of such policy.

“Interconnection” means the physical connection necessary for the transmission of output from the Landfill Gas Beneficial Use Project to [utility company’s] transmission network. The Interconnection will include but not be limited to metering equipment as required by [utility company]. The location of the Interconnection will be determined following the Contract Date and memorialized in a Contract Administration Memorandum.

“Landfill” means the County-owned Central Landfill currently consisting of approximately [244 acres of constructed landfill, with a total of 473 acres of permitted landfill area].  
**[NTD: County to complete.]**

“Landfill Gas” means the mixture of various different gases which is the natural by-product of the decomposition of organic materials in a landfill.

“Landfill Gas Beneficial Use Project” or “Project” means the project to be developed by the Company to beneficially use Landfill Gas generated at the Landfill, including any and all interconnection equipment to be designed, installed or constructed for the project, as described in Appendix C.

“Landfill Gas Beneficial Use Project Operations and Maintenance Manual” means the manual described in Section 8.1(D).

“Landfill Gas Beneficial Use Project Tests” means the tests conducted to demonstrate that the Landfill Gas Beneficial Use Project is ready for Commercial Operations as set forth in Appendix E.

“Landfill Gas Beneficial Use Project Work” means the employment and furnishing of all labor, materials, equipment, supplies, tools, insurance, temporary facilities and other things and services of every kind whatsoever necessary for the full performance and completion of the Company’s design, engineering, permitting, construction, start-up and commissioning, and testing of the Landfill Gas Beneficial Use Project, interconnecting to [utility company], achieving the Commercial Operation Date, operation and maintenance of the Landfill Gas Beneficial Use Project and the sale of renewable natural gas, electricity or other commodity, and other Environmental Attributes.

“Landfill Gas Collection and Conveyance System (GCCS)” means the gas collection and control system (GCCS) which currently consists of a network of approximately [175 extraction locations, and is regularly expanded. At present, the GCCS inventory includes approximately 175 gas wells with approximately 94 operating with a LOCI® automated well head, numerous landfill gas condensate sumps and conveyance piping for landfill gas, condensate and compressed air.]  
**[NTD: County to complete. Also, discuss LOCI.]**

“Landfill Gas Delivery Point” means the metered point at which the Landfill Gas Collection and Conveyance System connects to the Landfill Gas Beneficial Use Project as more specifically identified in Appendix C at which point title to Landfill Gas passes to the Company.

“Legal Proceeding” means every action, suit, litigation, administrative proceeding, and other legal or equitable proceeding arising out of the obligations of the parties under this Agreement.

“License” has the meaning set forth in Section 4.1.

“License Fee” has the meaning set forth in subsection 9.2(C).

“Lien” means (a) any mortgage, deed of trust, lien, hypothecation, pledge, encumbrance, charge or security interest in or on such asset, and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

“Loss-and-Expense” means any and all loss, liability, forfeiture, obligation, damage, delay, penalty, judgment, cost, or expense, including all Fees-And-Costs.

“MMBTU” means one million British thermal units.

“New Environmental Attributes” has the meaning set forth in Section 4.2(C).

“New Environmental Attributes Gross Revenues” is the total amount paid to the Company for the sale of any and all New Environmental Attributes generated from the Landfill Gas Beneficial Use Project, before netting out any expenses or costs (including Landfill Gas Beneficial

Use Project maintenance and operations costs) associated with the generation of such revenues. New Environmental Attributes Gross Revenues associated with RINs generated but not sold prior to the expiration or termination of this Agreement shall be calculated by multiplying the average Argus price for the applicable RIN category for the month in which the RINs are generated times the number of RINs generated in such month.

“Overdue Rate” means the maximum rate of interest permitted by the laws of the State, if applicable, or the Prime Rate plus 1.5%, whichever is lower.

“Payment Bond” has the meaning set forth in Section 12.2.

“Performance Bond” has the meaning set forth in Section 12.2

“Permitted Encumbrances” means, as of any particular time, any one or more of the following:

(1) Encumbrances for Utility charges, Taxes, rates and assessments not yet delinquent;

(2) any Encumbrance arising out of any judgment rendered which is being contested diligently and in good faith by the Company, the execution of which has been stayed or against which a bond or bonds in the aggregate principal amount equal to such judgments shall have been posted with a financially sound insurer and which does not have a material adverse effect on the ability of the Company to operate its business or operations;

(3) any Encumbrance arising in the ordinary course of business imposed by law dealing with materialmen’s, mechanics’, workmen’s, repairmen’s, warehousemen’s, landlords’, vendors’ or carriers’ Encumbrances created by law, or deposits or pledges which are not yet due or, if due, the validity of which is being contested diligently and in good faith by the Company or any Affiliates and against which the Company has established appropriate reserves;

(4) servitudes, licenses, easements, Encumbrances, restrictions, rights-of-way and rights in the nature of easements or similar charges which will not in the aggregate materially and adversely impair the use of the Landfill Gas Beneficial Use Project by the Company;

(5) zoning and building bylaws and ordinances, municipal bylaws and regulations, and restrictive covenants, which do not materially interfere with the use of the Landfill Gas Beneficial Use Project by the Company as such plant is used; and

(6) any extension, renewal, substitution or replacement (or successive extensions, renewals, substitutions or replacements), as a whole or in part, of any of the Encumbrances referred to in clauses (2) through (6) of this definition; provided that such extension, renewal, substitution or replacement Encumbrance, that secured the Encumbrance prior to such

extension, renewal, substitution or replacement Encumbrance, shall continue or be thereafter reacquired.

**[NTD: If the plan of finance will require a collateral assignment to a lender, such collateral assignment will be included as a Permitted Encumbrance.]**

“Point of Delivery” means the point at which the Landfill Gas Collection System connects to the Landfill Gas Beneficial Use Project as more specifically identified in [Appendix \_\_] at which point title to Landfill Gas passes to the Company.

“Prime Rate” means the interest rate announced from time to time by Citibank, N.A. or any successor thereto as its “prime rate.”

“Renewal Term” has the meaning set forth in Section 3.2.

“Required Insurance” means the required insurance for the Company as set forth in Appendix D.

“Resource Conservation and Recovery Act” means the Resource Conservation and Recovery Act, 42 U.S.C.A. § 6901 et seq. (West 1983 & Supp. 1995), as amended and superseded.

“RIN” means Renewable Identification Number as defined in 40 CFR Part 80.

“Safety Plan” has the meaning set forth in subsection 8.3(A).

“Scheduled Commercial Operation Date” has the meaning set forth in Section 6.1(A).

“Security Instruments” means the Guaranty Agreement, Performance Bond, Payment Bond and the Site Restoration Bond.

“Site” means the portion(s) of the Landfill on which the Landfill Gas Beneficial Use Project will be constructed, as described in Appendix B.

“Site Restoration Bond” has the meaning set forth in Section 12.3.

“State” means the State of California.

“Subcontract” means an agreement between the Company and a Subcontractor, or between two Subcontractors, as applicable.

“Subcontractor” means every person (other than employees of the Company) employed or engaged by the Company or any person directly or indirectly in privity with the Company (including all subcontractors and every sub-subcontractor of whatever tier) in connection with a right or obligation required under this Agreement, whether for the furnishing of labor, materials, equipment, supplies, services, or otherwise.

“Tax” means any tax, fee, levy, duty, impost, charge, surcharge, assessment or withholding, or any payment in lieu thereof, and any related interest, penalties or additions to tax.

“Term” has the meaning set forth in Section 3.1.

“Termination Date” has the meaning set forth in Section 11.9.

“Uncontrollable Circumstance” means and is limited to the following acts, events or conditions to the extent that any such condition materially and adversely delays or prevents the Company from performing any obligation under this Agreement (except for payment obligations), if such act, event or condition is beyond the reasonable control of the Company and is not also the result of the willful or negligent act, error or omission or failure to exercise reasonable diligence on the part of the Company as justification for not performing an obligation or complying with any condition required of the Company under this Agreement; provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be constructed as willful or negligent action or a lack of reasonable diligence of the Company:

(A) With respect to a delay in the Scheduled Commercial Operation Date:

(i) an unreasonable delay by a regulatory agency, utility company or, the County (if applicable), to issue approvals relating to the project;

(ii) the failure of the County to grant the Company reasonable access to the Site without due cause; or

(iii) landslides, earthquakes, lightning, fires, tornados, hurricanes, floods and other acts of God (not including COVID 19 and similar pandemics);

provided that for (i)-(iii) schedule relief will be available only to the extent such event affects the critical path item identified in the Project Implementation Schedule as defined in Section 6.1(F).

[(B) With respect to the Company’s obligation to pay the License Fee following the Commercial Operation Date:

(i) a change in Applicable Law; or

(ii) landslides, earthquakes, lightning, fires, tornados, hurricanes, floods and other acts of God (not including COVID 19 and similar pandemics) but only to the extent business interruption insurance is commercially unavailable for such event.] **[NTD: Discuss whether (B) should be deleted per discussion regarding limited UC’s and only allowing schedule and performance relief (i.e., if they can’t perform due to a U.C., do they still have to pay for available gas?)]**

“Utilities” means any and all utility services and installations whatsoever (including gas, water, sewer, electricity, telephone, and telecommunications), and all piping, wiring, conduit, and other fixtures of every kind whatsoever related thereto or used in connection therewith.

“Utility Company” means [\_\_\_\_\_], its successor and assigns.

“YSAQMD” means the Yolo-Solano Air Quality Management District.

SECTION 1.2. INTERPRETATION. In this Agreement, notwithstanding any other provision hereof:

(A) References Hereto. The terms “hereby,” “hereof,” “herein,” “hereunder” and any similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the Contract Date.

(B) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(C) Persons. Words importing persons include firms, companies, associations, joint ventures, general partnerships, limited partnerships, limited liability corporations, trusts, business trusts, corporations and other legal entities, including public bodies, as well as individuals.

(D) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(E) Entire Agreement. This Agreement, including the Appendices, contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, this Agreement shall completely and fully supersede all other understandings and agreements among the parties with respect to such transactions including those contained in the RFP, the proposal of the Company submitted in response thereto, and any amendments or supplements to the RFP or the proposal.

(F) Technical Descriptions. The technical descriptions contained in Appendix C are intended to include the basic design principles, concepts and requirements for the Landfill Gas Beneficial Use Project Work but do not include the final, detailed design, plans or specifications or indicate or describe each and every item required for full performance of the physical Landfill Gas Beneficial Use Project Work and for achieving the Commercial Operation Date. The Company agrees to prepare all necessary complete and detailed designs, plans, drawings and specifications and to furnish and perform, without additional compensation of any kind, all Landfill Gas Beneficial Use

Project Work in conformity with Appendix C, and the final designs, plans, drawings and specifications based thereon.

(G) Standards of Workmanship and Materials. Any reference in this Agreement to materials, equipment, systems or supplies (whether such references are in lists, notes, specifications, schedules, or otherwise) shall be construed to require the Company to furnish the same in accordance with the grades and standards therefor indicated in this Agreement, if any. Where this Agreement does not specify any explicit quality or standard for construction materials or workmanship, the Company shall use only workmanship and new materials of a quality consistent with those consistent with Good Engineering and Construction Practice and Good Industry Practice, as applicable.

(H) Technical Standards and Codes. References in this Agreement to all professional and technical standards, codes and specifications are to the most recently published professional and technical standards, codes and specifications of the institute, organization, association, authority or society specified, all as in effect as of the Contract Date.

(I) Causing Performance. A party shall itself perform, or shall cause to be performed, the obligations affirmatively undertaken by such party under this Agreement, subject to any limitations specifically imposed hereby with respect to Subcontractors or otherwise.

(J) Cost and Expense of Performance. All obligations undertaken by each party hereto shall be performed at the cost and expense of the party undertaking the obligation, unless the other party has explicitly agreed herein to bear all or a portion of the expense either directly or by reimbursement to the other party.

(K) Assistance. The obligations of a party to cooperate with, to assist or to provide assistance to the other party hereunder shall be construed as an obligation to use the party's personnel resources to the extent reasonably available in the context of performance of their normal duties, and not to incur material additional overtime or third-party expense unless requested and reimbursed by the assisted party.

(L) Interpolation. If any calculation hereunder is to be made by reference to a chart or table of values, and the reference calculation falls between two stated values, the calculation shall be made on the basis of linear interpolation.

(M) Good Industry Practice and Good Engineering and Construction Practice. Good Industry Practice and Good Engineering and Construction Practice shall be utilized hereunder, among other things, to implement and in no event displace or lessen the stringency of, the Contract Standards. In the event that, over the course of the Term, Good Industry Practice or

Good Engineering and Construction Practice evolves, the Company shall comply with such evolved Good Industry Practice and Good Engineering and Construction Practice at its cost and expense.

(N) Applicability and Stringency of Contract Standards. Each party shall be obligated to comply only with those Contract Standards which are applicable in any particular case. Where more than one Contract Standard applies to any particular performance obligation of the party hereunder, each such applicable Contract Standard shall be complied with. In the event there are different levels of stringency among such applicable Contract Standards, the most stringent of the applicable Contract Standards shall govern.

(O) Internal Conflict or Discrepancy. In the event of a conflict or discrepancy between any of the terms or conditions of this Agreement, including any conflict or discrepancy between the main body of this Agreement and any Appendix or Transaction Agreement Form, the term or condition in the main body of this Agreement shall prevail unless otherwise agreed to by the parties.

(P) Delivery of Documents in Digital Format. In this Agreement, the Company is obligated to deliver reports, records, designs, plans, drawings, specifications, proposals and other documentary submittals in connection with the performance of its duties hereunder. The Company agrees that all such documents shall be submitted to the County in printed form (in the number of copies indicated) and, at the County's request, in digital form. Electronic copies shall consist of computer readable data submitted in any standard interchange format which the County may reasonably request to facilitate the administration and enforcement of this Agreement.

(Q) Severability. If any clause, provision, subsection, Section or Article of this Agreement shall be ruled invalid by any court of competent jurisdiction, then the parties shall: (1) promptly negotiate a substitute for such clause, provision, subsection, Section or Article which shall, to the greatest extent legally permissible, effect the intent of the parties in the invalid clause, provision, subsection, Section or Article; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in substitution for or addition to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above to effect the intent of the parties in the invalid provision. The invalidity of such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist.

(R) Drafting Responsibility. Neither party shall be held to a higher standard than the other party in the interpretation or enforcement of this Agreement as a whole or any portion hereof based on drafting responsibility.

(S) No Third-Party Rights. This Agreement is exclusively for the benefit of the County and the Company and shall not provide any third parties (with the exception of the rights of any third-party County Indemnitees as expressly set forth in Article XIII) with any remedy, claim, liability, reimbursement, cause of action or other rights.

(T) References to Days. All references to days herein are references to calendar days unless otherwise expressly stated.

(U) References to Include. All references to “include” or “including” herein shall be deemed to be followed by the words “but not be limited to” or “without limitation” or words of similar import.

(V) References to Applicable Law. All references to Applicable Law here shall be construed as including all Applicable Law provisions consolidating, amending or replacing the Applicable Law referred to.

(W) Reference to Knowledge. All references to “knowledge”, “knowing”, “know” or “knew” shall be interpreted as references to a party having actual knowledge.

(X) Counterparts. This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement.

(Y) Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State.

(Z) Defined Terms. The definitions set forth in Section 1.1 shall control in the event of any conflict with any definitions used in the recitals hereto.

(AA) Due Dates. When any obligation under this Agreement is due on a certain date in accordance with the time periods set forth herein, and that day falls upon a Saturday, Sunday or legal holiday, the due date for such or obligation shall be deferred to the next business day.

ARTICLE II  
REPRESENTATIONS AND WARRANTIES

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE COUNTY. In addition to any other representations and warranties made by the County in this Agreement, the County represents and warrants that, as of the Contract Date:

(A) Existence and Powers. The County has full legal right, power and authority to enter into and to perform its obligations under this Agreement.

(B) Due Authorization and Binding Obligation. This Agreement has been duly authorized, executed and delivered by all necessary action of the County and, subject to regulatory approvals required after the execution of this Agreement in accordance with Applicable Law, constitutes a legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.

(C) No Conflict. Neither the execution nor the delivery by the County of this Agreement nor the performance by the County of its obligations hereunder nor the consummation by the County of the transactions contemplated hereby (1) conflicts with, violates or results in a breach of any Applicable Law applicable to the County or (2) conflicts with, violates or results in a breach of any term or condition of any order, judgment, decree, agreement, contract or instrument to which the County is a party or by which the County or any of its properties or assets are bound, or constitutes a default under any of the foregoing.

(D) No Approvals Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Body is required for the valid execution and delivery of this Agreement by the County except as such have been duly obtained or made.

(E) No Litigation. There is no Legal Proceeding, at law or in equity, before or by any court, arbitral tribunal or Governmental Body, pending or, to the best of the County's knowledge, overtly threatened or publicly announced against the County in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Agreement or the validity, legality or enforceability of this Agreement against the County or the ability of the County to perform its obligations hereunder.

(F) No Legal Prohibition. The County has no knowledge of any Applicable Law in effect on the date as of which this representation is being made which would prohibit the performance by the County of this Agreement and the transactions contemplated hereby.

(G) Title to Landfill Gas. The County has title to the Landfill Gas generated by the Landfill, free and clear of all liens and encumbrances, and title to the Landfill Gas shall be transferred to the Company at the Landfill Gas Delivery Point free and clear of all liens and encumbrances.

(H) Information Supplied by the County. To the best of its knowledge, the information that has been supplied by the County in all submittals provided to the Company are true, correct and complete as of the date of such submittal in all material respect.

(I) Claims and Demands. There are no material and adverse claims and demands based in environmental, contract or tort law pending or to its knowledge, threatened against the County that would prevent the County from fulfilling its obligations hereunder.

SECTION 2.2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. In addition to any other representations and warranties made by the Company in this Agreement, the Company represents and warrants that, as of the Contract Date:

(A) Existence and Powers. The Company is a [limited liability company] duly organized, validly existing and in good standing under the laws of [\_\_\_\_\_] and has the authority to do business in this State, with the full legal right, power and authority to enter into and perform its obligations under this Agreement.

(B) Due Authorization and Binding Obligation. This Agreement has been duly authorized, executed and delivered by all necessary action of the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights from time to time in effect and equitable principles of general application.

(C) No Conflict. Neither the execution nor delivery by the Company of this Agreement nor the performance by the Company of its obligations in connection with the transactions contemplated hereby or the fulfillment by the Company of the terms or conditions hereof (1) conflicts with, violates or results in a breach of any Applicable Law relating to the Company or the by-laws or certificates of incorporation applicable to the Company or (2) conflicts with, violates or results in a breach of any term or condition of any order, judgment, decree, contract, agreement or instrument to which the Company is a party or by which the Company or any of its properties or assets are bound, or constitutes a default under any of the foregoing.

(D) No Approvals Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Body is required for the valid execution and delivery of this Agreement by the Company except as such have been duly obtained or made.

(E) No Litigation. There is no Legal Proceeding, at law or in equity, before or by any court, arbitral tribunal or Governmental Body pending or, to the best of the Company's knowledge, overtly threatened or publicly announced against the Company, in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Agreement by the Company or the validity, legality or enforceability of this Agreement against the Company, or any other agreement or instrument entered into by the Company in connection with the transactions contemplated hereby, or on the ability of the Company to perform its obligations hereunder or under any such other agreement or instrument.

(F) Claims and Demands. There are no material and adverse claims and demands based in environmental, contract or tort law pending or to its knowledge, threatened against the Company or any Affiliate of the Company, or the Guarantor or any Affiliate of the Guarantor that would prevent the Company or the Guarantor from fulfilling its obligations hereunder.

(G) Patents and Licenses. The Company owns, or is authorized to use under patent rights, licenses, franchises, trademarks or copyrights, the technology necessary for the Landfill Gas Beneficial Use Project Work without any known material conflict with the rights of others.

(H) Applicable Law Compliance. To its knowledge, the Company is not in material violation of any law, order, rule or regulation applicable to any landfill designed, constructed, operated, maintained or managed by the Company or any Affiliate of the Company.

(I) Practicability of Performance. The design, the technology, the equipment, the materials, and the construction and management practices to be employed in the construction of the Landfill Gas Beneficial Use Project Work, and the operation the Landfill Gas Beneficial Use Project are furnished exclusively by the Company, or its Subcontractors, pursuant to the terms of this Agreement, and the Company assumes and shall have exclusive responsibility for their efficacy. The Company assumes the risk of the practicability and possibility of performance of the Landfill Gas Beneficial Use Project Work on the scale, within the time for completion and in the manner required hereunder, and of beneficial use of Landfill Gas through the operation of the Landfill Gas Beneficial Use Project in a manner which meets all of the requirements hereof, even though such performance and operation may involve overcoming facts, events or circumstances which may be different from those assumed by the Company in entering into this Agreement, and agrees that sufficient consideration for the assumption of such risks and duties is included under this Agreement.

(J) Information Supplied by the Company. To the best of its knowledge, the information that has been supplied and representations and warranties made by the Company in

all submittals provided to the County are true, correct and complete as of the date of such submittal in all material respects.

(K) Expertise. The Company has the requisite expertise and financial ability to fully, completely, and satisfactorily perform its obligations hereunder in full compliance with Applicable Law.

ARTICLE III  
TERM

SECTION 3.1. INITIAL TERM. This Agreement shall become effective on the Contract Date, and shall continue in effect until the 20<sup>th</sup> anniversary of the Commercial Operation Date (the “Initial Term”), or, if renewed as provided in Section 3.2, until the last day of the applicable Renewal Term (the Initial Term and the Renewal Term, if any, being referred to as the “Term”; unless earlier terminated in accordance with its terms, in which event the Term shall be deemed to have expired as of the date of such termination). All rights, obligations and liabilities of the parties hereto shall commence on the Contract Date, subject to the terms and conditions hereof. The following provisions, rights and obligations shall survive the termination of this Agreement: (1) all representations and warranties of the parties contained in Article II; (2) indemnity obligations in this Agreement with respect to events that occurred prior to the expiration of this Agreement, or if terminated earlier, the Termination Date, or during the Company’s provision of post-termination services pursuant to this Agreement; (3) all provisions of this Agreement that expressly establish post-termination obligations (e.g., removal of the Facility and restoration of the Site); and (4) all obligations that have accrued prior to the expiration of this Agreement, or if terminated earlier, the Termination Date and have not been performed or satisfied.

SECTION 3.2. RENEWAL AND EXTENSION OPTION. This Agreement may be renewed and extended for up to two (2) five-year periods (or in shorter increments if agreed to by the parties aggregating no more than ten years) (“Renewal Terms”), by mutual agreement, exercisable at least 180 days prior to the expiration of the Initial Term or the then existing Renewal Term, as applicable.

ARTICLE IV

GRANTING OF CERTAIN RIGHTS TO THE COMPANY; OWNERSHIP, USE AND CONDITION OF THE SITE

SECTION 4.1. LICENSE OF THE SITE. Subject to the receipt by the County of the Required Insurance, the executed Guaranty Agreement, and a safety plan for construction activities, the execution of this Agreement shall be deemed to constitute the granting of an exclusive license to the Company to utilize the Site for all purposes of this Agreement subject to the County's right to access and utilize such Site for purposes of operating and maintaining the Landfill. The Company may enter the Landfill, and occupy the Site (in accordance with Appendix B), as necessary to design, construct, install, start-up, test, operate and maintain the Landfill Gas Beneficial Use Project and to receive Landfill Gas in accordance with the provisions of this Agreement and for no other purpose (the "License"). **[NTD: Discuss in light of CEQA.]** Except as expressly otherwise provided, the Company shall assume all risks associated with such activities and shall indemnify, defend and hold harmless the County and the County Indemnitees in accordance with Section 13.3. The right of access contained herein does not grant the Company access to any portion of the Landfill or any other structures, improvements, equipment, or any other systems, fixtures, or real or personal property owned, leased, operated, maintained, or occupied by the County except as necessary for the Company to perform the Landfill Gas Beneficial Use Project Work. The Company will be responsible for any de-commissioning, dismantling, renovation or demolition work that will be necessary to construct the Landfill Gas Beneficial Use Project on the Site. The Company's Project Implementation Plan required by Section 6.1(F) shall clearly state at what point in time the County will need to cease using its existing generators or any other equipment that is located on the Site to allow the Company to undertake construction of the Landfill Gas Beneficial Use Project. The Company shall closely coordinate with the County during the Project development period to provide updates with respect to such date. As compensation for the granting of the License by the County, the Company shall pay the County the consideration described in Article IX. The License granted by this Section 4.1 shall terminate upon the termination of this Agreement in accordance with its terms.

SECTION 4.2. COUNTY OPERATIONS; COOPERATION WITH COMPANY WITH RESPECT TO COMPANY SERVICES. Notwithstanding anything in this Agreement to the contrary, it is understood and agreed by the Company that the County's primary obligation and purpose is the compliance with all Applicable Law (including the County's Title V Permit) and the avoidance of any nuisance conditions (including the minimization of odors and noise) associated with the Landfill and that the rights granted to the Company hereunder are secondary to such obligations and purpose. The County shall use good faith efforts to cooperate with the Company with respect to its

landfill operations so as not to unreasonably interfere with the efficient construction, management and operation of the Landfill Gas Beneficial Use Project.

SECTION 4.3. NO INTERFERENCE WITH COUNTY OPERATIONS. Notwithstanding anything in this Agreement to the contrary, it is understood and agreed by the Company that the County has no obligation to the Company to accept solid waste or to implement any expansions of the Landfill. The construction and operation of the Landfill Gas Beneficial Use Project shall not unreasonably interfere with the operational requirements of the County with respect to the Landfill or the Landfill Gas Collection and Conveyance System. It is the responsibility of the Company to (i) schedule and perform construction and maintenance activities of the Company's facilities in a manner which will not interfere with the ability of the County to operate the Landfill, Landfill Gas Collection and Conveyance System, or any other facilities in operation at the Landfill Site; (ii) minimize odors from its construction and operation activities; (iii) not create other nuisance conditions; and (iv) meet all Applicable Law including requirements of Governmental Approvals to which it is subject.

SECTION 4.4. NO SITE ENCUMBRANCES. Other than the Permitted Encumbrances authorized in Section 6.3 of this Agreement related to the Landfill Gas Beneficial Use Project to be located the Site, Company shall not directly or indirectly cause, create, incur, assume or suffer to exist any Lien on the Site. If Company breaches its obligations under this Section, it shall (i) immediately notify the County in writing, (ii) promptly cause such Lien to be discharged and released of record without cost to the County, and (iii) defend and indemnify the County against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

ARTICLE V

FINANCING CONSTRUCTION OF THE LANDFILL GAS BENEFICIAL USE PROJECT

SECTION 5.1. PLAN OF FINANCING. The Company shall obtain construction financing for the Landfill Gas Beneficial Use Project in accordance with its plan of finance described in Appendix G. The Company specifically acknowledges that the inability of the Company to obtain financing for the Landfill Gas Beneficial Use Project as required hereunder on terms and conditions, or within the schedule, assumed by the Company, shall not constitute an Uncontrollable Circumstance.

SECTION 5.2. NO ADJUSTMENT OF AMOUNTS OR OBLIGATIONS ON ACCOUNT OF CHANGE IN FEDERAL OR STATE INCOME TAX LAW AFFECTING OWNERSHIP. There shall be no adjustment of any obligation of the Company hereunder on account of: (1) any change in any provision of federal or State income tax law pertaining to the ownership of the Landfill Gas Beneficial Use Project made or to take effect after the Contract Date which affects the Company (including, without limitation, provisions thereof pertaining to tax credits or deductions and establishing income tax rates), notwithstanding any assumptions made by the Company in entering into this Agreement as to the provisions of federal or State income tax law which would be applicable to this transaction or their effect on the Company or its Affiliates; (2) any administrative or judicial determination which is adverse to the Company as to ownership of the Landfill Gas Beneficial Use Project for federal or State income tax purposes for any reason, including without limitation any term or provision of this Agreement; or (3) any inability of the Company or any of its Affiliates, or any other person to fully utilize any tax benefits of ownership of the Landfill Gas Beneficial Use Project or tax credits which may be available under federal or State income tax law.

ARTICLE VI  
DESIGN, PERMITTING AND CONSTRUCTION OF THE LANDFILL GAS BENEFICIAL USE  
PROJECT

SECTION 6.1. AGREEMENT TO DESIGN, PERMIT AND CONSTRUCT.

(A) Commencement of Design, Permitting and Construction. Following the Contract Date and CEQA approval, the Company shall undertake, perform, complete and pay for the cost of the Landfill Gas Beneficial Use Project Work in accordance with all of the provisions and requirements of this Agreement. The Company shall commence the design, permitting, equipment procurement and construction of the Landfill Gas Beneficial Use Project, shall cause the Landfill Gas Beneficial Use Project to pass the Landfill Gas Beneficial Use Project Test in accordance with this Agreement and shall achieve all other requirements for the establishment of the Commercial Operation Date, all so that the Landfill Gas Beneficial Use Project is suitable and adequate for the purposes for which it is intended on or before the date that is the [ ] month anniversary of the Contract Date (the “Scheduled Commercial Operation Date”). The County’s remedies for the failure of the Company to achieve Commercial Operations of the Landfill Gas Beneficial Use Project prior to the Scheduled Commercial Operation Date are set forth in Section 7.3, 7.4 and Section 11.2. Subcontracts entered into by the Company for the construction of the Landfill Gas Beneficial Use Project shall neither supersede nor abrogate any of the terms or provisions of this Agreement. Laydown and staging areas for construction materials for those portions of the Landfill Gas Beneficial Use Project shall be made available by the County at no cost to the Company on areas agreed to by the parties.

(B) Design. [Subject to the County’s sole and absolute discretion, to apply feasible mitigation measures and select other feasible alternatives to avoid or minimize significant environmental impacts in accordance with the CEQA process,] the Company shall design the Landfill Gas Beneficial Use Project in accordance with the description of the Landfill Gas Beneficial Use Project set forth in Appendix C and the Contract Standards. The Company shall have sole and exclusive responsibility for the design of the Landfill Gas Beneficial Use Project and the preparation of design materials that it must provide pursuant to this Agreement. Costs incurred by the Company in connection with the design of the Landfill Gas Beneficial Use Project shall be borne solely by the Company. The County has no responsibilities or liabilities in connection with the design of the Landfill Gas Beneficial Use Project, notwithstanding any review or comment made by the County. The Landfill Gas Beneficial Use Project shall be designed to comply with all local ordinances and to avoid any nuisances including odor.

(C) Construction Permit and Design Submittals. The Company shall make design submittals (including design plans, construction drawings, construction specifications,

equipment specifications, site plans, construction schedules, startup and operational procedures, and permit applications) to the County, as the owner of the Landfill, for the County's 'courtesy review' and comment at the 50 percent and 90 percent design levels and the County shall provide comments, if any, to such submittals within 10 business days of receipt. The Company shall incorporate each County comment or provide a valid explanation, to the satisfaction of the County Project Manager for each comment not incorporated. The Company shall provide the County with copies of all permit submittals contemporaneous with the submittal to the applicable Governmental Body. **[NTD: Confirm.]**

(D) Construction Costs. The Company shall construct the Landfill Gas Beneficial Use Project in accordance with the Contract Standards. The Company shall pay directly all costs and expenses of the Landfill Gas Beneficial Use Project Work of any kind or nature whatsoever, without payment or reimbursement from the County. Such costs and expenses, without limiting the generality of the foregoing, shall include all costs of permitting, regulatory compliance and, if applicable, Legal Proceedings brought against the Company; payments due under Subcontracts with Subcontractors or otherwise for all labor and materials; legal, financial, engineering, architectural and other professional services of the Company; Security Instruments; general supervision by the Company of all design and construction; and Company preparation of schedules.

(E) Governmental Approvals Necessary for Construction.

(1) Company Responsibility. At its own cost and expense, the Company shall make all filings, applications and reports necessary to obtain and maintain all Governmental Approvals required to be made, obtained or maintained under Applicable Law in order to commence and continue the construction, shakedown and testing of the Landfill Gas Beneficial Use Project Work, as well as any air or other permit that may be required for the operation at the Landfill Gas Beneficial Use Project. Except as set forth in paragraph (2) in this subsection 6.2(E), the Company assumes all risks associated with obtaining and maintaining all such Governmental Approvals including the risk of delay, non-issuance or the imposition of any term or condition in connection therewith by a Governmental Body. Such costs and risks include those associated with the necessity to purchase emission offsets or emission reduction credits, if necessary.

(2) Easements. The Company, at its own cost and expense, shall be responsible for obtaining any easements that may be necessary to construct and operate the Landfill Gas Beneficial Use Project and to operate the Landfill Gas Beneficial Use Project. The County shall grant easements reasonably required by the Company relating to the installation of the Interconnect or utilities on County property required for the Landfill Gas Beneficial Use Project. Easements on the County's Landfill will not be granted that interfere with the County's existing or future Landfill operations.

(F) Landfill Gas Beneficial Use Project Implementation Schedule and Meetings.

Within 60 days following the Contract Date, the Company shall provide the County with a project schedule showing milestones including but not limited to, design completion, submission of air permit and other key permit applications and anticipated dates of receipt of approvals, submission of interconnection application and anticipated date of execution of interconnection agreement, issuance of purchase orders for significant pieces of equipment, letting of construction contracts, dismantling of existing generators and related equipment and structures, if applicable, and performance of Landfill Gas Beneficial Use Project Tests (the "Project Implementation Schedule"). Such Project Implementation Schedule must be prepared in accordance with good scheduling practice and must reflect reasonable assumptions. The Company shall use good faith efforts to comply with the interim milestones within the project schedule and will notify the County of any event or circumstance that the Company believes will prevent the Company from achieving a milestone in accordance with the project schedule. Following the Contract Date, the County and the Company will meet at least monthly by telephone, virtually, or in person during which time the Company will update the County regarding the project schedule and project status and the parties will discuss any other matter as appropriate, including any necessary coordination of activities.

(G) Compliance with Law and Other Contract Standards.

In designing, constructing, and testing the Landfill Gas Beneficial Use Project Work, the Company shall comply with Applicable Law (including permits) and all Contract Standards.

(H) Engagement of County Project Manager.

The Company shall fully cooperate with any County Project Manager designated by the County to assist the County in connection with the administration of this Agreement. In the performance of such services, the Company agrees that the County Project Manager (and/or an engineering consultant or construction manager designated by the County Project Manager) may, without limiting other possible services to the County: review and monitor construction progress, including attending pre-construction and construction status meetings; observe the completion of the Landfill Gas Beneficial Use Project Work; review drawings, plans and specifications; monitor the Landfill Gas Beneficial Use Project Tests undertaken by the Company to determine whether such tests have been satisfied; review and advise the County with respect to material changes to the Landfill Gas Beneficial Use Project; and provide certifications and perform such other duties as may be specifically conferred by the County upon the County Project Manager hereunder. It is understood that the services intended to be provided by the County Project Manager shall be of an observational and review nature only and that the County Project Manager shall not have authority to require or approve changes to the Landfill Gas Beneficial Use Project Work or the Company's plans and specifications made in accordance therewith. The Company agrees to cooperate with all reasonable requests made by the County Project Manager in connection with the performance of such duties for the County. The

fees of the County Project Manager shall be paid by the County and the Company shall not have any liability therefor.

(I) INTERCONNECTION [if renewable landfill gas project]. The Company shall submit its application to connect to the natural gas pipeline as soon as is reasonably possible following the Contract Date. The Company shall take all action necessary for the construction work to begin on the Interconnection after receiving the notice-to-proceed from the County. The Company shall pay all costs associated with the Interconnection. The County shall grant the agreed upon easement on County property associated with the Interconnection.

(J) COOPERATION. The Company shall use good faith efforts to cooperate with the County with respect to coordination and scheduling of its construction activities so as not to unreasonably interfere with the efficient management and operation of the Landfill.

(K) DE-COMMISSIONING, DISMANTLING AND RELOCATING OF EXISTING EQUIPMENT LOCATED ON SITE. If applicable, all de-commissioning, dismantling, and relocating of existing equipment located on the Site shall be performed by the Company in accordance with Good Engineering and Construction Practice and Applicable Law and in coordination with the County.

(L) CONSTRUCTION SECURITY INSTRUMENTS. Prior to commencement of any construction work, the Company shall deliver to the County the Performance Bond and the Payment Bond. Prior to the Commercial Operations Date, the Company shall deliver to the County the Site Restoration Bond.

#### SECTION 6.2. PERSONNEL.

(A) Personnel Performance. The Company shall employ or engage all necessary personnel to perform all services required for the Landfill Gas Beneficial Use Project Work. The Company shall enforce discipline and good order at all times among the Company's employees and all Subcontractors. All persons engaged by the Company for the Landfill Gas Beneficial Use Project Work shall have requisite skills for the tasks assigned. All firms and personnel performing Landfill Gas Beneficial Use Project Work, including Subcontractor firms and personnel, shall meet the licensing and certification requirements imposed by Applicable Law. No Company construction personnel or Subcontractor personnel shall be at the Landfill other than the Site, the approved access road to the Site or areas of the Landfill necessary to perform the Interconnection work, unless County personnel accompany them. The Company's officers, employees, and Subcontractors must perform every act or service required in a skillful and competent manner in accordance with the highest standards of the landfill gas beneficial use industry. The Company must furnish evidence of the skill and qualifications of its officers, employees, Subcontractors and agents upon the request

of the County. The Company must take appropriate action with respect to any employee of the Company or any Subcontractor engaging in unlawful, unruly or objectionable conduct.

(B) Labor Disputes. The Company shall have exclusive responsibility for disputes or jurisdictional issues among any unions or trade organizations representing employees of the Company or its Subcontractors. The County shall have no responsibility whatsoever for any such disputes or issues. The Company shall promptly notify the County of any impending disputes with its unions or any unions supporting its Subcontractors or suppliers which might affect the Landfill or the construction or operation of the Landfill Gas Beneficial Use Project.

(C) Removal of Company Employees. In the event that any Company employee or employee of any Company subcontractor fails to conduct themselves in a professional manner or permits or causes any violation of this Agreement or Applicable Law, the Company agrees not to employ such person at the Site and Company shall replace such person within a reasonable time (not to exceed 15 days after County's request) with a competent and trained employee.

#### SECTION 6.3. OWNERSHIP; DISCHARGE OF ENCUMBRANCES.

(A) Ownership. The Landfill Gas Beneficial Use Project Work and all related equipment, materials, vehicles and supplies purchased by the Company to be used in or about the Landfill Gas Beneficial Use Project, and all plans, drawings and other documentation with respect thereto, shall be legally or beneficially owned by the Company and not the County. The Landfill Gas Collection and Conveyance System and all related equipment, materials and supplies to be used in or about the Landfill Gas Collection and Conveyance System, the wellfield blower, flare compound, and all plans, drawings and other documentation with respect thereto, shall legally and beneficially be owned by the County and not the Company regardless of whether the Company financed or paid for any such equipment, materials, supplies, plans, drawings or documents.

(B) Encumbrances. The Company shall not create or allow any Encumbrance (other than Permitted Encumbrances) to arise on or against the Landfill Gas Beneficial Use Project. If an Encumbrance (other than a Permitted Encumbrance) is created or arises, the Company shall cause the Encumbrance to be discharged or fully bonded. The County shall not create or allow any Encumbrance (other than Permitted Encumbrances) to arise on or against the Site which would interfere with the Company's rights to the Landfill Gas Beneficial Use Project. If an Encumbrance (other than a Permitted Encumbrance) is created or arises on or against the Site as a result of the County's acts or omissions, that would interfere with the Company's rights to the Landfill Gas Beneficial Use Project, the County shall cause the Encumbrance to be discharged or fully bonded.

SECTION 6.4. CONSTRUCTION BOOKS AND RECORDS. The Company shall prepare and maintain proper, accurate and complete records regarding the construction of the Landfill Gas Beneficial Use Project and any modifications and changes throughout the Term. The

Company shall keep and maintain all such construction records, including “as-built” records and daily construction photographs, for at least seven years after the Commercial Operation Date. A courtesy copy of Project as-builts and photographs shall be provided to the County at the completion of construction. As-built records shall include detailed survey records of all buried utilities in AutoCAD format.

SECTION 6.5. PREVAILING WAGES.

(A) Solely for purposes of determining the application of California's prevailing wage laws, the parties agree that the construction of the Facility is a Public Work as defined under California Labor Code 1720 and as such, prevailing wage requirements apply to any construction conducted by the Company or any of its Subcontractors in connection with the Facility to the fullest extent required by California law.

(B) [Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the County [has obtained] the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.8 of said Code, apprenticeship, or other training programs authorized by Section 3093 of said Code, and similar purposes) applicable to the Work to be done, for straight time, overtime, Saturday, Sunday, and holiday work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification, or type of worker concerned. These wage rates are set forth in the Department of Transportation, State of California, publication entitled General Prevailing Wage Rates, which is incorporated herein by this reference.] To obtain the most current prevailing wage rates, please consult the rates published electronically at [www.dir.ca.gov](http://www.dir.ca.gov). The applicable wage rates shall be those in effect on the date construction of the Facility commences, except to the extent that such rates are later adjusted pursuant to California law. The wage rates determined by the Director of Industrial Relations and published in the Department of Transportation publication entitled General Prevailing Wage Rate refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, said published rate of wage shall be in effect for the life of the Contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate, and the predetermined wage rate is on file with the Department of Industrial Relations, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to the Contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of the Contract, each successive predetermined wage rate shall apply to the Contract on the date following the expiration date of the previous wage rate. If the last of such

predetermined wage rates expires during the life of the Contract, such wage rate shall apply to the balance of the Contract.

(C) The Company shall post at each job site, in a conspicuous location readily available to the workers, a copy of all applicable wage determinations.

(D) The Company and any of its Subcontractors shall comply with all provisions of the California Labor Code relevant to the payment of prevailing wages in public works construction contracts, including but not limited to California Labor Code Sections 1774 and 1775. In accordance with Section 1775, the Company shall forfeit as penalty to the County of Yolo, FIFTY (\$50) DOLLARS for each calendar day or portion thereof, for each worker paid less than the prevailing rates. The prevailing rates are determined by the Director of Industrial Relations of the State of California for such work or craft in which such worker is employed for any Work done under the Contract in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to said Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Company or any of its Subcontractors. **[NTD: Discuss.]**

SECTION 6.6. DRUG FREE WORKPLACE. All properties and facilities owned, leased, licensed, or operated by the County, including the Site, are drug-free workplaces. The Company is aware of and will comply with the requirements of Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990.

ARTICLE VII  
COMMERCIAL OPERATION OF THE LANDFILL GAS BENEFICIAL USE PROJECT

SECTION 7.1. TESTING.

(A) Notice. The Company shall give the County prior written notice of the expected initiation of the Landfill Gas Beneficial Use Project Tests for the Landfill Gas Beneficial Use Project Work. The Company shall not commence the Landfill Gas Beneficial Use Project Tests for the Landfill Gas Beneficial Use Project Work until:

- (1) the Company has received all necessary Governmental Approvals and is authorized under Applicable Law to operate the Landfill Gas Beneficial Use Project, as applicable;
- (2) the Utility has authorized the commencement of such testing; and
- (3) the Company has submitted to the County written notice that the foregoing condition has been satisfied.

(B) Conduct of Landfill Gas Beneficial Use Project Tests. The Company shall conduct the Landfill Gas Beneficial Use Project Tests, at the Company's cost, expense and risk, and at no cost or expense to the County. The Company shall provide at least 7 business days' written notice of its intent to test to the County and permit the designated representatives of the County and the County Project Manager at their cost to inspect the preparations for the Landfill Gas Beneficial Use Project Tests and to be present for the conduct of the Landfill Gas Beneficial Use Project Tests for purposes of ensuring compliance with the testing plan, ensuring that all safety requirements are being complied with, and to ensure the integrity of the Landfill Gas Beneficial Use Project Tests results. The County and its representatives shall not interfere with or delay any such tests.

(C) Test Report. If the Company believes it has successfully passed the Landfill Gas Beneficial Use Project Tests, within 7 days after the successful completion of the Landfill Gas Beneficial Use Project Tests for the Landfill Gas Beneficial Use Project Work, the Company shall certify to the County that it has successfully passed the Landfill Gas Beneficial Use Project Tests and shall furnish the County and the County Project Manager with a copy of a report demonstrating that the testing requirements set forth in Appendix E have been satisfied.

SECTION 7.2. COMMERCIAL OPERATION DATE CONDITIONS. The following conditions shall constitute the "Commercial Operation Date Conditions", each of which must be satisfied in all respects by the Company in order for the Commercial Operation Date to occur, and each of which must be and remain satisfied as of the Commercial Operation Date (unless otherwise agreed to by the parties in writing):

(1) Successful Testing. The Company shall have completed the tests set forth in Appendix E and shall have demonstrated that the Landfill Gas Beneficial Use Project has met the standards set forth therein.

(2) Required Insurance. The Company shall have submitted to the County certificates of insurance for all Required Insurance pursuant to Section 13.1.

(3) Governmental Approvals. In accordance with Section 8.8, all applicable Governmental Approvals required under Applicable Law that are necessary for the continued routine operation of the Landfill Gas Beneficial Use Project shall have been duly obtained and shall be in full force and effect. Certified copies of all such Governmental Approvals, to the extent not in the County's possession, shall have been delivered to the County.

(4) Safety Plan. The Company shall have developed and delivered to the County the Safety Plan pursuant to subsection 8.3(A).

(5) Emergency Response Plan. The Company shall have developed and delivered to the County the Emergency Response Plan pursuant to subsection 8.4(A).

(6) Information System. The Company shall have established the information system required pursuant to subsection 8.10.

(7) No Default. The Company has certified that there is no Event of Default by the Company pursuant to this Agreement or by the Guarantor under the Guaranty Agreement, or event which, with the giving of notice or the passage of time, would constitute an Event of Default by the Company hereunder.

(8) Utility Authorization. [Utility company] has authorized the flow of renewable natural gas [or electricity], as applicable through the Interconnection and into its system.

(9) Utilities. All Utilities required for the operation of the Landfill Gas Beneficial Use Project are connected and functioning in accordance with good utility practice and standards.

(10) Ability to Begin Delivery. The Landfill Gas Beneficial Use Project is mechanically, contractually and legally able to begin delivery of renewable natural gas or electricity, as applicable, to the Utility's system.

### SECTION 7.3. EFFECT OF UNEXCUSED DELAY; EXTENSION PERIOD.

(A) Unexcused Delay. In the event that the Commercial Operation Date is delayed beyond the Scheduled Commercial Operation Date despite the Company's good faith efforts, the Company shall: (i) take any actions necessary, at the cost and expense of the Company, to remedy the reason for the failure of the occurrence of the Commercial Operation Date and (ii) commence payment of the License Fee based upon the volume of Landfill Gas that the County is

flaring. If the Commercial Operation Date shall not have occurred on or before the end of the Extension Period and such delay is not excused as set forth in subsection 7.3(B) hereof, such failure shall constitute an Event of Default as set forth in Section 7.4 and subsection 11.2(A)(1). **[NTD: Confirm payment of License Fee as remedy for delay.]**

(B) Delays Due to Uncontrollable Circumstances. The Scheduled Commercial Operation Date may be extended due to an Uncontrollable Circumstance, but only to the extent that such Uncontrollable Circumstance actually causes delay in the Company's critical path schedule. The Company, pursuant to Section 13.2, shall bear the burden of proving any claim of entitlement to an adjustment under this Section. If an Uncontrollable Circumstance occurs which, despite the Company's mitigation efforts, results in delay in the Company's ability to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date, the provisions of Section 13.2 shall apply, and the Scheduled Commercial Operation Date shall be extended one day for each day of delay caused by the Uncontrollable Circumstance.

SECTION 7.4. TERMINATION FOR FAILURE TO ACHIEVE COMMERCIAL OPERATION DATE. If, as of the end of the last day of the Extension Period, the Commercial Operating Date has not been achieved for reasons other than an Uncontrollable Circumstance during the Extension Period, an Event of Default by the Company will be deemed to have occurred under Section 11.2(A)(1), and the County shall have the right to terminate this Agreement pursuant to Section 11.2 upon written notice to the Company (without providing the Company an opportunity to cure). Upon any such termination, the County shall have all of the rights provided in Article XI upon a termination of the Company for cause.

ARTICLE VIII  
OPERATIONS

SECTION 8.1. OPERATION.

(A) Operation Generally. The Company shall operate and maintain the Landfill Gas Beneficial Use Project in accordance with the Contract Standards and with the objective of maximizing uptime and Gross Revenues. If at any time during the Term, any portion of the Landfill Gas Beneficial Use Project fails to operate, the Company shall promptly repair, renovate or replace the nonperforming portion of the Landfill Gas Beneficial Use Project. The Company shall use all reasonable efforts to transfer to and apply at the Landfill Gas Beneficial Use Project the benefit of the advances and improvements in technology, management practices and operating efficiencies that are developed by the Company, and its Affiliates conducted over the full Term, and which are useful and appropriate in the sole good faith judgment of the Company for carrying out the Contract Services and in accordance with the Contract Standards.

(B) Shutdowns. The Company shall provide 30 days advance written notice to the County of any planned shutdowns or material reduction in operations of the Landfill Gas Beneficial Use Project. If the operation of the Landfill Gas Beneficial Use Project is temporarily reduced, curtailed or shut down for any reason so that the Company is unable to accept Landfill Gas on other than a planned basis, the Company shall immediately (within one hour) notify the County Project Manager as to the nature and probable duration thereof and the expected effect thereof on operations at the Landfill Gas Beneficial Use Project. The Company shall take prompt action to restore operations as soon as practicable.

(C) Operator. The Company shall operate and maintain the Landfill Gas Beneficial Use Project with an experienced landfill gas beneficial use project operator (the “Company Operator”). The Company shall train the Company Operator and any other necessary operating staff for the Landfill Gas Beneficial Use Project at its expense. The Company Operator shall be hired prior to the start of the Landfill Gas Beneficial Use Project Tests and shall possess experience operating other similar facilities. The Company shall provide the County the telephone number and email address where the Company Operator may be contacted 24-hours a day and other means by which such person may be contacted, including emergency contact information.

(D) Landfill Gas Beneficial Use Project Operations and Maintenance Manual. The Company shall keep on-Site the Landfill Gas Beneficial Use Project Operations and Maintenance Manual. The Company shall provide the County a copy of start-up and shutdown standard operating procedures for the Landfill Gas Beneficial Use Project. The Company shall give the County access to the Landfill Gas Beneficial Use Project Operations and Maintenance Manual, and

subsequent updated versions . The Company shall review and discuss in good faith with the County any aspect of the draft and final Landfill Gas Beneficial Use Project Operations and Maintenance Manuals, including any conflicts between such manual and the Landfill operations protocols. The content of the Landfill Gas Beneficial Use Project Operations and Maintenance Manual shall be consistent with the terms and provisions of this Agreement and shall not conflict with any Landfill operations protocols, shall contain a detailed description of the processing flow, shall document preventive maintenance procedures and schedules, and shall otherwise be sufficiently detailed to permit the Landfill Gas Beneficial Use Project to be operated and maintained by a third party reasonably experienced in landfill gas operations. The County may not require any change to the Landfill Gas Beneficial Use Project Operations and Maintenance Manual but may provide the Company with comments and suggestions with respect thereto. The County and the County Project Manager shall bear no liability associated with or resulting from the development of the Landfill Gas Beneficial Use Project Operations and Maintenance Manual. The Company shall bear all costs and expenses of performing the duties and responsibilities set forth in the Landfill Gas Beneficial Use Project Operations and Maintenance Manual and as may be required for permitting purposes. The Company shall keep the Landfill Gas Beneficial Use Project Operations and Maintenance Manual current.

SECTION 8.2. MAINTENANCE AND REPAIR. The Company, at its own cost and expense, shall maintain the Landfill Gas Beneficial Use Project and the Site in good working order and repair and in a clean and orderly condition, reasonable wear and tear excepted, and shall conduct the required periodic maintenance of the Landfill Gas Beneficial Use Project consistent with, and shall maintain a spare parts inventory in accordance with, Good Industry Practice. The Company shall provide or make provisions for all labor, materials and equipment which are necessary for the normal operation and maintenance of the Landfill Gas Beneficial Use Project for commercial purposes. As between the parties, the Company shall at its own cost and expense be responsible for providing major maintenance and major repairs and replacements for machinery, equipment, and improvements of the Landfill Gas Beneficial Use Project during the Term. The County shall not be financially responsible for any maintenance, repair or replacement of the Landfill Gas Beneficial Use Project and/or the Site. The County and the County Project Manager shall have the right to conduct visual, non-invasive inspections of the Landfill Gas Beneficial Use Project at its sole expense at any time during normal business hours in order to assure that the Landfill Gas Beneficial Use Project is being operated and maintained in accordance with this Agreement. As between the parties, the County shall be responsible for the cost and expense of maintaining and repairing the Landfill and the Landfill Gas Collection and Conveyance System.

SECTION 8.3. SAFETY AND SECURITY.

(A) Safety Plan. The Company shall prepare a safety plan which shall be maintained in accordance with this Section (the "Safety Plan"). The Safety Plan shall be delivered to the County no less than 90 days prior to the Commercial Operation Date. The Company shall maintain the safety of the Landfill Gas Beneficial Use Project at a level consistent with the Contract Standards. Without limiting the foregoing, the Company shall at its cost and expense:

(i) take all reasonable precautions for the safety of, and provide all reasonable protection to prevent damage, injury or loss by reason of or related to the operation of the Landfill Gas Beneficial Use Project to, (a) all employees working at the Landfill Gas Beneficial Use Project and all other persons who may be involved with the operation or maintenance of the Landfill Gas Beneficial Use Project, or the Landfill, (b) all invitees to the Landfill Gas Beneficial Use Project, (c) all machinery, materials and equipment under the care, custody or control of the Company or the County at the Landfill, and (d) other improvements at the Landfill, including trees, shrubs, lawns, walks, pavements, roadways, structures and Utilities;

(ii) establish and enforce all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards;

(iii) give all notices and comply with all Applicable Laws relating to the safety of persons or property or their protection from damage, injury or loss;

(iv) designate a qualified and responsible employee at the Landfill Gas Beneficial Use Project whose duty shall be the supervision of plant safety, the prevention of fires and accidents and the coordination of such activities as shall be necessary with federal, State, and County officials;

(v) operate all equipment in a manner consistent with the manufacturer's safety recommendations; and

(vi) develop and carry out a Site-specific safety program, including employee training and periodic inspections, designed to implement the requirements of this Section.

(vii) develop a fire control plan for the Landfill Gas Beneficial Use Project and file the fire control plan with and obtain approval by the local fire official or other person of competent jurisdiction and shall be filed with the local municipal code enforcement officer prior to the Commercial Operation Date.

(B) Security. The Company shall be responsible for the security of the Landfill Gas Beneficial Use Project 24 hours a day, 7 days a week, and shall maintain suitable fences, gates and locks at the Landfill Gas Beneficial Use Project. The Company shall guard against and be responsible for all damage or injury to the Landfill Gas Beneficial Use Project caused by trespass,

negligence, vandalism or malicious mischief of third parties, and shall provide for safe and orderly vehicular movement. The Company shall be responsible for security for the entire Landfill Gas Beneficial Use Project and Site. Should damage occur, the Company shall remedy all damage to the Landfill Gas Beneficial Use Project Site and the respective facilities and equipment thereon. Perimeter fencing and gates/locks are to be maintained at all times to ensure security. This includes repairing breaks in fence, fabric, straightening bent posts, replacing hinges and locks, and replacing and/or repairing “No Trespassing” signs.

(C) Accidents. The Company shall be responsible for all injuries, accidents and other mishaps associated with the Landfill Gas Beneficial Use Project construction and operations. The Company shall report any accidents resulting from the performance of this Agreement to the County as soon as practicable by telephone or messenger. Immediate notification shall be required for accidents including the death of any person. For purposes of this Agreement, “accident” shall include the death of any person, any personal injury resulting in in-patient hospitalization or out-patient treatment by a physician, or damage to any real or personal property. The Company shall report, in writing, to the County, within 7 days of that accident, complete details of the accident, including witness statements.

#### SECTION 8.4. EMERGENCIES.

(A) Emergency Response Plan. No less than 90 days prior to the Commercial Operation Date, the Company shall prepare an emergency response plan to be implemented in the event of an emergency, including fire, weather, spills, environmental, health, safety, and other potential emergency conditions. The plan shall be maintained in accordance with this Section, and shall: (1) provide for appropriate notifications to the County and all other Governmental Bodies having jurisdiction and for measures which facilitate coordinated emergency response actions by the County and all such other appropriate Governmental Bodies; (2) specifically include relevant emergency response protocols; and (3) assure the timely availability of all personnel required to respond to any emergency (no later than 2 hours during nights, weekends or holidays). The emergency response plan shall be reviewed by the parties annually as part of the review of the annual operations and maintenance report, and updated by the Company when necessary.

(B) Emergency Action. Notwithstanding any requirement of this Agreement requiring County approval or consent to reports or submittals, if at any time the Company determines in good faith that an emergency situation exists such that action must be taken to protect the safety of the public or its employees, to protect the safety or integrity of the Landfill Gas Beneficial Use Project, or to mitigate the immediate consequences of an emergency event, then the Company shall promptly take all such action it deems in good faith to be reasonable and appropriate under the circumstances. The Company shall promptly notify the County of the event to an

emergency phone number from a list supplied by the County, and of the Company's response thereto. The cost of the Company's response measures shall be borne by the Company, unless such emergency arises from the County's negligence, willful misconduct or from conditions or occurrences at the Landfill or Landfill Gas Collection and Conveyance System other than conditions or occurrences that should have been reasonably anticipated by the Company.

SECTION 8.5. COMPLIANCE WITH APPLICABLE LAW.

(A) Compliance Obligation. The Company shall perform all of its obligations hereunder in accordance with Applicable Law (including all local noise ordinances), and shall cause all Subcontractors to comply with Applicable Law. The Company shall comply with the terms of all Governmental Approvals applicable to the Landfill Gas Beneficial Use Project.

(B) Investigations of Non-Compliance. In connection with any actual event of noncompliance with Applicable Law, the Company shall, in addition to any other duties which Applicable Law may impose: (1) fully and promptly respond to all inquiries, investigations, inspections, and examinations undertaken by any Governmental Body; (2) attend all meetings and hearings required by any Governmental Body; (3) provide all corrective action plans, reports, submittals and documentation required by any Governmental Body; and (4) immediately upon receipt thereof, provide the County with a true, correct and complete copy of any written notice of violation or noncompliance with Applicable Law, and true and accurate transcripts of any oral notice of noncompliance with Applicable Law, issued or given by any Governmental Body. The Company shall furnish the County with an immediate written notice describing the occurrence of any event or the existence of any circumstance which does or may result in any such notice of violation or noncompliance, and of any Legal Proceeding alleging such noncompliance.

(C) County Remedies for Non-Compliance. In connection with any actual or alleged event of Company's noncompliance with Applicable Law under this Agreement, the Company shall, without relief under any other provision pursuant to this Agreement, and in addition to any other remedy provided herein or required by a Governmental Body: (1) pay any resulting damages, fines, levies, assessments, impositions, penalties or other charges resulting therefrom; (2) immediately take any action (including, without limitation, making all repairs, replacements and improvements and operating and management practices changes) necessary in order to comply with Applicable Law, continue or resume performance hereunder and eliminate the cause of, and avoid or prevent the recurrence of non-compliance with Applicable Law; (3) comply with any corrective action plan filed with or mandated by any Governmental Body in order to remedy a failure of the Company to comply with Applicable Law; (4) promptly prepare all public notifications required by Applicable Law, and submit such notifications for publication (if applicable); and (5) if requested by the County, in conjunction with the County, if the noncompliance is reasonably likely to cause

physical injury to members of the public or damage to the property of members of the public, communicate in a timely and effective manner with the general public as to the nature of the event, the impact on the public, and the nature and timetable for the planned remediation measures. Notwithstanding the foregoing obligations, the Company is not waiving any rights it may have to defend or challenge any alleged noncompliance with Applicable Law and may, in its sole discretion, delay taking any of the foregoing actions until a final determination, administrative decision or adjudication has occurred, unless such delay is reasonably likely to cause physical injury to any person or the environment or a nuisance to members of the public or damage to property.

(D) No Nuisance. The Company shall at all times operate and maintain the Project and Site in a good, environmentally sound, reliable, safe, neat, clean and substantially litter-free manner so as to not create any odor, litter, noise, or other adverse environmental effects constituting, with respect to each of the foregoing, a nuisance condition under Applicable Law or environmental compliance requirement. Should any such nuisance condition occur, the Company shall expeditiously remedy the condition, make all changes in operating and management practices necessary to prevent a recurrence of the nuisance condition, and indemnify and hold harmless the County from any loss-and-expense relating thereto. The Company shall be responsible for the permitting, design, construction, operation, and monitoring of any odor abatement system or noise attenuation features at the Site that the County reasonably deems necessary to maintain good relations with the surrounding communities.

SECTION 8.6. SCHEDULES, PROCEDURES AND REQUIREMENTS. The Company, with the input of the County, shall establish an Annual Landfill Gas Beneficial Use Project Operating Plan for the Landfill Gas Beneficial Use Project within 30 days after the start of each year of operation. The Annual Landfill Gas Beneficial Use Project Operating Plan shall provide for such matters as the parties may mutually deem necessary or desirable in the implementation of this Agreement including, but not limited to any planned downtime.

SECTION 8.7. OPERATING HOURS. On and after the Commercial Operation Date, the Landfill Gas Beneficial Use Project shall be staffed on a basis as is prudent in accordance with Good Industry Practice. At all times when the Landfill Gas Beneficial Use Project is not staffed, the Landfill Gas Beneficial Use Project shall be remotely monitored. The Company must promptly respond to all events during off-hours, whether detected by the remote monitoring system, or after contact from a County or Governmental Body representative, and in any event, within 2 hours. Such response may be through the Company's remote monitoring system, electronic mail or via telephone. The Company shall have access to the Site and any portion of the Landfill necessary to access the Site; provided, however, that after posted Landfill operating hours, the Company shall not have access to the Landfill other than the Site after regular hours unless accompanied by

County personnel. The Company shall provide the County with contact information at which the County can reach a Company representative on a 24-hour per day, seven day a week basis.

SECTION 8.8. OPERATING GOVERNMENTAL APPROVALS.

(A) Company Responsibilities.

(1) Applications and Submittals. The Company, at its own expense and in a timely manner, shall make all filings, applications and reports and shall take all other action necessary or desirable in order to obtain, maintain, renew, extend and comply with the terms of Governmental Approvals necessary during the Term for the commercial operation of the Landfill Gas Beneficial Use Project. Except for relief expressly identified as an Uncontrollable Circumstance, the Company assumes all costs and risks associated with obtaining and maintaining all Governmental Approvals relating to the operation of the Landfill Gas Beneficial Use Project, including the risk of delay, non-issuance, non-renewal or the imposition of any term or condition in connection therewith by a Governmental Body. The failure of a Governmental Body to issue, renew or maintain any Governmental Approval relating to the operation of the Landfill Gas Beneficial Use Project shall not constitute an Uncontrollable Circumstance.

(2) Company's Title V Permit

As and when required by Applicable Law, the Company may need to obtain a Title V Permit for the operation of the Landfill Gas Beneficial Use Project. The Company shall have primary responsibility for obtaining and renewing the Title V Permit and shall prepare all filings, applications and reports and take all other action necessary to obtain and renew the Title V Permit, subject to the Company's obligations. The Company shall pay all permit and filing fees required in order to obtain and renew their Title V Permit.

(3) Data and Information. The Company shall furnish the County with copies of all such data and information sufficiently in advance of their submission to the Governmental Body having jurisdiction so as to allow the County sufficiently in advance a full and meaningful review and comment by the County. All data, information and action shall be supplied and taken on a timely basis considering the requirements of Applicable Law and the responsibilities of the Company as owner of the Landfill Gas Beneficial Use Project. The data and information supplied by the Company to the County and all Governmental Bodies in connection therewith shall be correct and complete in all material respects, and the Company shall be responsible for any schedule and cost consequences which may result from the submission of materially incorrect, incomplete or delayed information. Notwithstanding the foregoing, if the Company has not received comment from the County in a timely manner following submission to the County which in the Company's sole opinion would adversely impact the submission of data and information to such Governmental Body, then

the Company may proceed to submit such data and information to the applicable Governmental Body.

(B) Non-Compliance and Enforcement. The Company shall report immediately to the County any inspections by any Governmental Body and all violations of the terms and conditions of any Governmental Approval or Applicable Law pertaining to the Landfill Gas Beneficial Use Project. The failure of the Company to comply with any Governmental Approval shall constitute a breach of this Agreement as well as an event of noncompliance with the Governmental Approval.

(C) Reports to Governmental Bodies. The Company shall prepare all periodic and annual reports, make all information submittals and provide all notices to all Governmental Bodies required by all Governmental Approvals and under Applicable Law with respect to the Landfill Gas Beneficial Use Project. The Company shall provide the County with a copy of such regulatory reports contemporaneously with the filing with the Governmental Body.

(D) Potential Regulatory Change. The Company shall keep the County regularly apprised as to potential changes in regulatory requirements affecting the Landfill Gas Beneficial Use Project including the Environmental Attributes market, and provide recommended responses to such potential changes so as to mitigate any possible adverse economic impact on the County should a change in Applicable Law actually occur. Notwithstanding the provision of such recommended responses to the County, the Company shall not be liable to the County should the County suffer any adverse economic impact due to changes in any regulatory requirements or Applicable Law that are not due to Company Fault.

(E) County's Title V Permit.

(1) Responsibility for Maintaining the County's Title V Permit. As and when required by Applicable Law, the County may need to renew the County's Title V Permit for the operations at the Landfill. The County shall have primary responsibility for renewing its Title V Permit and shall prepare all filings, applications and reports and take all other action necessary to renew its Title V Permit. The County shall pay all permit renewal and filing fees required in order to renew its Title V Permit. If there is any violation under the County's Title V permit due to Company Fault, the Company shall be responsible for all fines, penalties, costs and actions necessary to remedy such violation and shall indemnify the County.

(2) Company Assistance. In the event that the YSAQMD requires that the Landfill Gas Beneficial Use Project be added to the County's Title V permit, the Company, at its cost and expense, shall cooperate with and assist the County in renewing or modifying the County's Title V Permit. Such cooperation and assistance shall include providing to the County and YSAQMD all data, information, plans and documentation that are within its possession or control (including all information specific to the Contract Services that may exist or be required by YSAQMD to be

developed by the Company), which may be required in order to properly comply with the County's Title V Permit. All such data, information, plans and documentation shall be correct and complete in all material respects and shall be developed by the Company in a timely manner in accordance with the Contract Standards. In addition, the Company shall familiarize itself with the terms and conditions of the County's Title V Permit, and take all other action necessary or otherwise reasonably requested by the County in order to assist or support the County in maintaining and renewing the County's Title V Permit and shall be responsible for any costs related thereto.

SECTION 8.9. PROJECT ENVIRONMENTAL COMPLIANCE REQUIREMENTS. The Company shall assume all costs and responsibilities for obtaining all necessary permits, environmental compliance monitoring, testing and reporting in connection with the Project to appropriate federal, state and local agencies. Environmental compliance requirements shall include, but shall not be limited to, the Clean Air Act; the federal Water Pollution Control Act; the Safe Drinking Water Act; the Toxic Substances Control Act; the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; the Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984; the Occupational Safety and Health Act; the Hazardous Materials Transportation Act; the Oil Pollution Act of 1990; Air Pollution Control Operating Permit; YSAQMD Title V Permit, and any applicable federal, state or local statutes and regulations.

SECTION 8.10. ACCESS, INSPECTION AND VISITATION. The County and its representatives shall have (i) at any time during the Term, the right of access to the Landfill Gas Beneficial Use Project (including any associated gas meters) for any reasonable purpose, and (ii) the right during normal business hours to take invitees to such portions of the Landfill Gas Beneficial Use Project as are suitable for such visitation. Such access to the Landfill Gas Beneficial Use Project shall be made available, and such visitation of the Landfill Gas Beneficial Use Project shall be conducted, in a manner which does not interfere with the Company's performance of its operations and any such interference will be at the sole risk of the County and its representatives or invitees causing such interference. The County and its representatives and invitees visiting the Landfill Gas Beneficial Use Project shall comply with all Company rules and regulations and sign a statement agreeing to assume the risk of the visit.

SECTION 8.11. INFORMATION SYSTEM.

(A) Records. The Company shall on and after the Commercial Operation Date, establish and maintain an information system which will provide the County's computer system access to ready retrieval (on a read-only basis) of Landfill Gas Beneficial Use Project operating data including all information necessary to verify calculations made pursuant to this Agreement. Such

operating data shall not include Company proprietary information, personnel, payroll and similar records.

(B) Availability of Records to County. The Company shall make available to the County upon County reasonable notice all operations, maintenance, performance, and similar records and data relating to the Landfill Gas Beneficial Use Project, the Site or the Contract Services as are available to the Company.

(C) Record Documents. The Company shall maintain at the Site throughout the Term: (1) all designs, drawings, blueprints, plans, specifications and “as-built” or record drawings and documents pertaining to the Landfill Gas Beneficial Use Project; and (2) similar documents relating to any capital improvements to the Landfill Gas Beneficial Use Project. The Company shall keep current all such records to show any changes to the Landfill Gas Beneficial Use Project made by the Company in the performance of the Contract Services. In addition, the Company must convey no later than the Commercial Operations Date all record copies of all construction drawings, specifications, operations and maintenance manuals, manufacturer maintenance and inspection recommendations for equipment, logic diagrams for instrumentation and control systems, graphic or written instructions, interpretations and clarifications, and all other documents related to the planning, permitting, design and construction of the Landfill Gas Beneficial Use Project to the County in the following formats: drawings – CAD and PDF; documents – Microsoft Word and PDF; data tables, spreadsheets – Microsoft Excel and PDF; and physical copies of all should be available on paper upon request. In addition, the Company must convey all such records related to any subsequent capital improvements to the Landfill Gas Beneficial Use Project implemented after the Commercial Operations Date upon completion of the capital improvements. The Company must at any time convey any requested operations data to the County, as pertains to the ongoing operation of the Landfill Gas Beneficial Use Project. That requested data may include, but is not limited to, metered Landfill Gas usage by the Landfill Gas Beneficial Use Project, flared gas volumes, any measured off gases, and conveyed quality or quantities of Landfill Gas to customers.

SECTION 8.12. PERIODIC MEETINGS AND REPORTS.

(A) Periodic Meetings. Upon reasonable and timely notice from the County, the Company shall attend quarterly scheduled meetings or conference calls and periodic meetings as reasonably requested by the County, to review all aspects of the Landfill Gas Beneficial Use Project.

(B) Monthly Report. The Company shall keep accurate records of all transactions in connection with the Company’s determination and calculation of the License Fee. The Company shall provide to the County, by the 20<sup>th</sup> day of each month, a report for the preceding month summarizing routine and extraordinary activities during such month and plans and schedules for future activities. The monthly report shall include, but not be limited to:

- (1) Landfill Gas delivered to the Landfill Gas Delivery Point by the County (MMBTU);
- (2) Landfill Gas processed at the Landfill Gas Beneficial Use Project by the Company (MMBTU);
- (3) Landfill Gas rejected at the Landfill Gas Delivery Point or not processed by the Landfill Gas Beneficial Use Project because it did not meet the Anticipated Landfill Gas Quality Standards and supporting documentation relating thereto;
- (4) New Environmental Attributes generated; New Environmental Attributes sold; and New Environmental Attributes Gross Revenues generated therefrom;
- (5) Scheduled and unscheduled shutdowns;
- (6) Scheduled shutdowns for the upcoming month;
- (7) Incident reports generated after all shutdowns, both scheduled and unscheduled;
- (8) Description of any major repairs, replacements and upgrades;
- (9) Summary of environmental, safety and regulatory compliance, and notices of violations;
- (10) Summary of complaints submitted to the Company and the Company's response, if any; and
- (11) Curtailments imposed by [utility company].

(C) Annual Operations and Financial Reports. The Company shall furnish the County an annual summary of the statistical data provided in the monthly operations reports.

(D) Default Reports. The Company shall provide to the County, immediately after the receipt thereof, copies of any written notice of a material default, breach or noncompliance received or sent under or in connection with any material contract entered into by the Company in connection with the Contract Services.

(E) Permit Communications and Reports. The Company shall provide to the County copies of all final communications and reports furnished to any Governmental Body pursuant to subsection 6.1(E) and Section 8.8 simultaneously with their submittal to the Governmental Body.

SECTION 8.13. METERS.

(A) Company Installed Meters. The Company shall install a meter at the Landfill Gas Delivery Point (on the Company side) that monitors both the quantity and the quality of the

Landfill Gas delivered from the Landfill Gas Collection and Conveyance System. The Company shall provide the County, its auditors and the County Project Manager reasonable access to Company installed Landfill Gas Beneficial Use Project gas meters and physical and real-time electronic, read-only access to those records comprising the information basis of the monthly operations reports to be provided by the Company pursuant to Section 8.11. In addition, the County, at its cost and expense, shall install a meter on the County side of the Landfill Gas Delivery Point to monitor gas delivered to the Landfill Gas Delivery Point for quantity and quality. Should a conflict of measurement occur between the County's and the Company's meters regarding Landfill Gas delivered to the Landfill Gas Delivery Point, the County's meter shall govern unless the Company demonstrates to the County's satisfaction, acting reasonably, that the Company's meter more accurately reflects the quantity and quality of Landfill Gas delivered to the Landfill Gas Delivery Point.

(B) Operation and Calibration of Meters. The meters described in this section shall be calibrated annually (unless equipment manufacturer's specifications require more frequent calibration), and shall be operated and maintained in accordance with the requirements of the Contract Standards. Each party shall provide copies of all flow meter and gas analyzer calibration data and certificates to the other party. Either party shall have the right to calibrate, at such party's cost, the meters operated by the other party to confirm such meters' accuracy and the accuracy of the monthly operations reports. If the meters are found to be more than +/-3% out of range of the equipment specification during calibration, the party who was benefitted by such calibration shall pay for such calibration costs.] **[NTD: County to confirm.]**

SECTION 8.14. CONDENSATE. The parties agree that certain vapors condense during processing of Landfill Gas, resulting in condensate. During the Term, the Company may deliver all Acceptable Condensate generated by the Landfill Gas Beneficial Use Project collected by the Company to a receipt point designated by the County for receipt of such Acceptable Condensate. The County shall be solely responsible for the proper handling, treatment and disposal of Acceptable Condensate after receipt of such Acceptable Condensate at the receipt point. The Company shall be solely responsible for the proper handling, treatment and disposal of condensate, liquids and solids generated by the Landfill Gas Beneficial Use Project which does not constitute Acceptable Condensate including Hazardous Materials. **[NTD: County to confirm.]**

SECTION 8.15. RELEASES, LEAKS AND SPILLS.

(A) Unauthorized Releases Prohibited. The Company shall construct and operate the Landfill Gas Beneficial Use Project in such a manner that Hazardous Material will not be released, leaked or spilled on or into the environment in violation of Applicable Law.

(B) Notification and Reporting. The Company, while contemporaneously notifying the County, shall be responsible for fulfilling all notification of, and reporting requirements established by Applicable Law related to, any unauthorized release of Hazardous Materials into the environment. The Company shall prepare a memorandum evidencing such notification and reporting and provide copies thereof to the County, along with any documents provided to the relevant Governmental Body regarding the release.

(C) Cleanup and Costs. The Company shall coordinate with the County and all appropriate Governmental Bodies in effectuating the prompt remediation of any release of Hazardous Materials by the Landfill Gas Beneficial Use Project, the Company or its subcontractors. The Company shall, in the most expeditious manner possible, cause any such Hazardous Materials to be cleaned up and remediated in accordance with Applicable Law. All costs associated with performing any such cleanup and remediation measures shall be borne by the Company.

SECTION 8.16. DISPOSAL OF COMPANY OIL, COOLANT, AND OTHER LIQUIDS. The Company will be responsible for disposing of all oil, coolant and other liquids utilized at, or which are a by-product of the Landfill Gas Beneficial Use Project at the Company's sole cost and in accordance with Applicable Law.

SECTION 8.17. TRAINING OF COUNTY PERSONNEL.

(A) Training. If the County takes title to the Landfill Gas Beneficial Use Project in accordance with subsection 11.7(A), the Company shall, on not less than 45 days' prior written request from the County, conduct a one-time training program for the County and its designees in order to enable the County to assume operating and management responsibility for the Landfill Gas Beneficial Use Project at the expiration or earlier termination of this Agreement. The program shall be substantially equivalent to the training afforded the Company's and Subcontractor's employees in connection with the start-up of the Landfill Gas Beneficial Use Project prior to the Landfill Gas Beneficial Use Project Tests. In addition, the Company shall permit County supervisory and operating personnel to observe the operation of the Landfill Gas Beneficial Use Project for a period of up to one month prior to expiration or termination of this Agreement, which observation activities shall not interfere with the Company's performance of the Contract Services. All County employee expenses pertaining to the observation activities of County supervisory and operating personnel shall be borne by the County.

(B) Compensation. The reasonable cost and expense of providing the required training pursuant to this subsection shall be borne by the County.

SECTION 8.18. GOOD NEIGHBOR POLICY. The Company shall comply with the County's Good Neighbor Policy described herein. The Company shall establish good neighbor practices for the Facility that includes, but is not limited to, the following:

- (1) Provision of parking adequate for the needs of its employees and service personnel;
- (2) Provision of adequate restroom facilities located inside the Facility, if applicable;
- (3) Implementation of litter control services;
- (4) Removal of graffiti within seventy-two hours;
- (5) Maintenance of Facility grounds, including landscaping, drainage, weed abatement, and vector control, in a manner that is consistent with the Site;
- (6) Participation in nuisance abatement efforts; and
- (7) Undertake such other good neighbor practices as determined appropriate by the County, based on the County's individualized assessment of the Facility, services and actual impacts on the rest of the Landfill Site.

The Company shall identify, either by sign or other method as approved by the County, a named representative who shall be responsible for responding to any complaints relating to the Company's compliance with the required good neighbor practices specified in this Section. The Company shall post the name and telephone number of such contact person on the outside of the Facility, unless otherwise advised by the County. The Company shall comply with all applicable public nuisance ordinances and shall establish an ongoing relationship with the surrounding businesses, law enforcement and neighborhood groups and shall be an active member of the neighborhood. If the County finds that the Company has failed to comply with the Good Neighbor Policy, the County shall notify the Company in writing that corrective action must be taken by the Company within thirty (30) days. If the Company fails to take such corrective action, the County shall take such actions as are necessary to implement the necessary corrective action. The Company shall reimburse the County for any actual costs incurred by the County when implementing such corrective action. The Company's continued non-compliance with the Good Neighbor Policy after the thirty (30) day notice, shall be grounds for termination of this Agreement as set forth in Section 11.2(B) and may also result in ineligibility for additional or future contracts with the County.

ARTICLE IX

RIGHTS TO LANDFILL GAS; COMPENSATION TO COUNTY

SECTION 9.1. RIGHTS TO LANDFILL GAS.

(A) Landfill Gas Quantity and Quality.

In consideration for the payment of the License Fee by the Company and the performance of its obligations hereunder, the County hereby grants, conveys and assigns to the Company, free and clear of all liens, claims and encumbrances whatsoever, all Landfill Gas delivered by the County to the Landfill Gas Delivery Point. The County makes no representation or guaranty regarding the quantity or quality of Landfill Gas that will be generated at the Landfill. The Parties anticipate that the Landfill Gas would have the qualities set forth in Appendix I. If the Landfill Gas does not meet such quality standards, the County will use good faith efforts to tune the Landfill Gas Collection and Conveyance System in order to meet such standards, repair damaged portions of the Landfill Gas Collection and Conveyance System, install cover as is reasonably necessary, and shall allow the Company to investigate reasonable concerns unless constrained by operational considerations. In addition, the County will use good faith efforts to confer with the Company regarding filling plans and schedules, significant gas collection system maintenance or delinquent work, operational damage, outages and other relevant issues. The duty to undertake such good faith efforts shall not require the County to undertake efforts that would be commercially unreasonable or affect environmental compliance. Title to Landfill Gas shall transfer to the Company at the Landfill Gas Delivery Point.

(B) Landfill Gas Treatment. The Company shall be solely responsible for any Landfill Gas treatment or conditioning necessary beyond the Landfill Gas Delivery Point for the Landfill Gas Beneficial Use Project.

(C) Beneficial Use of Landfill Gas. The Company shall use all reasonable efforts to maximize the beneficial use of Landfill Gas to which it is entitled hereunder. Poor economic return for the Company shall not constitute a valid reason to reduce efforts to maximize the beneficial use of any Landfill Gas.

(D) Restricted Landfill Gas Flow to Landfill Gas Beneficial Use Project. The County reserves the right to restrict the flow of Landfill Gas to the Landfill Gas Beneficial Use Project when, in the County's reasonable discretion, it determines that (i) operation of the County-owned flare(s) is necessary to comply with Applicable Law or to control odors, or (ii) the Landfill Gas is detrimental or not reasonably usable such as low methane content. The County and the Company agree to work in cooperation to minimize, to the maximum extent practicable, the number of occurrences in which there is restricted Landfill Gas flow to the Landfill Gas Beneficial Use Project.

SECTION 9.2. CONSIDERATION TO THE COUNTY FOR LICENSE.

(A) Annual Site Payment. The Company shall pay to the County an annual payment each July 1st as payment for site rights and administration costs (the “Annual Site Payment”). The first Annual Site Payment shall be due on [the Contract Date], and shall be in the amount of \$[500,000]. Each subsequent year throughout the Term, the amount of the Annual Site Payment shall be adjusted by the Consumer Price Index (CPI), as published by the US Bureau of Labor Statistics, for all items in West urban, all urban consumers, not seasonally adjusted. **[NTD: Discuss whether Annual Site Payment will be proposed or County will set dollar amount.]**

(B) License Fee. In consideration for the rights to Landfill Gas granted by this Agreement, commencing on the Commercial Operation Date, the Company shall provide to the County, payment as follows (“License Fee”):

(1) a monthly payment equal to \$\_\_ [as set forth in Proposal] per MMBTU of Landfill Gas that meets the Anticipated Landfill Gas Quality Standards delivered to the Landfill Gas Delivery Point as well as Landfill Gas that does not meet such standards that is accepted by the Company in such month. Each subsequent year, the amount of the payment(s) per unit shall be adjusted by the Consumer Price Index (CPI), as published by the US Bureau of Labor Statistics, for all items in West urban, all urban consumers, not seasonally adjusted. The Payment per Unit shall be for all Landfill Gas that meets the Anticipated Landfill Gas Quality Standards (i) delivered by the County to the Point of Delivery and (ii) that is available for delivery but not delivered due to the inability of the Landfill Gas Beneficial Use Project to accept and beneficially use such gas, beginning on the earlier of (i) the date that the Company commences beneficial use of the Landfill Gas and (ii) the Scheduled Commercial Operation Date, through the end of the Term; and

(2) an amount equal to 50% of the revenues generated by Environmental Attributes that did not exist on the Contract Date but not including attributes that replace those that were in affect on the Contract Date (“New Environmental Attributes”).

**[NTD: To be revised accordingly if selected Proposer and the County agree to License Fee structure based on a revenue share basis.]**

(C) Payment of the License Fee. Within forty-five (45) days after the end of each month during the Term, the Company shall pay the License Fee to the County. In addition, the Company shall provide the County with the data and Landfill Gas and Environmental Attributes sales contracts necessary for the County to calculate and verify item (2) of the License Fee for such month. Amounts not paid within such 45-day period will accrue interest at the Overdue Rate. To the extent that any information in such sales contracts is designated “trade secret” or “confidential”, the County shall not disclose such information to third parties to the extent allowable under law; and shall give the Company notice of any request for such information prior to releasing such

information in order to allow the Company to participate in any court proceeding concerning the disclosure of such information.

(D) Supporting Data and County Right to Audit. Each monthly payment shall be substantiated by supporting documentation regarding the quantity of MMBTU of Landfill Gas received at the Landfill Gas Delivery Point and the New Environmental Attributes Gross Revenues received. Once per each twelve-month period from the Contract Date, upon reasonable prior written notice for an audit, the Company shall permit a mutually acceptable independent auditor designated by the County, to examine, during ordinary business hours, records, and materials of the Company for the purpose of verifying the information provided with its monthly payments. The auditors and the County will be required to sign appropriate nondisclosure agreements prior to receiving any confidential information of the Company or its Affiliates. Approval of such an independent auditor shall not be unreasonably withheld, and any expenses associated with such audit and examination shall be paid for by the County. No such audit may be conducted on a contingency basis by a third party (and therefore no portion of the fee or other compensation payable to any third party may in any way be tied to the results of such audit), and any such audit conducted on such basis shall be deemed void for the purposes hereof.

SECTION 9.3. ENVIRONMENTAL ATTRIBUTES. The rights to all Environmental Attributes generated by the Landfill Gas Beneficial Use Project shall belong to the Company and revenues associated with such Environmental Attributes shall be for the benefit of the Company except as, and to the extent, set forth in Section 9.2(C)(2). Any Environmental Attributes not generated by the Landfill Gas Beneficial Use Project (e.g. Environmental Attributes generated from the flaring of Landfill Gas by a County-owned flare) shall belong to the County and the County shall retain all revenues generated by such Environmental Attributes.

SECTION 9.4. MARKETING AND SALES OF GAS AND ENVIRONMENTAL ATTRIBUTES. The Company shall be responsible for the marketing and sale of the Landfill Gas Beneficial Use Project's products, including but not limited to, renewable natural gas (RNG), compressed natural gas (CNG), USEPA RFS Facility Registration, E-RIN, California LCFS Pathway Registration /Validation/Verification and Voluntary Market registration, steam, electricity, carbon credits, tax credits, renewable identification numbers (RIN), and other material and marketable features of the Project's products.

SECTION 9.5. DUTY OF GOOD FAITH DEALINGS. During the Term, the Company shall use good faith efforts to maximize the License Fee. All transactions undertaken by the Company with third parties in connection with the Landfill Gas Beneficial Use Project will be arm's length transactions. The parties acknowledge that they have an obligation to use good faith and fair dealing with the other party in all aspects of this Agreement.

ARTICLE X

OWNERSHIP OF LANDFILL GAS BENEFICIAL USE PROJECT; LANDFILL GAS COLLECTION AND  
CONVEYANCE SYSTEM

SECTION 10.1. LANDFILL GAS BENEFICIAL USE PROJECT AND CAPITAL IMPROVEMENTS AS PERSONAL PROPERTY. As between the parties, all of the equipment and property (other than the real property) incorporated in any part of the Landfill Gas Beneficial Use Project and any repair, rehabilitation replacement, improvement, alteration or addition to the Landfill Gas Beneficial Use Project or any part thereof installed by the Company are the sole and exclusive property of the Company. All of such equipment or property shall remain personal property notwithstanding the method or mode of its installation on, under or attachment to any real property. The Company shall pay or cause to be paid any tax levied on the Landfill Gas Beneficial Use Project. Upon the termination or expiration of this Agreement, the Company shall be obligated to remove such equipment and property incorporated into the Landfill Gas Beneficial Use Project in accordance with Section 11.7 unless the County elects to take title to the Landfill Gas Beneficial Use Project in accordance with the provisions of Section 11.7.

SECTION 10.2. LANDFILL GAS COLLECTION AND CONVEYANCE SYSTEM (GCCS). All equipment and materials which comprise the Landfill Gas Collection and Conveyance System, here and henceforth, are and shall be owned by the County and operated and maintained by the County or its contractor. The County shall give notice of proposed expansion of the GCCS to the Company. The County may grant the Company the right to expand the Landfill Gas Collection and Conveyance System at the Company's cost, contingent upon prior approval by the County and appropriate regulatory agencies. The County will own and operate any such improvements.

ARTICLE XI  
BREACH, DEFAULT, TERMINATION FOR CAUSE, CONVENIENCE TERMINATION,  
AND DISPUTE RESOLUTION

SECTION 11.1. REMEDIES FOR BREACH. The parties agree that, except as otherwise provided in this Agreement with respect to termination rights, in the event that either party breaches this Agreement, the other party may exercise any legal rights it has under this Agreement, under the Security Instruments and under Applicable Law to recover damages or to secure specific performance, and that such rights to recover damages and to secure specific performance shall ordinarily constitute adequate remedies for any such breach. Neither party shall have the right to terminate this Agreement for cause except upon the occurrence of an Event of Default. In the event either party shall have the right to terminate this Agreement as provided herein, this Agreement may be terminated (except by expiration of the Term) only by a written instrument of termination executed by the appropriate party and delivered to the non-terminating party.

SECTION 11.2. EVENTS OF DEFAULT BY THE COMPANY.

(A) Events of Default Not Requiring Previous Notice or Further Cure Opportunity for Termination. Unless the occurrence of any of the following is directly due to an Uncontrollable Circumstance, each of the following shall constitute an Event of Default by the Company upon which the County, by notice to the Company, may terminate this Agreement without any requirement of having given notice previously or of providing any further cure opportunity:

(1) Failure to Achieve Commercial Operation Date. The failure of the Company to achieve Commercial Operation of the Landfill Gas Beneficial Use Project by the end of the Extension Period unless due to Uncontrollable Circumstances;

(2) Voluntary Bankruptcy. The written admission by the Company or the Guarantor that it is bankrupt, or the filing by the Company or the Guarantor of a voluntary petition under the Bankruptcy Code, or the consent by the Company or the Guarantor to the appointment by a court of a receiver or trustee for all or a substantial portion of its property or business, or the making by the Company or the Guarantor of any arrangement with or for the benefit of its creditors involving an assignment to a trustee, receiver or similar fiduciary, regardless of how designated, of all or a substantial portion of the Company's or the Guarantor's property or business;

(3) Involuntary Bankruptcy. The final adjudication of the Company or the Guarantor as bankrupt after the filing of an involuntary petition under the Bankruptcy Code;

(4) Failure to Utilize Landfill Gas. The failure of the Company to beneficially utilize 50% of the quantities of Landfill Gas delivered to the Landfill Gas Delivery Point in any Contract Year, subject to relief for Uncontrollable Circumstances;

(5) Failure to Pay Annual Site Payment. The failure of the Company to pay the Annual Site Payment in any year within 90 days of the due date; or

(6) Failure to Pay License Fee. The failure of the Company to pay any component of the License Fee (including any shortfall in the Minimum Annual License Payment) within 90 days of the due date.

(B) Events of Default Requiring Previous Notice and Cure Opportunity for Termination.

(1) Events of Default Requiring Notice and Cure Opportunity. Subject to clause (2) of this subsection, unless the occurrence of any of the following is directly due to an Uncontrollable Circumstance, each of the following shall constitute an Event of Default by the Company upon which the County, by notice to the Company, may terminate this Agreement:

(i) Security for Performance. The failure of the Company to obtain, maintain in full force and effect or renew within 30 days prior to expiration any Security Instrument or Required Insurance required by Article XII as security for the performance of this Agreement;

(ii) Failure to Maximize Beneficial Use of Landfill Gas. Failure to operate the Landfill Gas Beneficial Use Project in a manner that maximizes the beneficial use of the Landfill Gas;

(iii) Failure to Pay. The Company fails to pay any amount required to be paid to the County pursuant to this Agreement within 30 days following the due date for such payment (other than the License Fee or the Annual Site Payments which is addressed in (A)(7) and (A)(8) above);

(iv) Non-Compliance Event. The operation of the Landfill Gas Beneficial Use Project in a manner that creates a non-compliance event for the Landfill.

(v) Non-Compliance with Good Neighbor Policy. Non-compliance with the Good Neighbor Policy as described in Section 8.18.

(vi) Failure Otherwise to Materially Comply with Agreement. The failure or refusal by the Company substantially to perform any other material obligation under this Agreement unless such default is excused by an Uncontrollable Circumstance or County Fault; or

(vii) Representations and Warranties. Any representation or warranty of the Company hereunder was false or inaccurate in any material respect when made, and the legality of this Agreement or the ability of the Company to carry out its obligations hereunder is thereby adversely affected.

(2) Notice and Cure Opportunity. No such default described in clause (1) of this subsection shall constitute an Event of Default giving the County the right to terminate this Agreement for cause under this subsection unless:

(i) The County has given prior written notice to the Company stating that in its opinion a specified default in its duty to pay or perform exists which gives the County a right to terminate this Agreement for cause under this Section, and describing the default in reasonable detail; and

(ii) The Company has not paid an amount due within 30 days of such notice or for non-payment obligations, has not initiated within a reasonable time (in any event not more than 30 days from the initial default notice) and continued with due diligence to carry out to completion all actions reasonably necessary to correct the default and prevent its recurrence.

If the Company shall have paid the amount due within 30 days of such notice or, for non-payment obligations shall have initiated within such reasonable time and continued with due diligence to carry out to completion all such actions (and corrected such default within 60 days), the default shall not constitute an Event of Default.

(C) Other Remedies Upon Company Event of Default. The right of termination provided under this Section upon an Event of Default by the Company is not exclusive. If this Agreement is terminated by the County for an Event of Default by the Company, the County shall have the right to pursue a cause of action for actual damages and to exercise all other remedies which are available to it under this Agreement, under the Security Instruments and under Applicable Law. In the event that the County successfully pursues an action to enforce any remedy provided in this Article, the Company shall be liable to the County for payment of all costs and expenses which are incurred by the County in connection with such action.

SECTION 11.3. EVENTS OF DEFAULT BY THE COUNTY.

(A) Events of Default Not Requiring Previous Notice or Further Cure Opportunity For Termination. Each of the following shall constitute an Event of Default by the County upon which the Company, by notice to the County, may terminate this Agreement without any requirement of having given notice previously or of providing any further cure opportunity:

(1) Voluntary Bankruptcy. The filing by the County a petition of voluntary bankruptcy under the Bankruptcy Code; the consenting of the County to the filing of any bankruptcy or reorganization petition against the County under the Bankruptcy Code; or the filing by the County of a petition to reorganize the County pursuant to the Bankruptcy Code; or

(2) Involuntary Bankruptcy. The issuance of an order of a court of competent jurisdiction appointing a receiver, liquidator, custodian or trustee of the County, respectively, or the filing against the County of a petition to reorganize the County pursuant to the Bankruptcy Code, which order shall not have been discharged or which filing shall not have been dismissed within 90 days after such issuance or filing, respectively.

(B) Events of Default Requiring Notice and Cure Opportunity for Termination. Subject to subsection (C) of this Section, unless the occurrence of any of the following is directly due to an Uncontrollable Circumstance, each of the following shall constitute an Event of Default by the County upon which the Company, by notice to the County, may terminate this Agreement:

(1) Representations and Warranties. Any representation or warranty of the County hereunder was false or inaccurate in any material respect when made, and the legality of this Agreement or the ability of the County to carry out its obligations hereunder is thereby adversely affected;

(2) Failure to Otherwise Materially Comply with Agreement. The failure, refusal or other default by the County in its duty to perform any other material obligation under this Agreement (unless such default is excused by an Uncontrollable Circumstance or Company Fault).

(C) Notice and Cure Opportunity. No such default described in subsection (B) of this Section shall constitute an Event of Default giving the Company the right to terminate this Agreement for cause under this subsection unless:

(i) The Company has given prior written notice to the County stating that a specified default exists which gives the Company a right to terminate this Agreement for cause under this Section, and describing the default in reasonable detail; and

(ii) The County has not initiated within a reasonable amount of time (in any event not more than 60 days from the initial default notice) and continued with due diligence to carry out to completion all actions reasonably necessary to correct the default and prevent its recurrence.

If the County shall have initiated within such reasonable time and continued with due diligence to carry out to completion all such actions (and corrected such default within 60 days), the default shall not constitute an Event of Default.

(D) Other Remedies Upon County Event of Default. The right of termination provided under this Section upon an Event of Default by the County is not exclusive. If this Agreement is terminated by the Company for an Event of Default by the County, the Company shall have the right to pursue a cause of action for actual damages and to exercise all other remedies which are available to it under this Agreement and under Applicable Law. In the event that the Company successfully pursues an action to enforce any remedy provided in this Article, the County shall be liable to the Company for payment of all costs and expenses which do not amount to a waiver of the County's sovereign immunity and are incurred by Company in connection with such action.

SECTION 11.4. CONVENIENCE TERMINATION. **[NTD: Discuss whether to include this section.]**

(A) Convenience Termination Right and Fee. Notwithstanding anything contained herein to the contrary, the County may at any time in its sole and absolute discretion terminate this Agreement for convenience and without cause, exercisable upon not less than 120 days prior written notice to the Company which notice shall set forth the effective date of termination; subject, however, to the full payment by the County of an amount equal to the agreed upon fee described in subsection (B) below, or, if the parties cannot agree to the fee, the Fair Market Value as determined pursuant to Appendix H on or about the date the termination is effective ("Convenience Termination Fee"). Upon the effective date of such termination pursuant to this Section, neither party shall have any further obligation or liability to the other under this Agreement, except that the provisions of this Agreement that expressly survive the termination of this Agreement shall continue to apply and no such termination shall limit or otherwise affect the rights and obligations of either party (whether for payment of money or otherwise) that have accrued prior to the effective date of termination.

(B) Calculation and Substantiation. The Company shall provide the County with its calculation of the Convenience Termination Fee within ninety (90) Days after receipt of a termination notice, along with such supporting information as the County may reasonably request. In addition, if prior to issuing a termination notice the County notifies the Company that it is considering exercising its right to terminate this agreement under Section 11.4(A) then the Company shall provide to the County within ninety (90) days its good faith estimate of what the Convenience Termination Fee would be, along with such supporting information as County may reasonably request. Following County's receipt of the Company's calculation of the Convenience Termination Fee the parties shall negotiate in good faith any disagreements as to the Convenience Termination Fee. If the parties are unable to agree on the Convenience Termination Fee within 30 days of the County's receipt of the Company's calculation of the Convenience Termination Fee then the Convenience Termination Fee shall be the Fair Market Value as determined under Appendix H.

(C) Convenience Termination Due to Uncontrollable Circumstances. In the event an Uncontrollable Circumstance causes a total constructive loss of the Landfill Gas Beneficial Use Project, and thereupon the County elects to exercise its right of convenience termination under this Section, no payment shall be required from the County and the Company shall comply with subsection 11.7(B). A “total constructive loss” for this purpose shall be deemed to have occurred: (1) if so determined by the casualty insurance carrier; or (2) if the Landfill Gas Beneficial Use Project is substantially inoperable for a period of at least twelve months following the occurrence of the Uncontrollable Circumstance.

(D) Termination Due to Action of Governmental Body or Absence of Landfill Gas. In the event (i) the CalEPA, EPA, YSAQMD, or any other Governmental Body having jurisdiction over the Landfill or Site requires the Landfill Gas Beneficial Use Project to cease operations due to acts, events or conditions beyond the reasonable control of the Company and such cessation continues for more than 120 consecutive days or (ii) Landfill Gas has not been made available to the Landfill Gas Beneficial Use Project for a period of 12 months following the Acceptance Date, then the Company may terminate this Agreement upon thirty (30) days written notice to the County without liability by either party to the other. Upon such termination, the Company shall remove the Facility from the Site and restore the Site as set forth in Section 11.7(B) unless the County agrees to purchase the Landfill Gas Beneficial Use Project and there shall be no payment from the County upon such termination unless the County agrees to purchase the Landfill Gas Beneficial Use Project.

(E) Payment of Amounts Owning Through the Termination Date. Upon any termination pursuant to this Section, the County shall be paid all amounts due for the License Fee but not yet paid as of the date of termination.

(F) Convenience Termination Fee Payment Contingent Upon Surrender of Possession. The County shall have no obligation to pay the Convenience Termination Fee provided for under this Section except concurrently with the surrender of possession and control by the Company of the Landfill Gas Beneficial Use Project and any License or rights to Landfill Gas to the County.

(G) Adequacy of Termination Payment. The Company agrees that the applicable Convenience Termination Fee provided in this Section shall fully and adequately compensate the Company for all instruments and foregone potential profits, Loss-and-Expense, and charges of any kind whatsoever (whether foreseen or unforeseen), including initial transition and mobilization costs and demobilization, employee transition and other similar wind-down costs, attributable to the termination of the Company’s right to perform this Agreement.

(H) Consideration for Convenience Termination Payment. The right of the County to terminate this Agreement for its convenience and in its sole discretion in accordance with this Article constitutes an essential part of the overall consideration for this Agreement, and the Company hereby waives any right it may have under Applicable Law to assert that the County owes the Company a duty of good faith dealing in the exercise of such right.

(I) Completion or Continuance by County. After the date of any termination under this Section, the County may at any time (but without any obligation to do so) take any and all actions necessary or desirable to continue and complete the Contract Services so terminated, including, without limitation, entering into contracts with other operators and contractors.

SECTION 11.5. PAYMENT DISPUTES. If a party disputes any amount that is payable under this Agreement, the party disputing such amount shall provide written notice to the other party of such disputed amount, together with sufficient information to enable the other party to understand the nature of the dispute. Such notice shall be delivered by the party disputing such amount no later than the date that such amount is due and payable (or, if later, within 10 days after the date on which the disputing party has information necessary to determine that it has a dispute) and (as applicable) the party disputing such amount shall make payment of any undisputed amount on the due date thereof. If the amount that is in dispute is ultimately determined to be due and payable, such disputed amount, together with interest thereon (at the Overdue Rate) shall be paid by the party disputing such amount within 10 business days.

SECTION 11.6. CUMULATIVE REMEDIES. The rights and remedies granted in this Agreement to the County and the Company upon an Event of Default are cumulative, and the exercise of such rights shall be without prejudice to the enforcement of any other right or remedy authorized by law or this Agreement.

SECTION 11.7. DISPOSITION OF LANDFILL GAS BENEFICIAL USE PROJECT AT END OF TERM.

(A) County Option to Take Title at Expiration of Term or Upon Termination. If the parties fail to extend the Term in accordance with Section 3.2, or upon a termination of this Agreement, the County may elect to purchase the Landfill Gas Beneficial Use Project from the Company for a purchase price derived pursuant to Section 11.4 upon 120 days written notice. The Company shall transfer title to the Landfill Gas Beneficial Use Project to the County upon the County paying the purchase price for the Landfill Gas Beneficial Use Project.

(B) County Does Not Opt to Take Title. If the County does not exercise its right to purchase the Landfill Gas Beneficial Use Project, the Company shall have an obligation to remove the Landfill Gas Beneficial Use Project and restore the site to its pre-development condition to the extent reasonably possible in accordance with (C) below.

(C) Removal and Restoration. The parties hereby agree that the Landfill Gas Beneficial Use Project shall remain the personal property of the Company notwithstanding the method or mode of installation or attachment to real property. Unless purchased by the County pursuant to subsection (A) of this Section, the Company shall have an obligation within 180 days after the end of the Term to: (1) remove the equipment and personal property constituting the Landfill Gas Beneficial Use Project, except for any underground pipes; (2) fill any and all underground pipes with grout; (3) restore the surface of the Site and any other areas disturbed by the Company's installation of the Landfill Gas Beneficial Use Project to substantially match its condition at the execution of this Agreement, except to the extent a change in condition results from a cause other than the Company's activities; (4) remediate any environmental impacts related to the Company's activities at the Site; and (5) deliver to the County a copy of any as-built drawings in its possession relating to the Landfill Gas Beneficial Use Project, as such drawings may have been updated from time to time. The Company is hereby granted such rights of use and access as may be necessary to complete the removal and restoration work set forth in this subsection.

SECTION 11.8. OBLIGATIONS OF THE COMPANY UPON TERMINATION OR EXPIRATION IF COUNTY TAKES TITLE. If the County chooses to purchase the Landfill Gas Beneficial Use Project pursuant to Section 11.7 (or 11.4), the Company shall comply with the following:

(A) Company Obligations. Upon a termination of the Company's right to perform this Agreement, or upon the expiration of this Agreement under Section 3.1, the Company shall, at its expense, as applicable:

(1) stop the Contract Services on the date and to the extent specified by the County;

(2) promptly take all action as necessary to protect and preserve all materials, equipment, tools, facilities and other property;

(3) subject to subsection (C) of this Section, remove from the Landfill Gas Beneficial Use Project all construction equipment, implements, machinery, tools, temporary facilities of any kind and other property owned or leased by the Company (including, but not limited to sheds, trailers, workshops and toilets), and repair any damage caused by such removal;

(4) leave the Landfill Gas Beneficial Use Project and the Project Site in a neat and orderly condition;

(5) remediate any environmental impacts related to the Company's activities at the Site;

(6) subject to subsections (B) and (C) of this Section, promptly remove all employees of the Company and any Subcontractors and vacate the Landfill Gas Beneficial Use Project;

(7) promptly deliver to the County a list of all supplies, materials, machinery, equipment, property and special order items previously delivered or fabricated by the Company or any Subcontractor but not yet incorporated in the Landfill Gas Beneficial Use Project;

(8) deliver to the County the Landfill Gas Beneficial Use Project Operation and Maintenance Manual and all computer programs used at the Landfill Gas Beneficial Use Project in the performance of Contract Services, including all revisions and updates thereto;

(9) deliver to the County a copy of all books and records in its possession relating to the performance of the Contract Services;

(10) deliver to the County any as-built drawings in its possession relating to the Landfill Gas Beneficial Use Project, as such drawings may have been updated from time to time;

(11) advise the County promptly of any special circumstances which might limit or prohibit cancellation of any Subcontract;

(12) promptly deliver to the County copies of all Subcontracts, together with a statement of:

(i) the items ordered and not yet delivered pursuant to each agreement;

(ii) the expected delivery date of all such items;

(iii) the total cost of each agreement and the terms of payment; and

(iv) the estimated cost of canceling each agreement;

(13) assign to the County any Landfill Gas and Environmental Attributes sales contracts, Interconnection Agreement and Subcontract that the County elects in writing, at its sole election and without obligation, to have assigned to it (including, but not limited to, any gas sales or purchase agreement, interconnection agreement and 3<sup>rd</sup> party contracts to sell Environmental Attributes). The County shall assume, and the Company shall be relieved of its obligations under, any such gas sales or purchase agreement, Interconnection Agreement, or Subcontract so assigned from the date of such assignment;

(14) terminate all Subcontracts which the County has not directed the Company to assign, and make no additional agreements with Subcontractors;

(15) cooperate in transferring to the County any and all permits and other Governmental Approvals necessary for operation of the Landfill Gas Beneficial Use Project;

(16) as directed by the County, transfer to the County by appropriate instruments of title, and deliver to the Landfill Gas Beneficial Use Project (or such other place as the County may specify), all special order items pursuant to this Agreement for which the County has made or is obligated to make payment;

(17) promptly transfer to the County all warranties given by any manufacturer or Subcontractor, together with copies of all related operating manuals, with respect to particular components of the Landfill Gas Beneficial Use Project Work;

(18) notify the County promptly in writing of any Legal Proceedings against the Company by any Subcontractor or other third parties relating to the termination of the Contract Services, the Landfill Gas Beneficial Use Project Work (or any Subcontracts);

(19) give written notice of termination, effective as of date of termination of this Agreement, promptly under each policy of Required Insurance (with a copy of each such notice to the County), but permit the County to elect to continue such policies in force thereafter at its own expense, if possible;

(20) take such other actions, and execute such other documents as may be necessary to effectuate and confirm the foregoing matters, or as may be otherwise necessary and take no action which shall increase any amount payable by the County under this Agreement;

(21) deliver to the County all computer data used at the Landfill Gas Beneficial Use Project in the performance of services, including all revisions and updates thereto; and

(22) provide the County with a list of all files, and access and security codes with instructions and demonstrations which show how to open and change such codes.

(B) Hiring of Company Personnel. Upon the termination or expiration of this Agreement under any provision hereof, the County shall have the right to offer employment on any terms it may choose to any Company employee employed full time at the Landfill Gas Beneficial Use Project, regardless of any Company job offer, letter or similar document or Company “non-compete” clauses executed by such employee and the employee shall not be prohibited from accepting such offer. Notwithstanding the foregoing, nothing herein shall prohibit Company from offering continued employment to such employee on any terms it may choose.

(C) Continuity of Service and Technical Support. Upon the termination of the Company’s right to perform this Agreement or upon the expiration of this Agreement under Section 3.1, the Company, at the request and direction of the County, shall provide continuity of service for the smooth and orderly transition of management to the County or any replacement operator designated by the County. Such service shall be for a period of up to 7 days and shall include providing all or such portion of the Contract Services, including technological and design

advice and support, as the County may determine, and delivering any plans, drawings, renderings, blueprints, operating manuals, computer programs or other information useful or necessary for the County or any replacement operator designated by the County to carry out and complete the Landfill Gas Beneficial Use Project Work and to perform the Contract Services. In addition, the Company shall, at the County's request, provide the County and any replacement operator with the training program relating to the operation of the Landfill Gas Beneficial Use Project.

SECTION 11.9. PROCEDURE FOR TERMINATION. If any party shall have a right of termination in accordance with this Article XI, the same may be exercised by written notice of termination stating the date of termination (the "Termination Date").

SECTION 11.10. NO WAIVERS. No action of the County or Company pursuant to this Agreement (including, but not limited to, any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Agreement. No course of dealing or delay by the County or Company in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the County or the Company under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

SECTION 11.11. NO CONSEQUENTIAL OR PUNITIVE DAMAGES. In no event shall either party hereto be liable to the other or obligated in any manner to pay to the other any special, incidental, consequential, punitive or similar damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Agreement, or the material falseness or inaccuracy of any representation made in this Agreement, whether such claims are based upon contract, tort, negligence, warranty or other legal theory; provided, however, that nothing in this Section shall limit the obligation of a party to indemnify the other party for any special, incidental, consequential, punitive or similar damages payable to third parties resulting from any act or circumstance for which such party is obligated to indemnify the other party hereunder. For purposes of clarification, all damages set forth in Section 7.3(A) shall not be consequential or punitive damages.

SECTION 11.12. FORUM FOR DISPUTE RESOLUTION. This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any disputes arising out of or relating to this Agreement shall be brought in Yolo County, California.

SECTION 11.13. NON-BINDING MEDIATION.

(A) Rights to Request and Decline. Either party may request non-binding mediation of any dispute arising under this Agreement, whether technical or otherwise. The non-

requesting party may decline the request in its sole discretion. If there is concurrence that any particular matter shall be mediated, the provisions of this Section shall apply.

(B) Procedure. The mediator shall be a professional engineer, attorney or other professional mutually acceptable to the parties who has no current or on-going relationship to either party. The mediator shall have full discretion as to the conduct of the mediation. Each party shall participate in the mediator's program to resolve the dispute until and unless the parties reach agreement with respect to the disputed matter or one party determines in its sole discretion that its interests are not being served by the mediation.

(C) Non-Binding Effect. Mediation is intended to assist the parties in resolving disputes over the correct interpretation of this Agreement. No mediator shall be empowered to render a binding decision.

(D) Relation to Judicial Legal Proceedings. Nothing in this Section shall operate to limit, interfere with or delay the right of either party under this Article to commence judicial Legal Proceedings upon a breach of this Agreement by the other party, whether in lieu of, concurrently with, or at the conclusion of any non-binding mediation. In addition, nothing in this Agreement shall constitute a waiver of any of the government claim filing requirements set forth in Title 1, Division 3.6, of the California Government Code or as otherwise set forth in local, state and federal law.

ARTICLE XII  
SECURITY FOR PERFORMANCE

SECTION 12.1. GUARANTY AGREEMENT. The Company shall cause the Guaranty Agreement to be provided and maintained by the Guarantor during the Term in the form attached hereto as Appendix F.] **[NOTE: To be included if applicable.]**

SECTION 12.2. PERFORMANCE AND PAYMENT BONDS. On or before the Construction Commencement Date, the Company shall provide the County with a construction performance bond (the "Performance Bond") and a payment bond (the "Payment Bond") from sureties rated [\_\_\_], in the forms set forth in Appendix K, which may be dual obligee bonds from the Company's general contractor (with the Company and the County being the obligees) in an amount of \$[\_\_\_\_\_]. **[NTD: Discuss.]**

SECTION 12.3. SITE RESTORATION BOND. On or before the Commercial Operations Date, the Company shall submit to the County, and maintain for the duration of the Agreement, a bond from a surety rated [\_\_\_], in a form acceptable to the County, in the amount of [\$\_\_\_\_\_] to fully decommission and clean up the site following the expiration or termination of this Agreement (the "Site Restoration Bond"). **[NTD: Discuss.]**

SECTION 12.4. COSTS OF PROVIDING SECURITY FOR PERFORMANCE. The cost and expense of obtaining and maintaining the Security Instruments required under this Article as security for the performance of the Company's obligations hereunder shall be borne by the Company without reimbursement from the County.

## ARTICLE XIII

### INSURANCE, UNCONTROLLABLE CIRCUMSTANCES AND INDEMNIFICATION

#### SECTION 13.1. INSURANCE.

(A) Required Insurance. At all times during the Term, the Company shall obtain and maintain the Required Insurance, as applicable, and shall pay all premiums with respect thereto as the same become due and payable. The Required Insurance shall be provided concurrently with the execution and delivery of this Agreement or otherwise as provided by Applicable Law and remain in effect during the Term in annually (or other) renewable periods.

(B) Insurers, Deductibles and County Rights. All Required Insurance shall be obtained and maintained from financially sound and generally recognized responsible insurance companies meeting the qualifications set forth in Appendix D. The insurers shall be authorized to write such insurance in the State. The insurance coverage may be written with deductible amounts within the limits agreed to by the County, and the Company shall be responsible for any deductible amounts. The Company shall also be responsible for all self-insured retentions contained in its insurance coverages, as well as any excluded losses. All policies evidencing such insurance shall provide for: (1) non-preferential payment of the losses to the County and to the Company as their respective interests may appear; and (2) at least 30 days prior written notice of the cancellation thereof to the Company and the County. All policies of insurance required by this Section shall be primary insurance without any right of contribution from other insurance carried by the County. The Company shall provide at least 30 days' prior written notice of the cancellation of any Required Insurance to the other party. All policies of insurance required by this Section shall be primary insurance without any right of contribution from other insurance carried by the County.

(C) Certificates, Policies and Notice. The delivery by the Company to the County of certificates of insurance is required by this Agreement as a condition to the occurrence of the Commercial Operation Date. The Required Insurance, including any endorsements and renewals thereof, shall be evidenced by certificates of insurance as provided herein and in Appendix D. No later than 60 days prior to the beginning of each calendar year throughout the Term, the Company shall furnish certificates of insurance to the County to confirm the continued effectiveness of the Required Insurance. Whenever a Subcontractor is utilized, the Company shall either obtain and maintain or require the Subcontractor to obtain and maintain insurance in accordance with the applicable requirements of Appendix D.

(D) Maintenance of Insurance Coverage. The Company shall not perform work at the Site during any period when any policy of its Required Insurance is not in effect. The Company shall comply with all applicable Required Insurance and take all steps necessary to assure

that its assets remain continuously insured in accordance with the requirements of this Agreement during the Term. The failure of the Company to obtain and maintain any of its Required Insurance shall not relieve the Company of its liability for any losses intended to be insured thereby. Should any failure to provide continuous insurance coverage occur, the Company shall indemnify and hold harmless the County against any Loss-and-Expense arising out of such failure. The purchase of the Required Insurance to satisfy the Company's obligations under this Section shall not be a satisfaction of any Company liability under this Agreement or in any way limit, modify or satisfy the Company's indemnity obligations hereunder.

SECTION 13.2. UNCONTROLLABLE CIRCUMSTANCE.

(A) Relief from Obligations. Except as expressly provided under the terms of this Agreement, neither party to this Agreement shall be liable to the other for any delay or failure to perform any obligation (other than a payment obligation) to the extent it results from an Uncontrollable Circumstance. The parties agree that the relief for an Uncontrollable Circumstance described in this Section shall apply to the failure to achieve the Scheduled Commercial Operation Date or to meet a Performance Guarantee, except to the extent specifically provided or limited otherwise. The occurrence of an Uncontrollable Circumstance shall not excuse or delay the performance of a party's obligation to pay monies accrued and owing under this Agreement, or to perform any obligation hereunder not affected by the occurrence of an Uncontrollable Circumstance.

(B) Notice and Mitigation. The party that asserts the occurrence of an Uncontrollable Circumstance shall notify the other party by telephone, email or facsimile, on or promptly after the date the party experiencing such Uncontrollable Circumstance first knew of the occurrence thereof, followed within 5 days by a written description of: (1) the Uncontrollable Circumstance and the cause thereof (to the extent known); and (2) the date the Uncontrollable Circumstance began, its estimated duration, the estimated time during which the performance of such party's obligations hereunder shall be delayed, or otherwise affected. The affected party shall also provide prompt written notice of the cessation of such Uncontrollable Circumstance. Whenever such act, event or condition shall occur, the party claiming to be adversely affected thereby shall, as promptly as practicable, use all reasonable efforts to eliminate the cause therefore, and resume performance under this Agreement. While the Uncontrollable Circumstance continues, the affected party shall give notice to the other party, before the first day of each succeeding month, updating the information previously submitted. The party claiming to be adversely affected by an Uncontrollable Circumstance shall bear the burden of proof, and shall furnish promptly any additional documents or other information relating to the Uncontrollable Circumstance reasonably requested by the other party.

(C) Conditions to Performance and Schedule Relief. If and to the extent that Uncontrollable Circumstances interfere with or delay the Company's performing the Contract Services in accordance herewith, and the Company has given timely notice as required by this Section, the Company shall be entitled to an extension of schedule which properly reflects the interference with performance, or the time lost as a result thereof, [or relief from its Performance Guarantees in each case] only to the minimum extent reasonably forced on the Company by the event, and the Company shall perform all other Contract Services unaffected by such Uncontrollable Circumstances. In the event that the Company believes it is entitled to any schedule or performance relief on account of any Uncontrollable Circumstance, it shall furnish the County written notice of the specific relief requested and detailing the event giving rise to the claim within 30 days after the giving of notice delivered pursuant to subsection (B) of this Section. Within 30 days after receipt of such a timely submission from the Company, the County shall issue a written determination as to the extent, if any, it concurs with the Company claim for schedule [or performance relief], and the reasons therefor. The Company shall only be entitled to [relief from its Performance Guarantees or] an extension of schedule as a result of an Uncontrollable Circumstance, and shall not be entitled to any other payment, performance or price relief.

(D) Acceptance of Relief Constitutes Release. The Company's acceptance of any [performance or] schedule relief under this Section shall be construed as a release of the County for any and all Loss-and-Expense resulting from, or otherwise attributable to, the event giving rise to the relief claimed.

SECTION 13.3. INDEMNIFICATION. To the fullest extent permitted by law, the Company shall indemnify, defend, and hold harmless the County, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents (collectively "Indemnified Parties"), from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, expert fees, and reasonable attorneys' fees, resulting from **injuries to or death of any person**, including employees of either Party hereto, and **damage to or destruction of any property, or loss of use or a reduction in value thereof**, including the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the Company, its officers, employees, or agents, or the acts or omissions of anyone else directly or indirectly acting on behalf of the Company, or for which the Company is legally liable under law. The Company understands and agrees that this indemnity obligation shall apply regardless of whether any loss, damage or cost arises from, whether in whole or in part, any acts or omissions, or any other negligence, concurrent or otherwise, on the part of the County, or any other party indemnified hereunder, except only those claims caused by the sole negligence or willful misconduct of an Indemnified Party. The right to defense and indemnity under this Section arises upon occurrence

of an event giving rise to a claim and, thereafter, upon tender in writing to the Company. The Company shall defend Indemnified Parties with counsel reasonably acceptable to the County. Notwithstanding the foregoing, the County shall be entitled, on its own behalf, and at the expense of the Company, to assume control of its defense or the defense of any Indemnified Party in any legal action, with counsel reasonably selected by it. Should the County elect to initially assume control of its defense, or the defense of any Indemnified Party, it does so without prejudice to its right to subsequently request that the Company thereafter assume control of the defense and pay all reasonable attorneys' fees and costs incurred thereby. This indemnity obligation shall not be limited by the types and amounts of insurance or self-insurance maintained by the parties. Nothing in this indemnity obligation shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party. The provisions of this indemnity obligation shall survive the expiration or termination of this Agreement.

**[NTD: Discuss whether County prefers to use this language or the indemnity provision from the Northern contract:**

***“To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the County and its elected officials, officers, agents, employees and volunteers from and against any and all claims, damages, demands, losses, defense costs, expenses (including attorneys’ fees) and liability of any kind or nature arising out of or resulting from performance of this Agreement including, but not limited to, any design, construction or use of the Facility, Operations, or any access to or use of the Licensed Premises, provided that any such claim, damage, demand, loss, cost, expense or liability is caused in whole or in part by any act or omission of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. The Contractor’s obligations under this section shall survive termination of this Agreement. In providing any defense under this Paragraph, Contractor shall use counsel reasonably acceptable to the County Counsel.”]***

ARTICLE XIV

GENERAL

SECTION 14.1. RELATIONSHIP OF THE PARTIES.

(A) Company as Licensee. The Company is licensee of the County and nothing in this Agreement shall be deemed to constitute either party a partner, agent or legal representative of the other party or to create any fiduciary relationship between the parties. The relationship between the parties shall be limited to performance of this Agreement in accordance with its terms. Neither party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations or liabilities assumed by the other party hereto, whether accrued, absolute, contingent or otherwise, or whether due or to become due. No liability or benefits, such as workers compensation, pension rights or liabilities, or other provisions or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to any party's agent or employee as a result of this Agreement or the performance thereof.

(B) County Not a Partner. The County is not a partner in or joint venturer with the Company. The Company shall operate the Landfill Gas Beneficial Use Project hereunder as a principal for its own account and not as a hired manager on behalf of nor as an agent of the County.

(C) Company as Owner. The Company is and shall be the sole beneficial owner of the Landfill Gas Beneficial Use Project Work during the Term. The Company shall have sole and exclusive responsibility for the performance of the Landfill Gas Beneficial Use Project Work.

SECTION 14.2. ASSIGNMENT AND TRANSFER.

(A) By the Company. The Company shall not assign, transfer, convey, lease, encumber or otherwise dispose of this Agreement, its right to execute the same, or its right, title or interest in all or any part of this Agreement or any monies due hereunder whatsoever, whether legally or equitably, by power of attorney or otherwise, without the prior written consent of the County, which consent shall not be unreasonably withheld, conditioned (for purposes of clarification, conditioning approval on receiving substantially similar financial security shall not be deemed "unreasonable") or delayed. Any such approval given in one instance shall not relieve the Company of its obligation to obtain the prior written approval of the County to any further assignment. Any assignment of this Agreement which is approved by the County shall require the assignee of the Company to assume the performance of and observe all obligations, representations and warranties of the Company under this Agreement, and such assignment shall relieve the Guarantor of any and all future obligations under the Guaranty Agreement unless the assignee is an Affiliate of the Company. The approval of any assignment, transfer or conveyance shall not operate to release the Company in any way from any of its obligations under Agreement unless such

approval specifically provides otherwise. Notwithstanding the foregoing, the Company may assign its rights and obligations under this Agreement, without consent of the County, to its Affiliate if legally capable of discharging the duties and obligations of the Company hereunder.

(B) By the County. The County may not assign its rights or obligations under this Agreement without the prior written consent of the Company, which consent shall not be unreasonably withheld, conditioned or delayed. The County may, however, assign its rights and obligations under this Agreement, without the consent of the Company, to a trustee in connection with future bond issuances as security for such bonds, and another Governmental Body if such assignee assumes, and is legally capable of discharging, the duties and obligations of the County hereunder.

(C) Successors and Assigns. This Agreement shall be binding upon and will inure to the benefit of the successors and assigns of the respective parties hereto.

#### SECTION 14.3. CONTRACT ADMINISTRATION MEMORANDA.

(A) Administrative Communications. The parties recognize that a variety of contract administrative matters will routinely arise throughout the Term. These matters will by their nature involve requests, notices, questions, assertions, responses, objections, reports, claims, and other communications made personally, in meetings by phone, by mail and by electronic and computer communications. The purpose of this Section is to set forth a process by which the resolution of the matters at issue in such communications, once resolution is reached, can be formally reflected in the common records of the parties so as to permit the orderly and effective administration of this Agreement.

(B) Contract Administration Memoranda. The principal formal tool for the administration of matters arising under this Agreement between the parties shall be a "Contract Administration Memorandum". A Contract Administration Memorandum shall be prepared, once all preliminary communications have been concluded, to evidence the resolution reached by the County and the Company as to matters of interpretation and application arising during the course of the performance of their obligations hereunder. Such matters may include, for example: (1) issues as to the meaning, interpretation, application or calculation to be made under any provision hereof; (2) notices, waivers, releases, satisfactions, confirmations, further assurances and approvals given hereunder; and (3) other similar contract administration matters.

(C) Procedures. Either party may request the execution of a Contract Administration Memorandum. When resolution of the matter is reached, a Contract Administration Memorandum shall be prepared by or at the direction of the County reflecting the resolution. The Contract Administration Memorandum shall be numbered, dated, signed by a representative of each party, and co-signed by a senior supervisor for the Company and by the Director of the Division of

Integrated Waste Management of their designee. The County and the Company each shall maintain a parallel, identical file of all Contract Administration Memoranda, separate and distinct from all other documents relating to the administration and performance of this Agreement.

(D) Effect. Executed Contract Administration Memoranda shall serve to guide the ongoing interpretation and performance of this Agreement. Any material change, alteration, revision or modification of this Agreement, however, shall be effectuated only through a formal Agreement amendment authorized, approved or ratified by resolution of the governing body of the County and properly authorized by the Company.

SECTION 14.4. TIME IS THE ESSENCE/SURVIVAL OR TERMS. Time is of the essence in this Agreement and in each of its provisions.

SECTION 14.5. INTEREST ON OVERDUE OBLIGATIONS. Except as otherwise provided herein, all amounts due hereunder, whether as damages, credits, revenue or reimbursements, that are not paid when due shall bear interest at the Overdue Rate on the amount outstanding from time to time, on the basis of a 365-day year, counting the actual number of days elapsed, and all such interest accrued at any time shall, to the extent permitted by Applicable Law, be deemed added to the amount due, as accrued.

SECTION 14.6. SUBCONTRACTORS.

(A) Assignment of Subcontracts. All contracts between the Company and its Subcontractors for services and work under this Agreement shall contain a clause that if at the end of the Term the County accepts assignment of the subcontract, the Subcontractor shall recognize the County or its assignee as the Company and the County or its assignee shall have all the rights, remedies and responsibilities of the Company under that subcontract. The Company shall be responsible to the County for the acts and omissions of its Subcontractors and suppliers and the Subcontractors' suppliers, employees, agents, or servants.

(B) Use. The Company shall operate the Landfill Gas Beneficial Use Project with Company personnel trained in accordance with Good Industry Practice. The Company acknowledges that the use of a Subcontractor to operate and maintain the Landfill Gas Beneficial Use Project is not permitted without County consent and any such usage will in no way absolve the Company from any obligations or liabilities hereunder. In addition, the Company is required to undertake, perform and complete all required planning, permitting, design and construction of the Project using professional engineers and construction contractors licensed to practice in California.

(C) Subcontract Terms and Subcontractor Actions. The Company shall retain full responsibility to the County under this Agreement for all matters related to the Contract Services notwithstanding the execution or terms and conditions of any Subcontract. No failure of any

Subcontractor used by the Company in connection with the provision of the Contract Services shall relieve the Company from its obligations hereunder to perform the Contract Services. The Company shall be responsible for settling and resolving with all Subcontractors all claims arising out of delay, disruption, interference, hindrance, or schedule extension caused by the Company or inflicted on the Company or a Subcontractor by the actions of another Subcontractor.

(D) Indemnity for Subcontractor Claims. The Company shall pay or cause to be paid to all direct Subcontractors all amounts due in accordance with their respective Subcontracts. No Subcontractor shall have any right against the County for labor, services, materials or equipment furnished for the Contract Services. The Company acknowledges that its indemnity obligations under Section 13.3 shall extend to all claims for payment or damages by any Subcontractor who furnishes or claims to have furnished any labor, services, materials or equipment in connection with the Contract Services.

SECTION 14.7. ASSIGNMENT OF CERTAIN CONTRACTS. All third party contracts for the sale of gas, and related items (including capacity), as well as any Interconnection agreements, shall contain a clause that if at the end of the Term the County accepts assignment of such contract, the third party shall recognize the County or its designee as the contracting entity and the County or its designee shall have all the rights, remedies and responsibilities of the Company under that contract.

SECTION 14.8. ACTIONS OF THE COUNTY IN ITS GOVERNMENTAL CAPACITY.

(A) Rights as Government Not Limited. Nothing in this Agreement shall be interpreted as limiting the rights and obligations of the County in its governmental or regulatory capacity, (including actions to protect health, safety and welfare or to protect the environment), or as limiting the right of the Company to bring any action against the County, not based on this Agreement, arising out of any act or omission of the County in its governmental or regulatory capacity.

(B) No County Waiver of Governmental Approvals. The County retains all issuance and approval rights it has under Applicable Law with respect to the issuance of Governmental Approvals required for the Landfill Gas Beneficial Use Project, and none of such rights shall be deemed to be waived, modified or amended as a consequence of the execution of this Agreement.

(C) [CEQA Compliance Required. The Company shall apply for County approval of the Project and cooperate with the County's CEQA process, if required. The Parties acknowledge that the County cannot approve the Project before it complies with any and all requirements of CEQA, and that the County retains sole discretion to consider and apply any feasible mitigation

measures and alternatives, including the “no project” alternative. The Parties further acknowledge that the County retains sole discretion to deny the Project after conducting CEQA review, notwithstanding any provisions in this Agreement that may be construed to bind the County’s discretion in any way.] **[NTD: Discuss.]**

SECTION 14.9. AMENDMENT AND WAIVER. This Agreement may not be amended except by a written amendment signed by the parties. Any of the terms, covenants, and conditions of this Agreement may be waived at any time by the party entitled to the benefit of such term, covenant, or condition if such waiver is in writing and executed by the party against whom such waiver is asserted.

SECTION 14.10. FLEXIBILITY TO IMPLEMENT NEW TECHNOLOGIES. To the extent permitted by Applicable Law and regulatory agencies and subject to full review and prior written approval of the County, this Agreement may be amended during the Term to incorporate new or different technologies in order to enhance the Project, better comply with industry, regulatory or environmental standards and compliance, and/or increase opportunity for project revenues.

SECTION 14.11. ATTORNEY'S FEES. The parties hereto shall be responsible for their own attorney's fees in any action related to this Agreement, except as otherwise expressly set forth herein.

SECTION 14.12. NOTICE OF LITIGATION. In the event the Company or County receives notice of or undertakes the defense or the prosecution of any Legal Proceedings, claims, or investigations in connection with the Landfill Gas Beneficial Use Project, the party receiving such notice or undertaking such prosecution shall give the other party timely notice of such proceedings and shall inform the other party in advance of all hearings regarding such proceedings.

SECTION 14.13. NOTICES. All notices, consents, approvals or written communications given pursuant to the terms of this Agreement shall be: (1) in writing and delivered in person; (2) transmitted by certified mail, return, receipt requested, postage prepaid or by overnight courier utilizing the services of a nationally recognized overnight courier service with signed verification of delivery; or (3) given by facsimile transmission, if a signed original is deposited on the United States mail within two days after transmission. Notices shall be deemed given only when actually received at the address first given below with respect to each party. Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent.

If to the Company:

[\_\_\_\_\_]

With a copy to:

[\_\_\_\_\_]

If to the County:

[\_\_\_\_\_]

With a copy to:

County Counsel  
County of Yolo  
[address]

Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by written notice to the other party. Notices and communications given by mail hereunder shall be deemed to have been given 5 days after the date of dispatch; all other notices shall be deemed to have been given upon receipt.

SECTION 14.14. LOBBYING AND UNION ORGANIZATION ACTIVITIES. The Company shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations. If services under this Agreement are funded with state funds granted to the County, the Company shall not utilize any such funds to assist, promote or deter union organization by employees performing work under this Agreement and shall comply with the provisions of Government Code Sections 16645 through 16649.] **[NTD: Kimberly to review and confirm if necessary.]**

SECTION 14.15. COMPANY IDENTIFICATION. Upon request of the County, the Company shall provide the County with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Yolo County Code Chapter 2.160: Company's name, address, telephone number, federal tax identification or social security number, and whether dependent health insurance coverage is available to the Company.

SECTION 14.16. CONFLICT OF INTEREST. The Company and the Company's officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

SECTION 14.17. NON-DISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES.

(A) Generally. The Company agrees and assures the County that the Company and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of the County, or recipient of

services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. The Company shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of County employees and agents, and recipients of services are free from such discrimination and harassment.

(B) Americans with Disabilities Act. The Company represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code § 12900 et seq.), and regulations and guidelines issued pursuant thereto.

(C) Recordkeeping. The Company agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable anti-discrimination laws and this provision.

(D) Subcontracts. The Company shall include this nondiscrimination provision in all subcontracts related to this Agreement.

SECTION 14.18. COMPLIANCE WITH EXECUTIVE ORDER N-6-22. Pursuant to California State Executive Order N-6-22 (the “Order”) imposing economic sanctions against Russia and declaring support of Ukraine, the County is required to terminate any contract with any individual or entity that is in violation of the Order or that is subject to economic sanctions therein, and shall not enter a contract with any such individual or entity while the Order is in effect. The Company shall provide a written report to the County within 60 days of the effective date of this Agreement or 60 days upon request regarding compliance with economic sanctions and steps taken in response to Russia’s action in Ukraine, including but not limited to, desisting from making new investments in, or engaging in financial transactions with Russia or Russian entities, and directly providing support to Ukraine, while the Order is in effect. The County will keep the report on file as evidence of compliance with the Order.

SECTION 14.19. FURTHER ASSURANCES. Each party agrees to execute and deliver any instruments and to perform any acts as may be necessary or reasonably requested by the other in order to give full effect to this Agreement. The County and the Company, in order to carry out this Agreement, each shall use all reasonable efforts to provide such information, execute such further instruments and documents and take such actions as may be reasonably requested by the other and not inconsistent with the provisions of this Agreement and not involving the assumption of obligations or liabilities different from or in excess of or in addition to those expressly provided for herein. Either the Company or the County may record this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first set forth above.

**COUNTY**

County of Yolo

**COMPANY**

[\_\_\_\_\_]

By: \_\_\_\_\_ By \_\_\_\_\_  
[Mary Vixie Sandy], Chair [Name]  
Board of Supervisors [Title]

Attest:  
[Julie Dachtler, Sr. Deputy Clerk]  
Board of Supervisors

By: \_\_\_\_\_  
Deputy  
(SEAL)

Approved as to Form:

[\_\_\_\_\_], County Counsel

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[\_\_\_\_\_]

APPENDIX A  
DESCRIPTION OF LANDFILL

APPENDIX A

DESCRIPTION OF LANDFILL

**[NOTE: To be provided.]**

APPENDIX B  
DESCRIPTION OF SITE

APPENDIX B  
DESCRIPTION OF SITE

APPENDIX C

DESCRIPTION OF LANDFILL GAS BENEFICIAL USE PROJECT

APPENDIX C

DESCRIPTION OF LANDFILL GAS BENEFICIAL USE PROJECT

**[NOTE: To be provided by the Company.]**

APPENDIX D  
REQUIRED INSURANCE

## COUNTY OF YOLO

### INSURANCE REQUIREMENTS

**[NTD: To be replaced with Yolo County required insurance and Business Interruption insurance to be included.]**

Without limiting Company's indemnification, Company shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by Company, its agents, representatives or employees. County shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of County Risk Manager, insurance provisions in these requirements do not provide adequate protection for County and for members of the public, the parties shall mutually agree on coverage, form and amount to provide adequate protection. County's requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

#### **1. Verification of Coverage**

Company shall furnish County with certificates evidencing coverage required below. **Copies of required endorsements must be attached to the certificates provided.** Self-insurance programs in lieu of required policies of insurance are acceptable. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by County in compliance with this Agreement before performance commences.

#### **2. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

**GENERAL LIABILITY:** Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by County Risk Manager.

**AUTOMOBILE LIABILITY:** Insurance Services Office's Commercial Automobile Liability coverage form CA 00 01. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. **If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply. Personal Lines automobile insurance shall apply if vehicles are individually owned.**

WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance.

UMBRELLA or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.

POLLUTION LIABILITY: Insurance which includes coverage arising out of the handling, remediation, clean-up or transport of hazardous materials or hazardous waste.

### **3. Minimum Limits of Insurance**

Company shall maintain limits no less than:

General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate: \$4,000,000

Products Comp/Op Aggregate: \$2,000,000

Personal & Adv. Injury: \$2,000,000

Each Occurrence: \$2,000,000

Automobile Liability:

a. Commercial Automobile Liability for Corporate/business owned vehicles

including non-owned and hired, \$1,000,000 Combined Single Limit.

b. Personal Lines Automobile Liability for Individually owned vehicles, \$250,000 per person, \$500,000 each accident, \$100,000 property damage.

Workers' Compensation: Statutory.

Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Pollution Liability: \$2,000,000 per claim or occurrence and aggregate.

#### **4. Deductibles and Self-Insured Retention**

Any deductible or self-insured retention that apply to any insurance required by this Agreement must be declared and approved by County.

#### **5. Claims Made Pollution Liability Insurance**

*If* Company's pollution liability insurance is written on a Claims

Made form:

- a. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by Company.
- b. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.
- c. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the Company must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

#### **6. Other Insurance Provisions**

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provisions:

#### **7. All Policies:**

- a. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-: VII. County Risk Manager may waive

or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of County and the general public are adequately protected.

- b. MAINTENANCE OF INSURANCE COVERAGE: Company shall maintain all insurance coverages and limits in place at all times and provide County with evidence of each policy's renewal within ten (10) days after its anniversary date.

Company is required to notify County within thirty days if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, or within 10 days for cancellation due to non-payment of premium. Company shall provide evidence that such cancelled insurance has been replaced or its cancellation notice withdrawn without any interruption in coverage, scope or limits. Failure to maintain required insurance in force shall be considered a material breach of the Agreement.

**8. Commercial General Liability, Commercial Automobile Liability, and Pollution Liability:**

- a. ADDITIONAL INSURED STATUS: County, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents (the "Additional Insured Parties") are to be included as additional insureds as respects: liability arising out of activities performed by or on behalf of Company; products and completed operations of Company; premises owned, occupied or used by Company; or automobiles owned, leased, hired or borrowed by Company. The coverage shall contain no endorsed limitations on the scope of protection afforded to the Additional Insured Parties.
- b. PRIMARY INSURANCE: For any claims related to this agreement on lines of coverage that allow for additional insured status, Company's insurance coverage shall be endorsed to be primary insurance as respect to the Additional Insured Parties. Any insurance or self-insurance maintained by the Additional Insured Parties shall be excess of Company's insurance and shall not contribute with it.
- c. SEVERABILITY OF INTEREST: Company's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. SUBCONTRACTORS: Company shall be responsible for the acts and omissions of all its subcontractors. Subcontractors shall be responsible for additional insured endorsements as provided by such subcontractor.

## **9. Workers' Compensation**

WORKERS' COMPENSATION WAIVER OF SUBROGATION: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against County, its governing Board, officers, directors, officials, employees, and authorized agents and volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by Company.

## **10. Notification of Claim**

If any claim for damages is filed with Company or if any lawsuit is instituted against Company, that arise out of or are in any way connected with Company's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect County, Company shall give prompt and timely notice thereof to County. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

APPENDIX E

LANDFILL GAS BENEFICIAL USE PROJECT TESTS

## APPENDIX E

### LANDFILL GAS BENEFICIAL USE PROJECT TESTS

**[NOTE: To be provided by the Company. Language below is provided as a sample only].**

1. Company to demonstrate compliance with all permits (including air and others) issued specifically for the Landfill Gas Beneficial Use Project and its destruction devices continuously during the 72 hour test described in item 2 below.
2. Company to operate for at least 72 continuous hours (may be performed concurrent with the utility tests) at a minimum of 1000 scfm (measured at the [Landfill Gas Delivery Point] unless a minimum of 1000 scfm is not available in which case the Company shall operate for at least 72 continuous hours at the volume of gas (scfm) then available. During this time, the Company will:
  - (i) Continuously demonstrate that the methane efficiency of the facility is equal to or greater than that guaranteed/promised by all of the Company's gas cleanup equipment vendors; and
  - (ii) Continuously demonstrate that RNG delivered to the pipeline (and the pipeline accepts) meets the natural gas pipeline company requirements.

In the event of test failure, Company is solely responsible to make adjustments and re-perform the tests from the start with no credit from prior tests.

APPENDIX F  
FORM OF GUARANTY AGREEMENT

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GUARANTY AGREEMENT

from

[\_\_\_\_\_]

to

COUNTY OF YOLO

Dated

[\_\_\_\_\_, 2025]

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## GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT is made and dated as of \_\_\_\_\_, 2025, between [\_\_\_\_\_] , a corporation organized and existing under the laws of \_\_\_\_\_ (together with any permitted successors and assigns hereunder, the “Guarantor”), and the County of Yolo, California (the “County”).

### RECITALS

The County and [\_\_\_\_\_] (the “Company”), a [Delaware] corporation, have entered into a Landfill Gas Rights and Site License Agreement, dated \_\_\_\_\_, 2025, as amended from time to time (the “Agreement”).

The Company is an Affiliate of the Guarantor.

The County will enter into the Agreement only if the Guarantor guarantees the performance by the Company of all of the Company’s responsibilities and obligations under the Agreement as set forth in this Guaranty Agreement (the “Guaranty”).

In order to induce the execution and delivery of the Agreement by the County and in consideration thereof, the Guarantor agrees as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS. For the purposes of this Guaranty, the following words and terms shall have the respective meanings set forth as follows. Any capitalized word or term used but not defined herein is used as defined in the Agreement.

“Obligations” means the amounts payable by, and the covenants and agreements of, the Company pursuant to the terms of the Agreement.

“Transaction Agreement” means any agreement entered into by the Company and the County in connection with the transactions contemplated by the Agreement, including, but not limited to, the Agreement, and any supplements thereto.

SECTION 1.2. INTERPRETATION. In this Guaranty, unless the context otherwise requires:

(A) References Hereto. The terms “hereby”, “hereof”, “herein”, “hereunder” and any similar terms refer to this Guaranty, and the term “hereafter” means after, and the term “heretofore” means before, the date of execution and delivery of this Guaranty.

(B) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(C) Persons. Words importing persons include firms, companies, associations, general partnerships, limited partnerships, trusts, business trusts, corporations and other legal entities, including public bodies, as well as individuals.

(D) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Guaranty shall be solely for convenience of reference and shall not constitute a part of this Guaranty, nor shall they affect its meaning, construction or effect.

(E) Entire Agreement. This Guaranty constitutes the entire agreement between the parties hereto with respect to the transactions contemplated by this Guaranty. Nothing in this Guaranty is intended to confer on any person other than the Guarantor, the County and their permitted successors and assigns hereunder any rights or remedies under or by reason of this Guaranty.

(F) Counterparts. This Guaranty may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Guaranty.

(G) Applicable Law. This Guaranty shall be governed by and construed in accordance with the Applicable Laws of the State of California.

(H) Severability. If any clause, provision, subsection, Section or Article of this Guaranty shall be ruled invalid by any court of competent jurisdiction, the invalidity of any such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this Guaranty shall be construed and enforced as if such invalid portion did not exist provided that such construction and enforcement shall not increase the Guarantor's liability beyond that expressly set forth herein.

(I) Approvals. All approvals, consents and acceptances required to be given or made by any party hereto shall be at the sole discretion of the party whose approval, consent or acceptance is required.

(J) Payments. All payments required to be made by the Guarantor hereunder shall be made in lawful money of the United States of America.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE GUARANTOR. The Guarantor hereby represents and warrants that:

(1) Existence and Powers. The Guarantor is duly organized and validly existing as a corporation under the laws of [\_\_\_\_\_], with full legal right, power and authority to enter into and perform its obligations under this Guaranty.

(2) Due Authorization and Binding Obligation. The Guarantor has duly authorized the execution and delivery of this Guaranty, and this Guaranty has been duly executed and delivered by the Guarantor and constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, or moratorium or by general equity principals of reorganization and other similar laws affecting creditors' rights generally and general principals of equity.

(3) No Conflict. Neither the execution or delivery by the Guarantor of this Guaranty nor the performance by the Guarantor of its obligations hereunder (a) to the Guarantor's knowledge conflicts with, violates or results in a breach of any law or governmental regulation applicable to the Guarantor, (b) conflicts with, violates or results in a material breach of any term or condition of the Guarantor's corporate charter or by-laws or any judgment, decree, agreement or instrument to which the Guarantor is a party or by which the Guarantor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument, or (c) to the Guarantor's knowledge will result in the creation or imposition of any material encumbrance of any nature whatsoever upon any of the properties or assets of the Guarantor except as permitted hereby or by any Transaction Agreement.

(4) No Governmental Approval Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any governmental authority is required of the Guarantor for the valid execution and delivery by the Guarantor of this Guaranty, except such as shall have been duly obtained or made.

(5) No Litigation. There is no action, suit or other proceeding, at law or in equity, before or by any court or governmental authority, pending or, to the Guarantor's knowledge, threatened against the Guarantor which has a likelihood of an unfavorable decision, ruling or finding that would materially and adversely affect the validity or enforceability of this Guaranty.

(6) No Legal Prohibition. The Guarantor has no knowledge of any Applicable Law in effect on the date as of which this representation is being made which would prohibit the

performance by the Guarantor of this Guaranty and the transactions contemplated by this Guaranty.

(7) Consent to Agreements. The Guarantor is fully aware of the terms and conditions of the Agreement.

(8) Consideration. This Guaranty is made in furtherance of the purposes for which the Guarantor has been organized, and the assumption by the Guarantor of its obligations hereunder will result in a material benefit to the Guarantor.

ARTICLE III

GUARANTY COVENANTS

SECTION 3.1. GUARANTY TO THE COUNTY. The Guarantor hereby absolutely, presently, irrevocably and unconditionally guarantees to the County for the benefit of the County (1) the full and prompt payment when due of each and all of the payments required to be credited or made by the Company under the Agreement (including all amendments and supplements thereto) to, or for the account of, the County, when the same shall become due and payable pursuant to this Guaranty, and (2) the full and prompt performance and observance of each and all of the Obligations. Notwithstanding the unconditional nature of the Guarantor's obligations as set forth herein, the Guarantor shall have the right to assert the defenses provided in Section 3.4 hereof against claims made under this Guaranty.

SECTION 3.2. RIGHT OF COUNTY TO PROCEED AGAINST GUARANTOR. This Guaranty shall constitute a guaranty of payment and of performance and not of collection, and the Guarantor specifically agrees that in the event of a failure by the Company to pay or perform any Obligation guaranteed hereunder, the County shall have the right to proceed first and directly against the Guarantor under this Guaranty and without proceeding against the Company or exhausting any other remedies against the Company which the County may have. Without limiting the foregoing, the Guarantor agrees that it shall not be necessary, and that the Guarantor shall not be entitled to require, as a condition of enforcing the liability of the Guarantor hereunder, that the County (1) file suit or proceed to obtain a personal judgment against the Company or any other person that may be liable for the Obligations or any part of the Obligations, (2) make any other effort to obtain payment or performance of the Obligations from the Company other than providing the Company with any notice of such payment or performance as may be required by the terms of the Agreement or required to be given to the Company under Applicable Law, (3) foreclose against or seek to realize upon any security for the Obligations, or (4) exercise any other right or remedy to which the County is or may be entitled in connection with the Obligations or any security therefor or any other guarantee thereof, except to the extent that any such exercise of such other right or remedy may be a condition to the Obligations of the Company or to the enforcement of remedies under the Agreement. Upon any unexcused failure by the Company in the payment or performance of any Obligation and the giving of such notice or demand, if any, to the Company or Guarantor as may be required in connection with such Obligation or this Guaranty, the liability of the Guarantor shall be effective and shall immediately be paid or performed. Notwithstanding the County's right to proceed directly against the Guarantor, the County (or any successor) shall not be entitled to more than a single full performance of the obligations in regard to any breach or non-performance thereof.

SECTION 3.3. GUARANTY ABSOLUTE AND UNCONDITIONAL. The obligations of the Guarantor hereunder are absolute, present, irrevocable and unconditional and shall remain in full force and effect until the Company shall have fully discharged the Obligations in accordance with their respective terms, and except as provided in Section 3.4 hereof, shall not be subject to any counterclaim, set-off, deduction or defense (other than full and strict compliance with, or release, discharge or satisfaction of, such Obligations) based on any claim that the Guarantor may have against the Company, the County or any other person. Without limiting the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged or in any way modified by reason of any of the following (whether with or without notice to, knowledge by or further consent of the Guarantor):

(1) the extension or renewal of this Guaranty or the Agreement up to the specified terms of each agreement;

(2) any exercise or failure, omission or delay by the County in the exercise of any right, power or remedy conferred on the County with respect to this Guaranty or the Agreement except to the extent such failure, omission or delay gives rise to an applicable statute of limitations defense with respect to a specific claim;

(3) any permitted transfer or assignment of rights or obligations under the Agreement or under any other Transaction Agreement by any party thereto, or any permitted assignment, conveyance or other transfer of any of their respective interests in the Agreement or in, to or under any of the Transaction Agreements;

(4) any permitted assignment for the purpose of creating a security interest or mortgage of all or any part of the respective interests of the County or any other person in any Transaction Agreement or in the Agreement;

(5) any renewal, amendment, change or modification in respect of any of the Obligations or terms or conditions of any Transaction Agreement

(6) any failure of title with respect to all or any part of the respective interests of any person in the Site or the Agreement;

(7) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, moratorium, arrangement, composition with creditors or readjustment of, or other similar proceedings against, the Company or the Guarantor, or any of the property of either of them, or any allegation or contest of the validity of this Guaranty or any other Transaction Agreement in any such proceeding (it is specifically understood, consented and agreed to that, to the extent permitted by law, this Guaranty shall remain and continue in full force and effect and shall be enforceable against the Guarantor to the

same extent and with the same force and effect as if any such proceeding had not been instituted and as if no rejection, stay, termination, assumption or modification had occurred as a result thereof, it being the intent and purpose of this Guaranty that the Guarantor shall and does hereby waive all rights and benefits which might accrue to it by reason of any such proceeding);

(8) except as permitted by Sections 4.1 or 4.2 hereof, any sale or other transfer by the Guarantor or any Affiliate of any of the capital stock or other interest of the Guarantor or any Affiliate in the Company now or hereafter owned, directly or indirectly, by the Guarantor or any Affiliate, or any change in composition of the interests in the Company;

(9) any failure on the part of the Company for any reason to perform or comply with any agreement with the Guarantor;

(10) the failure on the part of the County to provide any notice to the Guarantor which is not required to be given to the Guarantor pursuant to this Guaranty and to the Company as a condition to the enforcement of Obligations pursuant to the Agreement;

(11) any failure of any party to the Transaction Agreements to mitigate damages resulting from any default by the Company or the Guarantor under any Transaction Agreement;

(12) the merger or consolidation of any party to the Transaction Agreements into or with any other person, or any sale, lease, transfer, abandonment or other disposition of any or all of the property of any of the foregoing to any person;

(13) any legal disability or incapacity of any party to the Transaction Agreements;  
or

(14) the fact that entering into any Transaction Agreement by the Company or the Guarantor was invalid or in excess of the powers of such party.

Should any money due or owing under this Guaranty not be recoverable from the Guarantor due to any of the matters specified in subparagraphs (1) through (14) above, then, in any such case, such money, together with all additional sums due hereunder, shall nevertheless be recoverable from the Guarantor as though the Guarantor were principal obligor in place of the Company pursuant to the terms of the Agreement and not merely a guarantor and shall be paid by the Guarantor forthwith subject to the terms of this Guaranty. Notwithstanding anything to the contrary expressed in this Guaranty, nothing in this Guaranty shall be deemed to amend, modify, clarify, expand or reduce the Company's rights, benefits, duties or obligations under the Agreement. To the extent that any of the matters specified in subparagraphs (1) through (6) and (8) through (14) would provide a defense to, release, discharge or otherwise affect the Company's Obligations, the Guarantor's obligations under this Guaranty shall be treated the same.

SECTION 3.4. DEFENSES, SET-OFFS AND COUNTERCLAIMS. Notwithstanding any provision contained herein to the contrary, the Guarantor shall be entitled to exercise or assert any and all legal or equitable rights or defenses which the Company may have under the Agreement or under Applicable Law (other than bankruptcy or insolvency of the Company and other than any defense which the Company has expressly waived in the Agreement or the Guarantor has expressly waived in Section 3.5 hereof or elsewhere hereunder), and the obligations of the Guarantor hereunder are subject to such counterclaims, set-offs or deductions which the Company is permitted to assert pursuant to the Agreement if any.

SECTION 3.5. WAIVERS BY THE GUARANTOR. The Guarantor hereby unconditionally and irrevocably waives:

- (1) notice from the County of its acceptance of this Guaranty;
- (2) notice of any of the events referred to in Section 3.3 hereof except to the extent that notice is required to be given as a condition to the enforcement of Obligations;
- (3) to the fullest extent lawfully possible, all notices which may be required by statute, rule of law or otherwise to preserve intact any rights against the Guarantor, except any notice to the Company required pursuant to the Agreement or Applicable Law as a condition to the performance of any Obligation;
- (4) to the fullest extent lawfully possible, any statute of limitations defense based on a statute of limitations period which may be applicable to guarantors (or parties in similar relationships) which would be shorter than the applicable statute of limitations period for the underlying claim;
- (5) any right to require a proceeding first against the Company;
- (6) any right to require a proceeding first against any person or the security provided by or under any Transaction Agreement except to the extent such Transaction Agreement specifically requires a proceeding first against any person (except the Company) or security;
- (7) any requirement that the Company be joined as a party to any proceeding for the enforcement of any term of any Transaction Agreement;
- (8) the requirement of, or the notice of, the filing of claims by the County in the event of the receivership or bankruptcy of the Company; and
- (9) all demands upon the Company or any other person and all other formalities the omission of any of which, or delay in performance of which, might, but for the provisions of this Section 3.5, by rule of law or otherwise, constitute grounds for relieving or discharging the Guarantor in whole or in part from its absolute, present, irrevocable, unconditional and continuing obligations hereunder.

SECTION 3.6. PAYMENT OF COSTS AND EXPENSES. The Guarantor agrees to pay the County on demand all reasonable costs and expenses, legal or otherwise (including counsel fees), incurred by or on behalf of the County in successfully enforcing by Legal Proceeding observance of the covenants, agreements and obligations contained in this Guaranty against the Guarantor, other than the costs and expenses that the County incurs in performing any of its obligations under the Agreement, or other applicable Transaction Agreement, where such obligations are a condition to performance by the Company of its Obligations.

SECTION 3.7. SUBORDINATION OF RIGHTS. The Guarantor agrees that any right of subrogation or contribution which it may have against the Company as a result of any payment or performance hereunder is hereby fully subordinated to the rights of the County hereunder and under the Transaction Agreements and that the Guarantor shall not recover or seek to recover any payment made by it hereunder from the Company until the Company and the Guarantor shall have fully and satisfactorily paid or performed and discharged the Obligations giving rise to a claim under this Guaranty.

SECTION 3.8. SEPARATE OBLIGATIONS; REINSTATEMENT. The obligations of the Guarantor to make any payment or to perform and discharge any other duties, agreements, covenants, undertakings or obligations hereunder shall (1) to the extent permitted by Applicable Law, constitute separate and independent obligations of the Guarantor from its other obligations under this Guaranty, (2) give rise to separate and independent causes of action against the Guarantor and (3) apply irrespective of any indulgence granted from time to time by the County. The Guarantor agrees that this Guaranty shall be automatically reinstated if and to the extent that for any reason any payment or performance by or on behalf of the Company is rescinded or must be otherwise restored by the County, whether as a result of any proceedings in bankruptcy, reorganization or similar proceeding, unless such rescission or restoration is pursuant to the terms of the Agreement, or any applicable Transaction Agreement, or the Company's enforcement of such terms under Applicable Law.

SECTION 3.9. TERM. This Guaranty shall remain in full force and effect from the date of execution and delivery hereof until all of the Obligations of the Company have been fully paid and performed.

ARTICLE IV

GENERAL COVENANTS

SECTION 4.1. MAINTENANCE OF CORPORATE EXISTENCE. (A) Consolidation, Merger, Sale or Transfer. The Guarantor covenants that during the term of this Guaranty it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it unless the successor is the Guarantor; provided, however, that the Guarantor may consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety and thereafter dissolve if the successor entity (if other than the Guarantor) assumes in writing all the obligations of the Guarantor hereunder and, if required by law, is duly qualified to do business in the State of California .

(B) Continuance of Obligations. If a consolidation, merger or sale or other transfer is made as permitted by this Section 4.1, the provisions of this Section 4.1 shall continue in full force and effect and no further consolidation, merger or sale or other transfer shall be made except in compliance with the provisions of this Section 4.1. No such consolidation, merger or sale or other transfer shall have the effect of releasing the initial Guarantor from its liability hereunder unless a successor entity has assumed responsibility for this Guaranty as provided in this Section 4.1.

SECTION 4.2. ASSIGNMENT. Without the prior written consent of the County, this Guaranty may not be assigned by the Guarantor, except pursuant to Section 4.1 hereof.

SECTION 4.3. QUALIFICATION IN CALIFORNIA. The Guarantor agrees that, so long as this Guaranty is in effect, if required by law, the Guarantor will be duly qualified to do business in the State of California.

SECTION 4.4. CONSENT TO JURISDICTION. The Guarantor irrevocably: (1) agrees that any Legal Proceeding arising out of this Guaranty shall be brought in the State courts located in Yolo County; (2) consents to the jurisdiction of such court in any such Legal Proceeding; (3) waives any objection which it may have to the laying of the jurisdiction of any such Legal Proceeding in any of such courts; and (4) waives its right to a trial by jury in any Legal Proceeding in any of such courts.

SECTION 4.5. BINDING EFFECT. This Guaranty shall inure to the benefit of the County and its permitted successors and assigns and shall be binding upon the Guarantor and its successors and assigns.

SECTION 4.6. AMENDMENTS, CHANGES AND MODIFICATIONS. This Guaranty may not be amended, changed or modified or terminated and none of its provisions may be waived, except with the prior written consent of the County and of the Guarantor.

SECTION 4.7. LIABILITY. It is understood and agreed to by the County that nothing contained herein shall create any obligation of or right to look to any director, officer, employee or stockholder of the Guarantor (or any Affiliate of the Guarantor) for the satisfaction of any Obligations hereunder, and no judgment, order or execution with respect to or in connection with this Guaranty shall be taken against any such director, officer, employee or stockholder.

SECTION 4.8. NOTICES. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person to the following addresses or sent by first class mail and facsimile, to such addresses:

(a) If to the Guarantor:

With a copy to:

(b) If to the County:

Attn:

With a copy to:

Attn:

Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent. Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee. Notices and communications given by mail hereunder shall be deemed to have been given 5 days after the date of dispatch; all other notices shall be deemed to have been given upon receipt.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed in its name and on its behalf by its duly authorized officer as of the date first above written.

[\_\_\_\_\_] as Guarantor

By \_\_\_\_\_  
Printed Name:  
Title:

SEAL

(IMPRESSED ON  
EXECUTION COPIES)

Accepted and Agreed to by:

\_\_\_\_\_  
By: \_\_\_\_\_  
Printed Name:  
Title:

APPENDIX G  
COMPANY'S PLAN OF FINANCE

APPENDIX G  
COMPANY'S PLAN OF FINANCE

APPENDIX H

FAIR MARKET VALUE DETERMINATIONS; APPRAISALS

## APPENDIX H

### FAIR MARKET VALUE DETERMINATIONS; APPRAISALS

#### Fair Market Value.

(A) Good Faith Negotiation. In the event the parties are unable to agree on Fair Market Value pursuant to Section 11.4(B), then the Fair Market Value shall be determined in accordance with the following.

(B) Fair Market Value Appraisal.

(1) If Fair Market Value is to be determined, then the County and the Company shall each submit to each other the name of an Independent Appraiser within 30 days of the deadline for agreeing to the Convenience Termination Payment set forth in Section 11.4(B). If either party fails to timely submit the name of an Independent Appraiser then the Independent Appraiser submitted by the other party shall conclusively determine Fair Market Value. If both parties timely submit the name of an Independent Appraiser then the two Independent Appraisers shall thereafter endeavor to establish Fair Market Value by mutual agreement. If the Independent Appraisers agree upon Fair Market Value within thirty (30) days after their designation then such determination shall be conclusive and binding upon the County and the Company.

(2) If the Independent Appraisers appointed by the County and the Company are unable to agree on Fair Market Value within the thirty (30) day period provided for in subsection (1) above then they shall designate another Independent Appraiser (the "Third Appraiser") to make such determination. If the Independent Appraisers are unable to agree on the designation of a Third Appraiser within thirty (30) days, then either party may apply to a court of competent jurisdiction to make such designation.

(3) The County and the Company shall each submit a proposed Fair Market Value to the Third Appraiser within thirty (30) days after his or her appointment. The Third Appraiser shall make its determination within thirty (30) days of the foregoing submissions by selecting in its entirety the proposal that best represents the Fair Market Value as defined in this Agreement. The Third Appraiser shall have no authority to modify either proposal or independently determine Fair Market Value.

(4) The Fair Market Value determined by the Third Appraiser shall be conclusive and binding upon the County and the Company, and each party waives and covenants not to assert any right to appeal such determination in any action or proceeding at law or in equity and further agrees that such determination shall be enforceable by appropriate proceedings in any court of competent jurisdiction.

(5) Each party shall bear the costs of the Independent Appraiser it designates. The cost of the Third Appraiser shall be borne by the parties equally.

APPENDIX I  
ANTICIPATED LANDFILL GAS QUALITY STANDARDS

APPENDIX I

ANTICIPATED LANDFILL GAS QUALITY STANDARDS

<b>Parameter</b>	<b>Assumption</b>
Methane	[43]% (minimum)
Carbon Dioxide	[30% to 45]% (range)
Oxygen	[5]% (maximum)
Nitrogen	[22]% (maximum)
Hydrogen Sulfide	[1,000] ppmv (maximum)

**[NTD: County to review and fill in appropriate standards.]**

APPENDIX J

EXAMPLE LICENSE FEE CALCULATION

APPENDIX K

FORM OF PAYMENT AND PERFORMANCE BONDS

Provider Payment Bond

BOND NO. \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the County of Yolo, State of California, ("Owner") has awarded to \_\_\_\_\_

("Contractor/Principal") a contract (County Agreement No. \_\_\_\_, dated \_\_\_\_\_, YEAR, referred to as the "Agreement") for the work described as \_\_\_\_\_. The Agreement is incorporated by this reference into this Payment Bond ("Bond"); and

WHEREAS, Contractor/Principal is required to furnish a bond in connection with the Agreement and pursuant to California Civil Code section 9550;

NOW, THEREFORE, we, \_\_\_\_\_ the undersigned Contractor/Principal, and \_\_\_\_\_, ("Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the County of Yolo, and to any and all persons, companies, or corporations entitled by law to file stop payment notices under California Civil Code Section 9100, or any person, company, or corporation entitled to make a claim on this bond, in the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), which such sum being not less than one hundred percent (100%) of the total amount payable by the Owner under the terms of the Agreement, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if Contractor/Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code section 9100; or fail to pay for any materials, provisions, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code Section 13020 with respect to work and labor thereon of any kind, then Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys' fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code Section 9550 et seq.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described; or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason

of any breach of contract between the Owner and Contractor/Principal or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code section 9100, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

Any notice to Surety may be given in the manner specified in the Agreement and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

IN WITNESS WHEREOF, two identical counterparts of this Bond, each of which shall for all purposes be deemed an original thereof, have been duly executed by Contractor/Principal and Surety above named, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(SEAL)  
Contractor/Principal

By: \_\_\_\_\_  
Contractor's Representative

\_\_\_\_\_  
Contractor/Principal's Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
(SEAL)  
Surety

By: \_\_\_\_\_  
Surety's Representative

\_\_\_\_\_  
Surety's Address

\_\_\_\_\_  
City, State, Zip

---

Telephone Number

NOTE: Signatures of those executing for Surety must be properly acknowledged. The bond must be accompanied by a properly acknowledged Power of Attorney from the Surety authorizing its agent to bind it to this bond. A copy of such Power of Attorney must be on file with the Yolo County Clerk.

[Notary Acknowledgements to be Added.]

## Provider Performance Bond

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the County of Yolo, organized and operating under the laws of the State of California, (hereinafter referred to as the "County") has awarded to \_\_\_\_\_ (hereinafter referred to as the "Contractor") an agreement for Contract No. \_\_\_\_, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract for the Project dated \_\_\_\_\_, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, \_\_\_\_\_ the undersigned Contractor and \_\_\_\_\_ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the County in the sum of \_\_\_\_\_ DOLLARS, (\$\_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one (1) year guarantee of all materials and workmanship; and shall indemnify and save harmless the County, its officials, officers, employees, and authorized volunteers, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by the County in enforcing such obligation.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by the County, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the County from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the County's rights or the Contractor or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure Section 337.15.

Whenever Contractor shall be, and is declared by the County to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the County's option:

- i. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

- ii. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a contract between such bidder, the Surety and the County, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the County under the Contract and any modification thereto, less any amount previously paid by the County to the Contractor and any other set offs pursuant to the Contract Documents.
- iii. Permit the County to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the County under the Contract and any modification thereto, less any amount previously paid by the County to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the County may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the County, when declaring the Contractor in default, notifies Surety of the County's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Corporate Seal)

\_\_\_\_\_  
Contractor/ Principal

By \_\_\_\_\_  
Title

(Corporate Seal)

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title \_\_\_\_\_

The rate of premium on this bond is \_\_\_\_\_ per thousand. The total amount of premium charges is \$\_\_\_\_\_.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name and Address of Agent or Representative for service of process in California, if different from above)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Telephone number of Surety and Agent or Representative for service of process in California)

\_\_\_\_\_

[Notary Acknowledgements to be Added]

APPENDIX L  
[RESERVED]

APPENDIX M

PROVISIONS APPLICABLE TO REVENUE SHARE COMPENSATION STRUCTURE

**NOTE TO PROPOSERS: The provisions in this appendix will be incorporated into the Agreement if a Proposer proposes a revenue sharing compensation structure and the County has selected that option, and/or in the event that revenue sharing from New Environmental Attributes become applicable.**

Definitions to be added:

“Landfill Gas Acceptance Guarantee” has the meaning set forth in Section 8.18.

“Methane Capture Guarantee” has the meaning set forth in Section 8.21.

“Performance Guarantees” means the Landfill Gas Acceptance Guarantee, the RNG Quality Guarantee, the RNG Sales Guarantee and the Methane Capture Guarantee.

“RNG Quality Guarantee” has the meaning set forth in Section 8.19.

“RNG Sales Guarantee” has the meaning set forth in Section 8.20.

Section 8.12 shall be modified to include the items below:

- (1) Gas sold to [local gas utility company] or other entity, if applicable, and associated Gross Revenues;
- (2) Gas injected into pipeline;
- (3) Environmental Attributes generated; Environmental Attributes sold; and Environmental Attributes Gross Revenues generated therefrom; and
- (4) Compliance or non-compliance with any Performance Guarantee.

The following sections to be added to the end of Article VIII:

**NOTE: THE PERFORMANCE GUARANTEES BELOW RELATE TO A RNG PROJECT. IF A DIFFERENT TECHNOLOGY IS PROPOSED, THE PERFORMANCE GUARANTEES WILL BE MODIFIED ACCORDINGLY.**

SECTION 8.19 LANDFILL GAS ACCEPTANCE GUARANTEE.

(A) Landfill Gas Acceptance Guarantee. On and following the Landfill Gas Beneficial Use Project Commercial Operations Date, on each day, the Company shall accept all

Landfill Gas delivered by the County to the Landfill Gas Delivery Point, that meets the Anticipated Landfill Gas Quality Standards, except during periods of permissible maintenance downtime as described in this subsection (the “Landfill Gas Acceptance Guarantee”). The Company shall be excused from non-compliance with the Landfill Gas Acceptance Guarantee when the Landfill Gas Beneficial Use Project is undergoing planned or unplanned maintenance activities that are approved in advance by the County, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that any such maintenance downtime shall be limited to the time necessary to complete the maintenance activities in accordance with Good Industry Practice and the Company shall not be relieved from compliance with the Landfill Gas Acceptance Guarantee in the event any such maintenance downtime will result in failure to meet 90% of the annualized Landfill Gas Acceptance Guarantee in the first Contract Year and 95% of the annualized Landfill Gas Acceptance Guarantee in each Contract Year thereafter. No acceptable downtime permitted in this Section 8.18(A) shall relieve the Company from making the payments set forth in Section 9.2(A)(1) and (3).

(B) Failure to Meet Landfill Gas Acceptance Guarantee. If the Company fails to comply with the Landfill Gas Acceptance Guarantee, and such failure is not caused as a result of an Uncontrollable Circumstance or excused on account of maintenance activities as described in subsection (A) (Landfill Gas Acceptance Guarantee) of this Section, the Company shall pay to the County the amount equal to the product of (1) the difference between the total MMBTU of Landfill Gas made available to the Landfill Gas Beneficial Use Project in such Contract Year (up to the applicable Landfill Gas Acceptance Guarantee for such Contract Year) and the actual volume of MMBTU’s of Landfill Gas accepted during the applicable Contract Year, multiplied by (2) the dollar per MMBTU value derived by dividing (i) the County’s share of Gross Revenues received for the last three months that the Landfill Gas Acceptance Guarantee was achieved, by (ii) the volume of MMBTU of Landfill Gas received by the Landfill Gas Beneficial Use Project during such three months.

SECTION 8.20                    RNG QUALITY GUARANTEE.

(A) RNG Quality Guarantee. The Company shall operate the Landfill Gas Beneficial Use Project so as to receive Landfill Gas, clean and condition Landfill Gas and produce and deliver Renewable Natural Gas to the Interconnection Point in compliance with the Renewable Natural Gas Quality Standards (the “RNG Quality Guarantee”).

(B) Failure to Meet RNG Quality Guarantee. If the Company fails to comply with the RNG Quality Guarantee for [four or more hours during any day], and such failure is not caused as a result of an Uncontrollable Circumstance (including as set forth in subsection (C) (Relief Due to Quality of Landfill Gas) of this Section), the Company shall pay to the County an amount equal to (1) the volume of RNG rejected by the RNG purchaser, measured in MMBTU, multiplied by (2) the dollar per MMBTU value derived by dividing (i) the County’s share of Gross Revenues received

for the last three months that the RNG Quality Guarantee was achieved, by (ii) the volume of MMBTU of gas generated by the Landfill Gas Beneficial Use Project and beneficially utilized during such three months.]

SECTION 8.21 RNG SALES GUARANTEE.

(A) RNG Sales Guarantee. On and following the Landfill Gas Beneficial Use Project Commercial Operations Date, the Company shall sell all Renewable Natural Gas that is produced by the Landfill Gas Beneficial Use Project (the “RNG Sales Guarantee”).

(B) Failure to Meet RNG Sales Guarantee. If the Company fails to comply with the RNG Sales Guarantee in any month, and such failure is not caused as a result of an Uncontrollable Circumstance, the Company shall pay to the County an amount equal to (A) the product of (1) the volume of RNG that was not sold during such month in accordance with the RNG Sales Guarantee, measured in MMBTU, multiplied by (2) the dollar per MMBTU value derived by dividing (i) the County’s share of Gross Revenues received for the last three months that the RNG Sales Guarantee was achieved, by (ii) the volume of MMBTU of RNG generated by the Landfill Gas Beneficial Use Project and sold during such months, minus (B) any damages paid pursuant to the failure to comply with the RNG Quality Guarantee during such year.]

SECTION 8.22 METHANE CAPTURE GUARANTEE.

(A) Methane Capture Guarantee. On and following the Landfill Gas Beneficial Use Project Commercial Operations Date, the Company shall operate the Landfill Gas Beneficial Use Project to capture no less than [98%] of the volume of methane contained in all Landfill Gas delivered by the County to the Landfill Gas Delivery Point (the “Methane Capture Guarantee”).

(B) Failure to Meet Methane Capture Guarantee. If the Company fails to comply with the Methane Capture Guarantee, and such failure is not caused as a result of an Uncontrollable Circumstance, the Company shall promptly, at its sole cost and expense, take all action necessary (including making all capital investments, improvements or modifications, repairs and replacements and operating and management practices changes) in order for the Landfill Gas Beneficial Use Project to comply with the Methane Capture Guarantee. If the Company fails to take corrective action to restore compliance with the Methane Capture Guarantee in accordance with this subsection, the County may terminate this Agreement for an Event of Default by the Company under subsection 11.2(B) (Events of Default Requiring Notice or Cure Opportunity for Termination). The County shall have the right at any time to conduct testing and investigations to confirm the Company’s compliance with the Methane Capture Guarantee. Any such County testing and investigations shall be conducted so as not to unreasonably interfere with the Company’s use and operation of the Landfill Gas Beneficial Use Project.