

## LANDFILL GAS AGREEMENT

This Landfill Gas Agreement (“**Agreement**”) is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2019 (“**Effective Date**”), by and between Indian River Eco District, LLC (“**Company**”), a Texas limited liability company, and Indian River County Solid Waste Disposal District (“**District**”), a special dependent district of Indian River County, Florida.

WHEREAS, Company desires to purchase the Landfill Gas (“**LFG**”) collected by the District’s LFG Assets for the purpose of producing electricity and/or Renewable Natural Gas (RNG); and

WHEREAS, the District has determined that selling LFG to Company pursuant to this Agreement benefits the health, safety, and welfare of the citizens of Indian River County and, further, this Agreement serves important and proper public purposes.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual obligations, benefits and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Company agree that they shall be bound by and shall comply with the following provisions of this Agreement:

### ARTICLE 1 - DEFINITIONS

1.1 When the following words and phrases are used in this Agreement, they shall be defined and construed as follows:

*Acceptable Landfill Gas (LFG)* – means Landfill Gas wherein the sulfur content of the LFG is in accordance with ASTM-D5504 is equal to or less than a quarterly average of 2,000 ppmv and that the minimum methane content is greater than or equal to an average of 40% by volume, as determined each day.

*BTU* – means a British Thermal Unit, which is the amount of heat required to raise the temperature of one avoirdupois pound of pure water from 58.5 degrees Fahrenheit to 59.5 degrees Fahrenheit at standard temperature and standard pressure.

*Business Day* – means every day other than a Saturday, Sunday or a day on which banks are required or authorized by law or executive order to close in the State of Florida.

*Change in Law* – means the enactment, adoption, promulgation, modification or repeal of any laws, codes, ordinances, statutes, rules, regulations, orders, decrees after the Effective Date.

*Company Credits* – means the value of any Environmental Attributes that the Company earns as a result of its usage or destruction of LFG delivered to the Company.

*Company LFG Assets* – means all of the Company’s equipment and other tangible assets used for the measurement, transmission, handling, monitoring, control, management and use of the Landfill Gas that is transmitted from the Delivery Point to the Facility. The Company LFG Assets include but are not limited to the Company’s metering equipment, the Company’s LFG pipeline from the Delivery Point to the Facility, the Company’s compressor, and the Company’s equipment used to connect the Company’s LFG system to the Delivery Point.

*Condensate* – are liquids which are removed from a gas control system at a landfill and which are produced by the condensation of Landfill Gas being conveyed by that system.

*Contract Year* – means each twelve (12) month period beginning on October 1 and ending on the following September 30, except (a) the first Contract Year shall begin on the Landfill Gas Commencement Date and end on the following September 30 and (b) the last Contract Year shall end when this Agreement expires or is terminated.

*County* – means the geographical area contained within Indian River County, Florida.

*County Government* – means the government of Indian River County, acting through the Board of County Commissioners.

*Credits* – means District Credits and/or Company Credits, as applicable.

*Day* – means calendar day unless otherwise noted in the Agreement.

*Delivery Capacity* – means the amount of Acceptable LFG that the District is able to deliver to the Delivery Point, given the physical and operational constraints of providing LFG from the Landfill.

*Delivery Point* – means the location on the District’s property where the District LFG Assets and the Company LFG Assets are interconnected, thus enabling the District to deliver LFG to the Company. The Delivery Point shall be clearly shown on the Company’s Facility design drawings.

*District Credits* – has the meaning set forth in Section 8.2(A).

*District Credit Revenue* – has the meaning set forth in Section 8.2(C).

*District LFG Assets*- means all of the District’s equipment and other tangible assets used for the collection and management of the Landfill Gas upstream of the Delivery Point. The District LFG Assets include but are not limited to the District’s LFG recovery wells, LFG flare and LFG collection system, the District’s blowers and pipes used to transport LFG from the recovery wells to the Delivery Point, and the equipment used to connect the District’s LFG system to the Delivery Point and all such assets added in the future.

*Effective Date* – means the date on which the last of the Parties has executed this Agreement.

*Environmental Attributes* – means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the production, delivery and destruction of LFG. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and other greenhouse gases; (3) displacement or avoidance of any amount of conventional gas or fossil energy generation resources; and (4) the reporting rights to these avoided emissions.

*Event of Default* – has the meaning set forth in Section 13.2.

*Facility* – means the physical assets connected to the Company LFG Assets at the Facility Location used to clean, condense and otherwise process Landfill Gas so that it can be used to generate electricity, injected into the natural gas pipeline, or otherwise used in accordance with applicable laws.

*Facility Location* – means the Company’s real property located at 925 74<sup>th</sup> SW Avenue in Vero Beach, Florida, where the Facility is located.

*Facility Capacity* – means the amount of Acceptable LFG that the Company is able to accept at the Delivery Point, given the physical and operational constraints of installed electric generators which shall be limited to 6 megawatts or in the case of an RNG Facility up to 1,600 SCFM of raw LFG measured at the Delivery Point.

*Force Majeure* – means an act, event or condition that actually and proximately prevents a Party from performing any of its obligations (other than an obligation to make payments of money when due) under this Agreement, but (a) only if such act, event or condition is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any requirement of such Party under this Agreement; (b) the Force Majeure is not the result of the fault or negligence of the Party claiming Force Majeure and (c) only to the extent the Party claiming Force Majeure is unable to prevent, avoid or overcome the Force Majeure through the exercise of commercially reasonable efforts. Such acts, events or conditions shall include, but not be limited to:

(1) acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, terrorism, wars, blockades, explosions, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tropical storms, floods, tornadoes, restraints of governments and people, and civil disturbances;

(2) with respect to the District, any Change in Law (other than a Change in Law of the County Government) that imposes a constraint on the

District and thus reduces the ability of or prevents the District from providing LFG under this Agreement, and/or or prevents the Facility from accepting such LFG;

(3) with respect to the Company, any Change in Law;

(4) acts of civil or military authority (including, but not limited to, orders, judgments or decrees of any federal, state or local courts or administrative or regulatory agencies), and the passage of new regulations or legislation that make the Facility illegal to operate;

(5) in those instances where either Party is required to obtain servitudes, rights of way, grants, permits or licenses to enable such Party to fulfill its obligations hereunder, the inability of such Party to acquire, or the delays on the part of such Party acquiring, at reasonable cost (defined by industry standards at the time), such servitude, rights of way, grants, permits or licenses; and

(6) in those instances where either Party is required to furnish materials and supplies for the purpose of constructing, operating, or maintaining facilities or is required to secure grants or permissions from any governmental agency (other than the County Government with respect to the District claiming Force Majeure) to enable such Party to fulfill its obligations hereunder, the inability of such Party to acquire, or delays on the part of such Party in acquiring, at reasonable cost (defined by industry standards at the time), such materials and supplies, permits and permissions.

Force Majeure shall not include the ability of the District to sell LFG at a high price or the ability of Company to acquire LFG at a lower price or the reduction of the market value of the LFG.

*Interconnect Site* – means that portion of the District’s property at the Landfill on which the Company LFG Assets are installed.

*Isolation Valves* – means the valves that will be used to isolate the District’s LFG flare from the District LFG Assets upstream of the Delivery Point—i.e., the Isolation Valves direct LFG from the Landfill to the flare or, in the alternative, to the Delivery Point.

*Landfill* – means the District’s Class I landfill located at 1325 74<sup>th</sup> Avenue SW in Vero Beach, Florida with its currently permitted waste disposal capacity of approximately 13.6 million cubic yards.

*Landfill Gas (“LFG”)* – means gas generated in the Landfill.

*Landfill Gas Commencement Date (“LFG Commencement Date”)* – means the date

designated by both Parties pursuant to Section 3.10 and Section 3.11 on which the Company commences commercial operation of the Facility.

*Leachate* – means water and other liquids that have percolated through the Landfill and leached out some of the Landfill constituents.

*LFG Assets* – means the Company LFG Assets or the District LFG Assets, as applicable.

*LFG Baseline* – has the meaning set forth in Section 8.1(A) as the same may be adjusted pursuant to Sections 10.3 and 10.4.

*LFG Price* – means the price paid by Company to the District for the LFG delivered to the Delivery Point. The LFG Price is set forth in Article 8.1.

*Marketer* – has the meaning set forth in Section 8.2(B).

*Metering* – means the meters, instruments and/or processes used to measure the quantity and quality of the LFG delivered by District to Company.

*MMBTU* – means one million BTUs.

*Monthly LFG Statement* – means the statement prepared by the Company on a monthly basis and submitted to the District showing the total amount of Landfill Gas received by the Company, as measured at the Delivery Point, and the dollar amount owed to the District for its LFG as set forth in Section 9.1.

*Party* – means either the Company or the District. The Company and the District are collectively referred to herein as the “Parties”.

*Permit* - means any local, state, or federal permit, license, franchise, registration, certification, authorization or other governmental approval required for the performance of a Party’s obligations under this Agreement.

*Person* – means any and all persons, natural or artificial, including any individual, firm, partnership, joint venture, or other association, however organized; any municipal or private corporation organized or existing under the laws of the State of Florida or any other state; any county or municipality; and any governmental agency of any state or the federal government.

*Quarterly LFG Statement*– means the quarterly statement described in Section 9.1(B).

*Quarterly True-Up Payment* – has the meaning set forth in Section 9.1(B)(4).

*RNG Facility* – means a facility that converts LFG to renewable natural gas that can be injected into the natural gas pipeline and/or used as a vehicle fuel in accordance with the

Renewable Fuel Standard Program under the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007 and its implementing regulations.

*SCFM* – means standard cubic feet per minute (“SCFM”).

1.2 As used in this Agreement, (A) the masculine gender shall include the feminine and neuter and the singular number shall include the plural, and vice versa, (B) unless expressly stated otherwise, references to a governmental authority includes any government authority succeeding such authorities functions and capacities, (C) “days” shall mean calendar days, unless the term “Business Days” is used (if the time for performing an obligation under this Agreement expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day), (D) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings; the words “herein,” “hereunder,” “hereof” and this “Agreement” refer to this Agreement, taken as a whole, and not to any particular provision of this Agreement; (E) “including” means “including, for example and without limitation,” and other forms of the verb “to include” are to be interpreted similarly, and (F) all references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made.

## ARTICLE 2 - TERM AND RENEWAL

2.1 This Agreement shall take effect on the Effective Date and continue for a period of twenty (20) years (the “**Initial Term**”) following the LFG Commencement Date, unless terminated earlier in the manner provided herein. The LFG Commencement Date shall occur within 1 year of Effective Date, otherwise Section 13.1 shall apply.

2.2 The Parties shall have the right to extend this Agreement for up to two (2) consecutive ten-year renewal terms (“**Renewal Terms**”), provided Company and District mutually agree to extend this Agreement in writing at least one hundred eighty (180) days prior to the end of the Initial Term or the then current Renewal Term. All renewals shall be subject to the same terms, conditions, and fees set forth herein, unless agreed to otherwise in writing by both Parties in an amendment to this Agreement.

## ARTICLE 3 - THE PARTIES’ LFG FACILITIES

### 3.1 District Responsibilities and Obligations.

A. District to Supply LFG to Company. Subject to the requirements below, the District shall deliver to the Company all the LFG collected from the Landfill up to the Facility Capacity, except as otherwise provided herein.

B. District shall review all permit applications prepared by Company before the Company submits them to permitting authorities, subject to Sections 3.5 and 3.6.

C. District shall operate and maintain its assets in compliance with laws and

permits.

D. District shall cooperate with Company as the Company seeks to obtain County Government permits.

E. District is responsible for the disposal of Condensate generated by the District LFG Assets up to the Delivery Point.

F. Notwithstanding the foregoing, the District shall control and be responsible for the operation and maintenance of the District LFG Assets located between the Landfill and the Delivery Point.

G. Notwithstanding anything in this Agreement to the contrary, it is understood and agreed by the Company that the District has no obligation to accept solid waste or to implement any expansions of the Landfill.

H. The District is responsible to manage leachate in the LFG collectors, as necessary, to comply with all permits related to the landfill and the LFG collection system.

I. The District is responsible to maintain the pollution destruction devices (i.e., the District's flare or any replacement thereof) as necessary to maintain its permits during periods of time that the Facility is not accepting all of the LFG produced by the Landfill.

### 3.2 Company Responsibilities and Obligations.

A. Subject to the other conditions contained herein, Company shall accept and use up to 1,600 SCFM of Acceptable LFG that is produced by the Landfill and delivered to the Delivery Point subject to the terms and conditions hereof.

B. Company shall be responsible, at its own cost, for the design, permitting, construction, connection, operation, maintenance, repair, and replacement of any capital improvements and equipment that needs to be added to the District's existing LFG collection and flare system to (i) enable Company to divert LFG from the District's flare and transport such gas via pipeline to the Facility, (ii) enable reliable destruction of excess LFG simultaneous with the Company's beneficial use of some of the LFG and (iii) enable the reliable delivery of the LFG for Company's use. The exact location of any such improvements on the District's property and the general components of any necessary interconnection equipment and facilities shall be mutually agreed upon by Company and District prior to the commencement of construction. District shall provide Company with the necessary access, including easements as necessary, to the LFG system equipment located on the District's property for the purpose of allowing Company to perform its obligations under this Agreement.

C. On or before the LFG Commencement Date, Company shall install all of

the necessary pipelines, improvements, and equipment needed to transport, meter and use the LFG in the Facility. On or before the LFG Commencement Date, Company shall provide written notification to District that all such pipelines, improvements, and equipment are fully operational.

D. Company shall install, calibrate, and maintain appropriate Meters to measure the quantity and quality of the LFG at the Delivery Point in accordance with Sections 6.3 and 6.8.

E. Company shall provide the necessary controls and automation to cause LFG to be diverted to the District's flare if the Facility is not taking delivery of LFG from the Landfill and to allow simultaneous operation of the flare and the Facility, if necessary.

F. The District shall not be obligated to pay for any LFG expansion piping/wells.

G. To comply with its permit requirements the District may, from time-time, have to expand its gas collection system. If that happens the District will notify the Company because these expansions may impact LFG delivery to the Company.

H. Company shall pay the rates set forth in Article 8.1 for all of the LFG it receives from the District.

I. Company is responsible for the disposal of Condensate generated by the Company LFG Assets. On a quarterly basis, the Company shall sample and analyze the condensate from its equipment to verify that it is non-hazardous. If it is determined to be hazardous, then the Company shall be responsible for the proper disposal of the hazardous Condensate. To the extent the Condensate is determined to be hazardous because of the Company processing it (i.e.: compressing the LFG or concentrating the condensate), the Company will not be eligible for reimbursement from the District for the Company costs of disposing such hazardous Condensate. To the extent the Condensate is determined to be hazardous because of activities at the Landfill, the Company will be entitled to reimbursement from the District for the Company costs of disposing such hazardous Condensate.

J. Company shall submit all permit applications to the District for review by the District or its designee, subject to Sections 3.5 and 3.6.

K. Company shall provide to the District the qualifications and proof of annual safety training of employees or contractors that are working on District's property.

L. Company reserves its right to reduce or terminate the flow of the Landfill Gas to the Facility, and thus divert part or all of the Landfill Gas to the District's flare, if the Facility's Landfill Gas processing equipment is not operating, or if the District is not providing Acceptable LFG. Company is not obligated to pay the District for the



Landfill Gas that is diverted to the District's flare for these reasons.

M. To the extent that the District reliably produces Acceptable LFG in excess of the Facility Capacity installed at that time, the Parties shall meet and confer, acting reasonably and in good faith, to assess whether the Facility Capacity can or should be increased. If the Company agrees to expand the Facility Capacity, then the Company's right to the LFG shall be increased to such new Facility Capacity. If the Company does not agree to expand the Facility Capacity, or the Company remains silent on the topic for more than 30 days, then the District may use such excess LFG in any way that the District deems appropriate that does not interfere with Company's rights hereunder.

N. The construction and operation of the Company's Facility and the Company LFG Assets shall not unreasonably interfere with the operational requirements of the District with respect to the Landfill or the existing LFG collection 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 unreasonably interfere with the ability of the District to operate the Landfill or the existing LFG collection system, (ii) control odors as required by any Permits; (iii) not create other nuisance conditions prohibited by law; and (iv) meet all applicable law to which it is subject. The District will not be required by the Company to interrupt operation of the District's flare system for more than 120 continuous hours unless the Facility is operational and accepting delivery of LFG. The Company will notify the District in a timely manner should the Facility be inoperable so the District can ensure that its flare or other pollution control equipment is operational.

3.3 Each Party shall pay and be solely responsible for all of the costs associated with the design, permitting, construction, installation, operation, maintenance, repair, and replacement of their respective LFG Assets, except as set forth in Section 3.2(B), unless mutually agreed upon.

3.4 The District and Company, respectively, shall each designate a Person to serve as that Party's authorized agent under this Agreement for the purpose of receiving correspondence and documents regarding the design and construction of the LFG Assets and any other assets provided by Company on District property. Upon request, the District shall provide to the Company the technical information in the District's possession necessary for the Company to develop the conceptual and final design of the Facility and the LFG Assets. Company shall determine the basis and design requirements necessary for the Facility and the LFG Assets to meet all industry standard engineering and permit requirements applicable to similar facilities and interconnects located in Florida. Company shall provide the District with plans, drawings, specifications, schedules, critical path analyses and other documents, at each stage of the development of the Company's project, which are reasonably necessary to enable the District to ensure that the design, construction, and engineering of Company LFG Assets are compatible with the District LFG Assets and the interconnect at the Delivery Point, and in accordance with generally accepted rules, regulations, engineering and construction practices.

3.5 All documents submitted for the District's review and approval shall be acted upon

and returned to Company within a reasonable time, as set forth in Section 3.6, with the District's approval or any comments regarding any further review or modification by Company to conform to the laws of the State of Florida, County, technical specifications, requirements, and exhibits of this Agreement. If additional modifications are needed, unless disputed, Company shall proceed with the requisite modifications requested by the District. If requested, Company shall re-submit the same to the District for review and approval. The District shall advise Company in writing within fifteen (15) Business Days of receipt of such re-submitted documents as to their acceptability and approval. The various comments and approvals made by the District on the plans, specifications, drawings, schedules and other matters shall not relieve Company from any of its obligations under this Agreement. The District's acceptance and approval of the plans and other matters shall not be unreasonably withheld.

3.6 Unless otherwise specified, reasonable time for review and approval by the District shall mean fifteen (15) Business Days. If the District fails to return any design documents to Company within fifteen (15) Business Days after the documents are received by the District, then the District shall be deemed to have waived any comments or objections thereto; provided, however, that if within the fifteen (15) Business Days, the District notifies Company in writing that additional review time is necessary, the District shall have an additional five (5) Business Days to complete its review.

3.7 With regard to either Party's LFG Assets and other improvements that will be constructed or installed on the District's property at the Landfill by the Company, Company's proposed plans, specifications, contracts, and other documents shall be designed to provide safe, reliable, and efficient operations consistent with industry standards. All such LFG Assets will have warranties provided by the applicable supplier or contractor consistent with industry standards. The Company's contracts with third parties shall contain appropriate provisions to ensure that Company is able to comply with its obligations under this Agreement.

3.8 Prior to the LFG Commencement Date, Company and the District shall promptly and diligently seek to obtain all Permits necessary for them to satisfy their respective obligations under this Agreement. The District shall pay all costs and fees for Permits required for activities at the Landfill and upstream of the Delivery Point, except as provided in Section 3.12 concerning the Isolation Valves and flare modifications necessary for simultaneous operation with the Company. Company shall pay all costs and fees for Permits required for activities at its Facility and downstream of the Delivery Point, and for the Isolation Valves as provided in Section 3.12, below. Company and the District shall cooperate at all times and shall keep each other informed about their progress in obtaining the necessary Permits. A copy of all final approved Permits will be provided by the Party obtaining the Permit to the other respective Party.

3.9 After the necessary Permits are obtained, the Company shall expeditiously commence construction of the Company LFG Assets and the Isolation Valves as provided in Section 3.2 above, as well as any other improvements necessary for the Company to receive and use the District's LFG at the Facility. The Company shall diligently and continuously construct all of these improvements prior to the LFG Commencement Date.

3.10 The District shall be allowed to monitor all operations and activities associated with the permitting, construction, startup and commissioning of the LFG Assets and any other improvements located on the District's property. The District shall be allowed to monitor and confirm the compatibility of the District LFG Assets with the Company LFG Assets. The District shall rebalance the District LFG Assets (e.g., the LFG recovery wells and collection system), as the District deems necessary. These activities will be designed to synchronize the operation of the District LFG Assets with the Company LFG Assets.

3.11 Company shall give the District seven (7) days' notice in writing when the interconnect, and all the LFG Assets for which the Company is responsible, are ready to commence routine commercial operations, and Company, in mutual agreement with the District, shall identify the date that Company wishes to designate as the LFG Commencement Date. The proposed LFG Commencement Date shall be designated as soon as practicable after the notice from Company. The District shall, as soon as it is ready, notify the Company that it is ready to commence routine commercial operations on an agreed LFG Commencement Date. Prior to the LFG Commencement Date, the District shall provide LFG to Company at the rate identified in Section 8.1 and 8.3 to enable Company to startup and test the Parties' LFG Assets.

3.12 Company shall be solely responsible for the Company LFG Assets and any other improvements necessary for Company to receive and use LFG in its Facility, and for paying all of the capital costs for the Company LFG Assets, including but not limited to the interconnect, flare modifications, and Isolation Valves. Notwithstanding anything to the contrary in this Agreement, any appurtenances including the Isolation Valves installed prior to the Delivery Point shall become part of the District's LFG assets. The Isolation Valves shall be operated by the Company's distributive control system under normal conditions, but the Isolation Valves may be operated by the District if necessary to respond to an emergency, malfunction, Force Majeure, or similar event. Exhibit "D" is a LFG process flow schematic that depicts the location of the Isolation Valves and the flow of LFG through them.

3.13 Within sixty (60) days of the LFG Commencement Date, the Company shall provide the following: (a) with regard to any LFG Assets located on the District's property, one complete set of final record "as built" drawings (construction and electrical); (b) the final specifications for the Isolation Valves, methane analyzer, and LFG flow meter; (c) an operation and maintenance ("O & M") manual for the Isolation Valves, methane analyzer, and LFG flow meter, including any O & M manuals provided by the manufacturers; (d) any lists provided by the manufacturers for recommended spare parts for the Isolation Valves, methane analyzer, and LFG flow meter; (e) the licenses or approvals, if any, needed for the District to use the Isolation Valves, methane analyzer, and LFG flow meter; and (f) a plan of operating procedures for the coordinated operation of the Interconnect. The "as built" drawings shall be provided to the District in two (2) sets of full-size paper drawings and in an electronic format (i.e., Computer Assisted Design Drawing or "CADD" files).

3.14 There shall be no liens or other encumbrances (collectively, "**Liens**") placed on the District's land as a result of the Company's activities. If a Lien is placed on the District's land by any of Company's suppliers or contractors, Company shall immediately take whatever steps are

necessary to ensure that the Lien is released promptly. If Company fails to secure the timely release of such Lien, the District may take any and all steps to secure the release of the Lien and the District's costs and expenses will be reimbursed by the Company within 30 days of notice. There shall be no Liens placed on the Company's real property, personal property or fixtures as a result of the District's activities. If a Lien is placed on the Company's property as a result of the District's acts or omissions, the District shall immediately take whatever steps are necessary to ensure that the Lien is released promptly. If District fails to secure the timely release of such Lien, the Company may take any and all steps to secure the release of the Lien and then the Company's costs and expenses will be reimbursed by the District within 30 days of notice.

#### **ARTICLE 4 - LFG GENERAL PROVISIONS**

4.1 District shall have the exclusive right to determine, in its sole discretion, how the District LFG Assets will be constructed and operated as necessary to perform District's obligations hereunder. District's primary goals shall be to operate the Landfill for waste disposal and ensure the District's compliance with the permits and laws governing the District's operations at the Landfill.

4.2 District does not make and affirmatively disclaims any guarantees, representations, or warranties concerning the quality or quantity of the LFG that will be generated or collected by the Landfill.

4.3 Company reserves its right to reduce or terminate the flow of the LFG to the Facility, and thus divert part or all of the LFG to the District's flare, if the Company LFG Assets, Facility, or any portion thereof is not operating, or if the District is not providing Acceptable LFG. Company is not obligated to pay the District for the LFG that is diverted to the District's flare for these reasons.

4.4 District reserves its right to reduce or terminate the flow of the LFG to the Facility, and thus divert part or all of the LFG to the District's flare, to the extent that the Company LFG Assets, Facility, or any portion thereof is not operating at a capacity sufficient to accept higher deliveries of LFG.

4.5 Except with respect to events of Force Majeure or maintenance, Company agrees that failure by Company to take receipt of 100% of the Acceptable LFG, up to 1,600 SCFM, that is produced by the Landfill within the month, as set forth in Section 3.2(A), will not release Company from its obligation to pay District as if Company had taken receipt of 100% of the Acceptable LFG, up to 1,600 SCFM, in full compliance with the terms set forth in this Agreement. District shall, therefore, have the right to invoice Company, and Company hereby agrees to timely pay District in accordance with this Agreement.

4.6 The Company shall prepare and maintain records concerning the operation of the system used to provide LFG to the Facility that identify: the amount of LFG provided to the Facility on an hourly basis, the methane content of the LFG provided to the Facility on an hourly basis, the dates and times when the Company diverts LFG to the District's flare; and the dates and

times when the Company stops diverting LFG to the District's flare.

#### **ARTICLE 5 - ACCESS AND EASEMENT**

Subject to the conditions contained in this Agreement, the District shall grant to Company the right to access, occupy and use the Interconnect Site and a LFG pipeline easement for the purpose of satisfying the Company's obligations under this Agreement, including the right to construct, install, own, maintain and operate the Company LFG Assets on the Interconnect Site and the LFG pipeline easement. District shall grant to Company a non-exclusive easement over, under and across certain property that is more specifically described in Exhibit "B" to this Agreement, for the purpose of accessing, constructing, installing, owning, maintaining and operating the equipment and facilities necessary to connect the District LFG Assets and the Company LFG Assets in the manner provided in this Agreement. District agrees to execute written easement grants to Company in substantially the form attached hereto as Exhibit "B-1" ("Grant of Non-Exclusive Easement for Landfill Gas Equipment and Pipeline") and Exhibit "B-2" ("Grant of Non-Exclusive Easement for Ingress and Egress"). Company shall pay all costs associated with the recording of any easements granted by the District.

#### **ARTICLE 6 - LFG QUANTITY; MEASUREMENT**

6.1 The Company shall accept delivery of the Acceptable LFG delivered to the Delivery Point up to the Facility Capacity at all times throughout the term of this Agreement, unless the Facility is not operating. The Parties recognize that Company's use of LFG at its Facility may be curtailed or interrupted when the Facility is not operating due to the maintenance requirements of the Facility and/or Force Majeure events. The Company will make every reasonable effort to notify the District of any scheduled outage within 72 hours of the scheduled outage and within 12 hours after any unscheduled outage. Except to the extent expressly set forth herein, the Company shall have no liability to the District, except as stated in Section 4.5, to the extent that the Company does not accept delivery of any LFG because the LFG is not Acceptable LFG or because the Facility is not operating.

6.2 Except as otherwise set forth in this Agreement, the District shall deliver all Acceptable LFG produced by the Landfill to the Facility. The District shall deliver Acceptable LFG to the Delivery Point up to the Facility Capacity at all times throughout the term of this Agreement, unless the LFG collection system is not operating. The Parties recognize that the District delivery of LFG may be curtailed or interrupted when the LFG collection system is not operating due to the maintenance requirements and/or Force Majeure events. The District will make every reasonable effort to notify the Company of any scheduled outage within 72 hours of the scheduled outage and within 12 hours after any unscheduled outage. Except to the extent expressly set forth herein, the District shall have no liability to the Company to the extent that the District does not deliver any LFG because the LFG is not Acceptable LFG or because the LFG collection system is not operating.

6.3 The quantity of LFG delivered by District shall be determined by conducting appropriate measurements with the Metering equipment. The Metering equipment shall be

maintained by the Company and shall be calibrated on a quarterly basis or in accordance with the manufacturer's specifications, whichever is more frequent. At its expense, District may arrange for an independent third party to verify the accuracy of the Metering equipment used by the Company to measure the LFG. Any independent tests shall be coordinated with the Company in advance. Company shall act reasonably and in good faith in connection with coordinating the independent test. The results of any calibration tests or inspections by either Party shall be provided to the other Party, upon request. The specific test methods shall be as required by the applicable industry standards.

6.4 At its option and expense, the Company may determine the Delivery Capacity by conducting appropriate tests. The Delivery Capacity shall be based on the average flow of Acceptable LFG to the Delivery Point during a seventy-two (72) hour period. The Delivery Capacity shall reflect the amount of Acceptable LFG that the District can produce from the Landfill and deliver to the Delivery Point while maintaining compliance with all applicable laws and prudently operating the Landfill and the District LFG Assets. The Parties recognize and acknowledge that the Delivery Capacity may fluctuate during the term of this Agreement. The District shall respond as expeditiously as practicable to Company concerns and recommendations concerning possible improvements to the Delivery Capacity. The Company shall respond as expeditiously as practicable to District concerns and recommendations concerning possible improvements to the Facility.

6.5 The District shall not be obligated to deliver Acceptable LFG to Company at any specific rate. The District shall use reasonable commercial efforts to deliver Acceptable LFG at a relatively uniform hourly rate of flow, but the District does not warrant or guarantee that it will be able to supply Company with any minimum amount of Acceptable LFG on an hourly, daily or other basis. The provisions of this Section 6.5 shall not permit the District to divert Acceptable LFG from the Delivery Point unless the District determines, acting reasonably and in good faith, that such diversion is necessary to keep the flare operating in compliance with permits or if the Company has refused to accept LFG per Section 3.2(L).

6.6 The District shall notify Company promptly if the District anticipates that the production of LFG will increase or decrease by more than 500 SCFM in the future. Company shall notify the District promptly if Company anticipates that its use of LFG will increase or decrease by more than 500 SCFM in the future.

6.7 During the term of this Agreement, the District shall not undertake any action that would: (a) temporarily or permanently divert Acceptable LFG to any other user without first offering said LFG to the Company per Section 3.2(L); or (b) permanently reduce the production of LFG at the Landfill, unless such action is (1) required by an applicable law or (2) otherwise deemed necessary and appropriate by the District for the protection of the public health, safety and welfare. District may divert up to 225 SCFM of Acceptable LFG for use at the Landfill, if the District determines in its sole discretion that such LFG is needed for the economically efficient processing of Leachate. District shall provide notice to Company prior to such diversion. The District will only divert the amount necessary for such processing. If the District, acting reasonably and in good faith, determines to divert more than 225 SCFM for the economically efficient

processing of Leachate, then the District shall give notice to Company prior to diversion, and Company shall not unreasonably withhold its consent to such diversion. If the District proceeds with the economically efficient processing of Leachate that does not require the use of all or some of the 225 SCFM of Acceptable LFG, then the Company may request that the District release its rights to such unused volume, and the District shall not unreasonably withhold its consent to this request.

6.8 The Company shall be responsible for measuring and recording the characteristics of the LFG that is delivered to Company at the Delivery Point. Unless circumstances dictate otherwise, the Company shall measure and analyze the LFG with the Metering equipment defined in Section 6.3. The Company shall use a flow meter to continuously measure the quantity of LFG delivered by the District to the Delivery Point. The Company shall use a methane analyzer to measure the methane content of the LFG continuously or as otherwise agreed in writing by the Parties. The flow meter and the methane analyzer shall be installed at a location near the Delivery Point, unless the Parties agree otherwise. At a minimum, the Company shall determine: (a) the quantity of LFG, which shall be measured in SCFM; and (b) the energy content of the LFG, which shall be measured in BTUs per SCFM. The Company may at its discretion measure or test for other gas characteristics. The Company shall measure these factors by using the Metering equipment and/or such other instruments as necessary. The Company shall be solely responsible for the operation, maintenance and calibration of the meters and other equipment used to measure or test the LFG. To ensure accurate assessment of the Acceptable LFG delivered at the delivery point, the Company will, at a minimum, factory calibrate the flow and quality metering equipment annually and provide copies of those calibrations to the District.

6.9 If Company or the District discovers that the Metering instruments are not properly calibrated, they shall promptly report this information to the other Party. In such case, the applicable Party shall have the right to request and receive an equitable adjustment of the payments hereunder reflected on the first statement or invoice after the adjustment to the Metering information is identified. It is the intent of the Parties that no one should benefit unjustly as a result of an error in the calibration of the Metering equipment. Unless there are specific factual reasons to believe otherwise, the Parties shall assume that the error in the calibration of the Metering equipment increased or decreased at a uniform rate over time. To the extent the foregoing assumption is insufficient to correct the invoices, the Parties shall assume that kWh output from the Facility is correlated to recent MMBTU input and this same ratio is employed to estimate the fee for LFG sold.

6.10 The Company shall compile and maintain the Meter data and retain the same for at least five (5) years from the date they are prepared.

## **ARTICLE 7 - LFG QUALITY**

7.1 The District shall ensure that the Landfill and District LFG Assets are operated in compliance with the applicable Permits, but the District does not make and affirmatively disclaims any guarantees, representations, or warranties concerning the quality or quantity of the LFG that will be available to the Company.

7.2 If either Party discovers at any time that the District's LFG does not satisfy the required specification for Acceptable LFG, that Party shall notify the other Party and the Parties shall discuss their options for improving the quality of the LFG. The District shall respond as expeditiously as practicable and cost effective to Company concerns and recommendations concerning the quality of the LFG.

7.3 If the District delivers LFG to Company that does not meet the required specification for Acceptable LFG, Company shall have the option of: (a) rejecting the LFG or (b) accepting the LFG and paying the applicable LFG Price. Notwithstanding anything herein to the contrary, Company shall not be required to accept any LFG that would cause the Company to be in violation of any valid Permit or in violation of any federal, state or local governmental law or regulation.

7.4 The District may collect and analyze representative samples of its LFG from time to time. The District also periodically may wish to collect and analyze a representative sample of its LFG to determine whether the LFG complies with the specification for Acceptable LFG. In either case, the District shall promptly provide the LFG test results to Company.

7.5 At its expense, Company may collect and analyze representative samples of LFG from locations on the Landfill that are determined appropriate by Company. Before collecting the LFG samples, Company shall coordinate with and obtain permission from the District, which permission shall not be unreasonably withheld. Company shall promptly provide copies of its LFG test results to the District. Company shall promptly notify the District anytime Company discovers that the District's LFG does not satisfy the specification for Acceptable LFG.

## **ARTICLE 8 - PRICE FOR LFG AND DISTRICT CREDITS**

### **8.1 Price for LFG.**

A. Within 180 days after the Effective Date and prior to applying for the FDEP air permit, Company shall conduct such testing and evaluation as is reasonable and appropriate to develop a reasonable forecast of the expected Monthly production of LFG (the "**LFG Baseline**"). Following completion of such evaluation, Company shall deliver to the District notice of the LFG Baseline and reasonable documentation supporting the determination thereof. At any time during the term of this Agreement, either Party may conduct follow-up testing/evaluations and recommend modification to the LFG Baseline provided the other party agrees to it (which shall not be unreasonably withheld).

B. Company shall pay the District each month for any LFG that is accepted by Company up to the Facility Capacity. With respect to all Acceptable LFG, the amount of the monthly payments for LFG shall be calculated by multiplying the quantity of LFG (measured in SCFM) per month times the average energy content of the LFG during the same month (measured in MMBTU per SCFM) times the LFG Price as adjusted pursuant to Section 9.4. With respect to any LFG delivered to Company that



is not Acceptable LFG, the LFG Price shall be \$0.00/MMBtu.

C. The LFG Price for a Landfill Gas to electricity project shall be determined in accordance with the following table and the incentive payment provided in section 8.3. The LFG Price applicable for each month during the Contract Year pursuant to Section 9.2 shall be based on the LFG Baseline. The LFG Price shall be based on the actual annual quantities of Acceptable LFG delivered during the preceding Contract Month.

Month LFG used by Company* (MMBTU)	LFG Price (\$/MMBtu)
Baseline+7,501 to 9,000	\$1.28
Baseline+6,001 to 7,500	\$1.16
Baseline+4,501 to 6,000	\$1.05
Baseline+3,001 to 4,500	\$0.96
Baseline+1,501 to 3,000	\$0.87
Baseline +1 to 1,500	\$0.79
Baseline and below	\$0.72

\* Excludes periods of time when Company and/or District are down of maintenance, power outages, and periods of time when Company is operating at less than full load due to no fault of the District.

The LFG Price for a Landfill Gas to RNG Facility shall equal a royalty payment of 10% of the gross receipts generated by the RNG Facility for the sale of renewable natural gas generated from the Acceptable LFG (“**RNG Gross Receipts**”); provided, however, that the Parties shall cooperate, acting reasonably and in good faith, to discuss increasing the foregoing percentage if and to the extent that the Parties agree to amend this Agreement to provide for quantity and quality guarantees from the District that support developing an RNG Facility.

## 8.2 Price for District Credits.

A. Subject to the provisions herein, the District shall receive the value of any Environmental Attributes that the District earns for flaring the LFG that is not delivered to Company. These credits are referred to herein as “**District Credits.**”

B. It is the desire and intent of the Parties that the Company shall actively attempt to market and sell all of the District Credits on behalf of the District. It is anticipated that the Company shall use the services of a third party (the “**Marketer**”) to market and sell credits. Any agreement signed by the Company and Marketer shall, to the extent commercially practical, treat the Company and District equally and fairly. To the extent that any acts or omissions of the Company or the District, or both, result in liability to the Marketer, the Company and the District shall each be responsible for

that portion of the liability caused by its own acts or omissions. If the liability does not arise out of the acts or omissions of either Party, then the liability shall be shared on a pro rata basis, apportioned according to the anticipated profits as agreed upon by the Parties in this Agreement. District's liability shall be capped by the limits set forth in section 768.28, Florida Statutes.

C. Subject to the provisions herein, all of the revenues received by the Company for the District Credits shall inure to the benefit of the District ("**District Credit Revenue**"). All of the revenues received by the Company for the Company Credits shall inure to the benefit of the Company.

D. The District Credit Revenue shall consist of the gross revenue received by the Marketer from the sale of District Credits, minus the expenses incurred by the Marketer. The Marketer's expenses may include, but shall not be limited to, the costs (if any) incurred by the Marketer to calibrate the LFG measurement systems, maintain a carbon credit registry, and verify the Credits.

E. As compensation to the Company for marketing and administering the District Credits, Company shall be entitled to retain a percentage of the District Credit Revenue received by the Company. The Company shall pay the remaining District Credit Revenue to the District within fifteen (15) days after the Company receives the District Credit Revenue. The Company's payment of the remaining District Credit Revenue to the District shall never be less than sixty-seven and one-half percent (67.5%) of the total District Credit Revenue received by the Company from the Marketer and is above and beyond the monthly payment for LFG.

F. District hereby assigns to Company the right to market and sell all of the District's right and title to the District Credits. However, the District shall have the right to terminate the marketing contemplated in this Agreement without terminating the rest of the Agreement.

G. Company has the responsibility to act on behalf of both Parties for the tracking, selling and management of Credits. Company shall have the right and the obligation to exercise its judgment in good faith when marketing and selling the District Credits.

### 8.3 Incentive Payment

A. If the average daily methane content of the LFG delivered is greater than 40% the Company shall pay the District an incentive payment over and above the LFG Price, as shown in the following table:

For a Landfill Gas to electricity project:

Average Methane Content in the Company Used LFG	Incentive Payment ( % of District Invoice)
>52.1%	6.0%
49.1 to 52%	5.0%
46.1 to 49%	4.5%
43.1 to 46%	4.0%
40.1 to 43%	3.5%
40%	zero

For a Landfill Gas to RNG Facility:

Average Methane Content in the Company Used LFG	Incentive Payment ( % of RNG Gross Receipts)
>52.1%	3.0%
49.1 to 52%	2.0%
46.1 to 49%	1.5%
43.1 to 46%	1.0%
40.1 to 43%	0.5%
40%	zero

**ARTICLE 9 - LFG STATEMENT, INVOICE AND ANNUAL ADJUSTMENT**

9.1 LFG Statement.

A. Monthly LFG Statement. On the fifth (5<sup>th</sup>) day of each month, starting with the first full month after the LFG Commencement Date, the Company shall provide a Monthly LFG Statement to the District. The Monthly LFG Statement shall identify:

- (1) the total amount of Acceptable LFG provided to the Facility (standard cubic feet);
- (2) the total amount of unacceptable LFG provided to the Facility (standard cubic feet);
- (3) the monthly average methane content of the Acceptable LFG;
- (4) the calculated MMBTU’s provided to the Facility
- (5) the applicable LFG Price; and
- (6) the total amount owed to the District.

B. Quarterly LFG Statement. Within thirty (30) Days after the end of each Quarter, the Company shall provide a Quarterly LFG Statement to the District. The Quarterly LFG Statement shall identify:

- (1) the total amount of Acceptable LFG provided to the Facility during the applicable Quarter and the average SCFM of Acceptable LFG delivered;
- (2) the Quarterly average methane content of the Acceptable LFG;
- (3) the applicable LFG Price based on the annual average SCFM deliveries of Acceptable LFG; and
- (4) the Quarterly true up payment owed to or by the District calculated as the product of (i) the difference between the applicable LFG Price identified in Section 9.1(B)(3) and the LFG Price paid based on the LFG Baseline and (ii) the total quantity of Acceptable LFG delivered to Company (the “**Quarterly True-up Payment**”) minus any incentive payments.

9.2 Monthly LFG Payment. After receipt of the Monthly LFG Statement, the District shall provide an invoice to the Company for the amounts due. The Company shall pay the dollar amount owed to the District no later than thirty (30) days after receipt of such invoice.

9.3 Quarterly LFG True-Up. Within thirty (30) Days after receipt of the Quarterly LFG Statement, the District shall provide a statement to the Company reflecting the amount of the Quarterly True-up Payment. To the extent the District owes a refund to the Company, the District shall pay such amount no later than thirty (30) days after issuance of the statement. To the extent the Company owes a payment to the District, the Company shall pay such amount no later than thirty (30) days after receipt of the statement.

9.4 Annual Adjustment. On October 1, 2021 and each October 1 thereafter, the LFG Price shall be adjusted upward by two percent (2%).

## **ARTICLE 10 - OWNERSHIP, OPERATION AND MAINTENANCE COSTS OF LFG ASSETS**

10.1 The District shall be responsible, at its sole cost and expense, for the operation and maintenance of the District LFG Assets. The District shall have title to and risk of loss for the District LFG Assets.

10.2 Company shall be responsible for the operation and maintenance of Company LFG Assets. The Company shall have title to and risk of loss for the Company LFG Assets.

10.3 If, for reasons other than a Force Majeure event, there is a material reduction in the quantity of Acceptable LFG produced by the District such that the annual quantity of Acceptable LFG reasonably expected to be delivered to the Company is below the LFG Baseline, then the Company may provide written notice to that effect to the District. Promptly following issuance of the notice, the Parties shall meet and confer to assess the cause of the reduction and potential options to remedy the reduction. Following the meeting and within a commercially reasonable

period of time, the District shall implement any no-cost remediation efforts that the Company reasonably requests be implemented. To the extent that any identified remediation efforts require material expenditures by the District, the District shall not be obligated to implement such remediation efforts until and unless the Parties agree on the schedule for implementing the remediation efforts, the extent to which the District will be reimbursed for such amounts and, if applicable, the mechanism for such reimbursement. If the Parties are unable to agree upon the schedule, the reimbursement amount or the reimbursement mechanism, then Company may elect to either continue accepting LFG and reduce the LFG Baseline based on the revised expected annual deliveries or terminate this Agreement on written notice to the District. Any termination by the Company pursuant to this Section 10.3 shall be without further liability of either Party.

10.4 If, for reasons other than a Force Majeure event, there is a material reduction in the quantity of Acceptable LFG that the Company uses such that the annual quantity of Acceptable LFG reasonably expected to be used by the Company is below the LFG Baseline, then the District may provide written notice to that effect to the Company. Promptly following issuance of the notice, the Parties shall meet and confer to assess the cause of the reduction and potential options to remedy the reduction. Following the meeting and within a commercially reasonable period of time, the Company shall implement any no-cost remediation efforts that the District reasonably requests be implemented. To the extent that any identified remediation efforts require material expenditures by the Company, the Company shall not be obligated to implement such remediation efforts until and unless the Parties agree on the schedule for implementing the remediation efforts, the extent to which the Company will be able to recover such amounts and, if applicable, the mechanism for such recovery. If the Parties are unable to agree upon the schedule, the recovery amount or the recovery mechanism, then District may elect to either continue delivering LFG or terminate this Agreement on written notice to the Company. Any termination by the District pursuant to this Section 10.4 shall be without further liability of either Party.

#### **ARTICLE 11 - OWNERSHIP AND USE OF LFG**

11.1 Ownership, title and control of the LFG and all related Environmental Attributes and credits shall pass from the District to Company when the LFG is delivered to Company at the Delivery Point. Environmental Attributes shall remain with the District if the LFG does not pass the Delivery Point.

11.2 The District may use, vent, or flare any LFG that is not accepted by Company provided that District has complied with its obligations hereunder.

#### **ARTICLE 12 - WARRANTY OF TITLE TO LFG**

12.1 The District warrants that it has title to all LFG and associated Environmental Attributes that will be delivered to Company hereunder and the District has the right to transfer such LFG and Environmental Attributes.

12.2 The District warrants that all of the LFG and Environmental Attributes delivered to Company under this Agreement is owned by the District, free and clear of all liens, encumbrances

and adverse claims, including but not limited to liens used to secure payment of production taxes, severance taxes, or other taxes.

### **ARTICLE 13 - TERMINATION AND REMEDIES**

13.1 Delay in Achieving LFG Commencement Date. If the LFG Commencement Date has not occurred within twelve (12) months following the Effective Date for reasons other than Force Majeure events or the acts or omissions of the District, District may issue written notice to Company electing to terminate this Agreement six (6) months following the date such written notice is issued. If the LFG Commencement Date occurs within six (6) months after Company receives such written notice, then this Agreement will not terminate and shall continue in full force and effect. If the LFG Commencement Date does not occur within six (6) months after Company receives such written notice for reasons other than Force Majeure events or the acts or omissions of the District, then this Agreement shall terminate and neither Party shall have any further rights, obligations or liabilities hereunder.

#### 13.2 Default and Termination.

A. Events of Default. Either Party may immediately terminate this Agreement on written notice to the other Party for cause, without prejudice to any other rights or remedies the terminating Party may have under applicable law, except as provided herein, when there is an Event of Default by the other Party. An event of default (an “**Event of Default**”) shall occur if a Party shall (1) suspend or liquidate its business, (2) become insolvent or subject to a petition of involuntary bankruptcy and the appointment of a trustee or receiver, (3) make an assignment for the benefit of creditors, other than as permitted in Section 16.11, or (4) fail to perform a material obligation under this Agreement and such failure is not cured within thirty (30) days after receipt of written notice of such failure or, if such failure cannot reasonable be cured within such thirty (30) day period, a good faith reasonable plan to correct the failure within sixty (60) days is not implemented within such thirty (30) day period.

B. Remedies. Except as otherwise set forth herein, in the event of a breach by a Party of any of its obligations hereunder, the other Party shall have the rights specified herein, and any remedy to which it is entitled at law or in equity for such breach, subject to Exclusivity of Remedies below.

C. Exclusivity of Remedies. Each Party waives all claims against the other Party (and against the affiliates of each, and their respective members, shareholders, officers, directors, agents and employees) for any consequential, incidental, indirect, special, exemplary or punitive damages arising out of this Agreement; and, regardless of whether any such claim arises out of breach of contract, guaranty or warranty, tort, product liability, indemnity, contribution, strict liability or any other legal theory, each Party hereby releases the other Party from any such liability. This waiver and exclusion shall apply even if any express warranty set forth herein fails its essential purpose. Any liquidated damages payable under this Agreement shall not be deemed consequential

damages.

D. Survival of Obligations. Notwithstanding the expiration or the termination of this Agreement pursuant to its terms, any duty or obligation of a Party which has not been fully observed, performed and/or discharged and any right, unconditional or conditional, which has been created for the benefit of a Party and which has not been fully enjoyed, enforced and/or satisfied (including but not limited to the duties, obligations and rights, if any, with respect to secrecy, indemnity, warranty, and guaranty) shall survive such expiration or termination until such duty or obligation has been fully observed, performed or discharged and such right has been fully enjoyed, enforced and satisfied.

E. TERMINATION IN REGARDS TO F.S. 287.135: Company certifies that it and those related entities of the Company as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. In addition, if this agreement is for goods or services of one million dollars or more, Company certifies that it and those related entities of the Company as defined above by Florida law are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes and are not engaged in business operations in Cuba or Syria. The District may terminate this Contract if the Company is found to have submitted a false certification as provided under section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, as defined by section 287.135, Florida Statutes. The District may terminate this Contract if the Company, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies that exist for the purpose of making profit is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as set forth in section 215.4725, Florida Statutes. Each calendar year on or before January 15, the Company will certify that they are in compliance with this term

13.3 Upon termination of the Company's right or obligation to receive LFG, as the case may be, each Party shall within 60 days provide the other Party with a written claim for any amounts that are due and owing under this Agreement. If a Party disputes any claim for payment, a written objection must be filed with the other Party within thirty (30) days of receiving the claim. The written objection must identify the specific reasons for the objection, and it must be accompanied by full payment for all undisputed amounts. After an objection is filed, the Parties shall initiate the dispute resolution process in this Agreement.

13.4 Notwithstanding any other provision contained in this Agreement, any Change in Law of the County Government shall not entitle the District to obtain relief from the requirements of this Agreement (e.g., by Force Majeure, termination or otherwise) based on that Change in Law.

13.5 In the event that the respective obligations of the Parties to provide and accept LFG are terminated in accordance with the provisions of this Agreement, unless the District agrees in writing that these items can remain, the Company shall remove the above ground, and seal the below ground, Company LFG Assets that are installed and located on the District's property within one hundred eighty (180) days of the date of termination of such rights and restore the property to its near original condition, ordinary wear and tear excepted. Company's right to access, occupy and use the Interconnect Site and Delivery Point shall continue for the same time period provided herein for Company to remove its Company LFG Assets. On or before the expiration of the removal period, Company shall execute a written release of any easement that was granted by the District pursuant to this Agreement. The only exception will be any LFG expansions that Company paid for, which will not be removed but instead it will be deeded to the District at no cost to the District.

13.6 Failure to pay annual Indian River County property taxes shall be a basis for the District to terminate this Agreement if not cured within 30 days after receipt of written notice of such failure from the District.

## **ARTICLE 14 - INDEMNIFICATION AND INSURANCE**

### 14.1 Indemnification.

A. To the extent permitted by law Company shall defend, protect, hold harmless and indemnify District, its commissioners, directors, officers, employees, and agents and contractors (the "**District Indemnified Persons**") from and against any cost, expense, loss, claim or liability whatsoever, including the cost of attorneys' fees and appeals, for injury to any person or loss or damage to any property arising out of: (a) the negligence or wrongful misconduct of Company, its directors or partners (as applicable), officers, employees, other agents or contractors of any tier; (b) the failure of or by Company, its directors or partners (as applicable), officers, employees, other agents or contractors of any tier to comply with applicable law or regulations of federal, state or local governments; (c) the performance or failure to perform of the Company under this Agreement; and (d) any breach by Company of any representation or warranty made in this Agreement. Company is not required to hold harmless or indemnify any District Indemnified Person for any cost, expense, loss, claim or liability to the extent caused by any District Indemnified Person's negligence or reckless misconduct.

B. To the extent permitted by law the District shall defend, protect, hold harmless and indemnify the Company, its directors or partners (as applicable), officers, employees, other agents or contractors (the "**Company Indemnified Persons**") from and against any cost, expense, loss, claim or liability whatsoever, including the cost of attorneys' fees and appeals, for injury to any person or loss or damage to any property arising out of: (a) the negligence or wrongful misconduct of the District, its commissioners, directors, officers, employees, and agents and contractors of any tier; (b) the failure of or by the District, its commissioners, directors, officers, employees,



and agents and contractors of any tier to comply with applicable law or regulations of federal, state or local governments; (c) the performance or failure to perform of the District under this Agreement; and (d) any breach by District of any representation or warranty made in this Agreement. District is not required to hold harmless or indemnify any Company Indemnified Person for any cost, expense, loss, claim or liability to the extent caused by any Company Indemnified Person's negligence or reckless misconduct.

14.2 General Liability Insurance. The Company shall obtain and maintain throughout the Initial Term and any Renewal Terms of this Agreement at its expense the following insurance coverage from insurers who are licensed in the State of Florida and have a current rating of B+ or better in “Best's Key Rating Guide”:

A. Workers' Compensation Insurance. Workers' compensation coverage must be maintained in accordance with current statutory requirements;

B. Employer's Liability Insurance. Employer's liability coverage shall have a minimum limit of liability of \$100,000 per occurrence, \$100,000 by disease, and \$500,000 aggregate by disease;

C. Liability Insurance. Commercial general liability insurance and automobile liability shall have a minimum combined single limit of liability of \$1,000,000 for personal bodily injury, including, without limitation, death, and property damage.

D. Excess Coverage. Umbrella or excess liability coverage in the amount of \$2,000,000 shall be maintained.

14.3 Environmental Impairment Insurance. The Company shall procure environmental impairment insurance prior to the LFG Commencement Date and Company shall maintain such insurance in full force and effect at all times thereafter during the term of this Agreement. The environmental impairment insurance shall provide coverage with minimum limits of \$2,000,000 per occurrence, if an occurrence form is available, or with a “claims made” form with “tail coverage” extending three (3) years beyond the termination or expiration of this Agreement. Proof of insurance shall be provided to the District at least fifteen (15) days before the LFG Commencement Date. Proof of tail coverage shall be submitted with the Company's invoice for its final payment. In lieu of tail coverage, the Company may submit annually to the District a current certificate of insurance proving that claims made insurance remains in force throughout the same three (3) year period. Such insurance shall provide coverage for pollution and environmental remediation. The form and content of the insurance coverage, as well as the financial stability of the company issuing the insurance, shall be subject to the prior review and approval of the District. The District shall be added as a named insured on the insurance policy, but only with regard to liability arising as a result of the District's delivery of LFG to the Facility Site pursuant to this Agreement.

14.4 Proof of Financial Responsibility. The Company shall provide the District with an

irrevocable “standby” letter of credit issued by a national banking company authorized to do business in the State of Florida. The form and substance of the letter of credit shall be in a form consistent with standard practices in the financial industry, and otherwise on terms and conditions reasonably acceptable to the Parties. The letter of credit shall be issued in the amount of One Hundred Thousand Dollars (\$100,000.00). The letter of credit shall permit the District to draw amounts if such amounts are due hereunder and the Company has not paid such amounts.

## **ARTICLE 15 - TAXES**

15.1 Company shall be responsible for all sales and gross receipt taxes, if any, that are assessed after the delivery of the LFG at the Delivery Point and the District shall be responsible for all such taxes, if any, incurred prior to such delivery.

15.2 Company shall be responsible for any taxes assessed on the Facility or the Company LFG Assets. Company shall have no responsibility for any taxes that may be assessed on the Landfill or the District LFG Assets. The Parties shall cooperate, acting reasonably and in good faith, to minimize any taxes payable hereunder.

## **ARTICLE 16 - GENERAL TERMS**

16.1 Each Party shall have the right to inspect and copy the books and records of the other Party relating to this Agreement, when and to the extent necessary to verify the accuracy of any Monthly LFG Statement. Such inspections shall be coordinated in advance between the Parties and shall be conducted during normal business hours. The cost of copying documents shall be paid by the Party requesting the copies.

16.2 Each Party shall have the right to inspect the LFG Assets owned by the other Party. Any inspections shall be coordinated in advance between the Parties and shall be conducted during normal business hours.

16.3 The following exhibits (“A” through “D”) are attached hereto:

- Exhibit “A” – A Legal Description of the District’s Landfill, plus a map depicting the location of the Landfill, the Interconnection Site, the Delivery Point and the LFG pipeline on the District’s property.
- Exhibit “B” – Legal Description and Depiction of the Easements on District Property Granted to Company.
- Exhibit “B-1” – Form of Grant of Non-Exclusive Easement for Landfill Gas Equipment and Pipeline.
- Exhibit “B-2” - Form of Grant of Non-Exclusive Easement for Ingress and Egress.
- Exhibit “C” – Form of Confidentiality Agreement
- Exhibit “D” - LFG Process Flow Schematic

These exhibits are incorporated herein by reference and made a part hereof as though set forth in

their entirety in the text of this Agreement. In the event there is any conflict between the provisions of this Agreement and the provisions of the exhibits attached hereto, the provisions of this Agreement shall govern.

16.4 It is acknowledged, understood, accepted and declared by the Parties that documents held by Company addressing Company operations downstream of the Delivery Point are intended by the Company to be the private business records of Company, as well as protected trade secrets. Documents of Company are not intended to become public records pursuant to Chapter 119, Florida Statutes, solely by the fact of the existence of this Agreement between Company and the District. However, documents generated by Company relating to the Metering of LFG and/or the amount of the LFG fees due to the District shall be available for review by the District. If Company seeks payment of any claims pursuant to the provisions of this Agreement, any documents relevant to Company claims shall be made available for inspection and copying by the District.

16.5 Company is not an agent, franchisee, partner, joint venturer, or in any way the agent of or related to or involved with the District concerning the receipt, use, consumption and disposition of LFG, except as a purchaser of such LFG.

16.6 Any term, condition, covenant, or obligation in this Agreement that requires performance by a Party subsequent to termination of this Agreement shall remain enforceable against such Party subsequent to such termination.

16.7 In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate changes as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein and all other provisions of this Agreement shall, as so amended, modified, supplemented, or otherwise affected by such action, remain in full force and effect.

16.8 Confidentiality Agreements. The Company believes that the processes, designs and equipment utilized at the Facility, as they may exist from time to time, are valuable, special, and unique assets and trade secrets of the Company's business. During the term of this Agreement, the Company may require the District's employees, and agents, contractors and subcontractors within the control of the District, to execute a Confidentiality Agreement in the form attached hereto as Exhibit "C" before such persons are granted access into the Company's buildings where such persons will have access to Company's Confidential Information (as defined in the Confidentiality Agreement").

16.9 Dispute Resolution. The Parties shall attempt to resolve any and all disputes to the mutual satisfaction of both Parties by good faith negotiations. Whenever a Party desires to initiate the dispute resolution process set forth in this section, it shall do so by delivering a dispute notice to the other Party. Within ten (10) days after the delivery of a dispute notice, the Parties shall meet for the purpose of negotiating a resolution of the dispute. The Parties will use their best

efforts to informally resolve the dispute within forty-five (45) days after the date of the written notice. If the dispute has not been resolved to either Party's satisfaction during this time period, the requirement for informal negotiations shall be satisfied. The Parties may, by mutual agreement, extend the period for informal negotiations. Nothing in this section shall prevent either Party from seeking judicial remedies in a court of law at any time.

16.10 Representations and Warranties of Parties.

A. The Parties represent and warrant to each other that upon execution of this Agreement: (A) each Party is duly organized and existing and in good standing under the laws of the state of their creation; (B) the Parties have the power and authority to enter into this Agreement and to carry out their respective obligations hereunder; (C) the Parties have taken all legal actions necessary to authorize them to enter into and perform their respective obligations hereunder; (D) entering into and performing this Agreement does not violate any statute, rule, regulation, order, writ, injunction, or decree of any court, administrative agency, or governmental body or violate any agreement by which a Party is bound; (E) this Agreement has been duly entered into by the Party and constitutes a legal, valid, and binding obligation of the Party; (F) there is no litigation or proceeding pending or threatened against a Party which could materially or adversely affect the performance of this Agreement; and (G) the Parties shall obtain all permits and approvals as may be required to authorize their respective performance of the obligations of this Agreement prior to the LFG Commencement Date. Except as expressly provided herein, the Parties make no representations or warranties and waive no rights or remedies.

B. This Agreement, which has been duly authorized, executed and delivered by the respective Parties, constitutes a legal, valid and binding obligation enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally, or by general equitable principles concerning remedies.

16.11 Assignment. This Agreement shall not be assigned by either Party without the prior express written consent of the other Party, which shall not be unreasonably withheld. Notwithstanding the above, Company may assign the Agreement to an affiliate company or to a trustee or lender in connection with the financing or refinancing of the Facility, without obtaining the District's prior approval. A permitted assignment shall neither be effective nor relieve a Party of its obligations under this Agreement unless this Agreement shall have been assumed by the assignee.

16.12 Relationship of the Parties; Beneficiaries.

A. This Agreement reflects an arms-length transaction. Nothing herein shall create a fiduciary, partnership, joint venture or employment or other agency relationship between the Parties.

B. This Agreement is not entered into for the benefit of, nor are any rights granted to, any third party.

C. It is recognized that the District will discharge some of its responsibilities through contractors. The District shall be solely responsible for executing any necessary contracts with contractors. Any such contract shall be entered into by the District as an independent contractor and not as a representative of Company.

D. It is recognized that the Company may discharge some of its responsibilities through subcontractors. The Company shall be solely responsible for executing any necessary contracts with subcontractors. Any such contract shall be entered into by the Company as an independent contractor and not as a representative of the District.

16.13 Further Assurances. Each Party agrees to execute and deliver any instruments and to perform any action that may be necessary or reasonably requested in order to give full effect to this Agreement. Each Party shall use all reasonable efforts to provide such information, execute such further instruments and documents, and take such action as may be reasonably requested by the other Party, not inconsistent with the provisions of this Agreement and not involving the assumption of obligations other than those provided for in this Agreement, to carry out the intent of this Agreement.

16.14 Notices. Any notices or communications required or permitted under this Agreement shall be in writing and may be either delivered in person, transmitted by telecopy followed by a mailed confirmation copy, or sent by recognized express mail or courier service, postage prepaid, at the following addresses of the Parties. Notices sent under this Agreement shall be deemed received upon actual receipt. Facsimile is acceptable notice and is effective when received; however, facsimiles received (i.e., printed) after 5:00 P.M. will be deemed received on the next Business Day. Email is acceptable notice and is effective when properly addressed and sent without receipt by the sender of a failure to deliver error; however, emails received after 5:00 P.M. will be deemed received on the next Business Day. The original of a notice must still be mailed as required herein. Changes in the telephone numbers through which telecopy may be transmitted or the address to which notices are to be delivered may be made by written notice given in accordance with this Subsection.

As to District:

County Administrator  
Indian River County Administration Building  
1801 27th St.  
Vero Beach, FL 32960  
Phone: (772) 226-1408

Email: [jbrown@ircgov.com](mailto:jbrown@ircgov.com)

and a copy to the County Attorney at the same address

Phone: (772) 226-1424  
Email: dreingold@ircgov.com

As to Company:

Site Director  
925 74<sup>th</sup> Avenue SW  
Vero Beach, Florida, 32968-9702  
Phone: (772) 562-9662  
Fax: 772 567 8557

Email: Craig Gontkovic crg@gridenergyservices.com  
Alain Castro acastro@irecodistrict.com

and a copy to the Company Attorney at:

John D. Werner  
FishmanHaygood LLP  
201 St. Charles Avenue, 46th Floor  
New Orleans, Louisiana 70170

Phone: (504) 586-5265  
Email: jwerner@fishmanhaygood.com

16.15 Waivers. No provision of this Agreement shall be deemed waived without the express written consent of the Party granting the waiver. The waiver by either Party of a default or a breach of any provision of this Agreement by the other Party shall not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either Party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

16.16 Entire Agreement; Modifications; Exhibits. The provisions of this Agreement (except captions), including the exhibits annexed hereto, shall (a) constitute the entire agreement between the Parties, superseding all prior or contemporaneous negotiations, understandings or agreements and (b) not be modified in any respect except by express written agreement executed by the Parties. The exhibits attached hereto are incorporated by reference. In the event of any conflict between the text of this Agreement and such exhibits, the text of this Agreement shall govern.

16.17 Headings. Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement. Captions and headings shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof.

16.18 Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original.

16.19 Venue. Any and all suits for breach of this Agreement shall be instituted and maintained in a state or federal court of competent jurisdiction having jurisdiction over Indian River County, Florida.

16.20 Governing Law and Construction. This Agreement and any questions concerning its validity, construction and performance shall be governed by the laws of the State of Florida, without giving effect to any conflicts-of-law rules requiring the application of the substantive laws of other jurisdictions. The language of this Agreement shall be construed according to its fair meaning, not strictly for or against the Company or District, and not against either Party as its drafter, because both Parties agree they had an equal hand in drafting this Agreement. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

16.21 Waiver of Jury Trial. Each Party hereby knowingly, willingly, and irrevocably waives its right to a trial by jury concerning claims arising under this Agreement.

16.22 Severability. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the Parties shall negotiate in good faith and agree to such amendments, modifications or supplements of, or to, this Agreement or such other appropriate changes as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, supplemented, or otherwise effected by such action remain in full force and effect.

16.23 Reasonableness Standard. All determinations, consents, reviews and approvals to be granted and conducted by the Parties under this Agreement and any other acts calling for the exercise of discretion shall be performed in good faith and, unless otherwise so specified, under a standard of reasonableness that is consistent with normal industry practices for the type of work involved. Where time periods are not specified, a reasonable period of time shall be allowed.

16.24 Time of Essence. The Parties each understand and acknowledge that time is of the essence of this Agreement.

16.25 Cooperation and Release of Information. District shall cooperate with Company's requests for public information and District shall release public records concerning the District, when such documents are requested by Company in compliance with Chapter 119, Florida Statutes.

16.26 Sovereign Immunity. Nothing in this Agreement is or shall be construed as a waiver of the District's sovereign immunity or the limitations on liability set forth in Section 768.28, Florida Statutes. Notwithstanding the foregoing, District shall deliver to Company an opinion of counsel reasonably acceptable to Company confirming that this Agreement is enforceable against the District in accordance with the terms hereof.

16.27 Records Retention. All records required to be prepared or maintained by the Company or District shall be retained by the Company or District, respectively, for at least five (5) years after the date when the records are prepared.

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IN WITNESS WHEREOF, the Parties have authorized the execution of this Agreement by their respective officials on the day, month and year below given.

**ATTEST:** Jeffrey R. Smith, Clerk

**INDIAN RIVER COUNTY SOLID  
WASTE DISPOSAL DISTRICT**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Bob Solari, Chairman

**District Approved:** \_\_\_\_\_

**APPROVED:**

By: \_\_\_\_\_  
Jason E. Brown  
County Administrator

**APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY:**

By: \_\_\_\_\_  
Dylan Reingold  
County Attorney

**COMPANY:  
INDIAN RIVER ECO DISTRICT, LLC.**

**WITNESSES:**

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

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

Dated \_\_\_\_\_

EXHIBIT "A"

A LEGAL DESCRIPTION OF THE DISTRICT'S LANDFILL, PLUS A MAP  
DEPICTING THE LOCATION OF THE LANDFILL, THE INTERCONNECTION SITE,  
THE DELIVERY POINT AND THE LFG DELIVERY LINE

EXHIBIT "B"

LEGAL DESCRIPTION AND DEPICTION OF THE EASEMENTS ON DISTRICT  
PROPERTY GRANTED TO COMPANY

DESCRIPTION:

AN EQUIPMENT EASEMENT, LYING AND BEING IN A PORTION OF TRACT 10, SECTION 25, TOWNSHIP 33 SOUTH, RANGE 38 EAST ACCORDING TO THE LAST GENERAL PLAT OF LANDS OF THE INDIAN RIVER FARMS COMPANY SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 25 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF TRACT 9, SECTION 25, TOWNSHIP 33 SOUTH, RANGE 38 EAST OF THE AFOREMENTIONED PLAT OF LANDS OF THE INDIAN RIVER FARMS COMPANY SUBDIVISION RUN SOUTH 00°14'48" WEST ALONG THE EAST LINE OF SAID TRACT 9 A DISTANCE OF 149.55 FEET TO A POINT; THENCE LEAVING SAID EAST LINE OF TRACT 9, RUN NORTH 89°42'28" WEST, PARALLEL WITH AND NORMAL TO THE NORTH LINE OF SAID TRACT 9 AND TRACT 10, SECTION 25, A DISTANCE OF 2173.18 FEET TO A POINT; THENCE RUN NORTH 00°08'29" WEST A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING CONTINUE NORTH 00°08'29" WEST A DISTANCE OF 104.55 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SUB-LATERAL C-5 CANAL, (INDIAN RIVER FARMS WATER CONTROL DISTRICT 60 FEET WIDE RIGHT-OF-WAY, AS RECORDED IN PLAT BOOK 2, PAGE 25 PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA); THENCE RUN SOUTH 89°42'28" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, PARALLEL WITH AND NORMAL TO THE NORTH LINE OF SAID TRACT 10, A DISTANCE OF 83.00 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE, RUN SOUTH 00°08'29" EAST A DISTANCE OF 104.55 FEET; THENCE RUN NORTH 89°42'28" WEST, PARALLEL WITH AND NORMAL TO SAID NORTH LINE OF TRACT 10, A DISTANCE OF 83.00 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 8677.65 SQUARE FEET OR 0.20 ACRES,  
MORE OR LESS

**EXHIBIT "B-1"**

**FORM OF GRANT OF NON-EXCLUSIVE EASEMENT FOR LANDFILL GAS  
EQUIPMENT AND PIPELINE**

**GRANT OF NON-EXCLUSIVE EASEMENT  
FOR LANDFILL GAS EQUIPMENT AND PIPELINE**

THIS EASEMENT is made, granted and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by INDIAN RIVER COUNTY SOLID WASTE DISPOSAL DISTRICT, a dependent special district of Indian River County, Florida, (hereinafter referred to as "Grantor"), to INDIAN RIVER ECO DISTRICT, LLC, its successors and assigns, whose real property is adjacent to the real property of the Grantor, (hereinafter referred to as "Grantee").

**WITNESSETH**

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a non-exclusive easement which shall permit Grantee authority to enter upon the Easement Property of the Grantor, including the flare station pad constructed thereon, at any time during the Grantor's normal business hours and at other times upon receiving the Grantor's prior consent, which shall not be unreasonably withheld or delayed, to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, and inspect the Grantee's Landfill Gas Assets and other improvements that are located in, on, over, under, and across the Easement Property. The Grantee's Landfill Gas Assets include, but are not limited to, the Grantee's pipelines, wires, compressors, coolers, metering equipment, valves, controls and other related equipment for the measurement, transmission, connection, handling, monitoring and management of landfill gas (collectively, the "Facilities").

The Easement Property hereby granted covers that certain land lying, situate and being in Indian River County, Florida, and being more particularly described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

together with the right and privilege from time to time to reconstruct, inspect, alter, improve, enlarge, replace, remove or relocate such Facilities and with all rights and privileges necessary or convenient for the full enjoyment or use thereof for the herein-described purposes, including, but not limited to the right to cut and keep clear all trees and undergrowth and other obstructions within said area that may interfere with the proper construction, operation and maintenance of such Facilities, the right to mark the location of any underground Facilities by above-ground and other suitable markers and the right of ingress, and egress for personnel and equipment of Grantee, its contractors, agents, successors or assigns, over the adjoining lands of the Grantor, for the purpose of exercising and enjoying the rights granted by this easement and any or all of the rights granted hereunder.

The Grantor, however, reserves the right and privilege to use the above-described property for any such purposes suitable to the Grantor except as might interfere or be inconsistent with the use, occupation, maintenance or enjoyment thereof by Grantee or its successors or assigns, or as might cause a hazardous condition.

It is understood and agreed that this easement will continue in effect for the benefit of Grantee, its

successors and assigns until the occurrence of the first of the following events: (a) the easement is no longer used by Grantee, its successors and assigns, for the purpose for which this grant is provided; or (b) the Landfill Gas Agreement between the Grantor and the Grantee is terminated or expires and is not replaced by another agreement requiring the same easement. At such time as one of these two events occur, the rights herein granted shall terminate and full use of the Easement Property shall be enjoyed by Grantor, its successors or assigns, and Grantee shall execute a release of all rights under this grant of easement.

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal of the date first above written.

**ATTEST:** Jeffrey R. Smith, Clerk

**INDIAN RIVER COUNTY SOLID  
WASTE DISPOSAL DISTRICT**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Bob Solari, Chairman

**District Approved:** \_\_\_\_\_

**APPROVED:**

By: \_\_\_\_\_  
Jason E. Brown  
County Administrator

**APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY:**

By: \_\_\_\_\_  
Dylan Reingold  
County Attorney

**COMPANY:  
INDIAN RIVER ECO DISTRICT, LLC.**

**WITNESSES:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated \_\_\_\_\_

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

**EXHIBIT “A” to EXHIBIT “B-1”  
LEGAL DESCRIPTION**

*SKETCH OF DESCRIPTION  
PART OF TRACT 10, SECTION 26,  
TOWNSHIP 33 SOUTH, RANGE 38 EAST  
INDIAN RIVER FARMS COMPANY SUBDIVISION  
INDIAN RIVER COUNTY, FLORIDA.*

**DESCRIPTION:**

AN EQUIPMENT EASEMENT, LYING AND BEING IN A PORTION OF TRACT 10, SECTION 26, TOWNSHIP 33 SOUTH, RANGE 38 EAST ACCORDING TO THE LAST GENERAL PLAT OF LANDS OF THE INDIAN RIVER FARMS COMPANY SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 28 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH-EAST CORNER OF TRACT 9, SECTION 26, TOWNSHIP 33 SOUTH, RANGE 38 EAST OF THE AFOREMENTIONED PLAT OF LANDS OF THE INDIAN RIVER FARMS COMPANY SUBDIVISION, RUN SOUTH 00°14'48" WEST ALONG THE EAST LINE OF SAID TRACT 9 A DISTANCE OF 118.25 FEET TO A POINT, THENCE FOLLOWING SAID EAST LINE OF TRACT 9, RUN N28°11'09"22"E ALSE1, PARALLEL WITH AND NORMAL TO THE NORTH LINE OF SAID TRACT 9 AND TRACT 10, SECTION 26, A DISTANCE OF 2143.18 FEET TO A POINT, THENCE RUN NORTH 00°08'25" WEST, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING CONTINUE NORTH 00°08'25" WEST, A DISTANCE OF 134.55 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SUBDIVISION CANAL, INDIAN RIVER FARMS WATER CONTROL DISTRICT 60 FEET WIDE RIGHT-OF-WAY, AS RECORDED IN PLAT BOOK 2, PAGE 28 PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA, THENCE RUN SOUTH 63°42'28" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, PARALLEL WITH AND NORMAL TO THE NORTH LINE OF SAID TRACT 10, A DISTANCE OF 35.00 FEET, THENCE FOLLOWING SAID SOUTH RIGHT-OF-WAY LINE, RUN SOUTH 00°08'25" WEST, A DISTANCE OF 106.55 FEET, THENCE RUN NORTH 80°42'28" WEST, PARALLEL WITH AND NORMAL TO SAID NORTH LINE OF TRACT 10, A DISTANCE OF 83.33 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINS 0677.65 SQUARE FEET OR 0.03 ACRES, MORE OR LESS.

**SURVEYOR'S GENERAL NOTES AND REPORT:**

1. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.
2. BEARINGS SHOWN HEREON ARE BASED UPON THE NORTH AMERICAN DATUM OF 1885, ADJUSTMENT OF 1995, AND ARE PROJECTED IN THE FLORIDA STATE PLANNED COORDINATE SYSTEM, FLORIDA EAST ZONE (801) AND ARE REFERENCED TO THE FURNISHED AND MONUMENTED LINE SHOWN HEREON LABELED AS THE BEARING BASIS.
3. ALL BOUNDARY DIMENSIONS USED, INCLUDING BUT NOT LIMITED TO BEARINGS, ANGLES AND DISTANCES ARE PREPARED UPON BOUNDARY SURVEY BY CARTER ASSOCIATES, INC. JOB NO. 11-2125, DATED FEBRUARY, 2011. ALL DIMENSIONS SHOWN HEREON ARE DISPLAYED IN U.S. SURVEY FEET AND DECIMAL PARTS THEREOF.
4. THIS IS A SKETCH AND DESCRIPTION OF A PROPOSED EQUIPMENT EASEMENT ONLY AND NOT A BOUNDARY SURVEY. THIS PROPERTY WAS NOT ABSTRACTED OR RESEARCHED BY THIS OFFICE FOR ANY ENCUMBRANCES OF RECORD. THE PERSON DESCRIBED IN THIS SKETCH IS SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY. MATTERS OF RECORD NOT BROUGHT TO THE SURVEYOR'S ATTENTION BY THE CLIENT, THEIR AGENT OR AS DISCLOSED BY A FURNISHED TITLE INSURANCE POLICY ARE NOT INCLUDED.
5. THIS SKETCH OF DESCRIPTION CONSISTS OF TWO SHEETS. ONE IS NOT VALID UNLESS BOTH SHEETS ARE PRESENT.

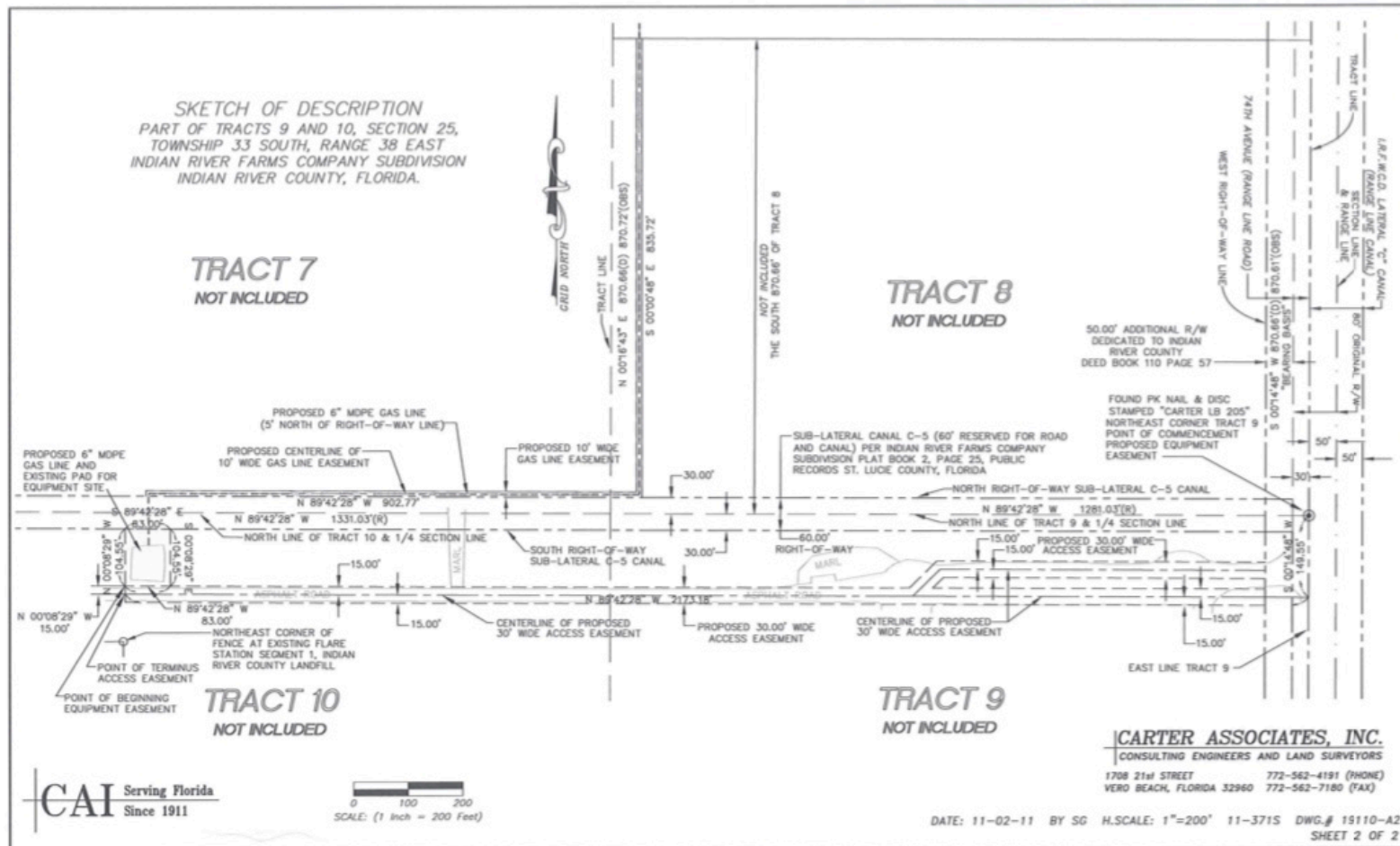
**CAI** Serving Florida  
Since 1911

DAVID E. LUETKE, P.E.M.  
FLORIDA LICENSE NO. 5749  
CARTER ASSOCIATES, INC. 11-2125

**CARTER ASSOCIATES, INC.**  
CONSULTING ENGINEERS AND LAND SURVEYORS  
1206 2nd STREET 772-562-4151 (PHONE)  
VERO BEACH, FLORIDA 32960 772-562-7190 (FAX)

REVISED: 12-03-11 TYPE OF EASEMENT PER CLIENT, SS

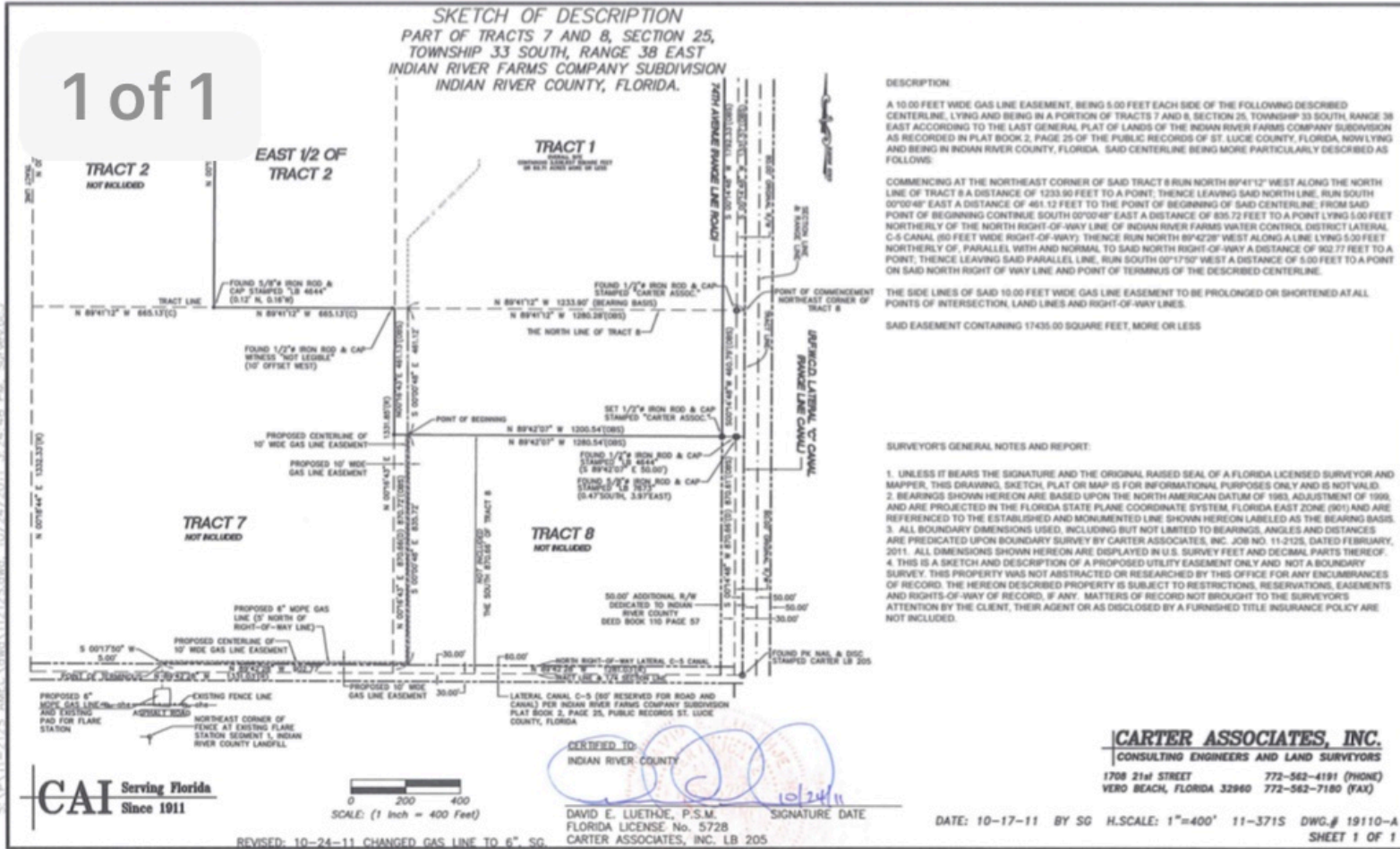
DATE: 11-30-11 BY: SG M. SCALE: 1"=200' 11-3715 DWG.# 15110 A2  
SHEET 1 OF 2





1 of 1

SKETCH OF DESCRIPTION  
PART OF TRACTS 7 AND 8, SECTION 25,  
TOWNSHIP 33 SOUTH, RANGE 38 EAST  
INDIAN RIVER FARMS COMPANY SUBDIVISION  
INDIAN RIVER COUNTY, FLORIDA.



**DESCRIPTION**

A 10.00 FEET WIDE GAS LINE EASEMENT, BEING 5.00 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE, LYING AND BEING IN A PORTION OF TRACTS 7 AND 8, SECTION 25, TOWNSHIP 33 SOUTH, RANGE 38 EAST ACCORDING TO THE LAST GENERAL PLAT OF LANDS OF THE INDIAN RIVER FARMS COMPANY SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 25 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, NOW LYING AND BEING IN INDIAN RIVER COUNTY, FLORIDA, SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 8 RUN NORTH 89°41'12" WEST ALONG THE NORTH LINE OF TRACT 8 A DISTANCE OF 1233.90 FEET TO A POINT, THENCE LEAVING SAID NORTH LINE, RUN SOUTH 0°00'48" EAST A DISTANCE OF 461.12 FEET TO THE POINT OF BEGINNING OF SAID CENTERLINE, FROM SAID POINT OF BEGINNING CONTINUE SOUTH 0°00'48" EAST A DISTANCE OF 835.72 FEET TO A POINT LYING 5.00 FEET NORTHERLY OF THE NORTH RIGHT-OF-WAY LINE OF INDIAN RIVER FARMS WATER CONTROL DISTRICT LATERAL C-5 CANAL (50 FEET WIDE RIGHT-OF-WAY); THENCE RUN NORTH 89°42'28" WEST ALONG A LINE LYING 5.00 FEET NORTHERLY OF, PARALLEL WITH AND NORMAL TO SAID NORTH RIGHT-OF-WAY A DISTANCE OF 922.77 FEET TO A POINT, THENCE LEAVING SAID PARALLEL LINE, RUN SOUTH 0°01'17" WEST A DISTANCE OF 5.00 FEET TO A POINT ON SAID NORTH RIGHT OF WAY LINE AND POINT OF TERMINUS OF THE DESCRIBED CENTERLINE.

THE SIDE LINES OF SAID 10.00 FEET WIDE GAS LINE EASEMENT TO BE PROLONGED OR SHORTENED AT ALL POINTS OF INTERSECTION, LAND LINES AND RIGHT-OF-WAY LINES.

SAID EASEMENT CONTAINING 17435.00 SQUARE FEET, MORE OR LESS

- SURVEYOR'S GENERAL NOTES AND REPORT:**
1. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.
  2. BEARINGS SHOWN HEREON ARE BASED UPON THE NORTH AMERICAN DATUM OF 1983, ADJUSTMENT OF 1999, AND ARE PROJECTED IN THE FLORIDA STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE (90') AND ARE REFERENCED TO THE ESTABLISHED AND MONUMENTED LINE SHOWN HEREON LABELED AS THE BEARING BASIS.
  3. ALL BOUNDARY DIMENSIONS USED, INCLUDING BUT NOT LIMITED TO BEARINGS, ANGLES AND DISTANCES ARE PREDATED UPON BOUNDARY SURVEY BY CARTER ASSOCIATES, INC. JOB NO. 11-2125, DATED FEBRUARY, 2011. ALL DIMENSIONS SHOWN HEREON ARE DISPLAYED IN U.S. SURVEY FEET AND DECIMAL PARTS THEREOF.
  4. THIS IS A SKETCH AND DESCRIPTION OF A PROPOSED UTILITY EASEMENT ONLY AND NOT A BOUNDARY SURVEY. THIS PROPERTY WAS NOT ABSTRACTED OR RESEARCHED BY THIS OFFICE FOR ANY ENCUMBRANCES OF RECORD. THE HEREON DESCRIBED PROPERTY IS SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY. MATTERS OF RECORD NOT BROUGHT TO THE SURVEYOR'S ATTENTION BY THE CLIENT, THEIR AGENT OR AS DISCLOSED BY A FURNISHED TITLE INSURANCE POLICY ARE NOT INCLUDED.

CERTIFIED TO  
INDIAN RIVER COUNTY

DAVID E. LUETHJE, P.S.M.  
FLORIDA LICENSE No. 5728  
CARTER ASSOCIATES, INC. LB 205

SIGNATURE DATE  
10/24/11

**CARTER ASSOCIATES, INC.**  
CONSULTING ENGINEERS AND LAND SURVEYORS  
1708 21st STREET 772-562-4181 (PHONE)  
VERO BEACH, FLORIDA 32960 772-562-7180 (FAX)

CAI Serving Florida  
Since 1911



REVISED: 10-24-11 CHANGED GAS LINE TO 6" SG.

DATE: 10-17-11 BY SG H.SCALE: 1"=400' 11-3715 DWG.# 19110-A SHEET 1 OF 1

S:\P\11-2125-AMFC\Draw\112125.dwg, 10/24/2011 3:24:48 PM, Surveyor.cai

**EXHIBIT "B-2"**

**FORM OF GRANT OF NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS**

**GRANT OF NON-EXCLUSIVE EASEMENT  
FOR INGRESS AND EGRESS**

THIS EASEMENT is made, granted and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by INDIAN RIVER COUNTY SOLID WASTE DISPOSAL DISTRICT, a dependent special district of Indian River County, Florida, (hereinafter referred to as "Grantor"), to INDIAN RIVER ECO DISTRICT, LLC, its successors and assigns, whose real property is adjacent to the real property of the Grantor, (hereinafter referred to as "Grantee").

**WITNESSETH**

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a non-exclusive easement which shall permit Grantee authority to enter upon the Easement Property of the Grantor at any time during the Grantor's normal business hours and at other times upon receiving the Grantor's prior consent, which shall not be unreasonably withheld or delayed, for ingress and egress to the Grantee's Landfill Gas Assets located on Grantor's property, to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, and inspect the Grantee's Landfill Gas Assets and other improvements that are located in, on, over, under, and across the Grantor's property. The Grantee's Landfill Gas Assets include, but are not limited to, the Grantee's pipelines, wires, compressors, coolers, metering equipment, valves, controls and other related equipment for the measurement, transmission, connection, handling, monitoring and management of landfill gas (collectively, the "Facilities").

The Easement Property hereby granted covers that certain land lying, situate and being in Indian River County, Florida, and being more particularly described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

together with the right and privilege from time to time to alter, repair and improve if necessary, the Easement Property for ingress and egress purposes, and with all rights and privileges necessary or convenient for the full enjoyment or use thereof for the herein-described purposes, including, but not limited to the right to cut and keep clear all trees and undergrowth and other obstructions within said area that may interfere with the proper use of such Easement Property, and the right of ingress and egress for personnel and equipment of Grantee, its contractors, agents, successors or assigns, for the purpose of exercising and enjoying the rights granted by this easement and any or all of the rights granted hereunder.

The Grantor, however, reserves the right and privilege to use the above-described property for any such purposes suitable to the Grantor except as might interfere or be inconsistent with the use, occupation, maintenance or enjoyment thereof by Grantee or its successors or assigns, or as might cause a hazardous condition.

It is understood and agreed that this easement will continue in effect for the benefit of Grantee, its successors and assigns until the occurrence of the first of the following events: (a) the easement is no longer used by Grantee, its successors and assigns, for the purpose for which this grant is provided; or (b) the Landfill Gas Agreement between the Grantor and the Grantee is terminated or expires and is not replaced by another agreement requiring the same easement. At such time as one of these two events occur,

the rights herein granted shall terminate and full use of the Easement Property shall be enjoyed by Grantor, its successors or assigns, and Grantee shall execute a release of all rights under this grant of easement.

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal of the date first above written.

**ATTEST:** Jeffrey R. Smith, Clerk

**INDIAN RIVER COUNTY SOLID  
WASTE DISPOSAL DISTRICT**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Bob Solari, Chairman

**District Approved:** \_\_\_\_\_

**APPROVED:**

By: \_\_\_\_\_  
Jason E. Brown  
County Administrator

**APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY:**

By: \_\_\_\_\_  
Dylan Reingold  
County Attorney

**COMPANY:  
INDIAN RIVER ECO DISTRICT, LLC.**

**WITNESSES:**

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated \_\_\_\_\_

**EXHIBIT "A" to EXHIBIT "B-2"  
LEGAL DESCRIPTION**

**SKETCH OF DESCRIPTION**  
 PART OF TRACTS 9 AND 10, SECTION 25,  
 TOWNSHIP 33 SOUTH, RANGE 30 EAST  
 INDIAN RIVER FARM COMPANY SUBDIVISION  
 INDIAN RIVER COUNTY, FLORIDA.

**DESCRIPTION:**

A 1000-FOOT WIDE ACCESS EASEMENT, 100 FEET WIDE, BEING A PORTION OF TRACTS 9 AND 10, SECT. 25, TOWNSHIP 33 SOUTH, RANGE 30 EAST ACCORDING TO THE LAST GENERAL PLAT OF LANDS OF THE INDIAN RIVER FARM COMPANY SUBDIVISION AS RECORDED IN PLAT 87002, PAGE 26 OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA, BEGINNING AT ITS AND BEING IN INDIAN RIVER COUNTY, FLORIDA, AND ENDING 1000 FEET SOUTH OF THE FOLLOWING DESCRIBED CENTERLINE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF AND BEING SOUTH 07°34'46" WEST ALONG THE EAST LINE OF TRACT 9 A LINE 1000 FEET TO A POINT THENCE LEAVING SAID POINT, BEING NORTH 89°03'00" WEST AND PARALLEL WITH THE NORTH BOUNDARY LINE OF A DISTANCE OF 242.14 FEET TO A POINT ON THE WEST PHOTOGRAPIC LINE OF TRACT 10 (RANGE LINE TOWNSHIP 33 SOUTH EAST 1/4) BEING THE EAST BOUNDARY LINE OF TRACT 10 (RANGE LINE TOWNSHIP 33 SOUTH EAST 1/4) BEING THE POINT OF BEGINNING OF SAID CENTERLINE FROM SAID POINT OF BEGINNING 1000 FEET NORTH WEST AND PARALLEL WITH AND NORMAL TO THE NORTH BOUNDARY LINE OF TRACT 9 A DISTANCE OF 1000 FEET TO POINT A BEING SOUTH 88°56'13" WEST AND PARALLEL WITH SAID CENTERLINE FROM SAID POINT A BEING NORTH 01°43'47" EAST ALONG SAID CENTERLINE TO A POINT B BEING SOUTH 89°03'00" WEST AND PARALLEL WITH THE NORTH LINE OF TRACT 10 A DISTANCE OF 242.14 FEET TO A POINT OF BEGINNING TO BEING THE POINT OF BEGINNING OF SAID CENTERLINE ALONG SAID CENTERLINE WITH AND NORMAL TO THE NORTH LINE OF TRACT 9 A DISTANCE OF 242.14 FEET TO A POINT C BEING SOUTH 89°03'00" WEST AND PARALLEL WITH THE NORTH LINE OF TRACT 10 A DISTANCE OF 1000 FEET TO A POINT D BEING SOUTH 07°34'46" WEST AND PARALLEL WITH THE NORTH LINE OF TRACT 9 A DISTANCE OF 1000 FEET TO THE POINT OF BEGINNING OF SAID CENTERLINE.

THE SIDE LINES OF SAID 1000 FEET WIDE ACCESS EASEMENT TO BE 1000 FEET WIDE BEING 500 FEET AT ALL ANGLES FROM ALL POINTS OF INTERSECTION, LAND LINES AND PHOTOGRAPHIC LINES.

SAID EASEMENT CONTAINING 242,140 SQUARE FEET OR 5.56 ACRES, MORE OR LESS.

**SURVEYOR'S GENERAL NOTES AND REPORT:**

1. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND SURVEYOR THIS DRAWING, SKETCH, PLAN OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.
2. BEARINGS & DISTANCES ARE BASED UPON THE NORTH AZIMUTH VALUE OF 1985 AND MERIDIAN ANGLE CORRECTIONS PROVIDED IN THE FLORIDA STATE PLANE COORDINATE SYSTEM. FLORIDA STATE PLANE COORDINATE ARE REFERENCED TO THE ESTABLISHED AND MONUMENTED LINE BETWEEN HORNSHEAD POINT AND HORN POINT.
3. ALL SURVEYING INSTRUMENTS USED IN CONNECTION WITH THIS SURVEY ARE CALIBRATED AND THE ANGLES AND DISTANCES ARE PROVIDED UPON THESE INSTRUMENTS BY CARTER ASSOCIATES, INC. JOB NO. 11-0715, DATED FEBRUARY 2011. ALL MEASUREMENTS, BEARINGS, DISTANCES, ARE TO BE TAKEN TO THE NEAREST DECIMAL PARTS THEREOF.
4. THIS IS A SKETCH AND DESCRIPTION OF A PROPOSED ACCESS EASEMENT AND NOT A GUARANTEE THAT THE PROPERTY HAS BEEN EXHAUSTIVELY RESEARCHED BY THE SURVEYOR FOR ANY AND ALL ENCUMBRANCES. THE SURVEYOR'S PROFESSIONAL OPINION IS SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS IN WAYS OF NEARBY ADJACENT PARTIES OR RECORDS NOT BOUND TO THE SURVEYOR'S ATTENTION BY THE CLIENT. THE SURVEYOR'S GREAT CARE HAS BEEN EXERCISED BY THE SURVEYOR TO VERIFY THAT THE INFORMATION IS CORRECT AND ACCURATE.
5. THIS SKETCH OF DESCRIPTION CONSISTS OF TWO SHEETS, ONE IS NOT VALID UNLESS BOTH SHEETS ARE PRESENT.

**CAI** Survey Florida  
 Since 1911

**CARTER ASSOCIATES, INC.**  
 CONSULTING ENGINEERS AND LAND SURVEYORS  
 1700 21st STREET 772-552-4191 (PHONE)  
 1600 ROAD FLORIDA 32909 772-552-7100 (FAX)

FILE: 11-0715, 2/11/11, 2/11/11  
 FLORIDA LICENSE No. 6728  
 CARTER ASSOCIATES, INC. 1/2008  
 DATE: 11-22-11 BY: SP, WISWALL, 11-2008 11-0715 CWS & 18110-A1  
 SHEET 1 OF 2



EXHIBIT “C”

FORM OF CONFIDENTIALITY AGREEMENT

**CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement (“Agreement”), effective as of the last date signed below (“Effective Date”), is by and between \_\_\_\_\_ (“Company”) and Indian River County Solid Waste Disposal District (“District”), a special dependent district of Indian River County, Florida.

**RECITALS:**

**WHEREAS**, each of Company and the County shall each be referred to as a “Party” and collectively as the “Parties”;

**WHEREAS**, the Parties have held discussions and exchanged information regarding the development of a landfill gas electricity generating facility, associated agreements and related matters, and will continue to hold discussions and exchange information concerning the development and operation thereof (the “Transaction”); and

**WHEREAS**, in the course of discussions regarding the Transaction, it will be necessary for a Party (“Disclosing Party”) to release certain Confidential Information (as defined below) to another Party (“Receiving Party”).

**NOW, THEREFORE**, in consideration of the mutual promises and covenants made herein, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

1. **Confidential Information.** “Confidential Information” shall mean all information, regardless of the form in which it is communicated or maintained (whether oral, written, electronic or visual) and whether prepared by Disclosing Party or otherwise, which is disclosed to Receiving Party, regardless of whether such information is disclosed before or after the execution of this Agreement, in connection with the Transaction and including all records, reports, analyses, notes, memoranda, documentation, data, specifications, diagrams, statistics, systems or software, manuals, business plans, operational information or practices, processes (whether or not patented, patentable or reduced to practice), customer lists, contractual arrangements with, and information about, the Disclosing Party’s suppliers, distributors and customers, the existence of the discussions between the Parties concerning the Transaction, or other information that are based on, contain or reflect any such Confidential Information. For such Confidential Information provided by Company to the County, Company will designate such documents, materials, or information as such and satisfy the requirements for the applicable exemption (e.g. section 812.081, Florida Statutes) in order to invoke such exemption from disclosure otherwise required of the other parties as public agencies pursuant to the Florida Public Records Act. Confidential information also includes any security system plans, which include records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems; threat assessments conducted by District or any private entity; threat response

plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training. Additionally, building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by the District are also Confidential Information. All information received from the Disclosing Party shall be considered Confidential Information, unless it is specifically designated as non-proprietary and non-confidential. For the avoidance of doubt, a Party's Confidential Information specifically includes data disclosed by or through such Party's affiliates, or their respective owners, officers, employees, members, or representatives.

Confidential Information shall not include: (a) information which is or becomes publicly available other than as a result of a violation of this Agreement; (b) information which is or becomes available on a non-confidential basis from a source which is not known to the Receiving Party to be prohibited from disclosing such information pursuant to a legal, contractual or fiduciary obligation to the Disclosing Party; (c) information which the Receiving Party can demonstrate was legally in its possession prior to disclosure by the Disclosing Party; or (d) information which is developed by or for Receiving Party independently of the Disclosing Party's Confidential Information.

2. Nondisclosure and Use of Confidential Information. Confidential Information shall not be used for any purpose other than to analyze, evaluate, negotiate, implement or complete the Transaction. Confidential Information shall be held in strict confidence by Receiving Party and shall not be disclosed without prior written consent of Disclosing Party, except to those advisors, affiliates, subcontractors, agents, assigns, attorneys, employees, directors, officers and/or members ("Representatives") with a need-to-know the Confidential Information for the purposes of analyzing, implementing or completing the Transaction. Receiving Party shall be responsible for any breach of this Agreement by the Receiving Party or its Representatives. The Receiving Party shall use the same degree of care to protect the Confidential Information as the Receiving Party employs to protect its own information of like importance, but in no event less than a reasonable degree of care based on industry standard.

3. Required Disclosure. In the event that Receiving Party is requested or required by legal or regulatory authority to disclose any Confidential Information, the Receiving Party shall promptly notify the Disclosing Party of such request or requirement prior to disclosure, if permitted by law, so that Disclosing Party may seek an appropriate protective order. In the event that a protective order or other remedy is not obtained, Receiving Party agrees to furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its counsel, is consistent with the scope of the subpoena or demand, and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information. Receiving Party will provide reasonable cooperation to Disclosing Party and its legal counsel with respect to performance of the covenants undertaken pursuant to this Section 3.

4. Remedies. The Receiving Party agrees that money damages would not be a sufficient remedy for any breach of this Agreement and that Disclosing Party shall be entitled to seek injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this Agreement. Such remedy shall not be the exclusive remedy for any breach of this Agreement, but shall be in addition to all other rights and remedies available at law or in equity. Notwithstanding anything contained in this Agreement, the Receiving Party's liability to the Disclosing Party in connection with this Agreement and any activities undertaken in connection with the evaluation of the Transaction shall be limited to direct damages and shall exclude any other liability, including without limitation liability for special, indirect, punitive or consequential damages in contract, tort, warranty, strict liability or otherwise. delivered by the signatory so authorized, and the



obligations contained herein constitute the valid and binding obligations of such Party, subject to approval of a Party's governing body, as may be required.

5. Return or Destruction. Unless, otherwise required by law, at any time upon the Disclosing Party's written request, the Receiving Party shall return or destroy, at the Receiving Party's option, all written Confidential Information of the Disclosing Party, including that portion of such Confidential Information that may be found in analyses, compilations, studies or other documents prepared by, or for, the Receiving Party, and the Receiving Party and its Representatives shall not retain any copies of such written Confidential Information; provided, however, that Confidential Information may be retained by the Receiving Party to the extent that retention of such Confidential Information is necessary to comply with the Receiving Party's internal document retention policies aimed at legal, corporate governance or regulatory compliance and any such retained Confidential Information shall remain subject to the disclosure and use restrictions set forth herein, notwithstanding any termination or expiration of this Agreement. The Receiving Party shall, upon written request of the Disclosing Party, cause one of its duly authorized officers to certify in writing to the Disclosing Party that the requirements of the preceding sentence have been satisfied in full. The Receiving Party shall not be deemed to have retained or failed to return or destroy any Confidential Information if Confidential Information received or stored in digital format is deleted from local hard drives so long as no attempt is made to recover such Confidential Information from servers or back-up sources, provided that any such retained Confidential Information shall remain subject to the disclosure and use restrictions set forth herein, notwithstanding any termination or expiration of this Agreement.

6. No Other Agreement. It is understood that this Agreement is not intended to and does not, obligate any Party to enter into any further agreements or to proceed with any possible relationship or other transaction, including without limitation the Transaction, or to require any Party to disclose any information under this Agreement. Any pricing lists, proposals or summaries disclosed under this Agreement are intended only to provide a framework for further discussions among the Parties. Pricing documents are not an offer or a commitment of any Party.

7. No License. It is understood that nothing contained in this Agreement shall be construed as granting or conferring rights by license or otherwise in any Confidential Information disclosed to Receiving Party. Nothing in this Agreement is intended to prevent any Party hereto from using its own Confidential Information which it furnished hereunder for dealings with third parties for any purpose.

8. Amendment. Any amendment to this Agreement must be in writing and signed by an authorized representative of each Party.

9. No Assignment. This Agreement may not be assigned by any Party unless prior written consent is obtained from the other Parties.

10. Non-Waiver. No waiver of any provision of this Agreement shall be deemed to be nor shall constitute a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

11. Governing Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Florida without regard to its conflict of law's provisions. Any disputes resulting in litigation between the Parties shall be conducted exclusively in Indian River County, Florida for claims brought in state court, and the Southern District of Florida for those claims justiciable in federal court.

12. Term. This Agreement shall terminate one (1) year from the Effective Date of this Agreement, or thirty (30) calendar days following written notice by any Party to the others of its desire to terminate this Agreement, whichever occurs first. However, except as to 1) security system plans, which include records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems; threat assessments conducted by District or any private entity; threat response plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training; and 2) building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by District, the obligations contained herein shall remain in effect for a period of two (2) years from the date the Confidential Information was disclosed under this Agreement. With respect to security system plans, which include records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems; threat assessments conducted by District or any private entity; threat response plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training, and building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by District the obligations contained herein shall remain permanently in effect.

13. Entire Agreement. This Agreement constitutes the full and entire agreement between the Parties regarding the confidentiality of Confidential Information. The Parties agree that the Recitals are true and correct and form a vital part of this Agreement. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement.

14. Counterparts. This Agreement may be signed in counterparts and may be delivered by facsimile or electronic means, each of which may be deemed an original, and all of which together constitute one and the same agreement.

15. Authorization and Binding Obligations. Each Party represents to the other Party that the execution, delivery and performance of this Agreement have been duly authorized, and this Agreement has been duly executed and delivered by the signatory so authorized, and the obligations contained herein constitute the valid and binding obligations of such Party, subject to approval of a Party's governing body, as may be required.

16. Waiver of Trial by Jury. TO THE EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

17. Publicity. Unless otherwise required by law, no Party shall make any public disclosures regarding another Party, or the subject matter hereof, including, without limitation, any advertisements, publications or documents, without the prior written approval of such other Party.

18. No Warranties. Each Party acknowledges that the Disclosing Party provides the Confidential Information on an "as is" basis and without warranty of any kind. THE DISCLOSING PARTY EXPRESSLY DISCLAIMS ALL WARRANTIES PERTAINING TO THE CONFIDENTIAL INFORMATION, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

19. Export of Confidential Information. Each Party receiving Confidential Information hereunder agrees that it and its Representatives will not export such Confidential Information in contravention of the provisions of (a) the U.S. Export Administration Act, as amended, and the regulations issued thereunder and (b) any other applicable laws of other countries and/or jurisdictions.

20. Confidential Information from Third Party Contractors. District Confidential Information may be provided to Company through third party contractors. Confidential Information provided by third party contractors shall be subject to the same requirements under this Agreement as Confidential Information provided directly by District. Company Confidential Information may be provided to District through third party contractors. Confidential Information provided by third party contractors shall be subject to the same requirements under this Agreement as Confidential Information provided directly by Company.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

[COMPANY]

INDIAN RIVER COUNTY  
SOLID WASTE DISPOSAL DISTRICT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# EXHIBIT "D"

## LFG PROCESS FLOW SCHEMATIC

