

AMENDMENT NO. 4 TO LANDFILL GAS AGREEMENT

This Amendment No. 4 ("**Amendment No. 4**") to that certain Landfill Gas Agreement, (as amended and modified prior hereto, the "**Agreement**"), by and between the Indian River County Solid Waste Disposal District, a dependent special district of Indian River County, Florida (the "**District**") and Nopetro Eco District, LLC, a Florida Limited Liability Company (the "**Company**" or "**NED**"), successor by assignment from Indian River Eco District, LLC (the "**IRED**"), is made and entered into as of _____, 2024 ("**Effective Date**"). The District and the Company are each a "**Party**" and collectively the "**Parties**".

WHEREAS, the District and IRED entered into the Agreement dated as of July 16 2019 (the "**Original Agreement**") pursuant to which the District would deliver and IRED would accept, landfill gas from the District, which Original Agreement has been amended three times by the Parties: on July 14, 2020 ("**Amendment No. 1**"), May 18, 2021 ("**Amendment No. 2**") and December 20, 2022 ("**Amendment No. 3**"); and

WHEREAS, both Parties agree to extend the LFG Commencement Date and the LFG Termination Date by eight (8) months in consideration of an additional payment of \$60,000.00 as defined below;

WHEREAS, both Parties agree to commit to standard operating procedures under Sections 3.1 and 3.2 by June 30, 2024, as both parties agree that the division of responsibilities are not clearly defined under those Sections; and

WHEREAS, the Company and IRED entered into that certain Assignment and Assumption Agreement (the "**Assignment**") dated as of November 29, 2021 pursuant to which IRED assigned to the Company and the Company assumed all of IRED's rights and obligations under the Agreement.

NOW, THEREFORE, in consideration of the premises, any prior claims for Force Majeure having been resolved, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to amend and modify the Agreement and all prior amendments as follows:

- 1. The above recitals are true, correct and describe the intent of the Parties concerning Amendment No. 4.**
- 2. The Parties agree to reconvene shortly after groundbreaking to further define, clarify, and finalize the division of responsibilities and operating procedures under Sections 3.1 and 3.2, no later than June 30, 2024.**

ARTICLE 1 – DEFINITIONS

Section 1.1 is amended to strike "Gross Receipts" as a defined term from the Agreement (and subsequent Amendments) and replaced or substituted with "Net Proceeds" as follows (other clauses or definitions not referenced below will stay as written):

Interest Expense – means the monthly cost of interest on debt financed for the construction of the Facility and not to include subsidiaries.

Itemized Expense – means the cost accrued per month, limited to the listed items and any accompanying annual cap under the Cost of Goods Sold, Selling General and Administrative Expenses (SG&A), and Other Costs, which are directly related to the RNG Facility and not to include subsidiaries as reflected in Exhibit E.

Net Proceeds – means the gross receipts received by the Company per month (as reflected in the Monthly LFG Statement) from the sale of RNG from the Facility, including any and all Environmental Attributes minus the Itemized Expense.

ARTICLE 2 - TERM, RENEWAL AND MILESTONES

Section 2.1 is amended to read as follows (other clauses not referenced below will stay as written):

- 2.1. This Agreement shall take effect on the Effective Date and continue for a period of twenty (20) years following the LFG Commencement Date (the "**Initial Term**"), unless terminated earlier or extended in the manner as provided herein.

The Parties herein agreed to change the LFG Commencement Date from June 30, 2024 to February 28, 2025, unless extended as provided herein (the "**LFG Commencement Date**"). This agreement is contingent upon the Company paying the District a pre-start-up fee of \$60,000 upon 30 days of the Effective Date of this Amendment. The Parties agree that with this extension, all claims of Force Majeure arising prior to the execution of this Amendment 4 to the Agreement have been resolved and released, and further agree that no such prior claim of Force Majeure can be raised as an excuse for future nonperformance. The Parties herein also agreed to change the LFG Termination Date from September 30, 2024 to May 31, 2025, unless extended as provided herein (the "**LFG Termination Date**"). If the LFG Commencement Date has not occurred by May 31, 2025 (subject to extension by Force Majeure), Section 13.1 shall apply.

Company shall meet the following milestones as a demonstration of their progress toward achieving the LFG Commencement Date and meeting the obligations of this Agreement:

- a) Groundbreaking shall occur by March 30, 2024.

The above milestones shall be extended for any delays caused solely by the District, acknowledged in writing by the District, or by an event of Force Majeure, but only to the extent of and for the duration of any such delay.

ARTICLE 3 -THE PARTIES' LFG FACILITIES

Section 3.1 is amended by the insert of Sections 3.1K to read as follows (other clauses not

referenced below will stay as written):

3.1. District Responsibilities and Obligations.

K. The District has purchased and fabricated a High-Pressure Skid System with chiller to provide pressurized dry gas to the Company at 4 PSIG (pounds per square inch gauge) as designed and shown in the attached drawings. The District will install the High-Pressure Skid System prior to the commissioning of the RNG Plant. In addition, the District will be responsible for measuring and recording the quantity and quality of LFG that is delivered to Company at the Delivery Point, which is on the District's property, and this information will be used to correlate Acceptable Landfill Gas with the Company. The District will, at a minimum, factory calibrate the flow and quality metering equipment at least twice per year and provide copies of those calibrations to the Company. The District makes no guarantee of delivered gas quality, quantity, pressure temperature, or any other measure.

ARTICLE 13 -TERMINATION AND REMEDIES

Section 13.1 is amended to read as follows (other clauses not referenced below will stay as written):

- 13.1 Delay in Achieving LFG Commencement Date. If the Company has not met the LFG Commencement Date as set forth in Section 2.1, the Company will pay the District \$15,000 a month as liquidated damages and not as a penalty for each month until the LFG Commencement Date has occurred or until the Agreement has terminated.

If the LFG Commencement Date has not occurred by May 31, 2025 (subject to extension due to Force Majeure), then this Agreement shall terminate and neither Party shall have any further rights, obligations, or liabilities hereunder, provided, however, that the District shall not have the right to terminate this Agreement pursuant to this paragraph if on or prior to May 31, 2025 (or such other date as may be extended due to Force Majeure), the Company provides reasonable evidence to the District that (i) the RNG Plant has been substantially built, as evidenced by site visits and/or photographic evidence, showing that the plant is visible and substantially built, and (ii) the Company is taking active steps to cure and overcome any circumstances or issues causing the delay of the LFG Commencement Date and the Company is using its commercially reasonable efforts to expedite the LFG Commencement Date; and (iii) the Company pays \$20,000 per month as liquidated damages and not as a penalty for each month until the LFG Commencement Date has occurred.

- A. Delay in Meeting Milestones. If the milestones listed in Section 2.1 are not met by Company, then Company shall pay District as follows:

- iii. \$15,000 per month for the 3rd milestone not achieved (prorated for a partial month) until milestone is achieved.

Milestone Payments. The total amount of the liquidated damages is payable from Company to District within thirty (30) days of invoice from District to Company. No liquidated damages payable or payment pursuant to Section 13.1 may be deducted from the gross receipts received by the Company for the sale of RNG from the Facility in the calculation of Net Proceeds.

ARTICLE 16 -GENERAL TERMS

Section 16.14 Notices is amended to update the contact information of the Parties as follows (other clauses not referenced below will stay as written):

As to District:

John A. Titkanich, Jr., County Administrator
Indian River County Administration Building
1801 27th St.
Vero Beach, FL 32960
Phone: (772) 226-1408
Email: jtitkanich@indianriver.gov

and a copy to the Assistant County Attorney at the same address

K. Keith Jackman
Phone: (772) 226-1422
Email: kjackman@indianriver.gov

As to Company:

Jorge Herrera, Chief Executive
Officer
150 SE 2nd Avenue, PH1
Miami, Florida, 33131
Phone: (305) 441-9059
Fax: (305) 441-9085
Email: jherrera@nopetro.com

Mike Whitney, Senior Vice
President
150 SE 2nd Avenue, PH1
Miami, Florida, 33131
Phone: (517) 712-4996
Fax: (305) 441-9085
Email: mwhitney@nopetro.com

and a copy to the Company Attorney at:

Emilio Álvarez
Greenberg Traurig
333 SE 2nd Ave, Suite 4400
Miami, Florida 33131
Phone: (305) 579-0703
Fax: (305) 579-0717
Email: alvarezem@gtlaw.com

Peter J. Sweeney
Block & Scarpa
601 21st Street, Suite 401
Vero Beach, FL 32960
Phone: (772) 794-1918
Email: psweeney@blockscarpa.com

All other sections and contents of the Agreement shall remain the same.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, District and Company hereto have executed this Amendment No. 4 as of the date first written above.

Attest:

Ryan L. Butler, Clerk of Court and Comptroller

By:

Deputy Clerk

By Owner:

**Solid Waste Disposal District
Indian River County, Florida**

Susan Adams, Chairman

Date Approved by SWDD:

Approved By:

John A. Titkanich, Jr., County Administrator

Approved as to Form and Legal Sufficiency By:

K. Keith Jackman, Assistant County Attorney

By Company:

NOPETRO ECO DISTRICT, LLC

Print Name:

Print Title:

Print Date: