

**AMENDED AND RESTATED  
LANDFILL GAS PURCHASE AGREEMENT AND SITE LEASE**

**BETWEEN**

**WAYNE COUNTY**

**AND**

**TERREVA WAYNE COUNTY RNG, LLC**

**WAYNE COUNTY LANDFILL**

\_\_\_\_\_, 2023

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**AMENDED AND RESTATED LANDFILL GAS PURCHASE AGREEMENT  
AND SITE LEASE  
(Wayne County Landfill)**

This Amended and Restated Landfill Gas Purchase Agreement and Site Lease (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2023 (the “Effective Date”), by and between Wayne County, a body politic, corporate, organized and existing under the laws of the State of North Carolina, whose address is 224 E. Walnut Street, Goldsboro, North Carolina 27530 (“Seller”), and Terreva Wayne County RNG, LLC, a Delaware limited liability company, whose address is 3340 Peachtree Road NE, Suite 170, Atlanta, Georgia 30326 (“Purchaser”). Seller and Purchaser may hereinafter be referred to individually as a “Party” and collectively as the “Parties.”

**Background**

A. Seller owns and operates the Wayne County Landfill (“Landfill”), as defined under Solid Waste Permit No. \_\_\_\_\_, located in Wayne County, North Carolina, including Landfill Gas. Landfill gas, consisting primarily of methane and carbon dioxide, is produced from decomposing refuse (“Landfill Gas”) within the Landfill and Seller owns the rights to such Landfill Gas.

B. Seller previously constructed facilities (and may construct future facilities) to collect and deliver Landfill Gas from the Landfill and currently owns such gas collection and control system (the “Gas Collection System”).

C. Seller and Purchaser are party to that certain Landfill Gas and Site Lease dated as of May 12, 2009 (the “2009 Gas Rights Agreement”), pursuant to which Seller has sold landfill gas extracted from the Landfill to Purchaser and leased certain real property located at the Landfill to Purchaser. As contemplated by the 2009 Gas Rights Agreement, Purchaser has constructed certain electric generation facilities on the leased site (the “Generation Facilities”).

D. Purchaser wishes to decommission the Generation Facilities and construct a new beneficial use project (the “Project”) utilizing the Landfill Gas for the production of renewable energy (“Output”). Such Project will be situated on or adjacent to the Landfill in a mutually agreeable location, and Purchaser will lease the Project Site from Seller pursuant to the Site Lease.

E. Purchaser and Seller therefore wish to amend and restate the 2009 Gas Rights Agreement on the terms and conditions hereinafter set forth. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in Exhibit A attached hereto.

THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Seller and Purchaser agree as follows:

**ARTICLE I**  
**PURCHASE AND SALE OBLIGATIONS**

For the Term of this Agreement and subject to its terms and conditions, including, without limitation, the termination provisions of Article IX, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all existing and future Landfill Gas produced at the Landfill to the extent the Purchaser’s Facilities, which may be expanded at Purchaser’s sole discretion, have sufficient capacity to process such Landfill Gas. Notwithstanding the foregoing, Purchaser shall use commercially reasonable efforts to utilize all Landfill Gas produced at the Landfill over the term of this Agreement. Seller will provide Landfill Gas exclusively to Purchaser on “as available” basis unless otherwise agreed in writing between Parties. In the event that Purchaser fails or is unable to utilize all Landfill Gas produced at the Landfill, Purchaser and Seller shall in good faith negotiate for and jointly pursue alternative commercial uses for any excess Landfill Gas produced beyond Purchaser’s capacity. In the event that Purchaser fails or is unable to utilize all Landfill Gas produced at the Landfill for a period of six (6) consecutive months, for

reasons other than a Seller breach of this Agreement and subject to Article XI (Force Majeure), Seller with Purchaser's consent, which shall not be unreasonably withheld, may pursue other commercially available opportunities to utilize any Landfill Gas in excess of Purchaser's capacity.

## **ARTICLE II** **GAS ROYALTY**

### 2.1 Gas Royalty.

a. Payment to Seller shall begin on the earlier of (i) twenty-four (24) months from the date of this Agreement or (ii) COD. If COD has not occurred prior to the twenty-four (24) month anniversary of this Agreement, the Purchaser will pay Seller a minimum monthly payment of \$10,000 beginning in the 19<sup>th</sup> month and continuing until COD is achieved.

b. For the period commencing with COD and continuing for the balance of the Term, Purchaser will pay Seller the Gas Royalty within thirty (30) days of the close of each month for Gross Revenues received by Purchaser during such month. Purchaser will submit a monthly statement to Seller with each payment of Gas Royalty. The monthly statement will be in substantially the form of Exhibit B.

c. Purchaser shall be entitled to a dollar-for-dollar monthly credit against the Gas Royalty of all rent paid to Seller under the Site Lease.

### 2.2 Billing and Payment.

a. Errors in Billing. If either Party shall find at any time within one (1) year after the date of any payment hereunder that there has been an overcharge or undercharge, the Party finding the error shall promptly notify the other Party in writing. In the event of an undercharge, Purchaser shall pay the amount due within thirty (30) days of the date of the notice of error. In the event of an overcharge, Seller shall refund the overpayment to Purchaser within thirty (30) days of the date of the notice of error. Unless the notifying Party receives a notification

from the notified Party that such Party disputes the overcharge/undercharge within thirty (30) days of the initial notification, it shall be presumed that the notified Party concurs with the overcharge/undercharge and such overcharge/undercharge determination shall become binding at such time.

b. Records. Each Party shall keep daily records (for all workdays, usually five (5) days per week, excluding holidays) of its operating information that can be used by the other Party to verify correctness of the activities and transactions stated by Articles II and VII. Purchaser shall also keep true and accurate records of all Output produced and sold, exchanged or otherwise conveyed, in whatever form, for any portion of the Gross Revenue (as defined in Exhibit A hereto), and the quantities of Landfill Gas delivered to Purchaser that were unable to be processed into Output. Each Party shall have the right, at its sole expense during normal business hours, to examine the other Party's records to the extent necessary to verify the accuracy of any statement, change, notice, or computation made hereunder. All invoices and billings will be conclusively presumed final and accurate and all associated claims for under- or overpayments will be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within one (1) year after the receipt of such invoice or billing.

### **ARTICLE III** **TAX CREDITS**

To the extent construction or operation of the Project generates Tax Credits, Purchaser may, at its sole cost and expense, register or generate such Tax Credits; *provided, however*, that Seller shall make commercially reasonable efforts to cooperate with Purchaser so Purchaser may satisfy all requirements of any applicable Governmental Authority which has jurisdiction over the relevant Tax Credits in order for Purchaser to be able to register or generate such Tax Credits. The

Parties agree that Purchaser will own all rights to any Tax Credits and Seller hereby sells, assigns, transfers and conveys the same to Purchaser.

#### **ARTICLE IV** **DELIVERY POINT**

The Delivery Point for all Landfill Gas sold hereunder shall be at the interconnection between Purchaser's Facilities and Seller's Facilities (as defined below). Title to and control and possession of the Landfill Gas sold hereunder shall pass from Seller to Purchaser at the Delivery Point. The Delivery Point shall be at the Landfill Gas pipe flange outside the Purchaser's Facilities as shown on the Site Map attached as Exhibit C. Seller will also extend a condensate drain pipeline to the Delivery Point. Seller will accept all condensate produced at Purchaser's Landfill Gas blowers for disposal at no cost to Purchaser, subject to Section 13.2.

#### **ARTICLE V** **FACILITIES**

##### 5.1 Seller's Facilities.

a. Seller shall bear the expense of maintaining Seller's Facilities, including adequately sized delivery pipeline, to standards generally accepted in the solid waste industry in compliance with all applicable laws and permits, and in good working order. The components of these various system include, but are not limited to, wellfield extraction features, piping, valves, pumps, tanks, blowers, heat exchangers, chillers, moisture removal vessels, instrumentation, and controls.. At all times during the term hereof, Seller's Facilities shall be designed, constructed and operated in compliance with all applicable laws and regulations, including, without limitation, environmental laws and regulations. Seller shall make good-faith commercially-reasonable efforts to collect Landfill Gas produced from the Landfill over the term of this Agreement. Notwithstanding anything herein to the contrary, Purchaser shall exercise operational control over and provide maintenance for Seller's Facilities, including the Gas Collection System, per the

division of responsibilities in Exhibit G and such operation and maintenance by Purchaser shall at all times be in accordance with operational standards generally accepted in the solid waste industry and the requirements of applicable regulations and Seller's permit(s). Purchaser shall use its best efforts to minimize surface emissions of Landfill Gas and fugitive odors from the Landfill, and the Parties agree to cooperate in addressing the same.

b. Purchaser shall be responsible for the cost of constructing any expansion of the Gas Collection System in compliance with all applicable laws and permits and good industry practice. If Purchaser should at any time deem an expansion of the Gas Collection System to be commercially viable, then Purchaser shall have the option to make or cause to be made, at no cost to Seller, improvements, additions, expansions, alterations or changes in or to the Gas Collection System (collectively, "Alterations"). Purchaser's election to make Alterations shall be subject to the prior written consent of Seller, such consent not to be unreasonably withheld, delayed or conditioned. Provided that, any such Alterations shall not unreasonably interfere with Owner's operations or use of or access to or from the Landfill. In the event that Purchaser determines Alterations are necessary or desirable, it shall provide Seller with any plans or specifications relating thereto and obtain any requisite permits prior to making such Alterations. Seller shall have the right to review and comment on such plans and specifications for up to ten (10) days thereafter and Purchaser shall exercise good faith efforts to accommodate any changes requested by Seller. Purchaser shall provide a copy of the as-built plans and specifications to Seller upon completion of the Alterations.

5.2 Purchaser's Facilities. At no cost to Seller, Purchaser shall construct, operate, and maintain the Project. The Project will be constructed at the location designated in the Site Lease (the "Project Site"). The initial processing capacity of the Project shall be 1100 scfm, which may



be expanded from time-to-time, at Purchaser's sole discretion. At all times during the term hereof, Purchaser's Facilities shall be designed, constructed, and operated in compliance with all applicable laws and regulations including, without limitation, environmental laws and regulations.

5.3 Leased Premises.

a. Seller agrees to lease the Project Site to Purchaser pursuant to the terms and conditions of the Site Lease in substantially the form attached hereto as Exhibit D. The Site Lease shall be co-terminus with this Agreement.

b. In addition, and until decommissioning of the Generation Facilities, Seller agrees to lease the Site (as defined in the 2009 Gas Rights Agreement) to Purchaser for the purpose of operating, maintaining and replacing the Generation Facilities in accordance with the provisions of Section 2.1 of the 2009 Gas Rights Agreement, the provisions of which are incorporated herein by this reference. Purchaser's rights to occupy the Site shall terminate six (6) months after decommissioning of the Generation Facilities.

5.4 Observations and Inspections. Each Party shall have the right at its own expense to observe and inspect the Facilities of the other Party, including the operations and records, for the purpose of verifying that the other Party is conducting its operations and record keeping in accordance with this Agreement. Any such observation or inspection shall be upon reasonable notice and during normal business hours. Seller shall have the right to observe and inspect the Purchaser's Facilities and records related to this Agreement, and Purchaser shall have the right to observe and inspect the Seller's Facilities and records related to this Agreement.

**ARTICLE VI**  
**GAS QUALITY**

6.1 Delivery Pressure. The Purchaser's blower system shall produce a minimum vacuum at the Delivery Point sufficient for the Seller's use in extracting Landfill Gas from the Landfill to maintain compliance with applicable environmental regulations and Seller's permits.

6.2 Non-Conforming Gas. Both Parties agree to cooperate in good faith to manage the collection of Landfill Gas from the Landfill such that the Landfill Gas meets or exceeds the Gas Quality Targets set forth on Exhibit E attached hereto. Seller retains the right to operate the Landfill in its usual and customary discretion. Seller's rights include, without limitation, the right to take any action in Seller's sole and exclusive judgment necessary or appropriate in connection with or related to the Landfill or the Gas Collection System, including, without limitation, any action required to comply with any law, regulation, permit, or order of any governmental authority, without regard to the effect of such action on the quantity or quality of Landfill Gas extracted from the Landfill or otherwise. It is understood that, although Seller and Purchaser will cooperate to operate the Gas System as its top priority, Seller will also use reasonable efforts to produce Landfill Gas meeting the specifications of Exhibit E, with the understanding that there is no penalty for failure to meet such specifications, other than an adjusted payment provision as noted below. Any Landfill Gas that does not meet the Gas Quality Targets set forth on Exhibit E shall be deemed non-conforming gas ("Non-Conforming Gas"). Delivery of Non-Conforming Gas to Purchaser by Seller shall not be a breach of this Agreement and shall not give rise to any liabilities or obligations to Seller by Purchaser hereunder or otherwise, including, but not limited to, consequential or special damages. Notwithstanding the foregoing, in the event Seller delivers Non-Conforming Gas to Purchaser, Purchaser may elect either to: (i) accept the Non-Conforming Gas, or (ii) utilize Non-Conforming Gas for other commercially available applications or opportunities, including

but not limited to direct burn applications or (iii) not accept such Non-Conforming Gas, in which event Purchaser shall not be obligated to provide payments for such Non-Conforming Gas not accepted or processed by the Project or utilized for other commercially available applications. Such non-acceptance by Purchaser shall not be a default by Purchaser under this Agreement. In addition, in the event Seller delivers Non-Conforming Gas for a period of six (6) full months within a twelve (12) month period, for any reason or cause, Purchaser shall have the option, but not the requirement, to terminate this Agreement and the Site Lease. The Parties agree to use commercially reasonable efforts to correct any conditions contributing to the supply of Non-Conforming Gas or Landfill Gas that does not meet the Gas Quality Targets, as provided in Exhibit E, provided such efforts do not contribute to non-compliance with applicable regulations or Seller's permits.

6.3 Adjusted Payment Provision for Non-Conforming Gas. Payment to Seller for any quantities of Non-Conforming Gas that Purchaser elects to accept and or utilize for other commercially available applications, shall be reduced by 50% of the Gas Royalty Payment as that term is defined in Exhibit A. Purchaser shall perform a measurement of Landfill Gas to assess conformance with the specifications outlined in Exhibit E on a daily basis. The payment for Non-Conforming Gas will be determined at the end of each calendar month. If, for example, there were six days in which the measurements demonstrated conditions corresponding to Non-Conforming Gas during a month of 30 days, the Purchaser's payment to Seller would be 50% of the Gas Royalty Payment achieved for those six days, plus the full Gas Royalty Payment achieved during the remaining 24 days that exhibited Conforming Landfill Gas.

6.4 Disclaimer of Warranties. Seller makes no warranties whatsoever as to the quality or quantity of the Landfill Gas to be delivered to Purchaser hereunder. THE PARTIES AGREE

THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND DO NOT APPLY TO THE LANDFILL GAS SOLD HEREUNDER.

**ARTICLE VII**  
**UNITS OF VOLUME AND MEASUREMENT**

7.1 Unit of Volume.The unit of volume for measurement of Landfill Gas delivered hereunder will be one (1) cubic foot of Landfill Gas at a base temperature of sixty degrees Fahrenheit (60°F) and at an absolute pressure of fourteen and seventy-three one-hundredths (14.73) pounds per square inch.

7.3 Landfill Gas Metering.

a. Metering Equipment.Purchaser agrees to install, calibrate and maintain utility grade meters and analyzers for measuring Landfill Gas production and quality, at Purchaser's sole cost and expense. The parameters to be measured will include flow rate and measurements required to determine conformity with the Gas Quality Targets.

b. Purchaser Meter Tests. Purchaser, at its sole cost and expense, shall keep the metering equipment accurate to +/- two percent (2%) as factory calibrated and in good repair, making such periodic tests as Purchaser deems necessary, but at least once each year. Purchaser shall give Seller reasonable advance notice of any such test so that Seller may have its representative present. The results of each test shall continue to be used until the results of the next subsequent test are known.

c. Seller Meter Tests.At the Seller's expense, the Seller may at any time request that a test of the Purchaser's metering equipment be performed by a third-party testing service mutually acceptable to Purchaser and Seller.

d. Test Results and Adjustments.In the event any testing results in the determination that the accuracy rating of such equipment is less than ninety eight percent (98%) as factory calibrated, Purchaser shall take immediate steps to calibrate, repair or replace such equipment to attain an accuracy rating of not less than ninety eight percent (98%) as factory calibrated. In addition, if a test requested by the Seller shows that the equipment is inaccurate by more than two percent (2%) as factory calibrated, meter readings shall be corrected for a period extending back to the time such inaccuracy first occurred, if that time can be ascertained. If that time is not ascertainable, corrections shall be made for one half of the elapsed time since the previous meter calibration.

e. Meter Out of Service. If, for any reason, the metering or measurement equipment at the Delivery Point is out of service such that the amount of Landfill Gas delivered and the MMBtu value cannot be ascertained, Purchaser will notify Seller within twenty-four (24) hours of Purchaser learning of such outage. During the period when the metering or measurement equipment is out of service, the Parties will utilize the metering and measurement records from similar periods within the immediately preceding thirty (30) days to estimate the amount of Landfill Gas delivered to Purchaser.

## **ARTICLE VIII** **AUTHORITY AND PERMITS**

8.1 Permits and Authorizations.Seller and Purchaser each, at their own respective expense, shall obtain and maintain all permits, authorizations, easements, and rights of way required for the performance of their respective obligations hereunder. Each Party shall provide the other with a copy of all permits and authorizations obtained promptly upon receipt thereof. In accordance with the provisions of Section 5.1, Seller shall be responsible for all facilities and systems upstream of the Delivery Point and Purchaser shall be responsible for all facilities and

systems downstream of the Delivery Point, including any expansion, as set forth in Article V. Purchaser's responsibilities shall include but not be limited to air permits, building permits, local approvals, and state approvals. Seller agrees to grant to Purchaser such easements as Purchaser may reasonably require for the construction, operation and maintenance of the Project.

8.2 Public Utility Status. Seller and Purchaser do not intend to hold themselves as a public utility or to submit to the jurisdiction of the North Carolina Utilities Commission (NCUC), or any other state or federal regulatory agency by reason of the production, delivery, or sale of Landfill Gas or Output hereunder; provided, however, that both Parties agree to submit to the jurisdiction of any agency that administers laws or regulations concerning pipeline safety or other matters relating to the safe handling of Landfill Gas and Output as may be required by law. To that end, each Party may, in its sole discretion, seek a ruling from any such agency or other assurance satisfactory to such Party that the extrication, delivery, or sale of Landfill Gas will not subject such Party to the jurisdiction of any such governmental agency or authority.

8.3 Mutual Assistance. Upon request, the Parties hereto shall use reasonable efforts to support and assist one another in the acquisition of any required easement, permit, or authorization. Such support shall include, without limitation, participation in regulatory proceedings and provision of information concerning each Party's operations.

## **ARTICLE IX** **TERM AND RIGHT TO TERMINATE**

9.1 Term. The initial term of this Agreement shall commence on the Effective Date and shall continue until the twenty (20)-year anniversary of the COD (the "Initial Term"). The Initial Term may be extended for two (2) successive five (5)-year terms (each, an "Option Term" which, together with the "Initial Term," constitutes the "Term"), upon mutual agreement of the Parties, unless earlier terminated pursuant to the provisions of this Agreement. Notwithstanding the

foregoing, within two (2) years of the expiration of the Initial Term and one (1) year of the expiration of any Option Term, Purchaser shall provide Seller with written notice of its intent to extend, or not extend, the Initial Term or Option Term, as applicable. If Purchaser does not provide notice of its intent to extend this Agreement as provided in this Section, this Agreement will expire on the twenty (20)-year anniversary of COD. The terms and conditions of this Agreement during any Option Term shall be the same as those in effect at the time of extension, unless otherwise agreed in writing by the Parties. If Purchaser provides timely notice of its intent not to extend this Agreement, then this Agreement shall terminate on the expiration of the then-current Term, unless sooner terminated pursuant to the provisions of this Agreement.

9.2 Default and Cure.In the event either Party defaults upon any of their material obligations under this Agreement, the aggrieved Party shall notify the defaulting Party in writing of the default. If the defaulting Party fails to cure said default within ninety (90) days of the date of the notice or, if such cure cannot be completed in ninety (90) days, the Party fails to promptly initiate, diligently pursue, and implement such cure, taking into consideration the nature and circumstances of the default, then the aggrieved Party may, at their option, terminate this Agreement by providing written notice of the same to the defaulting Party under Section 9.3 and Section 9.4. Termination of this Agreement for default under Section 9.2 or Section 9.3 shall also constitute a breach of the Site Lease by the defaulting Party and shall entitle the Non-Defaulting Party to all remedies at law or equity.

9.3 Seller's Right to Terminate.Without limitation, any one of the following shall be deemed a default and Seller may terminate this Agreement by written notice to Purchaser upon the occurrence of any of the following events (any cure provisions within this section shall supersede those of Section 9.2):

a. Purchaser fails to perform its obligations under this Agreement due to an event of Force Majeure which lasts longer than six (6) months and Purchaser is not using commercially reasonable efforts to restore operations at the Project; or

b. The initiation of an involuntary proceeding occurs against Purchaser under the bankruptcy or insolvency laws, which involuntary proceeding remains undismissed for one hundred twenty (120) consecutive days, or in the event of the initiation by the Purchaser of a voluntary proceeding under the bankruptcy or insolvency laws; or

c. Purchaser fails to perform any material obligation hereunder, and fails to cure such failure to perform within ninety (90) days after receipt of Seller's notice of such failure of performance or, if such cure cannot be completed in such ninety (90) days, the Purchaser fails to make commercially reasonable efforts to promptly initiate, diligently pursue, and implement such cure, taking into consideration the nature and circumstances of the default, then the Seller may, at its option, terminate this Agreement by providing thirty (30) days' notice of same to Purchaser.

d. COD has not occurred within thirty (30) months from the Effective Date.

e. If, subsequent to COD, the Purchaser does not accept Landfill Gas for a duration of twelve (12) consecutive months, the Seller may terminate the Agreement, unless either Party asserts a Force Majeure event or Purchaser can cure the obligation through settlement with the Seller.

9.4 Purchaser's Right to Terminate. Without limitation, any one of the following shall be deemed a default and Purchaser may terminate this Agreement by written notice to Seller upon the occurrence of any of the following events (any cure provisions within this section shall supersede those of Section 9.2):



a. Seller fails to perform its obligations under this Agreement due to an event of Force Majeure which lasts longer than six (6) months and Seller is not making best efforts to restore Seller's Facilities; or

b. Seller fails to perform any material obligation hereunder and fails to cure such failure to perform within sixty (60) days after receipt of Purchaser's notice of such failure of performance; or

c. Seller fails to deliver any Landfill Gas to the Delivery Point for a period of sixty (60) days out of any ninety-day (90) period; or

d. If production of Landfill Gas drops below 250 scfm for more than sixty (60) days out of any ninety day (90) period.

9.5 Continuing Obligations. Upon termination under Section 9.4, (i) Purchaser shall remain obligated to pay Seller for all Landfill Gas previously delivered hereunder calculated pursuant to Article II and (ii) the indemnification obligations of Article XII shall remain in effect.

9.6 Actions Upon Expiration or Termination. In the event of any termination or expiration of this Agreement, Purchaser shall remove the Project except the blowers required to collect the Landfill Gas and restore the portion of the Landfill and Project Site occupied by the Project and any other portion of the Landfill or Seller's Facilities under Purchaser's possession or operational control, to at least the same condition than it was in prior to the construction of the Project. Following the removal of the Project, neither Party shall have any further obligation under this Agreement; except for any liabilities or obligations accruing to a Party prior to the termination or expiration of this Agreement and those obligations that expressly survive the termination or expiration of this Agreement.

**ARTICLE X**  
**TAXES AND PENALTIES**

Seller shall pay or cause to be paid all taxes, assessments and penalties imposed on Seller directly arising out of the Seller's sale of Landfill Gas, the ownership or operation of the Landfill, or Seller's Facilities, excluding any penalties assessed for non-compliance with permits if the non-compliance is caused by the Purchaser. Purchaser shall pay or cause to be paid all taxes, assessments or penalties imposed upon Purchaser directly arising out of the Purchaser's purchase of Landfill Gas or the ownership or operation of Purchaser's Facilities. Neither Party shall be responsible or liable for any taxes or any other statutory charges or penalties, including fines or fees as a result of non-compliance, levied or assessed against any of the facilities under the operational control of the other Party used for the purpose of carrying out the provisions of this Agreement.

**ARTICLE XI**  
**FORCE MAJEURE**

11.1 Suspension of Obligations. If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement, it is agreed that upon such Party giving notice and reasonably full particulars of such Force Majeure in writing to the other Party as soon as practicable after the occurrence of the cause relied on, then the obligations of the Party giving such notice, including the obligation to make payments due hereunder, so far as they are affected by such Force Majeure, shall be suspended to the extent and for the period made reasonably necessary by such Force Majeure, and such Party shall pursue commercially reasonable efforts to cure and return to full performance of its obligations under this Agreement.

11.2 Definition of Force Majeure. The term "Force Majeure" as used herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, pandemics, landslides, lightning, earthquakes, fires,

storms, hurricanes, floods, high-water washouts, civil disturbances, explosions, breakage or accident to machinery or lines of pipe not due to negligent or intentional conduct, freezing of wells or lines of pipe, partial or entire failure of wells or supply of Landfill Gas, enactment of statutes, laws, or regulations, acts of governmental bodies and any other cause or causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming Force Majeure and which, by the exercise of reasonable diligence, such Party is unable to prevent or overcome. Force Majeure shall not include: (i) increases in the costs associated with the construction or operation of either Party's facilities, (ii) change in market conditions which make uneconomic the operation of either Party's facilities.

11.3 Strikes or Lockouts. It is agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and that the foregoing requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having the difficulty.

## **ARTICLE XII** **INDEMNITY**

To the fullest extent allowable under applicable law, each Party shall defend, indemnify and hold the other Party, its directors, officers, partners, shareholders, members, managers, employees, agents, representatives, co-venturers, tenants, contractors, or servants and all of their respective successors and assigns, harmless from and against any and all claims, penalties, demands, actions, proceedings, liability or losses of whatsoever nature including reasonable attorney's fees for injury or death to person(s) or for damage or loss to or of property to the extent arising out of or caused by: (i) a breach of this Agreement by the indemnifying Party; or (ii) the indemnifying Party's negligent operations or activities hereunder. In no event shall either Party

be liable to the other for loss of anticipated profits or consequential, special or punitive damages. Nothing contained in this Agreement is intended to be a waiver or estoppel of the Seller or its insured to rely upon the limitations, defenses, and immunities contained within North Carolina law. To the extent that indemnification is available and enforceable, neither Seller nor its insurer shall be liable in indemnity and contribution for an amount greater than the limits of liability for municipal claims established by North Carolina law.

**ARTICLE XIII**  
**SELLER'S AND PURCHASER'S OBLIGATIONS**

13.1 Seller's Obligations. Seller's primary obligation and business purpose is the safe, efficient, and economical management of its Landfill and/or Landfill Gas production system in accordance with any and all Federal, state, and local laws, rules, regulations, ordinances, and orders. Seller shall operate and manage its Landfill and/or Landfill Gas production in such a manner as to not unreasonably interfere with the operation and maintenance of Purchaser's Facilities or, consistent with the provisions set forth above, to cause an intentional, material disruption of delivery of Landfill Gas to Purchaser's Facilities. Seller shall inform Purchaser of operational changes or decisions, which might reasonably and materially affect Landfill Gas production within a reasonable period before such changes are made. Such changes by Seller shall be temporary in nature and Seller shall use its best efforts to ensure that Purchaser's operations are not materially affected by Seller's changes. Seller shall have no obligation to process or treat Landfill Gas prior to making the Landfill Gas available to Purchaser.

13.2 Purchaser's Condensate. Seller will accept Condensate generated by Purchaser's Facilities at no cost to the Purchaser. If the Condensate is unsuitable for disposal by the Seller's current method of Condensate disposal for whatever reason, then the Seller can refuse to accept the condensate and the Purchaser must dispose of its condensate by an environmentally acceptable

method, at Purchaser's sole expense. Seller is under no obligation to accept or treat Purchaser's Wastewater streams beyond the Condensate.

13.3 Purchaser's Obligations. Purchaser shall be solely responsible for all costs associated with the management of Landfill Gas after the Delivery Point. Purchaser shall conduct its activities under this Agreement in such a manner as not to unreasonably interfere with Seller's use of the Landfill, unless Seller otherwise consents in writing. Purchaser shall procure and manage all downstream transportation, storage and balancing services related to the Output. Purchaser shall find the highest and best use for the Output produced and monetize the Output and associated Regulatory Credits, as defined herein. Purchaser shall act as interface to all regulatory agencies and associated certification providers to maintain the compliance of the Project with all applicable laws.

13.4 Permits and Approvals. Promptly after execution of, and pursuant to, this Agreement, Purchaser shall obtain, at its sole cost and expense, all necessary environmental impact studies, statements or reports, zoning and land use approvals, permits, licenses and utilities for the installation and construction of the Purchaser's Facilities and shall comply with all Applicable Laws, provided that all applications, filings or communications with third parties in connection with any of the foregoing provided to Seller's prior submission to any third parties. Purchaser agrees to make available to Seller copies of all environmental information reports, environmental impact reports, air impact assessment studies, environmental applications filed and other necessary available data in its possession relating to the Landfill or the Purchaser's Facilities, which materials are reasonably necessary for Seller to possess in connection with this Agreement and shall be treated as Confidential Information as provided in this Agreement.

13.5 Design and Construction of the Purchaser's Facilities. For the period between the beginning of construction and COD, Purchaser shall report to Seller monthly on the status of the construction of the Purchaser's Facilities and the progress of Purchaser towards completion of the Purchaser's Facilities.

13.6 Notification of COD. Purchaser shall provide Seller no less than thirty (30) days written notice of Project COD

13.7 Environmental Matters.Purchaser shall construct, operate and maintain Purchaser's Facilities and shall otherwise conduct its activities hereunder, including the maintenance and operation of all facilities under Purchaser's operational control, in full compliance and conformance with all applicable environmental laws, regulations and ordinances, including any such additional standards that become applicable during the Term of this Agreement.

#### **ARTICLE XIV** **WARRANTIES AND REPRESENTATIONS**

14.1 Purchaser's Representations and Warranties.Purchaser represents and warrants to Seller as follows:

a. Purchaser is a limited liability company duly organized and validly existing under the laws of the State of Delaware, with full legal right, power and authority to enter into and to fully and timely perform its obligations hereunder; and

b. Purchaser has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation, enforceable against Purchaser in accordance with its terms; and

c. Neither the execution or delivery by Purchaser of this Agreement, nor the performance by it of its obligations in connection with the transactions contemplated hereby or the fulfillment of the terms and conditions hereof conflicts with, violates or results in a breach of any

constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment, or decree or any agreement of instrument to which Purchaser is a Party or by which Purchaser or any of its properties or assets are bound, or constitutes a default there under; and

d. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority or referendum of voters is required for the valid execution and delivery of this Agreement by Purchaser, except such as have been disclosed to Seller and have been duly obtained or made; and

e. Purchaser has no knowledge of any action, suit, or proceeding, at law or in equity, before or by any court or governmental authority, pending or threatened against Purchaser, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Purchaser of its obligations hereunder, or that, in any way, would materially adversely affect the validity or enforceability of this Agreement.

14.2 Seller's Representations and Warranties. Seller represents, warrants and covenants to Purchaser as follows:

a. Seller is authorized as a body politic, corporate in nature, organized and existing under the laws of the State of North Carolina, with full legal right, power and authority to enter into and to fully and timely perform its obligations hereunder; and

b. Seller has duly authorized, executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation, enforceable against Seller in accordance with its terms; and

c. Neither the execution or delivery by Seller of this Agreement, nor the performance by it of its obligations in connection with the transactions contemplated hereby or the

fulfillment of the terms and conditions hereof conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to it, or materially conflicts with, violates or results in a breach of any term or condition of any order, judgment, or decree or any agreement of instrument to which Seller is a Party or by which Seller or any of its properties or assets are bound, or constitutes a default there under; and

d. No approval, authorization, order, consent, declaration, registration or filing with any federal, state or local governmental authority or referendum of voters is required for the valid execution and delivery of this Agreement by Seller, except for the final approval of the Wayne County Board of County Commissioners; and

e. Other than as previously disclosed by Seller to Purchaser in writing, Seller has no knowledge of any action, suit, or proceeding, at law or in equity, before or by any court or governmental authority, pending or threatened against Seller, in which an unfavorable decision, ruling or finding would materially adversely affect the performance by Seller of its obligations hereunder, or that, in any way, would materially adversely affect the validity or enforceability of this Agreement.

f. Seller will have good and marketable title to all Landfill Gas delivered to Purchaser at the Delivery Point, it will have the right to sell the same to Purchaser, and the Landfill Gas will be free from any liens or encumbrances and upon transfer of the Landfill Gas to Purchaser, Purchaser will acquire good title to the Landfill Gas.

g. Seller will procure and maintain in force all agreements, leases, easements, licenses, consents and approvals required to obtain and supply the Landfill Gas to the Delivery Point and will be solely responsible for and will comply with the requirements of such licenses, consents and approvals.



h. Subject to the provisions of Article VI hereof, Seller will not transfer, commit to sell, pledge or otherwise sell the Landfill Gas to any party other than Purchaser for the Term of this Agreement.

## **ARTICLE XV** **INSURANCE**

15.1 Purchaser's Insurance Requirements.At all times during the term of this Agreement, Purchaser shall maintain the following insurance coverage with an insurance company reasonably acceptable to the Seller.

a. Worker's Compensation Insurance, covering liability under applicable Worker's Compensation law, at the statutory coverage levels, including employer's liability insurance in an amount not less than \$100,000 for each accident.

b. Commercial general liability and umbrella liability with a total per occurrence limit of \$5,000,000 covering liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract.

c. Property Insurance for the full replacement cost of the Project. Such coverage shall include ordinance and law coverage and joint loss agreement. Purchaser shall insure the contents, machinery, equipment and other personal property owned by the Purchaser separately at full replacement value.

d. Business automobile coverage in the amount of \$2,000,000 each accident.

e. Purchaser shall name Seller as an additional insured on each of the above policies of insurance and shall provide thirty (30) days written notice to the Seller in advance of any termination or material change in coverage. Purchaser shall provide Seller with certificates of insurance evidencing such coverage and shall make a copy of these policies available to the Seller

upon request. Purchaser's policies of insurance shall be deemed primary coverage in relation to those policies of insurance maintained by Seller, either as to damage or injury incurred by Purchaser to Purchaser's Facilities.

15.2 Seller's Insurance Requirements.At all times during the term of this Agreement, Seller shall maintain the following insurance coverage with an insurance company reasonably acceptable to Purchaser:

a. Worker's compensation insurance, covering liability under applicable worker's compensation law, at the statutory coverage levels including employer's liability insurance in an amount not less than \$100,000 for each accident; and

b. Comprehensive general liability and property damage insurance in a combined single limit of not less than \$5,000,000 for death and injury to any person(s) or for property damage as a result of any one occurrence which may arise out of or in connection with Seller's operation of its facilities required for the performance of its obligations hereunder.

c. Seller shall provide for thirty (30) days written notice to Purchaser in advance of any termination or material change in coverage.

15.3 Certificates of Insurance.Each Party hereto shall provide to the other Party promptly upon request current and updated certificates of insurance to evidence that the required insurance coverage is in effect at all times during the Term.

## **ARTICLE XVI** **MISCELLANEOUS**

16.1 Assignment.This Agreement may not be assigned, except as defined below, by either Party without the prior written approval of the other Party, which approval shall not be unreasonably withheld. All covenants, terms, conditions, and provisions of this Agreement shall be binding upon the Parties hereto and shall extend to and be binding upon the successors and

assigns of the Parties hereto. Notwithstanding the foregoing, Purchaser may (a) assign this Agreement or any of its rights hereunder to any affiliated entities which own or control, directly or indirectly, the Project without the consent of Seller provided that Purchaser provides written notice of such assignment to Seller and such person or entity assumes all of the obligations of Purchaser hereunder; and (b) collaterally assign, transfer, mortgage or pledge this Agreement and/or the Purchaser's rights hereunder without Seller's consent as security in connection with the financing of construction and/or the operation of Purchaser's Facilities. Upon Purchaser's request, Seller agrees to execute and deliver to any collateral assignee of Purchaser's rights under this Agreement a consent to collateral assignment containing customary and reasonable covenants. Notwithstanding the foregoing, such consent to collateral assignment shall grant Seller, in the event such collateral assignee causes to be performed any of Purchaser's applicable obligations under this Agreement by any party other than Purchaser, the right to review the technical capabilities and experience of any new proposed operator of the Project and Seller's Facilities and approve or withhold approval of the same. Such approval shall not be unreasonably withheld, conditioned, or delayed.

16.2 Notices. Any notice, request, demand, statement and/or payment provided for herein shall be in writing and, except as otherwise provided herein, shall be sent to the Parties hereto at the following addresses:

Purchaser:                      Terreva Wayne County RNG, LLC  
3340 Peachtree Road NE, Suite 170  
Atlanta, Georgia 30326  
Attn: Jason Byars

with copies to:

CIM Group  
Attn: General Counsel  
4700 Wilshire Boulevard  
Los Angeles, California 90010

and

Milam Howard  
Attn: G. Alan Howard, Esq.  
14 East Bay Street  
Jacksonville, Florida 32202

Seller: Wayne County  
Attn: Wayne County Manager  
224 E. Walnut Street  
P.O. Box 227  
Goldsboro, NC 27530

with copies to:

Wayne County Attorney  
PO Box 227  
Goldsboro, NC 27530

All payments made by the Parties shall be sent to the applicable address shown above. All notices shall be deemed to have been given and received when personally delivered or upon receipt as evidenced by delivery by a nationally recognized overnight courier service. Either Party may change the address to which communications or payments are to be made by written notice to the other Party as set forth above.

16.3 Integration and Amendments. This Agreement constitutes the entire agreement between the Parties relating to the subject matter contemplated by this Agreement and supersedes any prior or contemporaneous agreements or representations affecting the same subject matter. No amendment, modification or change to this Agreement will be enforceable unless reduced to a writing specifically referencing this Agreement and executed by both Parties. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that

the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be used in interpretation of this Agreement.

16.4 Choice of Law and Venue. This Agreement and any provisions contained herein shall be interpreted under the laws of the State of North Carolina. Any lawsuit regarding the interpretation or enforcement of any provision of this Agreement shall be brought exclusively in the state court sitting in Wayne County, North Carolina or the United States District Court for the Eastern District of North Carolina, without regard to principles of conflict of law.

16.5 Economic Grants. The Parties may seek to obtain local, state or federal economic development, recycling, environmental and other grants and/or benefits for which either Party may be eligible as a direct result of its respective rights, obligations and performance hereunder, and the Parties shall coordinate and cooperate with each other in that regard.

16.6 Inurement. This Agreement will inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.

16.7 Further Assurances. Each Party to this Agreement will perform all acts and execute and deliver all documents as may be necessary and proper under this Agreement to accomplish the intents and purposes of this Agreement and to carry out its provisions.

16.8 Cumulative Remedies. Unless otherwise specifically provided herein, the rights, powers, and remedies of each of the Parties provided herein are cumulative and the exercise of any right, power or remedy hereunder does not affect any other right power or remedy that may be available to either Party hereunder or otherwise at law or in equity.

16.9 Confidentiality. During the Term, the Parties may furnish to each other information of a confidential and proprietary nature in connection with the operation of the Landfill and Project. The Party furnishing the proprietary information will have the exclusive right and interest in and

to such proprietary information and the goodwill associated therewith. The Party receiving such information will maintain its confidentiality using such care and diligence as it uses to protect its own confidential information, but in no event less than reasonable care.

16.10 Publicity and Corporate Identity. Unless otherwise required by Applicable Law, neither Party may use the name, trade name, trademarks, service marks, or logos of the other Party or the existence of this Agreement or the project described in this Agreement or any likeness, photo, film or similar like kind reproduction of the other's facilities or property in any publicity releases, news releases, annual reports, signage, stationery, print literature, advertising, or websites without securing the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Neither Party shall issue any publicity or news release regarding the Purchaser's Facilities or project at the Landfill without the written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. The Parties shall not, without prior written consent of the other Party, represent, directly or indirectly, that any product or service offered by the Party has been approved or endorsed by the other Party.

16.11 No Partnership. This Agreement will not create or be construed to create in any respect a partnership or other business association between the Parties.

16.12 Non-Waiver; Duty to Mitigate and No Third-Party Beneficiaries. No waiver by any Party of any of its rights with respect to the other Party or with respect to any matter or default arising in connection with this Agreement will be construed as a waiver of any subsequent right, matter or default whether of a like kind or different nature. Any waiver will be in writing signed by the waiving Party. Each Party agrees that it has a duty to mitigate damages. This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and their permitted

successors and assigns, and no other person will be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with this Agreement.

16.13 Severability. Except as may otherwise be stated herein, any provision or section hereof that is declared or rendered unlawful or unenforceable by any applicable court of law or regulatory agency, or deemed unlawful or unenforceable because of a statutory change, will not otherwise affect the lawful obligations that arise under this Agreement. In the event any provision of this Agreement is declared unlawful or unenforceable, the Parties will promptly renegotiate to restore this Agreement as near as possible to its original intent and effect.

16.14 Time of Essence. Time is of the essence of this Agreement.

16.15 Headings and Titles. The titles of the articles and this Agreement are inserted for convenience or reference only and will be disregarded in construing or interpreting any of its provisions.

16.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. Delivery of an executed signature page of this Agreement by facsimile, e-mail, or other customary means of electronic transmission shall be deemed to have the same legal effect as delivery of a manually executed counterpart hereof.

16.17 E-Verify. Purchaser shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, governing employment eligibility of Purchaser's employees. Further, if Purchaser utilizes a subcontractor, Purchaser shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina Statutes.

16.18 Iran Divestment Act Certification. Purchaser hereby certifies that Purchaser, and all subcontractors, are not on the Final Iran Divestment List ("List") created by the North Carolina

State Treasurer pursuant to NCGS 147, Article 6E. Purchaser shall not utilize any subcontractor that is identified on the List.

16.19 Nondiscrimination. Purchaser shall not discriminate against or deny the Contract's benefits to any person on the basis of race; religion; creed; color; sex; gender identity and expression; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local state or federal law.

16.20 Conflict of Interest. Purchaser represents and warrants that to its knowledge no member of Wayne County or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. Purchaser shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.

16.21 Gratuities to Wayne County. The right of Purchaser to proceed may be terminated by written notice if Wayne County determines that Purchaser, its employees or independent contractors working on behalf of Purchaser offered or gave a gratuity to an official or employee of Wayne County in violation of the policies of Wayne County.

16.22 Kickbacks to Purchaser. Purchaser shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Wayne County contract or in connection with a subcontract relating to a Wayne County



Contract. When Purchaser has grounds to believe that a violation of this clause may have occurred, Purchaser shall promptly report to Wayne County in writing the possible violation.

16.23 Monitoring and Evaluation. Purchaser shall cooperate with Wayne County, or with any other person or agency as directed by Wayne County, in monitoring, inspecting, auditing or investigating activities related to the Contract. Purchaser shall permit Wayne County to evaluate all activities conducted under the Contract. Wayne County has the right at its sole discretion to require that Purchaser remove any employee of Purchaser from the Project Site upon such employee's violation of any laws or any Wayne County policies and procedures (of which Purchaser has been provided a written copy) following written notice to Purchaser citing the law, policy or procedure violated.

16.24 Financial Responsibility. Purchaser is financially solvent and able to perform under the Contract. If requested by Wayne County, Purchaser agrees to provide a copy of Purchaser's most recent financial statements to Wayne County's Finance Officer. In the event of any proceedings, voluntary or involuntary (if involuntary, and not dismissed within 30 days of filing), in bankruptcy or insolvency by or against Purchaser; or in the event of the appointment, with or without Purchaser's consent, of an assignee for the benefit of creditors or of a receiver (if involuntary, and not dismissed within 30 days of filing); then Wayne County shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.

**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the Parties hereto have caused the execution of this Amended and Restated Landfill Gas Purchase Agreement and Site Lease by the officers whose names appear below.

**WITNESSES:**

\_\_\_\_\_  
Print: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

**SELLER:**

**WAYNE COUNTY**

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

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

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

Date: \_\_\_\_\_

**PURCHASER:**

**Terreva Wayne Country RNG, LLC**

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

Name: Jason Byars

Title: Vice President

Date: \_\_\_\_\_

## **EXHIBIT A DEFINITIONS**

For purposes of this Agreement, the following terms will have the meanings specified in this Exhibit A:

**“Affiliate”** means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, “control” of any entity or person means ownership of at least 50 percent of the voting power of the entity or person.

**“Agreement”** has the meaning set forth in the Preamble.

**“Alterations”** has the meaning set forth in Section 5.1(b).

**“Bankruptcy Proceeding”** means with respect to a Party, such Party (a) makes an assignment or any general arrangement for the benefit of creditors, (b) files a petition or otherwise commences, authorizes or acquiesces in commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection from creditors, or has such a petition filed against it that is not dismissed within ninety (90) days of being filed or (c) otherwise becomes bankrupt or insolvent (however evidenced).

**“Biomethane Environmental Attributes”** means:

(i) all attributes associated with, or that may be derived from the displacement of traditional energy sources by biomethane, including any existing or future credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted;

(ii) any existing or future instrument, including any environmental emission allowances and reduction credits, reduction right, allowance, certificate or other unit of any kind whatsoever, whether tradable or not, and any resulting from, or otherwise related to the actual or assumed reduction, displacement or offset of emissions associated with, or that may be derived from the displacement of traditional natural gas by biomethane; and

(iii) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.

**“CO<sub>2</sub> Environmental Attributes”** means:

(i) all attributes associated with, or that may be derived from the capture of CO<sub>2</sub> gas and disposition of same rather than discharge into the atmosphere, including any existing or future credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted;

(ii) any existing or future instrument, including any environmental emission allowances and reduction credits, reduction right, allowance, certificate or other unit of any kind whatsoever, whether tradable or not, and any resulting from, or otherwise related to the actual or assumed reduction, displacement or offset of emissions associated with, or that may be derived from the capture of CO<sub>2</sub> gas and disposition of same rather than discharge into the atmosphere; and

(iii) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.

**“Condensate”** means liquid generated as a result of cooling the Landfill Gas.

**“COD”** means the date that the Project first produces Output for sale and derived from the Landfill Gas delivered by Seller to the Delivery Point.

**“Delivery Point”** means the metering interconnect where the Landfill Gas enters Purchaser’s Facilities, as shown in the depiction attached hereto as Exhibit C.

**“Effective Date”** has the meaning set forth in the Preamble.

**“Force Majeure”** has the meaning set forth in Section 11.2.

**“Gas Quality Targets”** has the meaning set forth in Exhibit E.

**“Gas Royalty”** means an amount equal to 3.5% of the Gross Revenue received from the sale of Output derived from the processing of Landfill Gas delivered to the Delivery Point during the Term.

**“MMBtu”** means one million (1,000,000) British thermal units.

**“Governmental Authority”** means any federal, provincial, local or other governmental, regulatory or administrative agency, court, commission, department, board or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority.

**“Greenhouse Gas”** means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, or any other substances or combination of substances that may become regulated or designated as Greenhouse Gases under any federal, provincial or local law or regulation, or any emission reduction registry, trading system, or reporting or reduction program for Greenhouse Gas emission reductions that is established, certified, maintained, or recognized by any international, governmental (including U.N., federal, provincial, or local agencies), or non-governmental agency from time to time, in each case measured in increments of one metric ton of carbon dioxide equivalent.

**“Gross Revenue”** means all collected revenue received directly or indirectly by Purchaser or its Affiliates from or with respect to the sale of all Output and/or other forms of energy, or associated products, Regulatory Credits, or Production Tax Credits, derived from Landfill Gas from the Landfill and produced by Purchaser at the Project, net of any refunds of previously

collected revenue attributable to the Landfill Gas and any applicable commissions consistent with market practices, sales taxes or other taxes required to be paid to third-parties in respect of such sales or revenues. If Seller and Purchaser, in their discretion, mutually agree upon any other use by Purchaser of Landfill Gas other than the Project contemplated herein, the determination of value for purposes of this definition will be as mutually agreed upon by Seller and Purchaser, in their discretion.

**“Investment Tax Credits”** means tax credits issued by a Governmental Authority associated with the construction of a Project.

**“Landfill”** has the meaning set forth in the Background.

**“Landfill Gas”** means quantities, measured in MMBtu, of unprocessed gas from the Landfill that meet the Gas Quality Targets and are purchased by Purchaser pursuant to this Agreement.

**“Methane Environmental Attributes”** means:

(i) all attributes associated with, or that may be derived from the reduction of Greenhouse Gas emissions from the Landfill as a result of the capture of Landfill Gas, including any existing or future credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted;

(ii) any existing or future instrument, including any environmental emission allowances and reduction credits, reduction right, allowance, certificate or other unit of any kind whatsoever, whether tradable or not, and any resulting from, or otherwise related to the actual or assumed reduction, displacement or offset of emissions associated with, or that may derived from the elimination of methane discharges into the atmosphere from the Landfill as a result of capture of the Landfill Gas; and

(iii) all revenues, entitlements, benefits and other proceeds arising from or related to the foregoing.

**“Non-Defaulting Party”** means the Party which is not the Defaulting Party.

**“Non-Conforming Gas”** will have the meaning set forth in Section 6.2 of this Agreement.

**“Output”** has the meaning set forth in the Background.

**“Party”** or **“Parties”** has the meanings set forth in the Preamble.

**“Production Tax Credits”** means inflation-adjusted tax credits issued by a Governmental Authority for the generation of Output from a Project using qualified energy resources.

**“Project”** has the meaning set forth in the Background.

**“Purchaser”** has the meaning set forth in the Preamble.

**“Purchaser’s Facilities”** means the Project and such other facilities, pipe and equipment necessary to enable Purchaser to (i) accept Landfill Gas from the Landfill (ii) process Landfill Gas into Beneficial Use Project Output, and (iii) transport of Output to the interconnect with the downstream off-taker or gathering system.

**“Regulatory Credit”** means any credit, benefit, attribute, aspect, characteristic, claim, reduction, offset or allowance, or similar benefit of any type, howsoever entitled or named, arising under any federal, provincial, local or other law as now in effect, or as subsequently amended, enacted or adopted, resulting from, attributable to, or associated with the Output produced at the Project, and including Biomethane Environmental Attributes, Tax Credits, Methane Environmental Attributes and CO2 Environmental Attributes.

**“Project Site”** has the meaning set forth in Section 5.2 of this Agreement, and is more particularly describe in the Site Lease.

**“SCFM”** or **“scfm”** means standard cubic feet per minute.

**“Section”** means a section of this Agreement.

**“Seller”** has the meaning set forth in the Preamble.

**“Seller’s Facilities”** means the Gas Collection System, condensate management system, gas handling system, LFG utility flare, and all associated equipment and appurtenances required to collect, combust, treat, and/or transport the Landfill Gas to the Delivery Point, and shall include any equipment required to produce and process the Landfill Gas for “subsequent sale or beneficial use” as that phrase is used in 40 C.F.R. § 60.762, and in accordance with North Carolina Department of Environmental Quality and U.S. Environmental Protection Agency regulations, to deliver such Landfill Gas to the Delivery Point.

**“Site Lease”** means that certain Site Lease Agreement between Purchaser and Seller dated of even date herewith and attached hereto as Exhibit D.

**“Tax Credits”** means, as applicable, Investment Tax Credits, Production Tax Credits and/or other tax credits.

**“Term”** has the meaning set forth in Section 9.1 of this Agreement.

**“Wastewater”** means any liquid byproduct other than Condensate produced during the production of Output from Landfill Gas.







**EXHIBIT D  
SITE LEASE**

**EXHIBIT E  
GAS QUALITY**

**Gas Quality Targets**

Methane Content	45% or Greater by volume
Oxygen Content	Less than 5.0% by volume
Nitrogen Content	Less than 10% by volume
Sulphide Content	Not more than 250 ppmv of total sulphides

**EXHIBIT F  
DIVISION OF RESPONSIBILITIES**

Item Number	Item Description	Seller	Purchaser	Remarks
1.00	Landfill			Gas collection system addressed below
1.10	Permitting	x		Construction and Operation
1.20	Installation <sup>1</sup>	x		Inclusive of cells, cover, wellfield <sup>4</sup> , blower and flare
1.30	Operation & Maintenance <sup>2</sup>	x		Inclusive of waste handling
1.40	Monitoring	x		Inclusive of surface emissions
1.50	Corrective Actions	x		
1.60	Recordkeeping <sup>3</sup>	x		Inclusive of as-built drawings and operating reports
1.70	Regulatory Submissions	x		Inclusive of NSPS, NESHAP, Emissions Inventories, MSW and GHG Submissions
1.80	Fees	x		
2.00	Gas Collection System <sup>4</sup>			
2.10	Extraction Wells			
2.11	Installation <sup>1</sup>	x	x	Seller responsible for compliance required items, Purchaser responsible for optional upgrades <sup>4</sup>
2.12	Operation & Maintenance <sup>2</sup>		x	Inclusive of well raisings for areas of new and existing waste
2.13	Calibration		x	Inclusive of stationary & portable monitoring/metering equipment
2.14	Monitoring		x	Inclusive of periodic tuning (min monthly) to meet LFG specifications
2.15	Installation/O&M of Wellhead Automation		x	Optional LOCI or similar system
2.20	Horizontal Collectors			
2.21	Installation <sup>1</sup>	x	x	Seller responsible for compliance required items, Purchaser responsible for optional upgrades <sup>4</sup>
2.22	Operation & Maintenance <sup>2</sup>		x	
2.30	LFG Piping System			
2.31	Installation <sup>1</sup>	x	x	Seller responsible for compliance required items, Purchaser responsible for optional upgrades <sup>4</sup>
2.32	Operation & Maintenance <sup>2</sup>		x	
2.40	Compressed Air System			
2.41	Installation <sup>1</sup>	x		
2.42	Operation & Maintenance <sup>2</sup>		x	
2.50	Condensate System			
2.51	Installation <sup>1</sup>	x		

2.52	Operation & Maintenance <sup>2</sup>		x	
2.53	Condensate Disposal	x		Inclusive of sewer connection if applicable
3.00	Blower System			
3.10	Permitting	x		Construction and Operation
3.20	Installation <sup>1</sup>	x		
3.30	Operation & Maintenance <sup>2</sup>		x	Inclusive of maintaining system vacuum
3.40	Calibration		x	Inclusive of flow meters
3.50	Monitoring		x	
3.60	Corrective Actions	x		
3.70	Recordkeeping <sup>3</sup>	x		
3.80	Regulatory Submissions	x		
3.90	Fees	x		
4.00	Flare System			
4.10	Permitting	x		Construction and Operation
4.20	Installation <sup>1</sup>	x		
4.30	Operation & Maintenance <sup>2</sup>		x	Inclusive of the provision of any required back-up fuel
4.40	Calibration		x	Inclusive of flow meters
4.50	Monitoring		x	Inclusive of gas flow to flare, flame verification and visible emission observations
4.60	Corrective Actions	x		
4.70	Recordkeeping <sup>3</sup>	x		Inclusive of temperature and flow
4.80	Regulatory Submissions	x		Inclusive of required NSPS, GHG, air permit and other submissions specific to Landfill
4.90	Fees	x		
5.00	RNG Plant			
5.10	Permitting		x	Construction and Operation
5.20	Installation <sup>1</sup>		x	
5.30	Operation & Maintenance <sup>2</sup>		x	
5.40	Calibration		x	Inclusive of flow meters
5.50	Monitoring		x	Inclusive of gas flow from blowers as well as to off-spec flare, TOx and pipeline
5.60	Corrective Actions		x	
5.70	Recordkeeping <sup>3</sup>		x	
5.80	Regulatory Submissions		x	Inclusive of required NSPS, GHG, air permit and other submissions specific to RNG Plant
5.90	Fees		x	
6.00	On-Call Responsibilities			
6.10	Compressed Air Outage		x	
6.20	Blower Outage		x	
6.30	Flare Outage		x	
6.40	RNG Plant Outage		x	

- 1 - Inclusive of initial design and construction along with replacements, relocations, upgrades and expansions as required
- 2 - Inclusive of at a minimum monthly inspections and provision of needed repairs to maintain proper operation
- 3 - All data collection records required to be shared between parties
- 4 – Seller is responsible for all GCCS expansions, upgrades and repairs NOT related directly to the collection and delivery of Landfill Gas to the Delivery Point, i.e. leachate collection, conveyance and disposal. Purchaser is responsible for all GCCS expansions upgrades and repairs related directly to gas collection and conveyance to the Delivery Point. Purchaser reserves the right to expand or improve the gas collection system (at Purchaser's expense) to increase LFG flow or improve gas quality (scope must be approved by Seller in advance)