

LANDFILL GAS AND SITE LICENSE AGREEMENT

between

COUNTY OF MONMOUTH, NEW JERSEY

and

NEW JERSEY NATURAL GAS COMPANY

Dated

March [●], 2024

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LANDFILL GAS AND SITE LICENSE AGREEMENT

This LANDFILL GAS AND SITE LICENSE AGREEMENT, dated as of March [●], 2024 (“Agreement”), is by and between the County of Monmouth, State of New Jersey (“County”), and New Jersey Natural Gas Company, a New Jersey corporation (the “Company”), each a “Party”, collectively the “Parties”.

RECITALS

WHEREAS, the County owns a municipal landfill known as the Monmouth County Reclamation Center, referred to herein as the MCRC;

WHEREAS, Waste Management of New Jersey, Inc., a Delaware corporation, operates and maintains the Landfill Gas Collection System at the MCRC on behalf of the County;

WHEREAS, the Company desires to purchase and the County desires to sell the Landfill Gas produced and collected at the MCRC;

WHEREAS, the Company desires to construct and operate a renewable natural gas processing facility that will process the Landfill Gas; and

WHEREAS, on [●], 2024 the Monmouth County Board of Freeholders adopted Resolution Number [●] authorizing the execution and delivery of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

ARTICLE I DEFINITIONS

SECTION 1.1 DEFINITIONS.

The capitalized terms used in this Agreement shall have the meanings specified in Schedule A.

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

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

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

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

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

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

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

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

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

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

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

(k) Internal Conflict or Discrepancy. In the event of a conflict or discrepancy between any of the terms or conditions of this Agreement, including any conflict or discrepancy between the main body of this Agreement and any schedule, the terms of the main body of the Agreement shall prevail, subject to Section 1.2(j) above.

(l) Delivery of Documents in Digital Format. To the extent that the Company is obligated to deliver documentary submittals in connection with the performance of its duties hereunder, all such documents shall be submitted to the County in portable document format (PDF) or other electronic copies. Electronic copies shall consist of computer readable data submitted in any standard interchange format which the County may reasonably request to facilitate the

administration and enforcement of this Agreement. Notwithstanding the foregoing, the Company will provide one (1) hard copy of the record site plan and any permits.

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

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

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

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

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

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

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

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

ARTICLE II LANDFILL GAS RIGHTS; PROPERTY RIGHTS

SECTION 2.1 GRANT OF RIGHTS; ENVIRONMENTAL ATTRIBUTES.

(A) Grant of Gas Rights; County Obligation . Subject to the terms and conditions of this Agreement, the County hereby grants, conveys and assigns to the Company for the Term of this Agreement all rights, title and interest to or in all Landfill Gas recovered from the Landfill. The County shall deliver all Landfill Gas recovered from the Landfill to Company at the Delivery Point and grants to Company the exclusive right and license to receive such Landfill Gas and to process, filter, take and use or sell all such Landfill Gas. The County has no obligation to maintain a minimum specification for the Landfill Gas and makes no guarantees or warranties as to the quantity or quality of Landfill Gas that will be generated at the Landfill.

(B) Rights to Environmental Attributes. The rights to all Environmental Attributes associated with the Landfill Gas, generated by or as a result of the RNG Project, or associated with the RNG from the RNG Project (including RINs, any state low carbon fuel credits, emission and credits generated from the shutdown of turbines) shall belong to the Company. Company shall

have all rights to any federal or state tax or financial incentives or grant payments in connection with the operation of the RNG Project or the processing of landfill gas into RNG.

SECTION 2.2 GRANT OF EASEMENTS AND RIGHTS OF WAY. The County hereby grants and conveys to the Company the following easements and rights of way for the Term of this Agreement:

(A) Easements. Appurtenant easements on, over and through the Landfill necessary for (i) the construction, installation, operation and maintenance of the RNG Project; (ii) any condensate lines to or from the Landfill; and (iii) sewer, electric, gas, water, telephone, internet and other utilities that are necessary or desirable for the RNG Project and related equipment as reasonably determined by the Company, all of which shall not materially restrict or interfere with the County's use or operation of the MCRC. The Company shall use commercially reasonable efforts to provide the County with notice, which notice shall be at least 72-hour notification prior to any routinely scheduled activity, no more than 24-hours after non-routine activity, of any, and to mitigate any, actions or events which might have the effect of interfering with or restricting the County's use or operation of the MCRC. At the request of the Company, the Parties shall execute a memorandum of easement to be recorded for the purpose of giving record notice of the location and of the appropriate provisions of the easements granted herein.

(B) Rights-of-way. Rights of ingress and egress over and through the Landfill by vehicle or on foot, as appropriate, with around the clock access to the Flare Stations and RNG Project. At the request of the Company, the Parties shall execute a memorandum of right-of-way to be recorded for the purpose of giving record notice of the location and of the appropriate provisions of the rights-of-way granted herein.

(C) Easement to New Jersey Natural Gas. The County shall grant a permanent easement to New Jersey Natural Gas for a pipeline on the route depicted in Schedule B (which shall include access to the city of Tinton Falls, NJ gate station) promptly upon request (which request must include a metes and bounds legal description), but in no event more than 60 days from the submission of a request by New Jersey Natural Gas.

SECTION 2.3 LAND USE.

(A) Site License. Company shall be authorized and is hereby granted the non-exclusive license to utilize the Site, without cost, to construct and install the RNG Project, all of which shall not materially restrict or interfere with the County's use or operation of the MCRC. The RNG Project will be constructed on the Site in accordance with the terms hereof. Upon termination or expiration of the Agreement, the license and rights provided in this Section 2.3(A) shall terminate, provided, however, the Company shall retain access and use rights for the purposes of complying with the obligations set forth in Section 4.4.

(B) Site Lease. No later than sixty (60) days after the date hereof, the Parties shall negotiate, execute and deliver a site lease on customary and reasonable terms and in form and substance reasonably satisfactory to each of the Parties (the "Lease"). During the Term, the Company will lease the Site from the County. The Company shall pay the County rent in the amount of one hundred thousand dollars (\$100,000.00) per year for each calendar year (prorated for any partial year) during the Term payable as part of the Monthly Payments. The Parties contemplate that this Lease should not and shall not be filed for record, but in lieu thereof, within sixty (60) days after the execution and delivery of the Lease, the Parties shall execute a

memorandum of lease to be recorded for the purpose of giving record notice of the appropriate provisions of the Lease. Any aboveground equipment or improvement placed upon the Site by the Company, including but not limited to fixtures and articles of personal property attached to or used in connection with the Lease, shall not become the property of the County and shall be maintained and operated in compliance with all Applicable Laws and regulations.

(C) No Interference with MCRC Operations. It is understood and agreed by the Company that the County's primary obligation and purpose is the efficient and safe operation of the landfill, waste management operations, and related activities at the MCRC in accordance with Applicable Law, and that the rights granted to the Company hereunder are secondary to such operations (including but not limited to the minimization of odors) and the requirements and obligations of the County or its agents under Applicable Law. The construction and operation of the RNG Project shall not unreasonably interfere with the operational requirements of the County with respect to the MCRC and shall be coordinated with the County.

(D) Coordination Meetings. The Parties will meet on a quarterly basis, or at a frequency otherwise mutually agreed upon by the Parties, to coordinate their respective operational activities at the MCRC and the Site. The Parties shall reasonably cooperate and coordinate such that (i) the Company may schedule and perform construction, operation and maintenance activities of the Company's facilities in a manner which will not unreasonably interfere with the ability of the County to operate the MCRC; (ii) the Parties may minimize odors, unpermitted discharges, noise, dust control, air quality and such other items as the Parties may desire to address; and (iii) each Party may meet all Applicable Laws including requirements of Governmental Approvals to which it is subject. The Company shall coordinate scheduled activities that may interfere with the operation of the MCRC at least fourteen (14) days in advance. Notice shall be given in writing as specified herein.

(E) Location and As-Builts. All plans and as-built drawings for the RNG Project shall be compatible with the County's site control system and site horizontal and vertical datum and shall be surveyed by a licensed land surveyor. The survey data for use at the MCRC are the North American Datum of 1927 and the North American Vertical Datum of 1929. Surveys shall utilize existing monuments. Drawings for the RNG Project will be signed and sealed by an engineer licensed to practice in New Jersey. The Company shall provide conceptual design plans of the RNG Project and any related pipelines within the County property encompassing the MCRC (other than the interconnection pipeline), condensate lines and utility connections. The Company shall provide copies of the site plan to the County and allow the County to view copies of as-built drawings of all underground infrastructure and the RNG Project, as well as general arrangement permit-level drawings (including process flow diagrams and process & instrumentation diagrams) and record drawings, after completion of the construction of the RNG Project. The Company shall maintain complete as-built drawings and O&M manuals for the RNG Project on-site and shall make such documents available for viewing by the County if required by any regulatory body or due to a health, safety or other emergency situation.

SECTION 2.4 ACCESS, INSPECTION AND VISITATION. Upon two (2) Business Days' prior notice to the Company, the County and its representatives shall have (i) at any time during normal business hours during the Term of this Agreement, the right of access to the RNG Project for any reasonable purpose, and (ii) the right during normal business hours to take visitors to such portions of the RNG Project as are suitable for such visitation. Such access to the RNG Project shall be made available, and such visitation of the RNG Project shall be conducted, in a

manner which does not interfere with the Company's performance of its operations. The Company may require any person accessing or visiting the RNG Project to be escorted by Company personnel, to comply with its reasonable rules and regulations (including safety protocols) and to sign a statement agreeing to assume the risk of the visit and a release of all claims relating to the visit.

SECTION 2.5 NO LIENS OR ENCUMBRANCES. Except for Permitted Encumbrances, the Company shall not create any liens or encumbrances on the Landfill, the Collection System, Flare Stations or RNG Project, and the County shall not create any liens or encumbrances on the RNG Project, during the Term.

SECTION 2.6 OWNERSHIP. The County owns the Collection System and the Flare Stations including all improvements thereto. The Company owns the RNG Project.

ARTICLE III CONSIDERATION

SECTION 3.1 MONTHLY PAYMENT DURING RNG PROJECT OPERATIONS.

(A) Product Gas Payment. Each calendar month during the Operations Period, as part of the Monthly Payment, the Company shall pay to the County an amount equal to the aggregate Daily Payments for the prior Month (the "Product Gas Payment"). "Daily Payments" equal an amount equal to the product of (i) the greater of (1) seventy-five percent (75%) of the TETCO M2 price and (2) \$2.00, multiplied by (ii) total MMBtu of RNG from the RNG Project and delivered to the Interconnection Point for each day during the relevant Month.

(B) Environmental Attribute Payment. Each calendar month during the Operations Period, as part of the Monthly Payment, the Company shall pay, on a trailing two (2)-month basis, to the County an amount equal to ten percent (10%) of the revenues actually received by the Company during each calendar month in respect of the sale of Environmental Attributes associated with the RNG delivered to the Interconnection Point (the "EA Payment").

(C) Additional Consideration. In the event that the Company is able to monetize and subsequently receives revenue with respect to any other products associated with the RNG from the RNG Project not otherwise addressed hereunder, the Company shall pay, on a trailing two (2)-month basis, to the County an amount equal to ten percent (10%) of the revenues actually received by the Company during each calendar month in respect of the sale of such products (the "Additional Consideration").

SECTION 3.2 DEFAULT RATE. In the event that any payment due under this Agreement shall not have been paid by the Company by the due date thereof, the Company agrees to pay the County a default charge which shall accrue daily at the rate of 10% per annum on the unpaid balance of the principal and any accrued interest. Interest shall be calculated based upon a 360-day year, having 12 months of 30 days each.

SECTION 3.3 AUDIT.

(A) The County shall have the right, upon advance written notice to the Company, and at the County's sole cost and expense, to inspect the records and gas meters used in determining Monthly Payments, including any contracts for the sale of Environmental Attributes, including

any amendments thereto, entered into by the Company, for the purpose of verifying the accuracy of the Monthly Payments to the County; provided, however, if the audit reveals a discrepancy in the County's favor in excess of 1% of the value of the Monthly Payments over the prior twelve months, Company shall reimburse the County for its costs and expenses in connection with the audit and interest due thereon in accordance with Section 3.2. All records shall be kept confidential to the extent permitted by law.

(B) The Parties shall cooperate in good faith to resolve any disputes arising from an audit under this Section 3.3. In the event the Parties are unable to resolve a dispute within thirty (30) calendar days, the Parties shall mutually select an independent and nationally recognized accounting firm to resolve such dispute at the County's sole cost and expense; provided, however, that if the accounting firm determines an underpayment by the Company in excess of 1% of the value of the Monthly Payments over the prior twelve months, then the Company shall reimburse the reasonable, out-of-pocket costs and expenses of the County related to the engagement of the accounting firm to perform such audit.

(C) As finally determined by the Parties or the mutually selected accounting firm, any payment discrepancies shall be paid or refunded, as applicable, to the relevant party with interest in accordance with Section 3.2.

SECTION 3.4 SUBSTANTIATION. The Company shall submit all necessary information and documentation to substantiate each Monthly Payment and any other payment required to be made pursuant to this Agreement when such payment is made to the County. Monthly Payments for each month shall be due by the 25th day of the following month.

ARTICLE IV TERM; SURRENDER; OPTIONAL PURCHASE

SECTION 4.1 TERM. The term of this Agreement shall commence on the date hereof and, unless otherwise terminated as provided herein, shall continue in effect until the 20th anniversary of the Substantial Completion Date (the "Initial Term"). The Initial Term and all subsequent extensions, if any, shall hereinafter collectively be referred to as the "Term".

SECTION 4.2 EXTENSIONS. The Initial Term shall be extended for two (2) successive ten (10) year periods, upon the Company giving written notice of such extension no later than 60 days prior to the end of the then current Term, and provided the Company is not in default under the terms of this Agreement. Notwithstanding the above, in no event shall the Term extend beyond forty (40) years from the Contract Date unless a change in Applicable Law allows such an extended Term and the Parties mutually agree to extend the Term.

SECTION 4.3 SURRENDER.

(A) Upon no less than one hundred and eighty days (180) prior written notice to the County, the Company may surrender and terminate this Agreement without liability hereunder, except for liability or obligations previously incurred or expressly required pursuant to this Agreement upon termination or expiration, upon the occurrence of one of the following:

(1) *Insufficient Landfill Gas.* If, prior to the end of the first anniversary of the Substantial Completion Date, Landfill Gas cannot be recovered from the Landfill in Commercial Quantities.

(2) *Regulatory Market Failure.* If there is a full repeal of the EPA RFS program or a change of the EPA RFS program wherein Landfill Gas no longer qualifies as a feedstock or fuel that can enable the generation of RINs and it is not replaced by an equivalent or similar program.

(3) *Economic Unviability.* If the RNG Project becomes “Economically Unviable” due to either: (a) a significant curtailment of municipal solid waste and organics landfilled at the Site such that the volume of Landfill Gas generation by the Landfill falls below 50% of 3,000 scfm, which is the level generated by the Landfill as of October 10, 2023, or (b) the presence of hazardous Landfill Gas components in such quantities which renders the Landfill Gas untreatable to meet gas pipeline specifications by the RNG Project.

(4) For purposes of this Section 4.3, “Economically Unviable” means that the Company suffers a net operating loss in two (2) consecutive quarters for the RNG Project.

(B) Upon any surrender pursuant to this Section 4.3, the Company shall retain such rights of way and easements over, upon and across the Landfill only to the extent necessary or convenient for the Company to comply with its obligations pursuant to Section 4.4.

SECTION 4.4 OPTIONAL PURCHASE; REMOVAL. Upon termination of this Agreement for any reason other than the County’s default, the County may, at its option, acquire all or any of the RNG Project at Fair Market Value. In the event the County does not elect to exercise its option under this Section 4.4, the Company shall have an obligation, within fifteen (15) months after the expiration or termination of this Agreement, to remove the RNG Project and generally restore the surface and subsurface of the Site to its pre-development condition to the extent reasonably possible in accordance with Section 11.4. The Company shall coordinate such activities with the County and shall not materially interfere with the operational requirements of the County with respect to the MCRC while removing the RNG Project and restoring the surface and subsurface of the Site. The Company shall demonstrate that the operation of the RNG Project has not created adverse environmental effects during its operation or removal by completing a site investigation in accordance with the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq., and the NJDEP Technical Requirements for Site Remediation at N.J.A.C. 7:26E. The Company shall further ensure that upon cessation of operation, termination and removal, Landfill Gas is directed to the Flare Stations or an alternative Landfill Gas processing facility. The Company shall provide to the County a performance bond prior to termination in an amount reasonably sufficient in the County’s reasonable discretion to indemnify the County with respect to any non-performance by the Company of its obligations pursuant to this Section 4.4.

SECTION 4.5 TRANSFER OF INTERESTS. In connection with any transfer or reversion of the Gas Rights or RNG Project to the County, the Company (to the extent it has such rights) shall assign to the County, on an as-is where-is basis, any or all rights and obligations of the Company related to the Gas Rights and the RNG Project, including, but not limited to, any warranties and output contracts, and the County will thereafter, to the extent permitted by law, indemnify and hold the Company harmless from and against such obligations to the extent the basis of such claims were in no way the result of the Company’s action or inaction. In addition,

the Parties shall cooperate to transfer any attendant permits to the County. The Parties will take all actions necessary to effect such transfers.

ARTICLE V
REPRESENTATIONS, WARRANTIES, COVENANTS

SECTION 5.1 BY COUNTY. The County makes the following representations, warranties, and covenants in favor of the Company:

(A) Authority, No Conflicts, Breaches or Encumbrances. The execution and delivery of this Agreement and the consummation of the transactions contemplated herein have been duly and validly authorized by all necessary action on the part of the County. Subject to the receipt of approval of the NJDEP pursuant to N.J.S.A. 40A:11-15(4), this Agreement is the legal, valid and binding obligation of the County, enforceable in accordance with its terms subject to bankruptcy, insolvency, fraudulent conveyance, transfer, reorganization, or other similar laws relating to or affecting the Parties' rights generally and general principles of equity. Neither the execution and delivery of this Agreement by the County, nor the consummation by the County of the transactions contemplated herein, nor compliance by the County with the provisions hereof (i) conflicts with or results in a breach of the articles of incorporation, by-laws or organizational documents of the County (ii) conflicts with or results in a breach of any provision of, or constitutes (with or without the giving of notice or the passage of time or both) a default under or gives rise (with or without the giving of notice or the passage of time or both) to any right of termination, cancellation or acceleration under, or requires any consent, approval, authorization, or waiver of, or notice to, any party to any agreement or other instrument or obligation to which the County is a party or by which the County or any of its properties or assets is bound; or (iii) results in the creation or imposition of any lien, security interest or other encumbrance of any kind or character upon any of the interests to be conveyed to the Company.

(B) Title to Landfill Gas. The County has good and exclusive title to the Landfill Gas free of any liens, restrictions or encumbrances of any nature. The enforceability of such warranty shall be a condition precedent to all obligations of the Company hereunder. The County further agrees at the Company's option to defend, or assist in the defense of, the title to such Landfill Gas and shall indemnify and hold the Company harmless from and against any loss, damages or expenses arising from any claims or actions brought by any third party asserting rights in said Landfill Gas.

(C) Approvals and Consents. No consent, approval or other action by, or filing with any person or Governmental Entity is required in connection with the execution and delivery by the County of this Agreement or the consummation by the County of the transactions contemplated hereby, other than those consents, approvals or other action that the County has obtained or taken and the approval of the NJDEP pursuant to N.J.S.A. 40A:11-15(4).

(D) The Landfill.

(1) The County owns marketable fee simple title to the Landfill, subject to no liens, tenancies, restrictions, leases, licenses or other rights of occupancy, assignments, charges, security interests, easements, options or other liabilities or encumbrances or title objections.

(2) The present zoning, building and other ordinances and regulations applicable to the Landfill permit the use and occupancy of the MCRC as is currently being operated. To the best of the County's knowledge, the MCRC is in compliance with all land use requirements; and the County shall give prompt written notice to the Company of any notice of a violation of any land use requirements.

(3) Upon receipt of any written notice, the County shall give prompt written notice to the Company of any proposed changes of zoning of which the County is aware.

(4) There are no encroachments, leases, easements, covenants, restrictions, reservations or other burdens of any nature, other than underground infrastructure constructed by the County, Utilities, and wetlands affecting any part of the MCRC which might impair the use of the MCRC as it is being used on the date hereof or impair the use of the Landfill as contemplated by the terms of this Agreement.

(5) No condemnation or similar actions are currently in effect or pending against the MCRC or any part thereof; and to the best knowledge of the County, no such action is threatened against any portion of the Landfill.

(6) Except as otherwise disclosed to the Company, the County is not aware of any violations to its permits applicable to the Landfill nor is aware of any pending proceedings related to potential permit violations which would have the effect of materially adversely affecting the ability of the Parties to perform their obligations under this Agreement.

(7) The County covenants that, during the Term (i) it will use reasonable efforts to make sure that no waste will be accepted for disposal at the Landfill that is not in accordance with Applicable Laws, and (ii) no application or petition will be made for a Resource Conservation and Recovery Act Subtitle C Permit for the Landfill or any portion thereof.

(E) Future Encumbrances.

(1) If the Landfill or any of the rights or interests granted to the Company hereunder are or become subject to a lease, mortgage, indenture, or other encumbrance entered into by the County, then the County shall use its best reasonable efforts to obtain from the mortgagee, trustee or lien holder a partial release, subordination, nondisturbance and attornment agreement for the benefit of the Company in form and substance reasonably satisfactory to the Company or otherwise in the standard form used by such lessee, mortgagee, trustee or lienholder.

(2) The County shall not permit any liens, mortgages or encumbrances for the County's debts to attach to the Company's property or rights hereunder. If any such liens, mortgages or encumbrances are recorded against the Company's property or rights hereunder, the County shall remove or cure the same, by payment, bonding or otherwise within seven (7) days. If the County fails to remove or cure such liens, mortgages or encumbrances, the Company may at its option, and upon thirty (30) days' prior written notice to the County, pay and discharge any mortgage taxes and other liens now or hereafter attaching to the Landfill or Landfill Gas, or any part thereof. In such event the Company shall be subrogated to all of the enforcement rights of the County or holder thereof, and the Company shall have the right to apply payments due to the County accruing hereunder toward satisfying the same as determined by a court of competent jurisdiction or arbitrator (or as otherwise agreed to by the Parties).

(F) Litigation. Except as otherwise previously disclosed, there is no litigation, claim, investigation, challenge or other proceeding pending, or, to the knowledge of the County,

threatened against or relating to the County or the MCRC which affects or could adversely affect the Landfill or the consummation of the transactions contemplated by this Agreement.

SECTION 5.2 BY THE COMPANY. The Company makes the following representations, warranties, and covenants in favor of the County:

(A) Organization and Power. The Company is a corporation duly formed, validly existing and in good standing under the laws of the State of New Jersey, has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(B) Authority, No Violations, Conflicts, Breaches or Encumbrances. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by all necessary action on the part of the Company. Subject to receipt of approval of the NJDEP pursuant to N.J.S.A. 40A:11-15(4), this Agreement is the valid and binding obligation of the Company, enforceable in accordance with its terms subject to bankruptcy, insolvency, fraudulent conveyance, transfer, reorganization, or other similar laws relating to or affecting the Parties' rights generally and general principles of equity. Neither the execution and delivery of this Agreement, nor the consummation by the Company of the transactions contemplated hereby, nor compliance by the Company with the provisions of these documents (i) conflicts with or results in a breach of any provision governing its organization and internal affairs; or (ii) conflicts with or results in a breach of any provision of, or constitutes (with or without the giving of notice or the passage of time or both) a default under, or gives rise to (with or without the giving of notice or the passage of time or both) any right of termination, cancellation or acceleration under, or requires any consent, approval, authorization, or waiver of, or notice to, any party to any agreement or other instrument or obligation to which the Company is a party, or by which the Company or any of its properties or assets is bound; or (iii) results in the creation or imposition of any lien, security interest or other encumbrance of any kind or character upon any of the Gas Rights.

(C) Approvals and Consents. No consent, approval or other action by, or filing with any person or Governmental Entity is required in connection with the execution and delivery by the Company of this Agreement or the consummation by the Company of the transactions contemplated hereby, other than those consents, approvals or other action that the Company has obtained or taken and the approval of the NJDEP pursuant to N.J.S.A. 40A:11-15(4).

(D) Litigation. There is no litigation, claim, investigation, challenge or other proceeding pending or, to the knowledge of the Company, threatened against the Company, its properties or business which adversely affects or could adversely affect the transactions contemplated by this Agreement or seeks to enjoin or prohibit it from entering into this Agreement.

(E) Further Encumbrances. The Company shall not permit any liens, mortgages or encumbrances for the Company's debts to attach to the County's property, including the MCRC. If any such liens, mortgages or encumbrances are recorded against the County's property, the Company shall remove or cure the same, by payment, bonding or otherwise, within ten (10) Business Days. If the Company fails to remove or cure such liens, mortgages or encumbrances, the County may at its option, and upon thirty (30) days' prior written notice to the Company, pay and discharge any mortgage, taxes and other liens now or hereafter attaching to the MCRC or any part thereof. In such event the County shall be subrogated to all of the enforcement rights of the holder thereof, and apply payments due to the Company accruing hereunder toward satisfying the

same as determined by a court of competent jurisdiction or arbitrator (or as otherwise agreed to by the Parties).

ARTICLE VI
DESIGN, PERMITTING AND CONSTRUCTION OF THE RNG PROJECT

SECTION 6.1 AGREEMENT TO DESIGN, PERMIT AND CONSTRUCT.

(A) Commencement of Design, Permitting and Construction. Following the Contract Date, the Company shall undertake, perform, complete and pay for the cost of the RNG Project in accordance with all of the provisions and requirements of this Agreement. The Company shall commence the design, permitting, equipment procurement and construction of the RNG Project, shall cause the RNG Project to achieve all requirements for the establishment of the Substantial Completion Date. Subcontracts entered into by the Company for the construction of the RNG Project, as applicable, shall neither supersede nor abrogate any of the terms or provisions of this Agreement.

(B) RNG Project Schedule. Attached as Schedule C is a projected schedule of milestones for the design, permitting, and construction of the RNG Project (the “RNG Project Schedule”).

(1) Except as a result of Force Majeure or delays caused by the County, if the Company fails to achieve a projected milestone as set forth on the RNG Project Schedule (as the same may be revised pursuant to this Section) such that the Substantial Completion Date is reasonably expected to be delayed by more than thirty (30) days beyond the Projected Substantial Completion Date (as the same may be revised pursuant to this Section), then the County may in any such case, by written notice to the Company, require the Company to prepare and deliver a recovery plan with a revised RNG Project Schedule and Projected Substantial Completion Date and demonstrating the manner in which the Substantial Completion Date will be achieved by the revised Projected Substantial Completion Date (the “Recovery Plan”). Within ten (10) Business Days after receipt of such written notice, the Company shall prepare and deliver a draft Recovery Plan.

(2) Within five (5) Business Days after the County’s receipt of a draft Recovery Plan, the Company shall participate in a conference with the County to review and evaluate the draft Recovery Plan. If the Company does not participate or contribute in good faith to the conference, the Recovery Plan shall be deemed unacceptable. Following the conference, the County shall have five (5) Business Days to review and comment on the draft Recovery Plan. The Company shall consider in good faith in finalizing the recovery Plan and provide a response to all comments received from the County within five (5) Business Days.

(C) Design. The Company shall design the RNG Project in accordance with Schedule D and the Contract Standards. The Company shall have sole and exclusive responsibility for the design of the RNG Project hereunder and the preparation of design materials that it must provide pursuant to this Agreement. Costs incurred by the Company in connection with the design of the RNG Project shall be borne solely by the Company. The County has no responsibilities or liabilities in connection with the design of the RNG Project, notwithstanding any comments or review by the County or its consultants. Notwithstanding the foregoing, the Company shall

provide advance written notice of five (5) Business Days to the County of any material changes to the design of the RNG Project.

(D) Deliverables. The Company shall submit permit-level general arrangement drawings of the RNG Project to the County twenty (20) Business Days prior to permit application submission for review. The Company shall provide to the County copies of any requests for modification of its construction permit application. Prior to and during the construction of the RNG Project, the Company shall provide at least monthly updates regarding the construction of the RNG Project and any material changes to construction plans. Coordination of construction activities and MCRC operations shall occur at least once every two (2) weeks.

(E) Construction Costs. The Company shall construct the RNG Project in accordance with the Contract Standards. The Company shall pay directly all fees, costs and expenses of the RNG Project of any kind or nature whatsoever, without payment or reimbursement from the County. Such fees, costs and expenses, without limiting the generality of the foregoing, shall include all costs of permitting, regulatory compliance and legal proceedings brought against the Company; obtaining and maintaining all bonds; payments due under subcontracts with Subcontractors or otherwise for all labor and materials; legal, financial, engineering, architectural and other professional services of the Company; and general supervision by the Company of all design and construction; and Company preparation of schedules.

(F) Governmental Approvals Necessary for Construction. At its own cost and expense, the Company shall make all filings, applications and reports necessary to obtain and maintain all Governmental Approvals required to be made, obtained or maintained under Applicable Law in order to commence and continue the construction, commissioning and testing of the RNG Project, as well as any permit that may be required for the operation at the RNG Project. The County shall provide reasonable assistance to facilitate the permitting process with local authorities having jurisdiction.

(G) Compliance With Law and Other Contract Standards. In designing, constructing, commissioning, and testing the RNG Project, the Company shall comply with Applicable Law (including permits) and all Contract Standards. The Company shall only use manufactured and farm products of the United States, wherever available, in the RNG Project.

(H) Engagement of County Project Manager. The Company shall reasonably cooperate with any County Project Manager designated by the County to assist the County in connection with the administration of this Agreement. In the performance of such services, the Company agrees that the County Project Manager (and/or an engineering consultant or construction manager designated by the County Project Manager) may, without limiting other possible services to the County: review and monitor construction progress, including attending pre-construction and construction status meetings; observe the completion of the RNG Project; review drawings, plans and specifications; and review and advise the County with respect to material changes to the RNG Project during the Term. Such County Project Manager and any engineering consultant or construction manager shall sign non-disclosure agreements, in form and substance reasonably satisfactory to the Company, unless he or she is a County employee. It is understood that the services intended to be provided by the County Project Manager shall be of an observational and review nature only and that the County Project Manager shall not have authority to require or approve changes to the RNG Project or the Company's plans and specifications made in accordance therewith. The County shall review and provide comments to any drawings/submittals

within ten (10) Business Days after receipt of such submittals. The Company agrees to cooperate with and consider in good faith all reasonable requests made by the County Project Manager in connection with the performance of such duties for the County. The fees of the County Project Manager shall be paid by the County and the Company shall not have any liability therefor.

(I) Interconnection. The County, by means of a separate agreement with New Jersey Natural Gas in its capacity as the local gas utility, shall be responsible for arranging for the interconnection to the New Jersey Natural Gas natural gas pipeline downstream from the RNG Project promptly following the Contract Date. The County shall pay all costs associated with the interconnection; provided, however, that the Company shall reimburse the County for the cost of the pipeline and associated metering and regulation interconnection to New Jersey Natural Gas' existing pipeline. The County shall grant the necessary easement associated with the interconnection in accordance with Section 2.2(C).

SECTION 6.2 PERSONNEL.

(A) Personnel Performance. The Company shall employ or engage all necessary personnel to perform all services required for the construction of the RNG Project. The Company shall enforce discipline and good order consistent with MCRC's Health and Safety Plan at all times among the Company's employees and all Subcontractors. All persons engaged by the Company for the design and construction of the RNG Project shall have requisite skills for the tasks assigned. All firms and personnel performing work in connection with the RNG Project, including Subcontractor firms and personnel, shall meet the licensing and certification requirements imposed by Applicable Law. No Company construction personnel or Subcontractor personnel shall be on the Landfill other than the Site, the approved access road to the Site or areas of the Landfill necessary to perform work in connection with the RNG Project, unless County personnel accompany them.

(B) Construction Personnel Wages and Training. All persons engaged by the Company for the construction of the RNG Project shall be paid the wages set forth on Schedule E, which are not less the applicable prevailing wages. In connection with the RNG Project, the Company will employ on the worksites of construction work on a public utility only individuals who have successfully completed all OSHA-certified safety training, if any, required by either the Federal Occupational Safety and Health Administration or the Company, as a prerequisite for the particular work to be performed on the given work-site.

(C) Labor Disputes. The Company shall have exclusive responsibility for disputes or jurisdictional issues among any unions or trade organizations representing employees of the Company or its Subcontractors, whether pertaining to organization of work in connection with the RNG Project, employee hiring, or any other matters. The County shall have no responsibility whatsoever for any such disputes or issues. The Company shall promptly notify the County of any impending disputes with its unions or any unions supporting its Subcontractors or suppliers which might affect the Landfill or the construction or operation of the RNG Project.

SECTION 6.3 OWNERSHIP; DISCHARGE OF ENCUMBRANCES.

(A) Ownership. The RNG Project and all related equipment, materials, vehicles and supplies purchased by the Company to be used in or about the RNG Project, and all plans, drawings and other documentation with respect thereto, shall be legally or beneficially owned by the Company.

(B) Encumbrances. Except for Permitted Encumbrances, the Company shall not create or allow any encumbrance to arise on or against the RNG Project. If an encumbrance is created or arises other than a Permitted Encumbrance, the Company shall cause the encumbrance to be discharged or fully bonded.

SECTION 6.4 CONSTRUCTION BOOKS AND RECORDS. The Company shall prepare and maintain proper, accurate and complete records regarding the construction of the RNG Project. The Company shall keep and maintain all such construction records for at least seven years after the Substantial Completion Date.

ARTICLE VII SUBSTANTIAL COMPLETION OF THE RNG PROJECT

SECTION 7.1 TERMINATION FOR FAILURE TO ACHIEVE SUBSTANTIAL COMPLETION DATE. If the Substantial Completion Date has not been achieved for reasons other than Force Majeure or delays caused by the County within eighteen (18) months following the date on which Company has received its air permit from the NJDEP authorizing construction of the RNG Project, the County shall have the right, as its sole and exclusive remedy, to terminate this Agreement upon written notice to the Company (without providing the Company an opportunity to cure). Upon any such termination, the County shall have the rights provided in Section 11.4.

ARTICLE VIII OPERATIONS AND MAINTENANCE

SECTION 8.1 RNG PROJECT OPERATIONS.

(A) Generally. The Company shall be responsible for operating and maintaining the RNG Project in accordance with the Contract Standards and the requirements herein. The Company shall not be entitled to any compensation other than its gas rights set forth in this Agreement for such operation and maintenance responsibilities. The Company shall be responsible for the costs of connecting the RNG Project to the Interconnection Point. The Company shall maintain, operate and have the sole responsibility over the controls necessary to switch from gas processing to a flaring system that is owned by the Company without undue delay, as necessary to maintain compliance with New Jersey Natural Gas's specifications for renewable natural gas and will be responsible for maintaining the pipeline (and/or other infrastructure) from the RNG Project to the Interconnection Point. Failure to promptly switch between the Company's flaring system and RNG processing and any resulting violations of any applicable air permit are the responsibility of the Company. The Company does not have any responsibility with respect to the Flare Stations, which are owned by the County.

(B) Conduct of Operations. The Company shall process the Landfill Gas delivered by the County and market the RNG and associated Environmental Attributes during the Term of this Agreement in accordance with Good Industry Practice and in compliance with any and all restrictions of Applicable Laws, regulations, ordinances and restrictions or conditions contained in any air or other permit of the County or the Company that applies to the RNG Project. The

Company shall be responsible for all operation and processing activities with respect to the Landfill Gas delivered to the RNG Project during the Term of this Agreement. The Company is responsible for delivery of the RNG to the Interconnection Point. The Company shall use its commercially reasonable efforts to maximize the production of Environmental Attributes.

SECTION 8.2 MAINTENANCE AND REPAIR OF RNG PROJECT. The Company at its own expense shall have the responsibility to maintain the RNG Project, including in its utility capacity as New Jersey Natural Gas the point of interconnection, in good working order and repair consistent with the RNG Project operations and maintenance manual(s) and in accordance with all Contract Standards. The Company shall have the responsibility to provide or make provisions for all labor, materials and equipment for the normal operation and maintenance of the RNG Project. The Company shall have the responsibility to calibrate all meters and instruments to confirm their accuracy in accordance with Applicable Law and manufacturers' recommendations. The Company shall, at its own cost and expense, be responsible for providing major maintenance and major repairs and replacements for machinery, equipment, and improvements constituting part of the RNG Project and interconnection during the Term of this Agreement. The County shall not be financially responsible for any such major maintenance, repair or replacement of the RNG Project or interconnection. The responsibility for maintaining the interconnection and tie-in remains with New Jersey Natural Gas even after termination of this Agreement by either Party.

SECTION 8.3 COLLECTION SYSTEM EXPANSIONS.

(A) Design and Construction. The County shall be responsible, at its cost, for the designing, constructing, permitting (including, without limitation, disruption permits and construction permits), operating and maintaining all future Collection System expansions sufficient to maintain compliance with applicable emission regulations in effect at the Landfill during the Term in accordance with the Contract Standards.

(B) Landfill Expansion. The County was issued by NJDEP the Solid Waste Facility permit modification for the Phase IV Expansion, effective July 17, 2023. During any Expansion, the County will use commercially reasonable efforts to coordinate with the Company so as not to adversely affect the production of Landfill Gas.

SECTION 8.4 DISPOSAL OF LIQUIDS AND SOLIDS.

(A) The Company shall, at its cost, dispose of all Condensate generated by the processing of Landfill Gas that is rejected by the County's treatment facility. Upon operation of the RNG Project, the Company shall characterize the composition and generation rate of condensate and provide the information to the County for evaluation. The scope of the characterization shall be reviewed and approved by the County prior to sampling and monitoring. If it is determined by the County that the Condensate may be introduced into the County's leachate collection system without detrimental impact on the County's leachate treatment plant the equipment and biological processes, the County shall accept Condensate at a flow rate determined by the operator of the leachate treatment plant. If acceptable to the County, the Company shall install an oil/water separator and a calibrated flow meter at the Site prior to the introduction of the Condensate into the leachate collection system. The County reserves the right to charge for accepting the Company's Condensate a commercially reasonable amount. The Company may also discharge sanitary wastewater with the Condensate, provided a comminutor is installed on the discharge line. The Company is responsible for the design and construction of the wastewater interconnection, subject to the County's approval of the design.

(B) The Company shall, in connection with its operations on the Landfill hereunder, deliver to a point on the Landfill designated by the County, for disposal by the County of non-hazardous solid waste, including minor amounts of carbon and other filtration media, produced by the RNG Project. The County shall accept, at the point it so designates, without cost to the Company, such non-hazardous solid waste for disposal in accordance with Applicable Law. All Company generated waste will be required to pass the MCRC scales. The Company shall demonstrate that the waste is non-hazardous pursuant to any methodology acceptable to NJDEP and authorized under Applicable Law.

(C) The Company shall be responsible for disposing, at its expense, of all hazardous solid or liquid substances, if any, generated as part of its operation and maintenance of the RNG Project.

SECTION 8.5 COLLECTION SYSTEM OPERATION AND MAINTENANCE.

(A) The County, at its sole cost and expense, is responsible for the operation, maintenance, repair and replacement (both routine and non-routine) of the Collection System over the entire footprint of the Landfill, in accordance with Applicable Law and the Contract Standards.

(B) The County is responsible for the repair or replacement of any portion of the Collection System damaged or destroyed as the result of its own actions. .

SECTION 8.6 MAINTENANCE OF RNG PROJECT GROUNDS. The Company, in accordance with the Contract Standards, shall keep the grounds of the RNG Project in a neat and orderly condition (including the cleanup of litter and debris as required). The Company shall also maintain and repair all signage, fencing and other security systems installed or utilized in connection with the RNG Project. In addition, the Company shall provide all landscaping services for the property subject to the Lease.

SECTION 8.7 SAFETY. The Company shall prepare a safety plan which shall be maintained in accordance with this Section 8.7 (the "Safety Plan"). The Safety Plan shall be delivered to the County no less than sixty (60) days prior to start-up of operations of the RNG Project. The Company shall review and discuss in good faith with the County any aspect of the Safety Plan, including any conflicts between such manual and the Landfill operations protocols. The Company shall maintain the safety of the RNG Project at a level consistent with Applicable Law (including but not limited to OSHA) and the MCRC Health and Safety Plan

and the other Contract Standards. Without limiting the foregoing, the Company shall at its cost and expense:

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

(2) establish and enforce all reasonable safeguards for safety and protection, including erecting fencing around the RNG Project, posting danger signs and other warnings against hazards and promulgating safety regulations;

(3) comply with all Applicable Laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction relating to the safety of persons or property or their protection from damage, injury or loss;

(4) designate a qualified and responsible employee at the RNG Project whose duty shall be the supervision of plant safety, the prevention of fires and accidents and the coordination of such activities as shall be necessary with federal, state, and County officials,

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

(6) make suitable plans to respond to emergencies which may occur at the RNG Project, including fires or explosions.

SECTION 8.8 EMERGENCIES.

(A) The Company shall prepare an emergency response plan. The plan shall be maintained in accordance with this Section 8.8, and shall: (1) provide for appropriate notifications to the County and all other Governmental Entities having jurisdiction and for measures which facilitate coordinated emergency response actions by the County and all such other appropriate Governmental Entities; (2) specifically include response measures; and (3) assure the timely availability of all personnel required to respond to any emergency (no later than two (2) hours during nights, weekends or holidays). The emergency response plan shall be provided to the County no less than sixty (60) days prior to the start-up of operations of the RNG Project. The emergency response plan shall be reviewed by the Parties annually and updated when necessary.

(B) Notwithstanding any requirement of this Agreement requiring County approval or consent to reports or submittals, if at any time the Company determines in good faith that an emergency situation exists such that action must be taken to protect the safety of the public or its employees, to protect the safety or integrity of the Collection System, Flare Stations or RNG Project, or to mitigate the immediate consequences of an emergency event, then the Company shall as soon as practicable take all such action it deems in good faith to be reasonable and appropriate under the circumstances. As promptly thereafter as is reasonable, the Company shall notify the County of the event at an emergency phone number from a list supplied by the County, and the Company's response thereto. The cost of the Company's response measures shall be borne by the Company only to the extent that such measures relate to its responsibilities hereunder with respect to the RNG Project. The Company agrees that it will indemnify the County in full for any and all expenses and damages (direct or indirect) incurred or suffered by the County as a result of the action set forth under this Section 8.8(B).

SECTION 8.9 SECURITY. The County will provide security for the Landfill, but the risk of loss for damage or injury caused by vandalism or otherwise, by or to the RNG Project lies entirely with the Company.

ARTICLE IX ENVIRONMENTAL COMPLIANCE

SECTION 9.1 PERMITS.

(A) Any permits required for the Company to construct, operate, maintain, upgrade, or expand the RNG Project and the costs associated therewith, shall be the sole responsibility of the Company (except the County shall be responsible for the actual submittal of permits that are in the County's name). Any environmental permits required by the County to operate, maintain, upgrade or expand any facilities or equipment required of or by the County pursuant to this Agreement shall be the sole responsibility of the County.

(B) Further, the Company shall apply for a permit for the RNG Project, and the Company and the County shall maintain the RNG Project and the rest of the Landfill separate for Title V permitting purposes; provided, however, that if the New Jersey Department of Environmental Protection instead requires modification of the County's existing Title V permit, then the Company and the County will modify such existing permit to accommodate the RNG Project. If within six (6) months of a pre-application meeting with NJDEP on the matter of an individual NJAC 7:27-8 pre-construction permit for the RNG Project, the Company has not been able to successfully establish the application as administratively and technically complete for review by NJDEP, the Company shall undertake appropriate application preparation to apply for a significant modification of the MCRC's Title V permit to incorporate the RNG Project.

(C) The County and the Company each agree to cooperate with and assist the other in obtaining or modifying such permits (including, without limitation, reviewing and commenting on plans and submittals, and in activities with the New Jersey Department of Environmental Protection and the US EPA).

SECTION 9.2 COMPLIANCE WITH LAW. Each Party shall, at its sole expense, obtain, maintain and comply with all necessary Governmental Approvals required to conduct its respective operations under this Agreement. In addition, the Company shall comply with all federal, state and local laws, rules, regulations and orders applicable to its operations hereunder. The Company shall give a copy to the County of any notice of permit exceedances and deviations, or other violations of Applicable Law that the Company is required to report to another Government Entity in accordance with Applicable Law. The County shall give the Company notice of receipt of any notice of violation of Applicable Law in connection with Landfill operations that it reasonably believes may materially adversely affect the Company's operations hereunder. The County and the Company acknowledge that it is a substantial objective of the County that (i) the RNG Project does not create any impermissible odor, litter, noise, fugitive dust, vector or other adverse environmental effect constituting, with respect to each of the foregoing, a violation of any Applicable Law, and (ii) should any such condition occur, to expeditiously remedy same. If a notice of violation is issued by any Governmental Entity, to the extent such violation is a result of the Company's operations, the Company will be responsible, at its sole cost and expense, for any and all fines or damages that are levied as a result thereof, including remediation of the source or cause of such violation.

SECTION 9.3 RELEASES, LEAKS AND SPILLS.

(A) The Company, while contemporaneously notifying the County, shall be responsible for fulfilling all notification of, and reporting requirements established by Applicable Law related to, any unauthorized release of Hazardous Substances into the environment from the RNG Project. The Company shall prepare a memorandum evidencing such notification and reporting and

provide copies thereof to the County, along with any documents provided to the relevant Governmental Entity regarding the release.

(B) The Company shall coordinate with the County and all appropriate Governmental Entities in effectuating the prompt remediation of any release of Hazardous Substances by the RNG Project, the Company or its Subcontractors. The Company shall, in the most expeditious manner possible, cause any such Hazardous Substances to be cleaned up and remediated in accordance with Applicable Law. All costs associated with performing any such cleanup and remediation measures shall be borne by the Company.

ARTICLE X INDEMNIFICATION AND ASSUMPTION

SECTION 10.1 INDEMNIFICATION BY THE COMPANY. The Company shall indemnify, defend and hold harmless the County and its Affiliates (including the Board of County Commissioners, the County’s constitutional officers (Sheriff, County Clerk, Prosecutor, and Surrogate) and their respective employees, volunteers and agents) and their respective directors, officers, employees, and agents, (each, a “County Indemnitee”) against any and all third-party demands, claims, damages, liabilities, actions or causes of action, assessments, deficiencies, judgments, costs and expenses, including, but not limited to, legal fees, expenses, interest, penalties, and all amounts paid in investigation, defense or settlement of any of the foregoing, whether or not any such demands, claims, or allegations of third parties are meritorious (collectively, “Losses”), resulting from or arising out of:

- (i) Any breach of any representation or warranty made by the Company in this Agreement; or
- (ii) Any breach or nonfulfillment of any covenant or agreement made by the Company in this Agreement; or
- (iii) Personal injury to or death of any individual, or loss or damage to property, caused by the negligence, gross negligence, or willful misconduct of the Company or any of its officers, managers, employees, agents, representatives, Affiliates or Subcontractors in the performance of the Company’s duties under this Agreement; or
- (iv) The Company’s failure to pay its workers, suppliers or subcontractors for labor or materials provided to the County; or
- (v) Violations under the County’s existing permits, including its Title V permit, due to the Company’s failure to operate the RNG Project in accordance with this Agreement.

Notwithstanding the foregoing, no County Indemnitee shall be entitled to indemnity hereunder for any Losses to the extent caused by any negligent act or omission or willful misconduct or failure to perform its obligations hereunder of any County Indemnitee or any breach of this Agreement by the County.

SECTION 10.2 INDEMNIFICATION BY COUNTY. To the extent permitted by law, the County shall indemnify, defend and hold harmless the Company and its Affiliates and

their respective directors, officers, managers, members, employees, and agents, (each, a “Company Indemnitee”) against any and all Losses, resulting from or arising out of:

- (i) Any breach of any representation or warranty made by the County in this Agreement; or
- (ii) Any breach or nonfulfillment of any covenant or agreement made by the County in this Agreement; or
- (iii) Personal injury to or death of any individual, or loss or damage to property, caused by the negligence, gross negligence, or willful misconduct of the County or any of its officers, members, employees, agents, representatives, or any of its Subcontractors in the performance of the County’s duties under this Agreement; or
- (iv) The existence of any Hazardous Substance on or in the Landfill, or any release of any Hazardous Substance from the Landfill whether occurring, in each case, before or after the date hereof.

Notwithstanding the foregoing, no Company Indemnitee shall be entitled to indemnity hereunder for any Losses to the extent caused by any negligent act or omission or willful misconduct, or failure to perform its obligations hereunder, of any Company Indemnitee or by any breach of this Agreement by the Company.

SECTION 10.3 NOTICE OF CLAIMS. If any Company Indemnitee or County Indemnitee (an “Indemnified Party”) suffered or incurred, or will suffer or incur, any Losses for which it is entitled to indemnification under this Article X, such Indemnified Party shall so notify the party from whom indemnification is being claimed (“Indemnifying Party”) with reasonable promptness and particularity in light of the circumstances then existing. The failure of any Indemnified Party to give any notice required by this Section 10.3 shall not affect any of such party’s rights under this Article X, except to the extent that such failure is prejudicial to the rights of the Indemnified Party, or is otherwise required by Applicable Law.

SECTION 10.4 THIRD PARTY CLAIMS.

(A) If an Indemnified Party gives notice to the Indemnifying Party of a proceeding by a third party (“Proceeding”) under Section 10.3 hereof, the Indemnifying Party will be entitled to assume the defense of such proceeding with counsel reasonably satisfactory to the Indemnified Party, unless (i) the Indemnifying Party is also a party to such Proceeding and the Indemnified Party determines in good faith that joint representation would be inappropriate, or (ii) the Indemnifying Party fails to provide reasonable assurance to the Indemnified Party of its financial capacity to defend such Proceeding and provide indemnification with respect to such Proceeding.

(B) After notice from the Indemnifying Party to the Indemnified Party of its election to assume the defense of such Proceeding, the Indemnifying Party will not, as long as it diligently conducts such defense, be liable to the Indemnified Party for any fees of other counsel or any other expenses with respect to the defense of such Proceeding, in each case subsequently incurred by the Indemnified Party in connection with the defense of such Proceedings, other than reasonable costs of investigation.

(C) If the Indemnifying Party assumes the defense of a Proceeding: (i) no compromises or settlement of such claims may be effected by the Indemnifying Party without the Indemnified

Party's consent, unless the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; and (ii) the Indemnified Party will have no liability with respect to any compromise or settlement of such claims effected without its consent.

(D) If notice is given to an Indemnifying Party of the commencement of any Proceeding and the Indemnifying Party does not, within ten (10) days after the Indemnified Party notice is given, give notice to the Indemnified Party of its election to assume the defense of such Proceedings, the Indemnifying Party will be bound by any determination made in such Proceeding or any compromise or settlement effected by the Indemnified Party; provided that the Indemnified Party shall give the Indemnifying Party advance notice of any proposed compromise or settlement.

SECTION 10.5 INDEMNIFICATION RIGHTS NOT EXCLUSIVE. The rights to indemnification set forth in this Article X are not intended to be exclusive of any other right or remedy otherwise available. All rights hereunder shall be cumulative and in addition to all other rights and remedies.

ARTICLE XI EVENTS OF DEFAULT AND REMEDIES

SECTION 11.1 EVENT OF DEFAULT DEFINED. Any one or more of the following shall be an "Event of Default" under this Agreement:

(a) Failure by the Company or the County to pay any amount due on the date specified that such payment is due and payable which failure shall have continued for a period of ten (10) Business Days after written notice of such failure shall have been given to the defaulting Party by the non-defaulting Party.

(b) Failure by the Company or the County to observe or perform to a material extent any covenant, condition, or agreement on its part to be observed or performed hereunder, (other than a default as described in Section 11.1(a)) for a period of thirty (30) days after the non-defaulting Party has given written notice specifying such failure, requesting that it be remedied, and stating that it is a notice of default; provided, however, that, if the default is such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default until ninety (90) days after said default if corrective action is instituted by the Party in default within ten (10) days after the non-defaulting Party's notice and diligently pursued until the default is corrected. The foregoing notwithstanding, the defaulting Party shall remain liable to the other Party for any damages incurred during the period beginning on the date on which the failure of performance occurred through the date on which performance is cured.

(c) The institution by the Company or the County of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing of a petition or answer or consent seeking reorganization or relief under the federal Bankruptcy Code or any other applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, or similar official or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of action by any of them in furtherance of any such action. The foregoing notwithstanding,

if any such proceeding is dismissed within ninety (90) days, such proceedings shall not create a default under this Agreement.

(d) Any material breach of any representation made in this Agreement by a Party, which has not been cured within twenty (20) days after receipt of notice of such default by the breaching Party.

SECTION 11.2 FORCE MAJEURE. If by reason of Force Majeure either Party is unable in whole or in part to carry out the obligations on its part contained in this Agreement (other than the Company's and the County's obligations referred to in Section 11.1(a) or a breach referred to in Section 11.1(d)), such Party shall not be deemed in default during the continuance of such inability, provided that (i) the Party unable to carry out its obligations, within fifteen (15) Business Days after the occurrence of the Force Majeure, gives the other Party written notice describing the particulars of such occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; (iii) no obligations of the Party unable to carry out its obligations which arose prior to the occurrence causing the suspension of performance shall be excused as a result of such occurrence; and (iv) the non-performing Party shall use its best efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

SECTION 11.3 TERMINATION REMEDIES ON DEFAULT. The County and the Company shall each have the right, by notice to the other Party, to terminate this Agreement if the other Party commits an Event of Default.

SECTION 11.4 REMEDY FOR FAILURE TO ACHIEVE SUBSTANTIAL COMPLETION DATE. If the County elects to terminate this Agreement under Section 7.1, the Company shall have an obligation within 180 days after the end of the Term to (i) remove the equipment and personal property constituting the RNG Project, except for any underground pipes and permanent concrete pads, if applicable, (ii) fill any and all underground pipes with grout, if applicable and in accordance with Good Industry Practice, and (iii) except as provided in clauses (i) and (ii), restore the surface and subsurface of the Site and any other areas disturbed by the Company's installation of the RNG Project to substantially the condition at the execution of this Agreement, except to the extent a change in condition results from a cause other than the Company's activities. The Company is hereby granted such rights of use and access as may be necessary to complete the removal and restoration work set forth in this Section 11.4.

SECTION 11.5 NON-EXCLUSIVE REMEDIES. Except as provided in Section 7.1, no remedy provided herein is exclusive of any other available remedy or remedies under law or in equity.

SECTION 11.6 WAIVER. To the extent permitted by law, no delay or omission to exercise any right or remedy of a Party shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be expedient. Any actual waiver shall be in writing and signed by the Party against whom it is to operate. In order to entitle either Party to exercise any remedy hereunder, it shall not be necessary to give any notice other than as may be required in this Agreement.

SECTION 11.7 LIMITATION ON REMEDIES. No provision hereof shall be construed to impose any personal or pecuniary liability upon any officer or employee of either the Company or the County. EXCEPT WITH RESPECT TO THIRD PARTY CLAIMS UNDER

SECTION 10.4 OR CLAIMS ARISING FROM EITHER PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, NO PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES BY REASON OF A CLAIM BROUGHT ON THE BASIS OF THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF THE PARTIES HERETO.

ARTICLE XII
INSURANCE; TAXES

SECTION 12.1 INSURANCE. The Company and County shall maintain for the full term of this Agreement, at its expense, the insurance coverages listed on Schedule F.

Each Party shall furnish the other Party with certificates of insurance naming the other Party as additional insured pursuant to the requirements described in the commercial general liability requirements and include a copy additional insured endorsement contained in the commercial general liability policy. Upon request, each Party shall furnish the other Party with complete copies of all required insurance policies. Failure to provide these documents is not to be construed as a waiver of the requirements to provide such insurance. All certificates shall note that policies have been endorsed to provide at least thirty (30) days prior written notice to certificate holder of cancellation, non-renewal or material change in coverage of any of the aforesaid coverages.

The Company and County shall cause all Subcontractors, suppliers of performing work or providing supplies to maintain for the full term of such parties' work and at such parties' own expense, the same minimum insurance requirements as outlined above and required of the Company or County.

SECTION 12.2 TAXES PAID BY THE COMPANY. The Company shall, during the Term of this Agreement, pay all taxes that may be levied upon or assessed against the RNG Project.

SECTION 12.3 TAXES PAID BY COUNTY. The County shall, during the Term of this Agreement, pay or arrange for the payment of all taxes, if any, that may be levied upon or assessed against the property and facilities, equipment and improvements owned, constructed, located or installed by the County in, on, or adjacent to the MCRC, including, but not limited to, the Collection System, and the County shall pay all other taxes assessed against the MCRC and any contiguous property owned by the County, including any tax based upon Landfill Gas in place, whether the same are assessed to the County or the Company or otherwise.

ARTICLE XIII
MISCELLANEOUS

SECTION 13.1 USURY. In no event shall any payment deemed interest received in connection with this Agreement (together with any other costs or considerations that constitute

interest under the law of the state which are contracted for, charged, or received pursuant to this Agreement) exceed, and the same shall be subject to reduction to, the maximum amount of interest allowed under the laws of the state as now or hereafter construed by courts having jurisdiction.

SECTION 13.2 NOTICES. All notices, certificates, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and shall be deemed properly served (i) if by hand delivery, telecopy or other facsimile transmission, on the day and at the time on which delivered to the intended recipient at the address or telecopier number set forth in this Agreement; (ii) if by mail, upon delivery by United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by Federal Express or other reputable express mail service for overnight delivery, upon delivery, addressed to the intended recipient at its address set forth in this Agreement. All notices required or permitted to be served upon either Party hereunder will be directed to:

if to the County:

County of Monmouth
Hall of Records
Freehold, NJ 07720
Attn: County Administrator
FAX: (732) 431-6412

With a copy to (which will not constitute notice):

Archer & Greiner PC
1025 Laurel Oak Road
Voorhees, NJ 08043
Attn: David A. Weinstein
Email: dweinstein@archerlaw.com

if to the Company:

New Jersey Natural Gas Company
1415 Wyckoff Road
Wall, NJ 07719
Attn: Mark G. Kahrer
Senior Vice President

New Jersey Natural Gas Company
1415 Wyckoff Road
Wall, NJ 07719
Attn: Gas Supply
Email: gasnotify@njng.com

and

Legal Department
New Jersey Natural Gas Company

1415 Wyckoff Road
Wall, NJ 07719
Attn: [●]
[●]

With a copy to (which will not constitute notice):

Holland & Knight LLP
811 Main Street, Suite 2500
Houston, TX 77002
Attn: Joshua L. Belcher
Email: joshua.belcher@hkllaw.com

The County and the Company may, by notice given hereunder, designate any further or different addresses or telecopier numbers to which notices, certificates, or other communications shall be sent.

SECTION 13.3 ENTIRE AGREEMENT/AMENDMENTS. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement is not intended to confer upon any Person other than the Parties any rights or remedies hereunder, except that the Company Indemnites and County Indemnites shall be intended third-party beneficiaries under the provisions of Article X. The consent of any third-party beneficiary shall not be required to amend this Agreement (including, without limitation, Article X hereof). This Agreement may not be amended or altered except by the written agreement of the County and the Company. This Agreement shall inure to the benefit of and shall be binding upon the County and the Company and their authorized successors and assigns. No provision hereof shall be construed to impose any personal or pecuniary liability upon any officer or employee of the County or the Company.

SECTION 13.4 SEVERABILITY. If any term or provision of this Agreement or the application thereof to any party or circumstance be judged invalid or unenforceable to any extent, the remainder of this Agreement and the application of such terms and provisions to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, except as it might be necessary to effectuate the intent of the Parties, and each provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

SECTION 13.5 GOVERNING LAW; JURISDICTION AND VENUE. All questions with respect to the construction of this Agreement and the rights and liabilities of the Parties hereunder shall be determined in accordance with the laws and regulations of the State of New Jersey and any legal actions and proceedings initiated to determine such questions shall be solely and exclusively initiated and maintained in State courts located in Monmouth County, New Jersey.

SECTION 13.6 CAPTIONS. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

SECTION 13.7 PRESS RELEASES AND OTHER DISCLOSURES.

(A) Publications. Except as required by Applicable Law, neither Party shall issue any press release nor publish any writings regarding the transactions contemplated hereunder without the prior written consent of the other Party. Notwithstanding the above, the Parties may make reasonable disclosures, with notice to the other, to permitted assignees of a Party's interests in conjunction with any contemplated assignment of interests under this Agreement.

(B) Disclosure. This Agreement may be deemed to be a public record pursuant to Applicable Law. In the event the County receives a request for this Agreement pursuant to the New Jersey Open Public Records Act, the County will give the Company notice, and the Company, at its own expense, may take any legal action it deems appropriate to prevent the public disclosure of such information. The Company shall indemnify, hold harmless and defend the County against any claims and loss and expense arising from the Company's legal actions, if any, to prevent the disclosure of the Agreement.

SECTION 13.8 NO JOINT VENTURE. Nothing in this Agreement shall be deemed to constitute either Party a partner, agent or legal representative of the other Party or to create any joint venture or fiduciary or other relationship between the Parties.

SECTION 13.9 ASSIGNMENT OF AGREEMENT. Neither Party may transfer or assign this Agreement to any Person without the prior written consent of other Party which consent shall not be unreasonably withheld, conditioned or delayed. If (i) the Company assigns all or substantially all of its interests hereunder, and (ii) the assignee assumes all of the Company's obligations hereunder in a writing addressed to the County, then from the date of such assumption the Company shall be released in full from all such obligations. Upon the giving of written notice to the other Party, either Party may assign this Agreement to a collateral assignee pursuant to a form of collateral assignment reasonably acceptable to the non-assigning Party.

SECTION 13.10 SURVIVAL. The provisions of Article X and any other obligation of indemnity owed by a Party shall survive the termination of this Agreement.

SECTION 13.11 RECORDING. Either Party may cause this Agreement, or if appropriate, a memorandum of this Agreement, to be recorded in any appropriate place.

SECTION 13.12 FURTHER ASSURANCES. If either Party reasonably determines or is reasonably advised that any further instruments or any other things are necessary or desirable to carry out the terms of the Agreement, the other Party shall execute and deliver all such instruments and assurances and do all things reasonably necessary and proper to carry out the terms of this Agreement.

SECTION 13.13 EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

SECTION 13.14 NON-DISCRIMINATORY PROVISION OF SERVICE. The Company shall perform the work contemplated in this Agreement on a non-discriminatory basis. The Company shall comply with the Affirmative Action and Americans with Disabilities Act provisions set forth in Schedule G to this Agreement.

SECTION 13.15 NEW JERSEY BUSINESS REGISTRATION REQUIREMENTS. The Company has previously provided the County with a copy of the Company's business registration certificate verifying that Company is properly registered with the New Jersey Department of the Treasury. The Company will also comply with the following:

(1) The Company will provide written notice to each Subcontractor, as defined in N.J.S.A. 52:32-44, namely “any business organization that is not a contractor that knowingly provides goods or performs services for a contractor or another subcontractor in the fulfillment of a contract issued by a contracting agency”, that the Subcontractor must provide a copy of the subcontractor’s business registration certificate to the Company prior to entering into the subcontract.

(2) The Company will obtain and promptly forward to the County, for filing, a copy of a business registration certificate for every Subcontractor.

(3) The Company will provide the County with a complete and accurate list of Subcontractors and their addresses, or a certification that no Subcontractors were used, before final payment is made.

(4) The Company and each of its affiliates, as “affiliates” are defined in N.J.S.A. 52:32-44(g)(3), will collect and remit to the New Jersey Division of Taxation any use tax due pursuant to the “Sales and Use Tax Act” (N.J.S.A. 54:32B-1, et seq.) on all sales of tangible personal property delivered into New Jersey.

(5) The Company will include a provision in all subcontracts that the Subcontractor and the Subcontractor’s affiliates will collect and remit to the New Jersey Division of Taxation any use tax due pursuant to the “Sales and Use Tax Act” (N.J.S.A. 54:32B-1, et seq.) on all sales of tangible personal property delivered into New Jersey.

SECTION 13.16 COMPLIANCE WITH OFFICE OF STATE COMPTROLLER REQUIREMENTS. The Company shall maintain all documentation related to products, transactions or services under this Agreement for a period of five years from the date of termination or expiration of this Agreement. Such records shall be made available to the New Jersey Office of the State Comptroller upon request, in accordance with N.J.A.C. 17:44-2.2.

SECTION 13.17 SOVEREIGN IMMUNITY. Any Party that now or hereafter has a right to claim sovereign immunity for itself hereby waives any such immunity to the fullest extent permitted by the laws of any applicable jurisdiction, including in respect of the indemnity obligations hereunder, but only with respect to the enforcement of this Agreement. This waiver includes immunity from any judicial, administrative, arbitration or other proceedings pursuant to this Agreement. None of these waivers of immunity shall apply to the claims of third parties.

[Signature page follows.]

IN WITNESS WHEREOF, the County and the Company have caused this Agreement to be executed in their respective names as of the date first above written.

COUNTY OF MONMOUTH

By: _____
Name: [●]
Title: [●]

NEW JERSEY NATURAL GAS COMPANY

By: _____
Name: Mark G. Kahrer
Title: Senior Vice President

LIST OF SCHEDULES

- A. Defined Terms
- B. New Jersey Natural Gas Pipeline Route
- C. RNG Project Schedule
- D. RNG Project Description
- E. Prevailing Wages
- F. Insurance Coverages
- G. Affirmative Action and Americans with Disabilities Act Provisions
- H. Delivery Point
- I. Site Plan

SCHEDULE A

DEFINED TERMS

The capitalized terms below shall have the following meanings for purposes of the Agreement:

“Additional Consideration” shall have the meaning as set forth in Section 3.1(C).

“Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with such Person. “Control” for purposes of this definition includes, without limitation, the ability to vote 50% or more of the voting equity of a Person.

“Agreement” shall have the meaning as set forth in the preamble.

“Applicable Law” shall mean any law, rule, regulation, requirement, guideline, action, determination or order of, or Governmental Approvals issued by, any Governmental Entity having jurisdiction, applicable from time to time to the siting, permitting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, testing, operation or maintenance of the Collection System, Flare Stations or RNG Project, or any other transaction or matter contemplated by this Agreement (including any of the foregoing which concern health, safety, fire, environmental protection, biosolids or gas processing, quality and use, labor relations, mitigation monitoring plans, building codes, nondiscrimination and the payment of minimum wages).

“Business Day” shall mean any day other than a Saturday, Sunday or legal holiday in the State of New Jersey, or a day on which banking institutions chartered by the State of New Jersey, or the United States of America, are legally required or authorized to close.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Collection System” shall mean the Landfill Gas collection headers, wells, interconnecting pipes, blowers and appurtenances used to convey Landfill Gas from the Landfill to the RNG Project, permitted to operate by the New Jersey Department of Environmental Protection Division of Air Quality, Facility ID Number 21351, with the most recently approved permit activity number of BOP190001 issued in accordance with New Jersey Administrative Rules and New Source Performance Standards (NSPS), CFR Part 60, Subpart WWW. The Collection System does not include the Flare Stations and any Landfill Gas pipeline distribution system downstream of the Interconnection Point and other facilities for the productive use or destruction of the Landfill Gas.

“Commercial Quantities” shall mean 2,200 standard cubic feet per minute of Landfill Gas measured to contain at least 50% methane content and not more than 1% oxygen content.

“Company Indemnitee” shall have the meaning as set forth in Section 10.2.

“Condensate” shall mean liquid resulting from the condensation of gas or vapor by the operation of the RNG Project. The Company shall demonstrate that Condensate is non-hazardous and non-toxic by submitting analytical test result prepared by a NJDEP-certified laboratory.

“Contract Date” shall mean the date on which this Agreement has been executed and delivered by the Parties.

“Contract Standards” shall mean the standards, terms, conditions, methods, techniques and practices imposed or required by: (1) Applicable Law; (2) Good Engineering and Construction Practice; (3) Good Industry Practice; (4) the RNG Project operation and maintenance manual; (5) applicable equipment manufacturers’ design requirements and recommendations; (6) applicable Insurance Requirements; and (7) any other standard, term, condition or requirement specifically provided in this Agreement to be observed by the Company.

“County Indemnitee” shall have the meaning as set forth in Section 10.1.

“County Project Manager” shall mean the individual appointed by the County to oversee the administration of this Agreement, as communicated from time to time to Company in writing.

“Daily Payments” shall have the meaning as set forth in Section 3.1(A).

“Day” shall mean a period of twenty-four (24) consecutive hours beginning and ending at 9:00 a.m. Central Time.

“Delivery Point” shall mean the point at which the existing Collection System interconnects with the RNG Project. The location of the Delivery Point is shown on Schedule H.

“Environmental Attributes” shall mean any and all environmental attributes, credits, benefits, emission reductions, offsets, and allowances, howsoever entitled, attributable to the characteristics, production, use or combustion of the Landfill Gas or its displacement or reduction in the use of conventional energy generation, greenhouse gas emissions, pollutants or transportation fuel, including, without limitation, RINs under the Renewable Fuel Standard program, renewable energy certificates, and credits under state low carbon fuel programs such as the LCFS, and any reporting rights associated with the foregoing. “Environmental Attributes” does not include any federal or state tax or financial incentives or grant payments of any kind.

“Environmental Laws” shall mean any applicable federal, state, or local governmental law or quasi-governmental law, statute, rule, regulation, order, consent decree, decree, judgment, permit, license, covenant, deed restriction, ordinance or other requirement or standard relating to pollution or the regulation or protection of health, safety, natural resources, or the environment, as now existing or hereafter in effect, including, without limitation, those relating to releases, discharges, emissions, injections, leachings, or disposals of Hazardous Substances or hazardous materials into air, water, land or groundwater, to the withdrawal or use of groundwater, or to the use, handling, treatment, removal, storage, disposal, processing, distribution, transport, or management of Hazardous Substances. “Environmental Laws” shall include, but shall not be limited to, the Clean Air Act; the federal Water Pollution Control Act; the Safe Drinking Water Act; the Toxic Substances Control Act; the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; the

Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984; the Occupational Safety and Health Act; the Hazardous Materials Transportation Act; the Oil Pollution Act of 1990; and any similar federal, state or local statutes and regulations.

“Event of Default” shall have the meaning as set forth in Article XI.

“Expansion” shall have the meaning as set forth in Section 8.3(B).

“Fair Market Value” shall mean the appraised value as determined by an independent certified appraiser, agreed to by both Parties, who is knowledgeable of Landfill Gas recovery operations and gas processing equipment. In the event the Parties cannot agree on an independent, certified appraiser, each Party shall select its own independent, certified appraiser and the two selected appraisers will mutually agree to select a third independent, certified appraiser to perform the appraisal.

“Flare Stations” shall mean the Landfill Gas flares owned by the County, and all auxiliary equipment integral thereto, but not including blowers, installed at any time on the Landfill, and all modifications, replacements, additions and expansions thereof, including but not limited to Flare C and Flare D.

“Force Majeure” shall mean acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act, changes of law, or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances; explosions; delays caused by third-party suppliers and contractors; or any other cause or event, not reasonably within the control of the Party claiming Force Majeure (other than the financial inability of such Party), which precludes that Party from carrying out, in whole or in part, its obligations under the Agreement. Nothing in this provision is intended to excuse any Party from performing due to any governmental or utility act, failure to act, or order, where it was reasonably within such Party’s power to prevent, correct, anticipate, or guard against such act, failure to act, or order.

“Gas Rights” shall mean the Company’s rights associated with Landfill Gas as set forth in Article II.

“Good Engineering and Construction Practice” shall mean those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good design, engineering, equipping, installation, construction and commissioning practices for the design, construction and improvement of capital assets in the landfill gas collection, landfill gas-to-energy and renewable natural gas industries as followed in the northeastern region of the United States.

“Good Industry Practice” shall mean the methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good operation, maintenance, repair, replacement and management practices in the landfill gas collection, processing, gas-to-energy and renewable natural gas industries as observed in the northeastern region of the United States;

provided, however, that Good Industry Practice is not intended to be limited to or necessarily require the use of the optimum method, technique, standard, or practice.

“Governmental Approvals” shall mean all orders of approval, permits, licenses, authorizations, consents, certifications, exemptions, rulings, entitlements and approvals issued by a Governmental Entity of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Collection System, Flare Stations or RNG Project.

“Governmental Entity” shall mean any court or tribunal in any jurisdiction or any federal, state, municipal, or other governmental body, agency, authority, department, commission, board, bureau, or instrumentality.

“Hazardous Substances” shall mean any substance, chemical, product, waste, pollutant, contaminant or toxic substance, or other material of any nature whatsoever which is now or hereafter listed in, regulated by or subject to Environmental Laws or considered hazardous or toxic under any other federal, state or local law, rule, regulation, ordinance, decree, order, judicial judgment or requirement relating to or imposing liability or standards of conduct for any hazardous or toxic wastes, substances or materials. “Hazardous Substances” shall also mean and include, without limitation, asbestos and asbestos-containing materials, flammable or explosive or radioactive materials, gasoline, motor oil, waste oil, petroleum (including without limitation, crude oil or any component thereof), petroleum-based products, paints, solvents, lead, DDT, acids, pesticides, ammonium compounds, polychlorinated biphenyls (PCB's) and materials and fluids containing polychlorinated biphenyls, and other regulated chemical products.

“Indemnified Party” shall have the meaning as set forth in Section 10.3 of this Agreement.

“Indemnifying Party” shall have the meaning as set forth in Section 10.3 of this Agreement.

“Initial Term” shall have the meaning set forth in Section 4.1 of this Agreement.

“Interconnection Point” shall mean the point at which the RNG Project interconnects to the natural gas transmission and distribution system operated by New Jersey Natural Gas.

“Landfill” shall mean any and all land utilized as a Class II Municipal Solid Waste landfill, as permitted by the New Jersey Department of Environmental Protection, Solid Waste Facility Permit No.: SWF080001, Preferred ID: 133927, located at the MCRC, as such Landfill may be expanded.

“Landfill Gas” shall mean any and all gases resulting from the biological decomposition of landfill solid waste or other organic materials located at the Landfill.

“Lease” shall have the meaning set forth in Section 2.3(B) of this Agreement.

“Low Carbon Fuel Standard” or “LCFS” shall mean the California Air Resources Board Low Carbon Fuel Standard set forth in the California Code of Regulations at Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, §§ 95480 –95503, as amended from time to time.

“Losses” shall have the meaning set forth in Section 10.1 of this Agreement.

“MCRC” shall mean the Monmouth County Reclamation Center located in Tinton Falls, New Jersey, with an administrative offices at 6000 Asbury Avenue, Tinton Falls, New Jersey, and consisting of all property, facilities and structures utilized or involved in the processing and disposal of solid waste, including the Landfill, a materials processing and recovery facility, a bulky waste shredder and transfer facility, as well as any and all associated roads, water basins, buffer zones, wetlands and forests.

“Month” shall mean shall mean a period beginning at 9:00 a.m. Central Time, on the first day of a calendar month and shall end at the aforesaid time on the first day of the next calendar month.

“Monthly Payments” shall mean the sum of the Product Gas Payment, the EA Payment, and the Additional Consideration, *plus* the pro-rated portion of the rent payment due under the Lease in accordance with Section 2.3(B).

“Municipal Solid Waste” shall mean a type of solid waste generated from community, commercial, and agricultural operations, including wastes from households, offices, stores and other non-manufacturing activities or as otherwise defined by the Resource Conservation and Recovery Act of 1976, Subtitle D.

“New Jersey Natural Gas” shall mean the Company, but solely in its capacity as the operator of the natural gas transmission and distribution system and not in its capacity as a Party to this agreement.

“NSPS” shall mean the final rule and guidelines for Standards of Performance for New Stationary Sources and Guidelines or Control of Existing Sources: Municipal Solid Waste Landfills, 40 CFR part 60 or any guidelines, regulation or law which is the successor in function thereto, as the same may be modified or amended, and any interpretation or regulation relating thereto which may be issued by any federal, state or local agency including, without limitation, the U.S. Environmental Protection Agency, as the same may be modified or amended.

“Operations Period” shall mean the period commencing on the Substantial Completion Date and ending on the expiration or earlier termination of the Term.

“Party” shall have the meaning set forth in the preamble.

“Permitted Encumbrances” shall mean, as of any particular time, any one or more of the following: (1) encumbrances for Utility charges, taxes, rates and assessments not yet delinquent or, if delinquent, the validity of which is being contested diligently and in good faith by the Company and against which the Company has established appropriate reserves in accordance with generally accepted accounting principles; (2) any encumbrance arising out of any judgment rendered which is being contested diligently and in good faith by the Company, the execution of which has been stayed or against which a bond or bonds in the aggregate principal amount equal to such judgments shall have been posted with a financially-sound insurer and which does not have a material and adverse effect on the ability of the Company to construct or operate the RNG Project; (3) any encumbrance arising from the financing obtained by the Company for the RNG Project, including, but not limited to, the assignment of this Agreement by the Company as collateral or security for such financing; (4) any encumbrance arising in the ordinary course of business imposed by law dealing with materialmen’s, mechanics’, workmen’s, repairmen’s, warehousemen’s, landlords’,

vendors' or carriers' encumbrances created by law, or deposits or pledges which are not yet due or, if due, the validity of which is being contested diligently and in good faith by the Company and against which the Company has established appropriate reserves; (5) servitudes, licenses, easements, encumbrances, restrictions, rights-of-way and rights in the nature of easements or similar charges which will not in the aggregate materially and adversely impair the construction or operation of the RNG Project by the Company; (6) encumbrances which are created by a change in Applicable Law on or after the Contract Date; and (7) with respect to County property, any encumbrance created by an act or omission by the County or with respect to which the County has given its consent.

“Person” shall mean any individual, corporation, general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or Governmental Entity.

“Phase IV Expansion” shall have the meaning as set forth in Section 8.3(B).

“Proceeding” shall have the meaning as set forth in Section 10.4.

“Projected Substantial Completion Date” shall have the meaning as set forth in Schedule C (RNG Project Schedule).

“Recovery Plan” shall have the meaning as set forth in Section 6.1(B)(1).

“Renewable Fuel Standard” or “RFS” shall mean the Renewable Fuel Standard Program under the Energy Policy Act of 2005, and the Energy Independence and Security Act of 2007 and implementing regulations, including, without limitation, 40 C.F.R. Subpart 80, Subpart M, as the same may be amended, supplemented or restated from time to time, including any successor program.

“Renewable Natural Gas” or “RNG” shall mean the Landfill Gas processed by the RNG Project and that meets the applicable receiving pipeline quality standards.

“RINs” shall mean renewable identification numbers generated to represent a volume of renewable fuel as set forth in Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 16484 (March 26, 2010) (codified at 40 C.F.R. § 80.1425 (2011); 40 C.F.R. § 80.1426 (2012)), as amended from time to time.

“RNG Project” shall mean the equipment, structures, pipes and related instruments and appurtenances to be designed, permitted, financed, built, owned, operated and maintained by the Company as further described in Schedule D, that will process Landfill Gas into RNG for conveyance into the natural gas transmission system operated by New Jersey Natural Gas.

“RNG Project Schedule” shall have the meaning set forth in Section 6.1(B).

“Safety Plan” shall have the meaning set forth in Section 8.7.

“Site” shall mean the portion of the Landfill on which the RNG Project shall be located as depicted in Schedule I.

“Subcontractor” shall mean every person (other than employees of the Company or the County) employed or engaged (including every sub-subcontractor of whatever tier) by the Company or the County for any portion of the work required under this Agreement, whether for the furnishing of labor, materials, equipment, supplies, services, or otherwise.

“Substantial Completion Date” shall mean the first date on which all of the following have been satisfied: (1) all applicable Governmental Approvals necessary for the operation of the RNG Project have been duly obtained and in full force and effect; and (2) the RNG Project is capable and authorized to inject RNG at the New Jersey Natural Gas pipeline Interconnection Point.

“Term” shall have the meaning set forth in Section 4.1 of this Agreement.

“TETCO M2” shall mean the Platts Gas Daily, Daily Price Survey, Midpoint gas price in dollars per MMBtu posted under the Appalachia listing applicable to Texas Eastern, M2 Receipts for the applicable day of RNG delivery to the Interconnection Point.

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

SCHEDULE B

NEW JERSEY NATURAL GAS PIPELINE ROUTE

[To include access to the Tinton Falls, NJ gate station]

SCHEDULE C
RNG PROJECT SCHEDULE

[To be attached]

SCHEDULE D

RNG PROJECT DESCRIPTION

Renewable Natural Gas (“RNG”) facility to be constructed near Flare C at MCRC where the previous LFGTE plant was situated. Gas processing equipment (including but not limited to an Air Liquide membrane skid, blowers, backup generator, compressors, nitrogen rejection unit and thermal oxidizer) shall be installed. A candlestick flare to be installed to flare processed gas not introduced into pipeline. Pipeline to be installed to connect the RNG Project to New Jersey Natural Gas interconnection point located on landfill property.¹

¹ Note to Draft: To include gas processing facilities, equipment necessary for transmission to and from upgrade plant, and backup generator.

SCHEDULE E
PREVAILING WAGES

[To be attached]

SCHEDULE F²

INSURANCE COVERAGES

- 1) Property Insurance – Each Party is required to insure its own equipment, materials and tools with a “Waiver of Subrogation” clause in favor of the other Party.
- 2) Builders Risk Insurance – Each Party or its contractor must maintain Builder’s Risk Insurance, providing coverage for (all risk) of physical loss or damage to the property described hereunder in an amount equal to 100% of the completed value of the work contracted herein. Builders Risk policy shall include Equipment Breakdown also known as Boiler and Machinery with coverage for testing and startup coverage in an amount equal to 100% of the completed value of the work contracted herein. The policy shall name the other Party as loss payee as their interests may appear.
- 3) Commercial General Liability Insurance covering all operations of the relevant Party with coverage for bodily injury and property damage with minimum limits as follows:
 - a. \$2,000,000 General Aggregate Limit
 - b. \$2,000,000 Products – Completed Operations
 - c. \$1,000,000 Bodily Injury
 - d. \$1,000,000 Property Damage
 - e. \$1,000,000 Personal and Advertising Injury Limit
 - f. \$1,000,000 Each Occurrence Limit
 - g. \$1,000,000 Fire Damage Liability

Commercial General Liability coverage to be written on an “occurrence” or “claims made” basis (provided, however, if coverage is written on a “claims made” basis it must remain in place for three (3) years after the expiration or termination of the Agreement) using ISO CG 0001 07/98 or its equivalent form with the following minimum enhancements, endorsements and requirements:

- a. Per Location and Per Project Aggregates,
- b. Severability of Interest. No exclusion or limitation for cross suits or cross liability between any insureds shall exist.
- c. Broad Form Blanket Contractual Liability for liability assumed under all contracts relative to the work. No endorsement or exclusion restricting Contractual Liability shall exist,
- d. Coverage for Independent Contractors
- e. No exclusion for explosion, collapse and underground operations
- f. Endorsement naming County as an Additional Insured using ISO Additional Insured endorsement CG 2010 11/85 or the combination of CG 2010 07/04 and CG 2037 07/04 editions or their equivalent and provide coverage on a primary and non-contributory basis. Additional Insured endorsement shall include

² Note to County: Schedule F is subject to ongoing review by the Company.

ongoing operations and products and completed operations coverage and shall NOT include any provisions limiting coverage to ongoing operations.

g. A Waiver of Subrogation endorsement in favor of the other Party.

Products and Completed Operations coverage must be maintained for a minimum period of two (2) years after the completion of the work.

- 4) Commercial Automobile Liability - coverage with minimum limits of \$1,000,000 per person or accident for all Owned, Leased, Non-Owned and Hired vehicles.
- 5) Workers' Compensation and Occupational Disease Insurance in accordance with the applicable law or laws. The workers compensation policy must provide coverage for all of the Party's employees engaged in the performance of this Agreement and include a voluntary compensation/all States endorsement. When permitted by the jurisdiction where the work is to be performed, the workers compensation policy shall provide additional insured status to the other Party. The policy must have the State in which the work is being performed listed as a Part One State.
- 6) Employers Liability - coverage with minimum limits as follows:
 - a. \$1,000,000 Bodily Injury by Accident, for each accident
 - b. \$1,000,000 Bodily Injury by Disease, policy limit
 - c. \$1,000,000 Bodily Injury by Disease, each employee
- 7) Umbrella/Excess Liability - insurance shall be excess of employers' liability, commercial general liability and commercial automobile liability with no exclusions other than those in the underlying policies. Insurance shall provide coverage for all your operations and shall provide coverage for Additional Insureds as described in the Commercial General Liability section above with minimum limits as follows:
 - a. \$15,000,000 General Aggregate Limit
 - b. \$15,000,000 Each Occurrence Limit

Umbrella liability coverage to be written on an "occurrence" basis on a form acceptable to the other Party.
- 8) Pollution Liability or Contractors Pollution Liability including coverage for mold, lead removal, contaminated soil or any other environmental hazard as applicable, with minimum limits of \$1,000,000 to be provided by the Party's construction contractor during construction. Pollution Liability policy to be endorsed to name the other Party as Additional Insured on a primary and non-contributory basis. No exclusion or limitation for cross suits or cross liability between any insureds shall exist.
- 9) Errors and Omissions Insurance with coverage of at least \$1,000,000 per claim and a \$2,000,000 aggregate limit to be provided by the Party's construction contractor during construction.

- 10) And such other insurance as may be required by law or that the Company deems necessary to maintain.
- 11) Company may satisfy the insurance requirements above by variations of differing coverages meeting the intent of the above requirements reasonably acceptable to the County including, but not limited to, excess liability policies placed with industry mutual insurers having appropriate excess and surplus lines regulatory authorizations, and inclusive of policies with large self-insured retentions (“SIR”); provided, however, if Company meets the insurance requirements above in part through an SIR it shall remain liable as if it had procured insurance on a first dollar basis with a carrier providing coverage at least as broad as current Insurance Services Office (“ISO”) based insurance forms.

SCHEDULE G

Affirmative Action and Americans with Disabilities Act Provisions

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICES, AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to *N.J.S.A. 10:5-31 et seq.*, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with *N.J.A.C. 17:27-5.2*.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies

including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA-302 (electronically provided by the Division of Purchase & Property, CCAU, EEO Monitoring Program and distributed to the public agency through the Division of Purchase & Property, CCAU, EEO Monitoring Program's website at www.state.nj.us/treasury/contract_compliance/)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to *N.J.A.C. 17:27-1.1 et seq.*

(Revised 2/2017)

AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the County of Monmouth, (hereafter “owner”) do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the “Act”) (42 *U.S.C.* §12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this Agreement. In providing any aid, benefit, or service on behalf of the owner pursuant to this Agreement, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this Agreement, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner’s grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this Agreement will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor’s obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

(Revised 2/2017)

SCHEDULE H
DELIVERY POINT

SCHEDULE I

SITE PLAN