

FEASIBILITY ANALYSIS AGREEMENT

This Feasibility Analysis Agreement (the "*Feasibility Agreement*") is made, entered into and effective as of _____, 20__, (the "*Effective Date*") by and between Southern California Gas Company, a California corporation ("*Utility*") and _____ ("*Biogas Producer*") for certain preconstruction feasibility assessments relating to Utility's potential development of a biogas conditioning/upgrading facility adjacent to and as a functional part of Biogas Producer's facility located at _____, California (the "*Facility*"). Utility and Biogas Producer may be referred to herein individually each as a "*Party*" and collectively as the "*Parties*."

ARTICLE 1 DESCRIPTION AND STANDARD OF SERVICES

1.1 Utility shall conduct feasibility analyses described in **Exhibit A** (the "*Services*") with the intent of (a) determining the technical and economic feasibility of the design, equipment procurement, construction, operation and maintenance of gas conditioning equipment as necessary to treat the biogas output from the Facility for use as pipeline quality gas or for other purposes as described in Exhibit A, and (b) providing sufficient information to prepare the scope of work and pricing ("*Scope of Work*") for the Biogas Conditioning and Upgrading Services Agreement ("*Agreement*").

1.2 If the Scope of Work is acceptable to Biogas Producer, Utility shall prepare the Agreement in accordance with Rule ____ - Biogas Conditioning and Upgrading Service Tariff.

1.3 Utility and Biogas Producer acknowledge and agree that: (1) all Services shall be performed by Utility for the mutual benefit of the Parties; (2) Utility shall exercise its independent, professional and trade judgment in performing the Services; and (3) in its preparation of the Scope of Work, Utility will be relying on information provided by Biogas Producer, which Biogas Producer represents is complete and accurate except as noted in writing to Utility.

ARTICLE 2 SERVICES FEE

As consideration for performance of the Services, Biogas Producer shall pay Utility _____ Dollars (\$ _____) (the "*Feasibility Services Fee*").

ARTICLE 3 TERM

The term of this Feasibility Agreement shall be _____ ("*Term*").

ARTICLE 4 RECORDS/OWNERSHIP AND USE OF DOCUMENTS

4.1 Utility shall own such studies, plans, designs, know-how, specifications, and other intellectual property and work product of Utility that are related to and incorporated in the Scope of Work ("*Work Product*"), and such Work Product shall at all times be the exclusive property of Utility. If any of the Work Product contains intellectual property of the Biogas Producer or Biogas Producer's affiliates or subcontractors that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws and it is conspicuously marked and identified as such ("*Proprietary Work Product*"), and in the event the Parties, subsequent to this Feasibility Agreement, execute an Agreement, Biogas Producer hereby grants and Biogas Producer shall cause its subcontractors to grant, Utility a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use, in whole or in part, and to authorize others to do so for the benefit of Utility, all such Proprietary Work Product, including but not limited to: databases, templates, file formats, scripts, links, procedures, materials, training manuals and other training materials, specially-created key commands, and any other information, designs, plans, or works provided or delivered to Utility or produced by Biogas Producer or

its subcontractors. If the Parties fail to execute an Agreement and the Parties mutually terminate negotiations, Utility shall have no license to use Proprietary Work Product and shall return all Proprietary Work Product to Biogas Producer.

ARTICLE 5 INDEMNIFICATION

To the fullest extent allowed by applicable law, Biogas Producer shall indemnify, hold harmless, reimburse and defend Utility and its respective members, partners, officers, directors, employees and agents, and the successors in interest of the foregoing (“*Utility Related Parties*”), from, for and against any and all claims, demands, damages, losses, expenses, liabilities and penalties, including but not limited to reasonable attorneys’ and expert witnesses’ fees, for damages to property or injuries or death of any person arising out of or relating to this Feasibility Agreement, but only to the extent caused by the negligent or other wrongful acts or omissions of Biogas Producer or any person or entity for whose acts or omissions it is responsible.

ARTICLE 6 LIMITATION OF LIABILITY

Notwithstanding anything to the contrary contained in this Feasibility Agreement, in no event shall Utility be liable to Biogas Producer for any damages, claims, demands, suits, causes of action, losses, costs, expenses and/or liabilities arising out of or relating to the Services provided or to be provided hereunder in excess of the amount paid by Biogas Producer to Utility as compensation under this Feasibility Agreement, regardless of whether such liability arises out of breach of contract, tort, product liability, contribution, strict liability or any other legal theory.

ARTICLE 7 ASSIGNMENT

7.1 Except with respect to Utility’s subcontractors, neither Utility nor Biogas Producer shall assign or transfer any of its interest in this Feasibility Agreement, in whole or in part, without the prior written consent of the other Party.

7.2 The provisions of this Feasibility Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

ARTICLE 8 INDEPENDENT CONTRACTOR; SAFETY

8.1 Utility shall perform the Services as an independent contractor and employing unit.

8.2 Utility shall be responsible for remittance of all federal, state and local taxes applicable to any compensation or payments paid to Utility under this Feasibility Agreement, which shall be included in the Feasibility Services Fee.

8.3 Each Party shall give prompt written notice to the other Party of any claim or notice of a claim made against the other Party by any third party for acts or omissions related to, or that may impact the completion of, the Services, in no event later than ten (10) business days after becoming aware of the claim or receiving the notice of claim.

8.4 Utility shall be responsible for the safety of its employees and those of its subcontractors, and shall take all reasonable precautions to prevent personal injury, death and property damage resulting from the Services and its acts and omissions and those of Subcontractors. At all times during the performance of any Services at the Facility, Utility shall comply with all Biogas Producer safety rules provided such rules, policies, programs and directives are communicated to Utility in writing by Biogas Producer.

ARTICLE 9 TERMINATION OF CONTRACT

9.1 Notwithstanding Section 1.1, Utility may terminate this Feasibility Agreement in whole or in part at any time for Utility's convenience or for cause. In the event Utility terminates this Feasibility Agreement for its convenience, the termination shall be effective upon Biogas Producer's receipt of Utility's written notice of such termination. For a termination for cause, the termination shall be effective ten (10) calendar days after Biogas Producer's receipt of Utility's written notice thereof and Biogas Producer's failure during that period to cure the cause or default which is at issue and the reason for the notice of termination. In the event of a termination for convenience, as Biogas Producer's sole and exclusive remedy, Utility shall refund any unused amounts paid as compensation hereunder, if any.

9.2 The Parties agree that Utility will incur substantial liabilities to third parties upon the commencement of the Services and that the extent and amount of loss or damage to Utility as a result of Biogas Producer's breach of the Feasibility Agreement is impractical and difficult to determine with certainty. Therefore, if Biogas Producer breaches the contract and fails to cures such breach within ten (10) calendar days after receiving notice of the breach from Utility, Biogas Producer shall pay Utility liquidated damages equal to the Service Fee. The Parties agree that such liquidated damages are a genuine pre-estimate of the damages suffered by Utility by reason of Biogas Producer's failure to perform under the Feasibility Agreement, and are not intended as a penalty. The amounts payable by Utility under this Section shall be Biogas Producer's sole and exclusive liability to Utility, and Utility's sole and exclusive remedy, with respect to Biogas Producer's breach. Nothing in this Section shall be construed as relieving Biogas Producer of its obligation to fulfill its obligations under this Feasibility Agreement.

9.3 The rights and remedies of Utility provided in this Section 9 are not exclusive and are in addition to any other rights and remedies provided by law or under this Feasibility Agreement. All rights and remedies of Utility shall be cumulative and may be exercised successively or concurrently.

ARTICLE 10 FORCE MAJEURE

Neither Biogas Producer nor Utility shall be held responsible for delay in the performance of the Services or default to the extent caused by fire, riot, an Act of God, war, terrorist attack or other cause beyond, respectively, Biogas Producer's or Utility's reasonable control ("Force Majeure Events"). So long as the conditions set forth in this Section 10 are satisfied, except with regard to payment obligations, neither Party shall be responsible or liable for or deemed in breach of this Feasibility Agreement because of any failure or delay in complying with its obligations under or pursuant to the Feasibility Agreement to the extent that such failure has been caused, or contributed to, by one or more Force Majeure Events or its effects or by any combination thereof; provided that in such event:

10.1 any liability of either Party which arose before the occurrence of the Force Majeure Event causing the suspension of performance shall not be excused as a result of the occurrence;

10.2 the affected Party shall continually exercise all commercially reasonable efforts to alleviate and mitigate the cause and effect of such Force Majeure Event, remedy its inability to perform, and limit damages to the other Party;

10.3 the affected Party shall use all reasonable efforts to continue to perform its obligations hereunder and to correct or cure the event or condition excusing performance; and,

10.4 when the affected Party is able to resume performance of the affected obligations under the Feasibility Agreement, that Party shall give the other Party written notice to that effect, and the affected Party promptly shall resume performance under the Feasibility Agreement.

ARTICLE 11 FACILITY ACCESS

11.1 Biogas Producer shall provide reasonable access to the Facility and the Biogas Producer's operational records as requested by Utility and its subcontractors in connection with the performance of Services.

11.2 Utility shall have no responsibility for the loss, theft, disappearance of or damage to equipment, tools, materials, supplies, and other property of Biogas Producer or its employees whatsoever.

ARTICLE 12 CONFIDENTIALITY; PUBLICITY

12.1 Each Party shall hold in confidence: (a) any information provided or supplied by the other Party or its representatives that is marked to be confidential, including such information as may have been provided or supplied prior to the Effective Date; (b) the Scope of Work and all exhibits thereto; and (c) the contents of this Feasibility Agreement (collectively, "*Confidential Information*"). Both Parties shall inform any of their affiliates, subcontractors, suppliers and personnel that become involved in the Services or come into contact with Confidential Information of their obligations under this Section 12.1 and require such persons to adhere to the provisions hereof. Notwithstanding the foregoing, the following categories of information will not constitute Confidential Information:

12.1.1 information that was in the public domain prior to receipt thereof by such Party or which subsequently becomes part of the public domain by publication or otherwise except by a wrongful act of such Party or its affiliates, subcontractors, employees, directors, officers, agents, advisers or representatives;

12.1.2 information that such Party can show was lawfully in its possession prior to receipt thereof from the other Party through no breach of any confidentiality obligation;

12.1.3 information received by such Party from a third party having no obligation of confidentiality with respect thereto; and,

12.1.4 information at any time developed independently by such Party providing it is not developed from otherwise Confidential Information.

12.2 Notwithstanding anything herein to the contrary, a Party may disclose Confidential Information as follows:

12.2.1 Confidential Information may be disclosed pursuant to and in conformity with applicable laws or in connection with any legal proceedings, provided that the Party required to disclose such information shall give prior notice to the other Party of such required disclosure and, if so requested by the other Party, shall use all reasonable efforts to oppose the requested disclosure as appropriate under the circumstances or to seek, through a protective order or other appropriate mechanism, to maintain the confidentiality of the Confidential Information;

12.2.2 Confidential Information may be disclosed as required to be disclosed under securities laws applicable to publicly traded companies and their subsidiaries;

12.2.3 Confidential Information may be disclosed to affiliates, subcontractors, employees, directors, officers, agents, advisors or representatives of such Party as necessary in connection with the Services; provided that such persons are informed of the confidential nature of the Confidential Information, and such Party shall be liable to the other for any disclosure by such person in violation of the terms of this Section; and

12.3 Notwithstanding the foregoing, either Party may disclose Confidential Information with the express written consent of the other Party, which consent shall not be unreasonably conditioned, withheld, or delayed.

12.4 It is agreed that each Party shall be entitled to relief both at law and in equity, including injunctive relief and specific performance, in the event of any breach or anticipated breach of this Section, without proof of any actual or special damages.

12.5 All right and title to, and interest in, a Party's Confidential Information shall remain with such Party. All Confidential Information obtained, developed or created by or for Utility exclusively for the Services, including copies thereof, is the exclusive property of Utility whether delivered to Biogas Producer or not. No right or license is granted to Biogas Producer or any third party respecting the use of Confidential Information by virtue of this Feasibility Agreement, except to the extent required for Utility's performance of its obligations hereunder. Biogas Producer shall deliver the Confidential Information, including all copies thereof, to Utility upon request.

ARTICLE 13 DISPUTE RESOLUTION

All claims, disputes and other matters in question between the Parties arising out of or relating to this Feasibility Agreement or the breach thereof, including contract, tort, property, statutory, or common law claims (a "Dispute" or "Disputes") shall be addressed and resolved as follows:

13.1 Negotiation. The resolution of the Dispute should first be negotiated in good faith by the Parties.

13.2 Mediation. If the Parties are unable to resolve a Dispute through negotiation, the Parties agree first to try in good faith to settle the Dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures, or through private mediation upon agreement of the Parties. The mediator's fees and costs shall be paid equally by the Parties. Any and all mediations arising out of or relating to this Feasibility Agreement shall include, by consolidation or joinder, any other person or entity not a party to this Feasibility Agreement that is substantially involved in a common issue of law or fact and whose involvement in the consolidated mediation is necessary to achieve a final resolution of a matter in controversy therein. The Parties' obligation to mediate shall be specifically enforceable by any court with jurisdiction thereof.

13.3 Litigation. If the Parties do not settle the Dispute through mediation within forty five (45) calendar days of the written notice to the other Party requesting mediation, then either Party shall have the right to pursue litigation as provided for herein. In the event of any litigation to enforce or interpret any terms of this Feasibility Agreement, unless the parties agree in writing otherwise, such action shall be brought in a Superior Court of the State of California located in the County of Los Angeles (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in either the U.S. District Court for the Central District of California), and the parties hereby submit to the exclusive jurisdiction of said courts. In any action in litigation to enforce or interpret any of the terms of this Feasibility Agreement, the prevailing party shall be entitled to recover from the unsuccessful party all costs, expenses, (including expert testimony) and reasonable attorneys fees (including fees and disbursements of in-house and outside counsel) incurred therein by the prevailing party.

ARTICLE 14 WAIVER

The failure of either Party to enforce any provision of this Feasibility Agreement shall not constitute a waiver by that party of that or any other provision of this Feasibility Agreement.

ARTICLE 15 NOTICES

Any notice or other communication regarding this Feasibility Agreement shall be served in one of the following manners: (1) personal delivery, (2) facsimile transmission or (3) delivery by courier or messenger service that maintains records of its deliveries.

ARTICLE 16 GOVERNING LAW

The laws of the State of California shall govern this Feasibility Agreement.

ARTICLE 17 SEVERABILITY

If any provision of this Feasibility Agreement is determined to be illegal, in conflict with any law, void or otherwise unenforceable, and if the provisions of this Feasibility Agreement that are essential to each Party's interests otherwise remain valid and enforceable, then the remaining provisions shall continue to be valid and enforceable and the offending provision shall be given the fullest meaning and effect intended by the Parties as allowed by applicable law.

ARTICLE 18 SURVIVAL

The terms, conditions, representations, and warranties contained in this Feasibility Agreement shall survive the termination or expiration of this Feasibility Agreement.

ARTICLE 19 ENTIRE CONTRACT

This Feasibility Agreement constitutes the entire legally-binding contract between the Parties regarding its subject matter. No waiver, consent, modification or change of terms of this Feasibility Agreement shall bind either party unless in writing and signed by both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

ARTICLE 20 SIGNATURES

This Feasibility Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument. A facsimile signature or an electronically scanned and electronically mailed (e-mail) signature shall be considered an original. The individuals signing this Feasibility Agreement certify that they are authorized to execute this Feasibility Agreement on behalf of Utility and Biogas Producer, respectively.

ARTICLE 21 EXHIBITS

The following documents are incorporated into and made a part of this Feasibility Agreement:

Exhibit A – Scope of Services

[Signature Page to Follow]

UTILITY:

Southern California Gas Company

Signature: _____

Printed Name: _____

Title: _____

Date: _____

BIOGAS PRODUCER:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT A

SCOPE OF SERVICES

Utility shall conduct the Services with the intent of determining the technical and economic feasibility of the design, equipment procurement, construction, operation and maintenance of gas conditioning/upgrading equipment as necessary to process the biogas and upgrade/condition it to the gas quality level(s) specified by the Biogas Producer. The Scope of Work may include, but is not limited to, the following:

Comprehensive Scope Definition

- Define the project execution processes for technical execution, construction, operations & maintenance, and other business related aspects of the project.
- Prepare the scope of work and pricing for the Agreement